



WORLD TRADE
ORGANIZATION

RESTRICTED

WT/ACC/KAZ/93

23 June 2015

(15-3271)

Page: 1/447

**Working Party on the Accession of
the Republic of Kazakhstan**

**REPORT OF THE WORKING PARTY ON THE
ACCESSION OF THE REPUBLIC OF KAZAKHSTAN**

TABLE OF CONTENTS

| | | |
|-------------|---|-----------|
| I. | INTRODUCTION..... | 7 |
| | DOCUMENTATION PROVIDED..... | 7 |
| | INTRODUCTORY STATEMENTS | 7 |
| II. | ECONOMIC POLICIES | 8 |
| - | Monetary and Fiscal Policy | 8 |
| - | Foreign Exchange and Payments..... | 12 |
| - | Investment Regime..... | 18 |
| - | State Ownership, State-Trading Entities and Privatization..... | 24 |
| (a) | Privatization..... | 24 |
| (b) | State-owned and State-controlled Enterprises, Enterprises with Special and Exclusive Privileges | 26 |
| - | Pricing Policies | 36 |
| - | Competition Policy | 42 |
| III. | FRAMEWORK FOR MAKING AND ENFORCING POLICIES | 48 |
| - | Powers of Executive, Legislative and Judicial Branches of Government | 48 |
| - | Framework of the Eurasian Economic Union among the Republic of Kazakhstan, the Russian Federation and the Republic of Belarus..... | 51 |
| (a) | Legal Framework Establishing the Eurasian Economic Union | 51 |
| (b) | Eurasian Economic Union Structure and Competency in the Area of Trade..... | 51 |
| (c) | The Supreme Eurasian Economic Council | 51 |
| (d) | The Eurasian Intergovernmental Council | 52 |
| (e) | The Eurasian Economic Commission..... | 52 |
| (f) | The Council of the Commission..... | 53 |
| (g) | The Collegium of the Commission | 53 |
| (h) | Decision-making within the Bodies of the EAEU | 55 |
| (i) | The Court of the Eurasian Economic Union | 56 |
| (j) | Transparency | 58 |
| (k) | Implementation of WTO Commitments under the EAEU Regime | 58 |
| - | Government Entities Responsible for Making and Implementing Policies Affecting Foreign Trade; Right of Appeal..... | 59 |
| IV. | POLICIES AFFECTING TRADE IN GOODS | 61 |
| - | Registration Requirements for Import and Export Operations | 61 |
| - | (a) Ethyl Spirits and Alcohol Products..... | 65 |
| - | (b) Pharmaceuticals..... | 66 |
| - | (c) Products containing cryptographic capabilities, including goods with encryption technology and special technical devices..... | 66 |
| - | (d) Conclusion..... | 67 |
| A. | IMPORT REGULATIONS | 68 |
| - | Ordinary Customs Duties..... | 68 |
| - | Other Duties and Charges | 72 |

| | | |
|-----------|--|------------|
| - | Tariff Exemptions..... | 73 |
| - | Tariff Rate Quotas..... | 76 |
| - | Fees and Charges for Services Rendered..... | 80 |
| - | Application of Internal Taxes to Imports..... | 81 |
| - | Quantitative Import Restrictions, including Prohibitions, Quotas and Licensing Systems..... | 87 |
| - | (a) Quantitative Import Restrictions, including Prohibitions and Quotas..... | 88 |
| - | (b) Import Licensing..... | 90 |
| - | Customs Valuation..... | 99 |
| - | Rules of Origin..... | 106 |
| - | Other Customs Formalities..... | 109 |
| - | Preshipment Inspection..... | 111 |
| - | Anti-dumping, Countervailing Duty and Safeguard Regimes..... | 112 |
| - | (a) Transitional regime..... | 112 |
| - | (b) Regime established under the EAEU Treaty..... | 113 |
| B. | EXPORT REGULATIONS..... | 119 |
| - | Customs Tariffs, Fees and Charges for Services Rendered, Application of Internal Taxes to Exports..... | 119 |
| - | Quantitative Export Restrictions, including Prohibitions and Quotas..... | 122 |
| - | Export Licensing Procedures..... | 124 |
| C. | INTERNAL POLICIES AFFECTING FOREIGN TRADE IN GOODS..... | 126 |
| - | Industrial Policy, including Subsidies..... | 126 |
| - | Technical Barriers to Trade, Standards and Certification..... | 132 |
| (a) | Legal Framework..... | 132 |
| (b) | Institutions..... | 138 |
| (c) | Technical Regulations, International and National Standards, and Conformity Assessment Procedures..... | 139 |
| - | (i) Technical Regulations..... | 139 |
| - | (ii) Technical Requirements Not Subject to Law No. 603-II "On Technical Regulation" of 9 November 2004..... | 143 |
| - | (iii) Voluntary National and International Standards..... | 144 |
| - | (iv) Disposition of Mandatory National Standards of Kazakhstan..... | 144 |
| - | (v) Conformity Assessment Procedures including the Accreditation of Conformity Assessment Bodies..... | 145 |
| (d) | Transparency..... | 153 |
| - | Sanitary and Phytosanitary Measures..... | 155 |
| (a) | Legislative Framework..... | 155 |
| (b) | Competent Authorities for the Regulation of Trade in Agricultural Products..... | 158 |
| - | (i) EAEU Authorities and Responsibilities..... | 158 |
| - | (ii) National Authorities..... | 159 |
| (c) | Development of Technical Regulations/Mandatory Requirements on SPS..... | 160 |
| (d) | Trade in Goods Subject to Veterinary Control..... | 166 |

| | | |
|-----|---|-----|
| - | (i) Veterinary Certificates | 167 |
| - | (ii) Establishment Approval, Register and Inspections..... | 171 |
| - | (iii) Import Permits..... | 184 |
| - | (iv) Transit Permits..... | 187 |
| (e) | Trade in Goods Subject to Phytosanitary Control | 189 |
| (f) | Protection of Human Health | 193 |
| (g) | Compliance of the SPS Regime with Specific Provisions of the WTO SPS Agreement | 196 |
| - | (i) Harmonization with International Standards and Norms | 196 |
| - | (ii) Risk Assessment | 198 |
| - | (iii) Regionalization..... | 201 |
| - | (iv) Equivalence | 201 |
| - | (v) Non-discrimination..... | 202 |
| (h) | Transparency, Notification and Enquiry Point Obligations..... | 203 |
| (i) | Proportionality, Necessity, and Reasonableness | 206 |
| (j) | Conclusion..... | 206 |
| - | Trade-Related Investment Measures..... | 207 |
| - | TRIMs in the Oil and Gas and Mining Sectors | 207 |
| - | TRIMs in the Automotive Sector..... | 210 |
| - | Free Zones, Special Economic Areas..... | 212 |
| - | (a) EAEU Regulation of SEZs | 213 |
| - | (b) Basic Law on SEZs..... | 215 |
| - | (c) Customs and Tax Legislation of the Republic of Kazakhstan..... | 216 |
| - | (d) Free Warehouse Customs Regime | 218 |
| - | Government Procurement | 220 |
| - | Transit..... | 224 |
| - | Government-mandated Counter-trade and Barter | 226 |
| - | Agricultural Policies | 226 |
| (a) | Imports..... | 226 |
| (b) | Exports..... | 227 |
| (c) | Internal policies | 227 |
| - | Trade in Civil Aircraft | 230 |
| V. | TRADE-RELATED INTELLECTUAL PROPERTY REGIME..... | 232 |
| - | GENERAL | 232 |
| - | Industrial Property Protection | 232 |
| - | Responsible Agencies for Policy Formulation and Implementation | 233 |
| - | Participation in International Intellectual Property Agreements..... | 234 |
| - | Application of National and MFN Treatment to Foreign Nationals..... | 235 |
| - | Fees and Taxes..... | 235 |

| | | |
|---|--|-----|
| - | SUBSTANTIVE STANDARDS OF PROTECTION, INCLUDING PROCEDURES FOR THE ACQUISITION AND MAINTENANCE OF INTELLECTUAL PROPERTY RIGHTS | 236 |
| - | Copyright and Related Rights | 236 |
| - | Trademarks, including Service Marks | 238 |
| - | Geographical Indications, including Appellations of Origin | 239 |
| - | Industrial Designs | 242 |
| - | Patents | 243 |
| - | Plant Variety Protection | 246 |
| - | Layout Designs of Integrated Circuits | 246 |
| - | Requirements on Undisclosed Information, including Trade Secrets and Test Data | 246 |
| - | ENFORCEMENT | 248 |
| - | Civil Judicial Procedures and Remedies | 248 |
| - | Provisional Measures | 249 |
| - | Administrative Procedures and Remedies | 250 |
| - | Special Border Measures | 251 |
| - | Criminal Procedures | 252 |
| | VI. POLICIES AFFECTING TRADE IN SERVICES | 254 |
| | VII. TRANSPARENCY | 259 |
| - | Publication of Information on Trade | 259 |
| - | Notifications | 262 |
| | VIII. TRADE AGREEMENTS | 263 |
| | CONCLUSIONS | 269 |
| | ANNEX 1 | 270 |
| | ANNEX 2 | 289 |
| | ANNEX 3(A) | 308 |
| | ANNEX 3(B) | 309 |
| | ANNEX 3(C) | 310 |
| | ANNEX 3(D) | 311 |
| | ANNEX 3(E) | 312 |
| | ANNEX 3(F) | 313 |
| | ANNEX 3(G) | 315 |
| | ANNEX 3(H) | 316 |
| | ANNEX 4 | 317 |
| | ANNEX 5(A) | 320 |
| | ANNEX 5(B) | 321 |
| | ANNEX 6 | 323 |
| | ANNEX 7 | 348 |
| | ANNEX 8 | 361 |
| | ANNEX 9 | 362 |

| | |
|--------------------------|------------|
| ANNEX 10 | 363 |
| ANNEX 11 | 365 |
| ANNEX 12 | 370 |
| ANNEX 13 | 371 |
| ANNEX 14(A) | 372 |
| ANNEX 14(B) | 374 |
| ANNEX 15(A) | 376 |
| ANNEX 15(B) | 378 |
| ANNEX 15(C) | 380 |
| ANNEX 15(D) | 382 |
| ANNEX 16 | 383 |
| ANNEX 17(A) | 384 |
| ANNEX 17(B) | 385 |
| ANNEX 18 | 386 |
| ANNEX 19 | 387 |
| ANNEX 20 | 405 |
| ANNEX 21 | 429 |
| ANNEX 22(A) | 430 |
| ANNEX 22(B) | 432 |
| ANNEX 22(C) | 433 |
| ANNEX 23 | 434 |
| ANNEX 24 | 441 |
| APPENDIX | 444 |

I. INTRODUCTION

1. The Government of the Republic of Kazakhstan (hereinafter referred to as Kazakhstan) applied for accession (WT/ACC/KAZ/1) to the World Trade Organization (WTO) on 29 January 1996. At its meeting on 6 February 1996, the General Council established a Working Party to examine the application of the Government of the Republic of Kazakhstan to accede to the WTO under Article XII of the Marrakesh Agreement establishing the World Trade Organization (document WT/GC/M/10). The terms of reference and the membership of the Working Party are reproduced in document WT/ACC/KAZ/2/Rev.40.

2. The Working Party met on 19-20 March 1997 and 9 October 1997 under the Chairmanship of H.E. Mr. B. Ekblom (Finland); on 9 October 1998, 12-13 July 2001, and 13 December 2002 under the Chairmanship of H.E. Mr. P. Huhtaniemi (Finland); on 4 March 2004, 3 November 2004, 7 June 2005, 1 November 2006, and 17 July 2008 under the Chairmanship of H.E. Mr. V. Himanen (Finland); on 18 April 2012 under the Chairmanship of H.E. Mr. H. Himanen (Finland); on 24 July 2012, 5 October 2012, 10 December 2012, 20 March 2013, 6 June 2013, 23 July 2013, 11 October 2013, 23 July 2014, and 10 and 22 June 2015 under the Chairmanship of H.E. Mr. V. Himanen (Finland).

DOCUMENTATION PROVIDED

3. The Working Party had before it, to serve as a basis for its discussions, a Memorandum on the Foreign Trade Regime of the Republic of Kazakhstan (WT/ACC/KAZ/3, WT/ACC/KAZ/3/Add.1), a Survey of the Foreign Trade Regime of the Republic of Kazakhstan (WT/ACC/KAZ/40), the questions submitted by Members of the Working Party on the foreign trade regime of the Republic of Kazakhstan, together with the replies thereto (WT/ACC/KAZ/6, WT/ACC/KAZ/6/Add.1, WT/ACC/KAZ/6/Add.2, WT/ACC/KAZ/10, WT/ACC/KAZ/11, WT/ACC/KAZ/14, WT/ACC/KAZ/22, WT/ACC/KAZ/37, WT/ACC/KAZ/37/Add.1, WT/ACC/KAZ/37/Add.2, WT/ACC/KAZ/37/Add.3, WT/ACC/KAZ/37/Add.3/Corr.1, WT/ACC/KAZ/50, WT/ACC/KAZ/50/Corr.1, WT/ACC/KAZ/57, WT/ACC/KAZ/63, WT/ACC/KAZ/66, WT/ACC/KAZ/67, WT/ACC/KAZ/70, WT/ACC/KAZ/71, WT/ACC/KAZ/72, WT/ACC/KAZ/75, WT/ACC/KAZ/77, WT/ACC/KAZ/78, WT/ACC/KAZ/83, WT/ACC/KAZ/87), and other information provided by the authorities of the Republic of Kazakhstan (WT/ACC/KAZ/8, WT/ACC/KAZ/12, WT/ACC/KAZ/17, WT/ACC/KAZ/19, WT/ACC/KAZ/24, WT/ACC/KAZ/25, WT/ACC/KAZ/26, WT/ACC/KAZ/27/Rev.1, WT/ACC/KAZ/28, WT/ACC/KAZ/29, WT/ACC/KAZ/30, WT/ACC/KAZ/31, WT/ACC/KAZ/32/Rev.2, WT/ACC/KAZ/34/Rev.3, WT/ACC/KAZ/35, WT/ACC/KAZ/41, WT/ACC/KAZ/43/Rev.1, WT/ACC/KAZ/44, WT/ACC/KAZ/45, WT/ACC/KAZ/46, WT/ACC/KAZ/47, WT/ACC/KAZ/48, WT/ACC/KAZ/51, WT/ACC/KAZ/52, WT/ACC/KAZ/53, WT/ACC/KAZ/54, WT/ACC/KAZ/55, WT/ACC/KAZ/58/Rev.3, WT/ACC/KAZ/59, WT/ACC/KAZ/60/Rev.2, WT/ACC/KAZ/61/Rev.1, WT/ACC/KAZ/64, WT/ACC/KAZ/65, WT/ACC/KAZ/73/Rev.9, WT/ACC/KAZ/74 and WT/ACC/KAZ/88), including the legislative texts and other documentation listed in Annex 1.

INTRODUCTORY STATEMENTS

4. The representative of Kazakhstan recalled that the Republic of Kazakhstan had declared its independence on 16 December 1991. Kazakhstan had since implemented a programme of structural reforms with the objective to ensure transition to a market economy and sustainable economic growth. Significant progress was achieved in such important areas as trade and price liberalization, privatization, competition and fiscal and monetary reforms.

5. The foundations of Kazakhstan's reform programme consisted of a legal and regulatory regime based upon internationally accepted standards and conducive to trade and investment. In particular, Kazakhstan liberalized its trade regime by substantially reducing import and export licensing requirements to a limited number of goods; and abolishing State-trading monopoly and non-tariff barriers to trade such as import and export quotas. In the sphere of services market access, Kazakhstan established a legal and regulatory framework, which eliminated barriers to entry and guaranteed fair competition.

6. Key trade and investment legislation adhered to WTO principles by applying a non-discriminatory regime to products and services regardless of their origin and national treatment towards foreign investors. The Customs Code was based on the WTO and WCO norms,

thus ensuring transparency of customs procedures and timely processing of goods. The Government of Kazakhstan had also been undertaking important steps to bring its legislation into conformity with WTO norms, most notably, in the spheres of technical regulation, sanitary and phytosanitary measures, protection of intellectual property rights, import licensing, etc.

7. Kazakhstan was ready to become a member of the WTO and to fully integrate into the multilateral trading system. This willingness was expressed when the Government of the Republic of Kazakhstan submitted a formal application for WTO accession on 29 January 1996.

8. Members of the Working Party welcomed the application of the Republic of Kazakhstan to join the WTO and pledged their full support for the accession process. Members acknowledged the scope of the reforms and steps undertaken by the Government of Kazakhstan in order to establish a market-oriented economy and its strong commitment to integration to the multilateral trading system. They also noted that Kazakhstan played an important role in trade flows on the Eurasian continent and therefore its membership would strengthen the Organization and the world economy.

9. The Working Party reviewed the economic policies and foreign trade regime of Kazakhstan and the possible terms of a draft Protocol of Accession. The views expressed by Members of the Working Party and the various aspects of Kazakhstan's foreign trade regime, and on the terms and conditions of Kazakhstan's accession to the WTO, are summarized in paragraphs 10 to 1174 below.

II. ECONOMIC POLICIES

- Monetary and Fiscal Policy

10. The representative of Kazakhstan said that the National Bank of the Republic of Kazakhstan (NBRK) was the sole authority determining and implementing the State monetary and credit policy. Kazakhstan had a two-tier banking system, in which the NBRK represented the upper (first) tier, while all other banks represented the lower (second) tier. Within the limits of its authority, the NBRK represented the interests of the Republic of Kazakhstan in relations with other countries' central banks and other banks; international banks; and other financial and credit institutions. The NBRK was not guided by the aim of gaining profit in performing its tasks. The NBRK was independent, within the limits of its authority granted by law. Representative and executive bodies had no authority to interfere in the activity of the NBRK, its branches, representative offices and organizations.

11. According to Law No. 2155 "On the National Bank of Kazakhstan" of 30 March 1995 (as amended on 5 July 2012), the primary goal of the monetary policy of the NBRK was to ensure price stability. To accomplish this primary goal, the NBRK was assigned with the following tasks: (i) development and implementation of the State's monetary policy; (ii) support of the payment system; (iii) foreign exchange regulation and foreign exchange control; (iv) facilitation of the financial system's stability; (v) regulation, control and supervision of the financial market and financial organizations; (vi) protection of rights and interests of financial services consumers; and (vii) statistical activity in the monetary sphere and in the external sector, as well as other tasks in accordance with the laws of Kazakhstan and the acts of the President. The NBRK also performed the function of a lender of last resort and was entitled to carry out other transactions, authorized under Kazakhstan's law, in accordance with the decisions of its Board. Since 1998, the NBRK had not financed the budget deficit of the State.

12. In order to conduct its monetary policy, the NBRK provided loans to commercial banks; took deposits in national and foreign currencies; undertook interventions on the foreign exchange market; issued short-term notes; conducted open market transactions with securities; and provided commercial bill refinancing. The instruments used by the NBRK for the conduct of monetary policy included setting of the official refinancing rate and interest rates on main transactions, as well as establishing minimum reserve requirements.

13. In 2011, inflation in Kazakhstan had been measured at 7.4%. In 2012, one of the goals of the NBRK had been to implement monetary policy directed at the provision of price stability and

maintenance of annual inflation at a low level, which would be adequate with existing macroeconomic conditions.

14. In order to control the amount and remuneration rates on bank deposits and loans, the NBRK used the normative standards for minimum reserve requirements. In exceptional cases, if it was not possible to slow down inflation by means of indirect monetary control, the NBRK had the authority to establish direct quantitative restrictions on particular types of transactions. Since the introduction of the national currency in 1993, the tenge (KZT), the NBRK had not established maximum rates and had not established credit restrictions since 1995.

15. The main instruments of rate control on the financial market and sterilization of banks' surplus liquidity were short-term banknotes and the deposits of second tier banks in the NBRK. The short-term banknotes were State securities, issued by the NBRK. The supply of short-term banknotes was determined on the basis of constructing a financial instruments yield curve for a period of up to one year. In 2011, the liquidity situation on the monetary market had remained almost the same. The conversion period for short-term banknotes was kept at existing levels - three, six and nine months.

16. In response to questions on the currency regime, the representative of Kazakhstan said that the earlier regulatory procedure for currency transactions had been completely revoked as of 1 January 2007. The existing currency regulation (registration and notification) did not limit currency transactions and was aimed at providing statistical monitoring of currency transactions. The simplification of requirements for currency transactions conducted by residents, including transactions with foreign assets, was a major goal for further advancement of the currency regime and currency control. In order to control risks relating to currency transactions, Kazakhstan would be taking measures to improve the effectiveness of prudential regulation and risk management by banks, pension funds and insurance companies.

17. Asked to clarify the term "resident" for the purposes of the registration and notification regime, the representative of Kazakhstan said that, according to Article 1 of Law No. 57-III "On Currency Regulation and Currency Control" of 13 June 2005, "residents" were defined as: (i) citizens of Kazakhstan, including those located temporarily abroad or those on State service abroad, but excluding those having permanent residence abroad in accordance with the legislation of the foreign State; (ii) foreigners and stateless persons holding a document entitling them to permanent residence in Kazakhstan; (iii) all juridical persons, established under Kazakhstan's legislation and located in Kazakhstan, as well as their branches and representative offices located in either Kazakhstan or abroad; and, (iv) diplomatic, trade and other official representative offices of Kazakhstan abroad. Accordingly, "non-residents" were defined as all natural persons and juridical persons, their branches and representative offices, which were not defined as "residents". She noted that licensing and registration requirements applied only to residents engaged in currency transactions (and not to non-residents).

18. Asked to provide information on the main sources of State revenue, as well as the main expenditures, the representative of Kazakhstan said that State budget receipts for 2011 had represented 19.9% of GDP. Tax revenue had accounted for 74.1% of total budget revenue - with corporate income tax (19.5%), value-added tax (16%), individual income tax (7%), and social tax (5.5%) representing the main tax revenue sources. Taxes levied on international trade and external transactions had accounted for 20.4% of overall tax revenue.

19. The representative of Kazakhstan further noted that the Budget Code of the Republic of Kazakhstan No.95-V of 4 December 2008 (hereinafter: Budget Code) had laid down the legislative basis for the transition to a result-oriented State budgetary planning. The Budget Code was aimed at redirecting the activity of government bodies from formal disbursement of the budget funds to reaching results in accordance with State policy priorities. The following budgets were approved and implemented in Kazakhstan: the republican budget, oblast budget, capital city budget, republican significance city budget, and regional budget (oblast significance city budget). The budget inflows were from the following: revenues, repayments of budget loans, inflows from the sale of State financial assets, and loans. Budget revenues consisted of tax inflows, non-tax inflows, inflows from sales of main capital, and transfers inflows. Tax inflows comprised taxes and other obligatory payments to the budget stipulated by the Tax and Customs Codes of Kazakhstan. According to the Budget Code, obligatory payments included corporate income tax, excluding inflows from the oil industry sector; value-added tax (VAT) on locally produced goods, works and

services, and imported goods; excise tax on imported goods; excise tax on crude oil, gas condensate; excise tax on locally produced goods; and other payments to the budget. Non-tax inflows were obligatory irrevocable payments to the budget, which were not related to inflows from basic capital sales, fixed grants and money transferred to the budget on a voluntary basis, except transfers of (i) revenue from republican property - inflow from the net profit of republican State enterprises; inflow from the net profit of the NBRK; dividends from State-owned stakes; income from shares in State-owned entities; income from the lease of State-owned property; remuneration for external loan placements by the State on second tier accounts, as well as for government deposits in the NBRK; fees on credits issued from the republican budget; revenues from the sale of military equipment; and other revenues from republican property; (ii) inflows from sales of goods, services and works by State institutions, financed by the republican budget; (iii) inflows from government purchases, financed from the republican budget; (iv) penalties, fines and sanctions imposed by institutions, financed from the republican budget, except for inflows from the oil industry sector; and, (v) other non-tax inflows, except inflows from the oil industry sector.

20. Asked to provide information on Kazakhstan's tax system, the representative of Kazakhstan said that the tax system was based on the principles of justice, transparency of the tax legislation, and unity of the tax system. She added that the Code of the Republic of Kazakhstan No. 99-IV "On Taxes and Other Obligatory Payments to the Budget (Tax Code)" of 10 December 2008 (hereinafter: Tax Code), which had become effective on 1 January 2009, was aimed at (i) reducing the tax burden on economic sectors other than those related to the extraction of natural resources; (ii) reducing administrative barriers; and (iii) increasing the effectiveness of tax administration.

21. The tax administration was made up of the State Revenue Committee of the Ministry of Finance and the tax service authorities. The tax service authorities included the state revenue committees of oblasts and the cities of Astana and Almaty, and the state revenue committees of rayons, cities and districts of cities. Tax authorities could also be established on the territories of special economic zones. The tax service authorities were subject to a vertical authority, i.e., each tax service authority was directly subordinate to an authorized higher-level tax service authority and was not classified as a local executive government authority. The Ministry of Finance administered the tax service authorities. The customs authorities collected taxes paid by the transportation of goods across the customs border of the Eurasian Economic Union (hereafter: EAEU), in accordance with Kazakhstan's Tax Code, as well as the customs legislation of the EAEU and Kazakhstan.

22. The Tax Code provided for a number of tax reductions. The corporate income tax rate had been reduced from 30% to 20%. Since 1 January 2009, VAT had been decreased from 13% to 12%. As a result, Kazakhstan had one of the lowest VAT rates in the world. The following persons were required to register for VAT payment in Kazakhstan: (i) individual entrepreneurs; (ii) juridical persons of Kazakhstan, except for government institutions; and (iii) non-residents conducting business in Kazakhstan through branches or representative offices. In accordance with the Tax Code, the mandatory registration for VAT payment did not apply to: (i) state institutions; (ii) structural divisions (branches, representative offices) of juridical persons of Kazakhstan; (iii) entities subject to gambling tax, fixed tax and single land tax; and, (iv) individual entrepreneurs, juridical persons of Kazakhstan and non-residents conducting business through branches or representative offices in Kazakhstan, with an annual turnover of less than 30,000 Monthly Calculation Index (MCI)¹; i.e., small businesses. In 2014, 30,000 MCI was equivalent to US\$305,274 (1 MCI equaled KZT 1,852 in 2014 or approximately US\$10.2).

23. The representative of Kazakhstan stated that the National Fund of the Republic of Kazakhstan was established by Decree of the President No. 402 of 23 August 2000 with the objective to ensure stable socio-economic development of the State through reduction of dependence of the national economy on the oil sector and adverse impacts of external factors. According to Article 21 of the Budget Code, the National Fund fulfilled both saving and stabilization functions. The National Fund represented assets of the State in the form of financial assets, and

¹ Monthly Calculation Index (MCI) is an index used in Kazakhstan for the purpose of calculation of pensions and other social allowances as well as for the application of penalties, calculation of taxes and other payments to the budget, annually approved by Law "On Republican Budget".

other property, except intangible assets², accumulated on the Government's account at the NBRK. According to Article 22 of the Budget Code, receipts into the National Fund consisted of the following:

- direct taxes, collected from organizations of the oil sector (except taxes collected by local budgets); corporate income tax; excess profit tax; mineral extraction tax; export rent tax; bonuses; Kazakhstan's share received under production sharing agreements; and additional payment of subsurface users, operating activity under production sharing agreements;
- other receipts from operations, conducted by companies of the oil sector (except payments collected by local budgets), including payments received as a result of breaching the terms of oil contracts;
- receipts from privatization of State property in republican ownership engaged in mining and processing sectors; and
- receipts from selling land plots for agricultural purposes.

24. She further clarified that according to Article 23 of the Budget Code, the National Fund of the Republic of Kazakhstan could be used:

- (i) in the form of the guaranteed transfer from the National Fund into the republican budget; and
- (ii) for covering of expenses related to the management by the National Fund and conducting annual audit.

Investment revenues from the management by the National Fund proceeded from investments of the financial assets of the National Fund into financial instruments, except for intangible assets.

25. Within the framework of social tax reforms, the Tax Code provided for the replacement of the existing regressive social tax scale - based on rates ranging from 13% to 5% - by a horizontal tax set at 11%. The social tax was a contribution by employers, levied on the basis of the income of employees, and was aimed at covering for the social needs of the population.

26. The Tax Code provided the following preferences for companies operating in special economic zones: a 100% reduction of corporate income tax; a 100% reduction for advance payments on corporate income tax; 0% rate for the land tax, as well as a zero coefficient applicable to related rates in the calculation of the land tax; and 0% rate on the average value of property subject to taxation in the calculation of property tax.

27. Prior to 1 January 2009, Kazakhstan had used two tax regime models for subsurface users: (i) subsurface use contract; and, (ii) a production sharing agreement (PSA). Since 1 January 2009, under the Tax Code, the practice of concluding PSAs with subsurface users had been discontinued. This was due to the difficulties of controlling the correct calculation of reimbursable costs under the PSA. At the same time, the tax regime defined in the PSAs, as approved by the President and signed before the enactment of the Tax Code (i.e., until 1 January 2009), had been preserved.

28. In accordance with the Tax Code, subsurface users paid all taxes and compulsory charges to the budget, in accordance with that Code, including (i) special charges for subsurface users, including a signature bonus, commercial discovery bonus, and payment for compensation of past costs; (ii) a mineral extraction tax (MET); and (iii) excess profit tax.

29. In order to improve the taxation regime for subsurface users, royalty payments had been replaced by a MET. The main goal was an even distribution of the tax burden, since the royalty was calculated under the terms of each subsurface use contract.

² Intangible assets included goodwill, trade-marks, title and publishing rights, computer software, licenses and franchises, copyright, patents and other rights on industrial property, rights on services and exploitation, formulae, models, sketches and samples.

30. In accordance with Article 331 of the Tax Code, the MET was imposed on subsurface users carrying out the extraction of oil, minerals, ground water and mud, including the extraction of minerals from man-made mineral formations within each individual subsurface use contract.

31. A tax reduction approach was applied in the calculation of excess profit tax by increasing the volume of non-taxable net income from 20% to 25%. In accordance with the provisions of the Tax Code, the tax base for this tax was the part of the subsurface user's net income in excess of 25% of the sum of the user's costs in the relevant tax period. In addition, in calculating the excess profit tax, subsurface users had the right to deduct actual expenses for the acquisition of fixed assets and geological exploration.

32. The rent tax on exported crude oil and gas condensate was applied at rates ranging from 0% to 32%. The value of factually exported crude oil and gas condensate was subject to taxation in accordance with world prices.

33. A Member requested that Kazakhstan provide information on regional initiatives in the area of monetary and fiscal policy. The representative of Kazakhstan replied that Section XIV "Monetary Policy" and Annex No. 15 "Protocol on Measures Aimed at Coordinated Monetary Policy" of the Eurasian Economic Union Treaty of 29 May 2014 (hereinafter: the EAEU Treaty), which came into effect on 1 January 2015, set up the legal framework in the EAEU in the area of monetary policies. From 1 January 2015, as stipulated in Article 64 of Section XIV of the EAEU Treaty, for the purposes of deepening economic integration, development of cooperation in the monetary and financial sphere, ensuring free movement of goods, services and capital in the territories of the member States, enhancing the role of national currencies of the member States in foreign trade and investment transactions, as well as providing mutual convertibility of these currencies, the member States developed and carried out coordinated monetary policy within the EAEU. Further, Article 64 provided that the coordination of exchange rate policy was conducted by a body which consisted of the Heads of Central Banks of the member States. The operational procedures of this body would be determined in the future by a separate international agreement within the EAEU. She further clarified that a decision-making authority in the area of monetary and fiscal policy remained in the national competence of the member States.

- Foreign Exchange and Payments

34. The representative of Kazakhstan said that currency transactions were regulated by the following normative legal acts: Law No. 57-III "On Currency Regulation and Currency Control" of 13 June 2005, as amended on 6 January 2012 (hereinafter: Law No. 57-III), Resolution of the National Bank of the Republic of Kazakhstan (NBRK) Board No. 154 "On Approval of Rules for Conducting Currency Transactions in the Republic of Kazakhstan" of 28 April 2012 (hereinafter: Currency Rules No. 154), Resolution of the NBRK Board No. 106 "On Approval of Rules for Conducting Foreign Exchange Transactions in the Republic of Kazakhstan" of 27 October 2006, as amended on 30 November 2009 (hereinafter: Resolution No. 106), Resolution of the NBRK Board No. 63 "On Minimum Charter Capital of Juridical Persons Solely Involved in Foreign Exchange Transactions" of 16 July 2009, amended on 1 February 2010 (hereinafter: Resolution No. 63), Resolution of the NBRK Board No. 42 "On Approval of Rules on the Export-Import Currency Control in the Republic of Kazakhstan and Receipt by Residents of the Record Number on the Export-Import Contracts" of 24 February 2012, as well as other normative legal acts of the NBRK.

35. The purpose of currency regulation in Kazakhstan was to advance the national policy of achieving sustainable economic growth and maintaining economic security. The currency regulation goals were to: (i) establish procedures for the circulation of currency valuables in Kazakhstan; (ii) create conditions for Kazakhstan's further integration into the global economy; and, (iii) provide a database on currency transactions and capital flows.

- Role of the National Bank of the Republic of Kazakhstan

36. The representative of Kazakhstan said that the NBRK adopted normative legal acts to ensure the efficient and reliable transaction of the payment systems in Kazakhstan and was responsible for their oversight. In accordance with Article 48 of Law No. 2155 "On the National Bank of Kazakhstan" of 30 March 1995, the NBRK had to arrange, coordinate and regulate payments and money transmissions. The NBRK had to establish (i) "rules and peculiarities of

application" of payment methods and/or money transmissions; and (ii) rules and conditions for payments related to the use of money in cash.

37. The NBRK activities in the sphere of currency regulation and currency control extended to, *inter alia*: (i) determination of the order of currency valuables in circulation in Kazakhstan; (ii) establishment of rules for conducting currency transactions by residents and non-residents in Kazakhstan; (iii) establishment of unified rules and conditions for registration of foreign trade contracts for export and import, and of procedures for export-import currency control for fulfilling repatriation requirements by residents; (iv) establishment of the procedure for import, export and transmission of currency valuables in and out of Kazakhstan; (v) establishment of licensing procedures and the issuance of licenses for foreign exchange transactions; (vi) establishment of registration procedures and the issuance of registration certificates for foreign exchange offices; (vii) establishment of qualification requirements for conducting foreign exchange transactions; (viii) establishment of procedures for registration and notification of currency transactions and opening accounts in foreign banks by residents of Kazakhstan, as well as the issuance of registration and notification certificates; (ix) determination of the "rate deviation of foreign currency in purchase from the rate of foreign currency in sale for tenge" in transactions conducted through exchange offices; (x) issuance of special permits for currency transactions within the special currency regime; (xi) establishment of procedures and forms of reporting on currency transactions obligatory for both residents and non-residents (after consultation with the competent State bodies); and, (xii) application of sanctions stipulated in the banking and currency legislation of Kazakhstan in cases of violation by banks and other persons.

38. The representative of Kazakhstan noted that Kazakhstan had accepted the obligations of Article VIII of the International Monetary Fund (IMF) Articles of Agreement and had established full convertibility of tenge in current transactions in 1996.

39. Since 4 February 2009, the exchange rate of the national currency had been pegged to the US dollar. Taking into account the stability of the national currency, the favourable position of Kazakhstan's exports on world markets, and Kazakhstan's balance of payments, the NBRK had cancelled the exchange rate peg and, as of 28 February 2011, had moved to a managed float exchange rate regime. A devaluation of the tenge in medium-term was not expected. The NBRK continued to take all necessary measures to prevent considerable fluctuations of the national currency, which could have a negative impact on the competitiveness of Kazakhstan's industries. The NBRK's policy was, to the extent possible, to further decrease its activity on the exchange market in order to increase the exchange rate flexibility of the national currency.

- Requirements Related to Foreign Exchange

40. In response to a question concerning obligations and restrictions relating to the purchase of foreign currency, the representative of Kazakhstan said that, pursuant to Article 17 of Law No. 57-III, the purchase and sale (exchange) of foreign currency had to be carried out only through authorized banks, authorized organizations, or their exchange offices. She explained that in accordance with Law No. 57-III, "authorized banks" were second-tier banks and organizations engaged in certain types of banking operations and conducting foreign currency transactions, including transactions on behalf of clients. The definition of "authorized banks" excluded "authorized organizations", which were allowed to conduct only currency exchange transactions. She continued that according to Article 15 of Currency Rules No. 154, residents and non-residents had the right to purchase foreign currency in the domestic currency market without providing a currency contract and/or other payment documents related to the foreign currency purchase and sale transactions. In filling out the application for the purchase of foreign currency through an authorized bank, juridical persons (resident and non-resident) were required to indicate the purpose of purchasing the foreign currency. However, in accordance with Article 18 of Currency Rules No. 154, the foreign currency purchased by juridical persons could be used for purposes other than indicated in the application.

41. The representative of Kazakhstan noted that, in accordance with Article 26 of Law No. 57-III, non-residents had the right to open bank accounts in a foreign and/or national currency in authorized banks on an unrestricted basis. Non-residents also had the right to transfer foreign and national currency, on an unrestricted basis: (i) from their accounts outside of Kazakhstan to their

bank accounts in an authorized bank; and (ii) from their bank accounts in an authorized bank to their bank accounts outside of Kazakhstan.

42. The representative of Kazakhstan noted that, in accordance with Currency Rules No. 154, natural persons had the right to withdraw (credit an account) foreign currency in cash from their bank accounts in an authorized bank without limitations. Juridical persons could withdraw foreign currency in cash from bank accounts in authorized banks for payments to natural persons in the following cases: (i) payments for the sale of goods in duty free shops, as well as realization of goods and rendering of services to passengers *en route* during international transportation; (ii) payments between natural persons and authorized banks or authorized organizations through their exchange offices; (iii) payments of salary by resident juridical persons to non-resident employees, as well as by non-resident juridical persons to resident and non-resident employees in foreign currency; (iv) payments in foreign currency by juridical persons of expenses related to business trips of their employees abroad; and, (v) payments between natural persons and non-resident juridical persons conducting activity under customs control in airports, ports and border terminals open for international traffic. In her view, the requirement to indicate the purpose for the purchase and sale of foreign currency was only imposed for statistical purposes and did not restrict the juridical persons' use of the purchased currency for other legal purposes. In her opinion, the current legal framework did not restrict legitimate trade transactions.

43. The representative of Kazakhstan noted that payments and money transmissions under current transactions between residents and non-residents could be carried out without restrictions, provided that they were conducted through accounts in authorized banks. In addition, paragraph 1 of Article 16 of Law No. 57-III stipulated cases where payments and transmissions on currency transactions could be carried out, by non-cash payment, without opening bank accounts in authorized banks in Kazakhstan: (i) payments and transmission of natural persons' money, as well as payments and transmission of money in their favor, in national currency, within the territory of Kazakhstan; (ii) transfer of natural persons' money without opening a bank account in an authorized bank in cases of non-repayable transmission of money (including tax and licence payments, fines, transfer of inheritance, alimony, grants, etc.) and other money transmissions from Kazakhstan, which were not related to conducting business activity by natural persons, and in relation to which there was no requirement to assign a record number to the foreign trade contract, registration and notification; (iii) payments for the sale of goods in duty free shops as well as the sale of goods and rendering services to passengers *en route* during international transportation; (iv) payments between natural persons and authorized banks or authorized organizations through their exchange offices; (v) payments of salary by resident juridical persons to non-resident employees, as well as by non-resident juridical persons to resident and non-resident employees in foreign currency; (vi) payments in foreign currency by juridical persons of expenses related to sending employees on business trips outside of Kazakhstan; (vii) payments between natural persons and non-resident juridical persons conducting activity under customs control in airports, ports and border terminals open for international traffic; and, (viii) payments between resident juridical persons and non-resident juridical persons conducting business activity on the territory of Kazakhstan, in the national currency within the amounts specified by the legislation of the Republic of Kazakhstan. The following payments and transmissions of money could be carried out without opening bank accounts in authorized banks of Kazakhstan: payments by checks; payments and transmission of money for transactions with non-residents through foreign bank accounts opened by residents, as well as payments and transmission of money through the authorized bank's correspondent accounts in foreign banks; and transfer of money from the foreign bank accounts of non-residents against fulfillment of the resident's obligations.

- Restrictions on Foreign Exchange

44. Restrictions on currency transactions as a mechanism of reaction to external shocks could be imposed in Kazakhstan only as provided by Article 32 of Law No. 57-III, according to which restrictions on currency transactions could be imposed only in case of threat to the country's economic security and the stability of its financial system, and only if the situation could not be resolved through other economic policy tools. Restrictions on currency transactions could be imposed within the framework of a special currency regime applied by an Act of the President. However, the special currency regime had never been imposed.

45. Asked to explain the procedures and criteria applied when the President decided to restrict currency transactions, the representative of Kazakhstan said that these were stipulated in Article 32 of Law No. 57-III and included a requirement to: (i) open a bank deposit without remuneration, in an amount determined as percentage of the amount of the currency transaction, in an authorized bank or the NBRK, for a fixed period of time; (ii) obtain a special currency transaction permit from the NBRK; (iii) fulfil obligatory sale of foreign currency obtained by residents of Kazakhstan; or, (iv) restrict the use of foreign bank accounts and establish terms for the repatriation of currency proceeds and limits on the scope, amount and transaction currency during currency transactions. The representative of Kazakhstan clarified that not all measures would be applied at once, but that the measures would be applied selectively, depending on the situation and the nature of the risks of destabilization in the currency market. The President could also impose other temporary currency restrictions. The special currency regime measures were aimed at fulfilling Kazakhstan's international obligations and creating conditions for the improvement of Kazakhstan's balance of payments and the situation on the domestic market.

46. The representative of Kazakhstan further explained that the special currency regime was applied by the President based on consultations with the Government and the NBRK. The President's Act on a Special Currency Regime had to contain: (i) the list of measures and temporary restrictions of currency transactions; (ii) procedure to carry out the requirements of the special currency regime, including terms for issuing the special permit; and, (iii) date of introduction and validity period of the special currency regime. A special currency regime could not be established for more than one year. During the year the special currency regime was in effect, the President was entitled to extend the term of the special currency regime (in case it was imposed for a term of less than one year) or to fully or partially abrogate it. During the application of the special currency regime, residents and non-residents had to observe the requirements established by the Special Currency Regime Act of the President.

47. Specific criteria and procedures for application of this regime were not established as it was difficult to forecast what could cause a threat to the economic security and financial stability of the State. In her opinion, this system complied with the provisions of the WTO Agreement and did not conflict with Kazakhstan's obligations in respect of the IMF. In response to a question from a Member, she noted that the regime of obligatory sale of foreign currency had been temporarily imposed from April to December 1999 during the transition to the new exchange rate regime. Since then, there had been no reasons to apply such restrictions.

48. EAEU member States previously had signed the Agreement on the Procedure for the Movement of Cash Monetary Funds and/or Monetary Instruments by Natural Persons across the Customs Border of the Customs Union of 5 July 2010. Kazakhstan had ratified this Agreement through Law No. 389-IV "On Ratification of the Agreement on the Procedure for the Movement of Cash Monetary Funds and/or Monetary Instruments by Natural Persons across the Customs Border of the Customs Union" of 17 January 2011. Under this Agreement, imports from third States to Kazakhstan and exports from Kazakhstan to third States of (i) cash and traveler's checks in a total amount exceeding the equivalent of US\$10,000; and, (ii) cash instruments payable on demand irrespective of the amount were both subject to customs declaration in written form. This Agreement was still in force within the framework of the EAEU.

- Licensing, Registration and Notification of Foreign Exchange Transactions

49. Some Members expressed concerns regarding the large quantity of licensing requirements for foreign exchange transactions under the current legislation, some of which could complicate normal trade transactions, and asked for specific information on Kazakhstan's plans to liberalize its foreign exchange regime.

50. The representative of Kazakhstan replied that, in accordance with Law No. 57-III, since 11 August 2009 the licensing regime (authorization procedure) of currency transactions and retail trade had been fully cancelled. At present, licensing requirements were applied only to exchange transactions with foreign currency in cash by exchange offices and authorized banks. Kazakhstan provided annual reports on its currency regime to the IMF. The IMF had never deemed Kazakhstan's regime inconsistent with the IMF Articles of Agreement and, in particular, with Article VIII of the Agreement. The registration and notification requirements, as described in the following two paragraphs, were maintained for statistical monitoring of external liabilities/revenues

of Kazakhstan and for further submission of the relevant data to the International Monetary Fund and the World Bank.

51. Asked to clarify what changes had been introduced into Law No. 57-III with respect to the licensing regime of currency transactions and retail trade, the representative of Kazakhstan said that during the period of gradual liberalization of the currency transactions and retail trade licensing regime from 2005 to 2009, the licensing requirement had been eliminated towards the following currency operations and activities:

- retail trade and provision of services for which payment was performed in cash foreign currency. Under the previous regime, the licence had been issued to persons who carried out their activities under the customs regime of duty free shops, as well as on the sea, inland water, air, rail and road transport engaged in international transportation;
- payments based on exports / imports exceeding the 180-day term;
- purchase by residents of non-resident's securities, equity interests in investment funds – non-residents, contributions by residents into the share capital of non-residents, as well as transactions with financial derivatives between residents and non-residents; and
- opening accounts in foreign banks by natural persons-residents and juridical persons-residents. Under the previous regime, the account balance and the conditions of use of a foreign bank account had been determined in accordance with a licence of the NBRK.

52. The representative of Kazakhstan noted that only residents were required to register major transactions of capital flows and provide timely notice to the NBRK. Residents were required to register transactions related to capital flow, which provided for the receipt of assets (funds) in an amount exceeding US\$500,000 or for the transfer of capital (tangible assets) from Kazakhstan in an amount exceeding US\$100,000. She added that, in accordance with Law No. 57-III, the following transactions of residents with non-residents were subject to registration with the NBRK: (i) commercial credits exceeding 180 days, except for foreign trade contracts which were subject to export-import currency control as described in paragraph 485 of this Report; (ii) direct investments; (iii) financial loans for more than 180 days, including financial leasing; (iv) acquisition of an exclusive right to intellectual property objects; and, (v) transfer of money or another property in fulfilment of obligations as a participant of a joint partnership. The NBRK registration or notification requirements extended only to residents. Non-residents investing directly in Kazakhstan could further export their investments and incomes without any restrictions. Registration of contract on currency transaction could only be refused in cases when: (i) the submission contained unreliable information or did not include all information required in accordance with Law No. 57-III; and, (ii) the transaction did not comply with the legislation of the Republic of Kazakhstan. The provisions of Article 8 of Law No. 57-III outlined the only conditions under which the registration of transactions could be refused. If a resident submitted the complete set of required documents in compliance with the legislation of Kazakhstan, the authorized bank would not have grounds for refusing the registration. Registered transactions could not be abrogated or nullified by the NBRK.

53. The representative of Kazakhstan added that the registration regime required the resident to submit to the NBRK a copy of the contract based on which the currency transaction would be carried out, as well as application form, identification documents and documents confirming incurrence, performance and discharge of liabilities under the currency contract. The notification regime required the submission of information on already conducted currency transactions. As part of the liberalization reform of the currency transaction regime, the registration requirement for certain currency transactions had been replaced by the notification requirement. Residents were required to notify currency transactions related to: (i) capital movements involving the inflow of property (funds) in an amount exceeding the equivalent of US\$500,000; (ii) transfer of funds (tangible assets) from Kazakhstan in an amount exceeding the equivalent of US\$100,000; and, (iii) payments/transfers by residents to non-residents and/or by non-residents to residents under financial derivatives transactions, as well as for payments related to export/import of works and services in amounts exceeding the equivalent of US\$100,000. The notification regime covered: (i) the bank's own transactions, including financial loans and direct investments; (ii) securities transactions carried out on the basis of a brokerage services agreement concluded with a resident broker (notification by a broker); (iii) transactions with derivative financial instruments; (iv) acquisition of real estate; (v) opening of foreign bank accounts by residents; and, (vi) transfer of property in trust (monetary funds and tangible assets).

54. The representative of Kazakhstan noted that, in accordance with paragraph 30 of Currency Rules No. 154, the currency control regime did not extend to: (i) contracts on State external loans and/or contracts on non-State external loans guaranteed by the Government, as well as transactions carried out under these contracts; (ii) commercial credits related to export or import requiring the assignment of a record number to the foreign trade contract; (iii) acquisition by non-residents of the securities of resident issuers, which were issued under the legislation and on the territory of other states (including depository receipts issued for resident issuers' securities) in the secondary market; (iv) acquisition by residents of the securities of non-resident issuers, issued under Kazakhstani legislation (including Kazakhstani depository receipts) in the secondary market; (v) acquisition by non-residents of government securities issued in Kazakhstan; (vi) banking transactions with derivative financial instruments; (vii) currency transactions carried out by overseas organizations of the Republic of Kazakhstan; and, (viii) commercial credits and financial loans granted by banks to non-residents for more than 180 days. She emphasized that registration and notification were required for statistical monitoring purposes.

- Exchange Offices

55. Some Members asked the representative of Kazakhstan how enterprises obtained rights to conduct currency transactions, whether foreign organizations were able to become licensed banks or exchange offices, and whether the licenses could be issued to any other organizations except for banks. She explained that foreign currency transactions, including those on behalf of clients, were carried out by second tier banks and other financial organizations established in Kazakhstan on the basis of a licence issued by the NBRK. She further continued that the Agency for Regulation and Supervision of Financial Markets and Institutions of the Republic of Kazakhstan had been abolished pursuant to Decree of the President No. 25 "On Further Improvement of the System of State Regulation of the Financial Market of the Republic of Kazakhstan" of 12 April 2011. The functions and authority of the Agency had been transferred to the NBRK.

56. The representative of Kazakhstan further explained that the NBRK issued licences for conducting exchange transactions with foreign currency in cash only to juridical persons of the Republic of Kazakhstan, who were solely engaged in the organization of exchange transactions (exchange offices). In accordance with paragraph 4 of Article 6 of Law No. 57-III, to obtain a licence, the applicant had to meet only one qualification requirement: to have start-up capital as specified by Resolution No. 63.

57. The representative of Kazakhstan noted that such juridical persons could be established only as limited liability partnerships without the right to establish representative offices in Kazakhstan or abroad, or to participate in the charter capital of other juridical persons, but with the right to establish branches in Kazakhstan. According to Article 7, Chapter 2 of Resolution No. 106, resident and non-resident natural and juridical persons could be the founders of an authorized organization, except for juridical persons which previously had been founders (one of the founders) of an authorized organization whose licence had been revoked less than three years before the date of application for a State registration permit or for a licence for organizing exchange transactions with foreign currency. A general licence for conducting exchange transactions did not restrict the number of exchange offices of the applicant.

58. Branches and representative offices of foreign banks could not carry out foreign currency exchange transactions until they registered as juridical persons of Kazakhstan and obtained the relevant permit.

59. The representative of Kazakhstan confirmed that if Kazakhstan introduced restrictions on foreign exchange or payments, such restrictions would be applied in conformity with WTO requirements. The Working Party took note of this commitment.

60. A Member requested that Kazakhstan provide information on regional initiatives in the area of foreign exchange and payments policy. The representative of Kazakhstan replied that according to Section XIV "Monetary Policy" and Annex No. 15 "Protocol on Measures Aimed at Coordinated Monetary Policy" of the EAEU Treaty, which came into effect on 1 January 2015, the member States developed and carried out coordinated monetary policy within the EAEU. Article 64 of Section XIV stipulated that the coordination of exchange rate policy was conducted by a body, which consisted of the Heads of Central Banks of the member States. The Advisory Council on

Monetary (Currency) Policy (hereinafter: the Advisory Council) had been established within the framework of the Single Economic Space in accordance with the Treaty "On Coordinated Monetary (Currency) Policy of Member States of the Agreement on Coordinated Principles of Monetary (Currency) Policy of 9 December 2010", which had been signed on 12 December 2011 and had entered into force on 1 January 2012. The Advisory Council would continue to function as a consultative body within the EAEU with the objective to provide coordination of monetary (currency) policy of the member States. The decisions of the Advisory Council were made based on consensus and were not binding. It operated on a regular basis with meetings held once per quarter. The representative of Kazakhstan further clarified that a decision-making authority in the area of monetary and fiscal policy remained in the national competence of the member States.

- Investment Regime

61. The representative of Kazakhstan said that the general legislation comprising the investment regime of Kazakhstan included the Constitution of Kazakhstan of 30 August 1995; Civil Code of Kazakhstan (General Part) No. 269-XII of 27 December 1994, as last amended on 25 March 2011 (hereinafter: Civil Code) and Special Part No. 409 of 1 July 1999, as last amended on 2 April 2010; Code of the Republic of Kazakhstan No. 99-IV "On Taxes and Other Obligatory Payments to the Budget (Tax Code)" of 10 December 2008 (hereinafter: Tax Code) and a number of other legislative acts, including: Law No. 373-II "On Investments" of 8 January 2003, as last amended on 20 February 2012 (hereinafter: Law "On Investments"); Law No. 112-IV "On Competition" of 25 December 2008; Law No. 233-I "On National Security of the Republic of Kazakhstan" of 26 June 1998; Law No. 291-IV "On Subsurface and Subsurface Use" of 24 June 2010 (hereinafter: Law "On Subsurface and Subsurface Use"); Law No. 167-III "On Concessions" of 7 July 2006; and Law No. 124-III "On Private Entrepreneurship" of 31 January 2006. Provisions relevant to the investment regime contained in EAEU Agreements and Treaties, to which Kazakhstan was a party, also applied (see Section "Tariff Exemptions" of this Report).

62. The representative of Kazakhstan added that Law "On Investments" provided the specific elements of the legal basis for Kazakhstan's investment policy. This Law regulated relations with regard to investments in Kazakhstan, determined the legal and economic basis for the attraction of investments, guaranteed the protection of investors' rights when investing into Kazakhstan, and established measures of State support for investments and procedures for dispute resolution. Law "On Investments" did not establish local content or export performance requirements as measures of State support for investments. In response to a question, the representative of Kazakhstan replied that Law "On Investments" did not contain provisions specifying contractual rights, but rather described procedures for conclusion and termination of investment contracts.

63. Asked to clarify the definition of investments, and whether or not it included all goods, the representative of Kazakhstan said that Law "On Investments" defined investments as all kinds of property (except for goods for personal use), including property under financial leasing as of the date of the contract; property rights invested by an investor into the charter capital of a juridical person; and the increase of fixed assets used in entrepreneurial activities, as well as fixed assets produced and received within a concession agreement by the concessionaire (including its legal successor).

64. She further stated that, in accordance with paragraph 1 of Article 4 of Law "On Investments", an investor was granted full and unconditional protection of the rights and interests, ensured by the Constitution of the Republic of Kazakhstan, this Law and other legal acts of the Republic of Kazakhstan, as well as international agreements ratified by the Republic of Kazakhstan. This legal protection of investments included full and unconditional protection of the rights of investors, and guarantee of indemnity for damages suffered by investors due to issuance by public officials of acts that did not comply with the legislation of the Republic of Kazakhstan. Pursuant to paragraph 1 of Article 922 of the Civil Code, such damages had to be compensated by court decision using funds from the State Budget.

65. A Member requested to clarify whether in accordance with Law "On Investments" the stability of the terms and conditions of contracts concluded between investors and state bodies was guaranteed, and whether any modification made into the list of priority activities or consequences of the list becoming void affected concluded investment contracts. The representative of Kazakhstan replied that legal certainty for investors was guaranteed by Law

"On Investments". In accordance with paragraph 3 of Article 4 of the Law, the Republic of Kazakhstan guaranteed stability of the terms and conditions of agreements concluded between investors and State bodies, except for agreements that were amended by mutual consent of the parties. These guarantees for investors did not extend to: (i) amendments to the legal acts of the Republic of Kazakhstan and/or their entry into force, nor to amendments made to international agreements that changed the terms and conditions of import, production, and sale of excisable goods; and (ii) amendments and addenda to Kazakhstan's legislation introduced for national security, environmental safety, public health and morality purposes. In these exceptional cases, stipulated in Article 4 of the Law, the signed contracts could be modified, i.e., the State could enact new legislation or amend applied legislation. It was important to note that up to date Kazakhstan had not applied above-mentioned exceptional cases and, consequently, had not modified the terms of signed investment contracts. The legal certainty guaranteed to investors by the legislation of Kazakhstan also meant that any modification made into the list of investment priority activities or consequences of the list becoming void, did not affect concluded investment contracts.

66. Law "On Investments" also guaranteed the transparency of the activities of State bodies and the access to information related to investment activities (company registration, charter documents, licensing, etc.); provided a guarantee for investors to use income at their full discretion; guaranteed protection of investors' rights in case of nationalization and requisition; and investment dispute settlement regulations, including the possibility of international arbitration provided by this Law. Agreements on promotion and mutual protection of investments were concluded with certain countries in order to guarantee investment protection. These Agreements provided guarantees of investors' rights, including the recovery of investments when faced with political (regulatory) risks, nationalization and expropriation; the prevention of discrimination; and the regulation of disputes including appeal to international arbitration courts.

67. In response to a request by a Member for more information on nationalization, the representative of Kazakhstan said that nationalization procedures were stipulated in the Civil Code and Law "On State Property". In accordance with Article 54 of Law "On State Property", nationalization was carried out in the public interest, for national security purposes, in compliance with the established legal procedures and performed without discrimination. Nationalization was subject to preliminary and equivalent compensation by the Republic of Kazakhstan of the market value of the nationalized property and other losses. Reimbursement of the value of the property subject to nationalization and other relevant losses was carried out in full, prior to transfer of ownership rights to the Republic of Kazakhstan.

68. Asked to clarify if legislation on evaluation activities was developed and what effect it had on reimbursements, the representative of Kazakhstan said that evaluation of property purchased or alienated by the State in case of nationalization or requisition, was performed by a valuator in accordance with Law No. 109-II "On Evaluation Activity in the Republic of Kazakhstan" of 30 November 2000. The market value of the property subject to nationalization or requisition was established without regard to the change of value as a result of announcement of the forthcoming nationalization or requisition. Upon the request of the owner of the property subject to nationalization, a re-valuation of the value of the property could be conducted on the date of reimbursement.

- Investment preferences

69. The representative of Kazakhstan further explained that Law "On Investments" provided that the State's investment support was directed towards the creation of favourable conditions for investors investing in new technologies, the expansion and renovation of existing production facilities, training and protection of the environment. The State support of investments involved granting of investment preferences for a list of "priority" investment activities, which were available to all juridical persons of Kazakhstan provided they met the objective criteria. As Law "On Investments" did not set minimum capital requirements for foreign investment, its scope of application, including investment preferences, also covered small and medium-sized enterprises. Investment incentives were granted to the investment activity in the list of priority activities (approved by Government Resolution No. 436 of 8 May 2003 and amended by Government Resolution No. 809 of 6 August 2010) or the list of strategic investment projects. She further explained that the list of strategic investment projects previously adopted by Government

Resolution No. 1293 of 1 September 2009 had become void and that a new list of strategic investment projects would be developed by her Government.

70. Previously, investment tax preferences had been in the form of full exemptions from the payment of property tax, land tax and corporate income tax and had been enforced from the date the investor started to operate the facility. However, as of 1 January 2009, these investment tax preferences had been eliminated from Law "On Investments". Therefore, they had no longer been granted since 1 January 2009. In the meantime, a transitional arrangement had been introduced for investment contracts concluded before 1 January 2009. Thus, according to Article 23 of Law "On Investments", tax preferences granted under an investment contract concluded with the authorized body on investments before 1 January 2009 would be effective until the expiration of the term specified in the contract. There were approximately 100 investment contracts granting tax preferences concluded prior to 1 January 2009, 58 of which were still being in the process of implementation. None of the investment contracts that had been concluded prior to 1 January 2009 contained local content requirement.

71. The fundamental criterion for granting all types of investment preferences was that an investment activity should be listed in the list of priority activities. The following types of investment preferences could be granted within the investment contract:

- customs duty exemptions;
- in-kind state grants;
- preferences on land tax and property tax for juridical persons implementing strategic investment projects; and,
- industrial preferences for juridical persons implementing strategic investment projects in socially and economically disadvantaged regions.

72. Customs duty exemptions and in-kind state grants were granted, provided that the investment activity was listed in the list of priority activities approved by Government Resolution No. 436 of 8 May 2003. Customs duty exemptions were granted for a period not exceeding five years from the date of conclusion of the investment contract. In-kind state grants were granted for the implementation period of an investment project from the date of conclusion of the investment contract. For land tax preferences, property tax preferences and industrial preferences for implementing strategic projects, an additional criterion was established, i.e., an investment project had to be included into the list of strategic investment projects. If the project was not listed in the list of strategic investments projects, a juridical person could not apply for such preferences.

73. On 20 February 2012, the concept of strategic investment projects, i.e., projects that had strategic impact upon the economic development of Kazakhstan, had been re-introduced into Law "On Investments". Juridical persons implementing strategic investment projects could benefit from the new preferences on land and property tax and industrial preferences. The procedures for granting preferences on land tax and property tax were stipulated in the Tax Code. Preferences on land tax and property tax could be granted for a period not exceeding seven years from the date of conclusion of the investment contract. Industrial preferences were granted to juridical persons implementing investment strategic projects in socially and economically disadvantaged regions in the form of compensation or payments for such expenditures as gas, electricity, purchase of land, buildings and facilities. The list of the regions that were socially and economically disadvantaged was approved by Government Resolution No. 601 of 10 May 2012. The procedure for granting industrial preferences was approved by Government Resolution No. 61 of 30 January 2013. Industrial preferences could be granted for a period not exceeding seven years from the date of launching the investment strategic project. To date, there had been no industrial preferences, land and property tax preferences granted.

74. The lists of priority activities and strategic investment projects were intended to be revised regularly. The list of priority activities approved by Government Resolution No. 436 of 8 May 2003 had been amended in 2009 by Government Resolution No. 925, and again in 2010 by Government Resolution No. 809. Changes had been made with regard to types of activities, but the number of activities (93) had not been changed. The list of priority activities was amended by Government Resolution No. 1416 of 8 November 2012. The updated list of priority activities is attached to this Working Party Report (Annex 2).

75. According to Article 19 of Law "On Investments", an applicant for investment preferences was required to submit documents to the authorized body in charge of investments determined by the Government to prove the juridical person's financial, technical and organizational capability to implement the investment project or the strategic investment project. The authorized body was responsible for concluding contracts on granting investment preferences based on the submitted information and for monitoring their implementation. It also took decisions on granting investment preferences and the possible extensions of their terms. Currently, the Investments Committee under the Ministry of Investments and Development was the authorized body in charge of investments.

76. In order to bring into compliance with Decision of the CU Commission No. 130 "On Common Customs Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation" of 27 November 2009, Law "On Investments" had been amended on 20 February 2012. In accordance with those amendments, customs duty exemptions were granted for technological equipment, its components and spare parts, raw materials and inputs imported for implementation of an investment project or a strategic investment project within the investment contracts concluded with the authorized body. In-kind grants could be granted by the Government to investors in the form of land plots, buildings, machinery, equipment, computer machines, measuring and regulating units, transportation vehicles (except for automobiles), production and household equipment. The authorized body, based on domestic legislation and with the approval of the relevant State bodies, also could confer in-kind State grants for either ownership or temporary use.

77. She further explained that procedures and conditions for simpler and broader application of investment tax preferences were established by the Tax Code. The Tax Code provided tax preferences in the form of deductions on corporate income tax. Application of the tax preferences did not require the juridical person to conclude an investment contract with the competent authority on investments in order to benefit from them. In accordance with the Tax Code, application of these investment tax preferences was not conditioned to local content requirements. These tax preferences provided for the possibility of judicial persons to deduct from the taxable income the value of buildings and facilities, machinery and equipment used in production, as well as related costs for reconstruction and modernization. The duration of tax preferences depended on the method of deduction applied by the juridical person. Deductions could be carried out according to one of two methods: (i) deduction after putting a facility into operation; or (ii) deduction prior to putting a facility into operation. According to the method of deduction after putting a facility into operation, the original costs (to be paid for the purchase, construction, assembling and installation of buildings, facilities, machinery and equipment) could be deducted in equal amounts during the first three-year tax period, or on a lump-sum basis. According to the second method, i.e., deduction prior to putting a facility into operation, the costs (to be paid for the purchase, construction, assembling and installation as well as reconstruction and modernization of buildings, facilities, machinery and equipment before putting them into operation) could be deducted in the tax period during which actual costs were incurred. These tax preferences were applicable to industrial buildings and constructions, machinery and equipment which were put into operation for the first time and were used for at least three years.

78. Investment preferences in the automobile sector had been granted under the free warehouse regime, which included local content requirements. In addition, preferences conditioned upon the use of local materials are described in Section "Free Zones, Special Economic Areas" of this Report. The customs duty exemptions granted under Law "On Investments" described above were distinct structurally and legally from the exemptions resulting from local content requirements in the free warehouse regime and the local content requirements in Kazakhstan's automotive investment programme described in Section "Trade Related Investment Measures" of this Report.

79. The representative of Kazakhstan added that according to Article 3 of Law "On Investments", foreign investment activities could be limited or banned in certain areas due to national security considerations. Pursuant to Article 5 of Law No. 451-I "On the Mass Media" of 23 July 1999, foreign natural and juridical persons were not allowed to directly or indirectly own, use, or manage more than 20% of the capital of a mass media enterprise in Kazakhstan. Pursuant to Article 5 of Law No. 85-II "On Guarding Activities" of 19 October 2000, foreign juridical persons, domestic juridical persons with foreign participation, as well as foreign and stateless individuals, could not engage in security and safety (guarding) activities. She added

that, pursuant to Law No. 233-I "On National Security of the Republic of Kazakhstan" of 26 June 1998, in the field of telecommunications, total foreign equity was limited to 49% of the charter capital of juridical persons supplying services as operators of long distance and/or international communications owning terrestrial communication lines (cable, including optical fibre, and radio relay).

80. According to Law No. 339-IV "On Use of Air Space and Activities of Aviation" of 15 July 2010, foreign participation in the authorized capital of air companies, performing regular air transportation was limited to 49%. She also noted that, pursuant to Article 36 of Law No. 136-I "On Pensions in the Republic of Kazakhstan" of 20 June 1997, the total charter (registered) capital of pension funds with foreign capital participation could not exceed 25% of the aggregate charter capital of all pension funds in Kazakhstan. For investment management companies managing pension assets, this figure was set at 50%. In addition, at least one third of the Board of Directors of such pension funds or investment management companies had to be made up of Kazakhstani nationals. However, she noted that the provisions of Law No. 107-III "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Issues of Licensing and Consolidated Supervision" of 23 December 2005 and Law No. 128-III "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Issues of Insurance" of 20 February 2006 had eliminated similar restrictions on foreign participation affecting banks and insurance/reinsurance companies. She added that Law No. 204-III "On Amendments to Law of the Republic of Kazakhstan 'On Architectural, Town-building and Construction Activity in the Republic of Kazakhstan'" of 11 December 2006 had eliminated the 49% foreign equity cap in architectural, urban development and construction services joint ventures.

81. She noted that pursuant to Article 23 of Land Code No. 442-II of 20 June 2003, private ownership of land plots located in the border zone and boundary territories of the Republic of Kazakhstan by foreigners and foreign juridical persons was prohibited. Also foreign citizens and foreign juridical persons could not privately own lands used for farming/agricultural production or forest planning purposes. Foreigners might be granted the right of temporary land use for farming/agricultural production purposes for a period of up to 10 years. Lease-holding of land plots for agricultural purposes adjacent to the State border of Kazakhstan was also restricted for foreigners.

82. A Member sought clarification on the definitions of border zone and borderland. The representative of Kazakhstan explained that in accordance with paragraph 29 of Article 2 of Law No. 70-V "On the State Border of the Republic of Kazakhstan" of 16 January 2013, the borderland was a part of the territory directly adjacent to the State border on the land plot. In the areas where the State border passes through border rivers, lakes and other waters, the borderland was defined as a part of the territory directly adjacent to the coast of these waters as well as territories located in the islands where the State Border regime was established. In accordance with paragraph 28 of Article 2 of Law "On the State Border of the Republic of Kazakhstan", a border zone was a part of the territory of the Republic of Kazakhstan adjacent to the borderland within the territory of administrative districts.

83. In response to the question of a Member concerning the minimum distance from the border that was prohibited for lease or purchase by foreigners, the representative of Kazakhstan replied that according to Government Resolution of the Republic of Kazakhstan No. 365 "On Establishment of the Limits of Borderland, Quarantine Zone and Border Zone" of 16 April 2014, such distance was established within the territory of 27 km and/or within administrative territories (districts) adjacent to the State Border of the Republic of Kazakhstan, to the Kazakhstan's banks of the border rivers, lakes and other basins; and on the coast of the Caspian Sea - 25 km adjacent to the shoreline of the Caspian Sea.

84. In response to questions on the existence of any restrictions or conditions, which did not apply to domestic juridical persons, but were applicable to foreign-owned juridical persons of Kazakhstan investing in land or leasing subsurface rights, the representative of Kazakhstan said that all restrictions applied equally to domestically-owned and foreign-owned juridical persons of Kazakhstan. She added that Article 12 of Law "On Subsurface and Subsurface Use" had been amended in line with the provisions of Law No. 233-I "On National Security of the Republic of Kazakhstan" of 26 June 1998, which stipulated that economic security extended to the preservation and increase of the energy resources of Kazakhstan. According to these

amendments, the Government of Kazakhstan had the priority in purchasing the rights to subsurface utilization, when sold by their current holder.

85. A Member asked the representative of Kazakhstan to clarify whether any financial actions affecting a change in ownership of an enterprise which owned the rights to subsurface utilization, such as the sale of private equity in the enterprise, would also trigger the application of Law "On Subsurface and Subsurface Use". The representative of Kazakhstan replied that in accordance with Law "On Subsurface and Subsurface Use", if subsurface user intended to alienate the subsurface use right (a part thereof) and/or an object related to subsurface use rights³, the State had a priority right to purchase the subsurface use right (a part thereof) and/or an object related to subsurface use rights. Subsurface user that intended to alienate the subsurface use right (a part thereof) and/or an object related to subsurface use rights had to submit application to the competent authority. The decision on acquisition of alienable subsurface use right (a part thereof) and/or an object related to subsurface use right was taken by the competent authority on behalf of the Government of Kazakhstan. Therefore, any financial actions resulting in change of ownership of an enterprise which owned the rights to subsurface utilization, such as the sale of private equity in the enterprise, would bring into effect the provision of Law "On Subsurface and Subsurface Use", giving the Government of Kazakhstan the priority right to subsurface utilization, when sold by the current holder.

86. A Member expressed concerns regarding the effect that the amendments to Law "On Subsurface and Subsurface Use" could have on the investment climate in Kazakhstan. In response, the representative of Kazakhstan said that Law "On Subsurface and Subsurface Use" would not negatively affect the investment climate in Kazakhstan, as it did not discriminate between foreign and domestic investors. The Law provided only for transparency and compliance with the terms of subsurface use contracts by subsurface users in order to ensure stable economic growth. As of November 2011, 142 companies operated in the subsurface sector, among which 86 companies had foreign participation.

87. In response to questions from some Members, the representative of Kazakhstan stated that Kazakhstan would provide foreign invested juridical persons of Kazakhstan, producing crude oil and gas in accordance with the national legislation of Kazakhstan, non-discriminatory access to pipelines which were partly or fully owned and regulated by the Government in accordance with the national legislation⁴ within the available remaining capacities of such pipelines, based on existing rights of access. The access would be allocated in a fair and equitable manner, and proportional to the production capacity of companies producing crude oil and gas in Kazakhstan. When applying measures relating to such pipeline transportation, including access to pipelines for foreign invested juridical persons of Kazakhstan producing crude oil and gas in Kazakhstan, the Government of Kazakhstan would ensure that the following principles were respected: (i) fully transparent legal and regulatory measures on access and pipeline transportation tariffs; (ii) non-discrimination with respect to the origin of crude oil and gas production within the territory of Kazakhstan and the destination; and (iii) application of non-discriminatory transportation tariffs with respect to foreign and domestic investors. The Working Party took note of these commitments.

88. The representative of Kazakhstan added that, according to Article 193-1 of the Civil Code, the sale/purchase of shares and any alienation of objects of strategic importance were subject to approval and authorization by the Government. The sectors of strategic importance were defined in Article 193-1 of the Civil Code. The list of objects of strategic importance was approved by Resolution of the Government.

³ Items related to subsurface use rights mean participating interests (shareholdings) in a juridical person holding the subsurface use right, as well as in a juridical person which may directly and/or indirectly determine, and/or influence on, decisions adopted by such subsurface user if the principal activity of that juridical person is related to subsurface use in the Republic of Kazakhstan. Items related to subsurface use rights also include securities evidencing the title to shares or securities convertible into shares of a juridical person holding a subsurface use right as well as a juridical person who may directly and/or indirectly determine, and/or influence on, the decisions adopted by such a subsurface user if the principal activity of such juridical person is related to subsurface use in the Republic of Kazakhstan.

⁴ This applies only to pipelines regulated as natural monopolies within the framework of Law No. 272-I "On Natural Monopolies and Regulated Markets" of 9 July 1998.

89. A Member asked Kazakhstan to confirm that the list of objects of strategic importance was currently approved and whether it was publicly available and regularly updated. The representative of Kazakhstan responded that the list of strategic objects transferred into the authorized capital of and/or owned by national holdings and/or national companies or their affiliates, as well as other juridical persons with State participation, and strategic objects owned by juridical persons non-affiliated to the State, as well as by individuals, was approved by the Resolution of the Government of the Republic of Kazakhstan No. 651 of 30 June 2008. The list was regularly updated (as last amended on 21 July 2011) and publicly available on the official websites of the Ministry of National Economy of the Republic of Kazakhstan (www.minplan.kz) and the Ministry of Justice of the Republic of Kazakhstan (www.minjust.kz) in both Kazakh and Russian.

- State Ownership, State-Trading Entities and Privatization

(a) Privatization

90. The representative of Kazakhstan said that privatization-related issues were regulated by Law No. 413-IV "On State Property" of 1 March 2011 (hereinafter: Law "On State Property"), which had replaced Law No. 2721 "On Privatization" of 23 December 1995; the Civil Code of the Republic of Kazakhstan (General Part) No. 269-XII of 27 December 1994 (hereinafter: Civil Code); Law No. 415-II "On Joint Stock Companies" of 13 May 2003 (hereinafter: Law "On Joint Stock Companies"); Law No. 220-I "On Limited Liability and Additional Liability Partnerships" of 22 April 1998 (hereinafter: Law "On Liability Partnerships"); and, Law No. 461-II "On Securities Market" of 2 July 2003.

91. State property consisted of both Republican and communal property. Republican property included the republican budget, the National Fund of the Republic of Kazakhstan, property allocated to republican State enterprises and republican State-run institutions, property of which was in republican ownership, and other property of the Republic of Kazakhstan, except for property at the communal level, i.e., the administrative territorial level. Communal property included local budget, property allocated to communal State enterprises and communal State-run institutions, property of which was in the communal ownership and other property of the administrative territorial units.

92. The representative of Kazakhstan said that pursuant to Law "On State Property", State property could be alienated in the following forms: (i) privatization via auction, tender, two-staged bid, on the stock exchange, or by sales of derivatives; (ii) privatization via direct sales; or (iii) other forms of alienation without conducting a tender, for instance, transfer of State property as contribution to the charter capital of limited liability partnerships (LLPs) or purchase of shares of joint-stock companies (JSCs). Privatization was the sale of State property to natural persons and non-state juridical persons conducted in accordance with the special procedures established by Law "On State Property". She further explained that State property was privatized upon decision of the authorized body on State property or a local executive body – in the case of municipal property, except for: (i) natural monopolies or enterprises with dominant position on the respective market, which were privatized based on the decision of the Government; and (ii) transfer of State property as a contribution to the charter capital of LLPs or purchase of shares of JSCs, which were privatized based on the decision of the Government or a local executive body in case of municipal property. The detailed description of the rules and procedures governing the privatization process was available to the public from the State Property and Privatization Committee at the website: www.gosreestr.kz.

93. The representative of Kazakhstan stated that the rules for privatization and restrictions on privatization outlined in Law "On State Property" did not apply to national companies and firms (JSCs/LLPs) held by national managing holdings or national holdings, i.e., to subsidiaries of national managing holdings or national holdings. Alienation of the property of national companies or firms (JSCs/LLPs) held by national managing holdings or national holdings was performed on the basis of the regulations outlined for JSCs/LLPs in Laws "On Joint Stock Companies", "On Limited Liability Partnerships", "On Securities Market" and the Civil Code. In addition, Law "On State property" stipulated specific provisions for strategic objects. Disposal of shares of national companies, transferred as a contribution to the charter capital of national managing holdings and national holdings, that were strategic objects, was permitted only by the decision of the Government of the Republic of Kazakhstan.

94. Concerning the results of privatization, the representative of Kazakhstan informed Members that between 1991 and 2005, Kazakhstan had held six two-year privatization programmes. Three of the programmes had focused on large scale privatization. The last two programmes had been developed within the framework of the State Property Management and Privatization Concept. During the period from 1991 to 2012, a total of 45,631 entities, or approximately 85% of State property, had been privatized (Annex 3(A) of this Report). Data on State property privatization in various sectors of the economy for 2000-2012 were provided in Annex 3(B) of this Report. Data on State enterprises and enterprises with State participation were provided in Annex 3(C), Annex 3(D) and Annex 3(E) of this Report. As a result of the privatization process by 1 January 2013, the total number of existing State enterprises had been 6,827. By 1 January 2013, among the 364 JSCs with State participation, the State owned 100% of shares in 236 JSCs; from 50% to 100% of the shares in 67 JSCs; 25% to 50% of the shares in 22 JSCs; and less than 25% of the shares in 39 JSCs.

95. Asked about operations of State-owned and State-controlled enterprises in the agricultural sector and the existence of plans for their privatization, the representative of Kazakhstan replied that agricultural production was predominantly privately owned. Major commercial activities, including production, distribution and food catering were no longer under State ownership or control. State intervention in the welfare of the agricultural sector was conducted through National Company "Food Contract Corporation", JSC "KazAgroFinance" and JSC "KazAgroProduct", as outlined in Sub-section (b) below.

96. With respect to restrictions in the privatization process, the representative of Kazakhstan informed Members that paragraph 3 of Article 94 of Law "On State Property" determined the category of State property that could not be alienated or privatized. However, this category of property could be transferred as a contribution to the charter capital of a national managing holding, a national holding or a national company, a limited liability partnership or a joint stock company.

97. State property not subject to privatization- was approved by Decree of the President No. 422 "On the List of State Property Objects Not Subject to Privatization" of 28 July 2000. The list of State property objects that could not be privatized included: (i) land (except for land in private ownership on grounds stipulated by the legislation of Kazakhstan), subsurface and water resources, flora and fauna; (ii) natural environmental zones under special protection; (iii) military organizations and property essential for national security; (iv) mainline railroads and highways, as well as accompanying engineering structures, as part of the State international routes network or designed for defence purposes; (v) navigable waterways, as well as lighthouses, navigation devices and seamarks that ensured safety and regulated navigation; (vi) mainline oil and gas pipelines, and interregional electricity networks of 220, 500 and 1,150kV voltage; (vii) water reservoirs with hydraulic facilities, water control pivots, dams and water barrages; (viii) first-aid medical organizations operating in rural areas, specialised medical centres (maternity welfare, radiological medicine, oncology, tuberculosis, HIV/AIDS and STD centres, blood banks, and mental asylums), organizations and centres acting as the sole provider of medical services in a given area; (ix) social protection services, children's homes, orphanages, nursing homes, hospitals and health resorts for the disabled, war veterans, children, and the elderly; (x) secondary schools; and (xi) historic and cultural sites protected by the State.

98. Asked about "strategic entities", the representative of Kazakhstan explained that Kazakhstan's legislation provided a definition of the term "strategic object", which according to Article 193-1 of the Civil Code, was a property of social and economic importance for the sustainable development of Kazakhstan's society, the possession, use or disposal of which would affect the national security interests of Kazakhstan. Strategic objects consisted of main-line railroad networks; mainline oil pipelines; mainline gas pipelines; national electric network; mainline communication lines; national postal network; international airports; international sea ports; air navigation devices of the air traffic control system; devices and navigation signs regulating and ensuring the safety of ships; entities using nuclear energy; space industry entities; water facilities; public roads; and shares (common stocks, ordinary shares) in juridical persons- which owned strategic objects; shares (common stocks, ordinary shares) owned by natural and juridical persons, which could directly or indirectly determine decisions or influence decisions of juridical persons which owned strategic objects. Strategic objects could be either in State or private ownership. Strategic objects could be encumbered by third party rights or disposed/sold only on the basis of the decision of the Government. The Government of Kazakhstan had the

priority right to purchase a strategic object at the market price, in case the owner intended to sell such an object. Strategic objects were enumerated in Resolution of the Government No. 651 of 30 June 2008.

99. Concerning the participation of foreign persons in the privatization process, she said that in accordance with paragraph 3 of Article 188 of Law "On State Property", restrictions applied with respect to the sale of strategic objects to foreigners and stateless persons, juridical persons with non-resident participation and their affiliated persons. Such restrictions applied in a limited number of sectors of Kazakhstan's economy and were described in Section "Investment Regime" of this Report.

100. In reply to questions on main pipelines, the representative of Kazakhstan said that Law No. 20-V "On Main Pipeline" of 22 June 2012 (hereinafter: Law "On Main Pipeline") was aimed at ensuring effective, secure and safe operation of main pipelines. Law "On Main Pipeline" also regulated issues related to the ownership of main pipelines as well as the procedure for engineering, construction, operation, and connection of new pipelines to existing pipelines, maintenance control and liquidation of the pipelines. According to Article 12 of Law "On Main Pipeline", main pipeline was an indivisible property and could be in public or private ownership. Main pipeline could not be in ownership of natural or juridical persons registered in accordance with the laws of a foreign country. Main pipeline, shares of juridical persons, which owned the main pipeline as well as shares of natural or juridical persons which could directly or indirectly determine decisions or could influence the decisions of juridical persons which owned the main pipeline, were considered as "strategic objects" as described in paragraph 98. She also noted that pursuant to Article 16 of Law "On Main Pipeline", the Government had the priority right to participate in an amount not less than 51% ownership in construction projects of main pipelines. National operator operated the main pipelines on behalf of the Government. National operator was a juridical person and its controlling shares were owned by the Government, or national managing holding or national company. In case the Government forewent its priority right, the person who planned to construct a main pipeline could offer participation in the project to other persons or perform the project independently. However, the conditions for participation in construction of a pipeline offered to other persons could not be more favorable than those offered to the Government. The Government could take a decision to participate in the construction project with the share less than 51%. However, the priority right of the Government did not extend to cases of expansion of existing main pipelines. According to Article 4 of Law No. 272-I "On Natural Monopolies and Regulated Markets" of 9 July 1998, main pipelines were natural monopolies.

101. The representative of Kazakhstan confirmed the readiness of Kazakhstan to ensure the transparency of its privatization process. Kazakhstan would provide annual reports to WTO Members (along the lines of the information provided to the Working Party) on developments in its privatization process for as long as the process continued. The Working Party took note of this commitment.

(b) State-owned and State-controlled Enterprises, Enterprises with Special and Exclusive Privileges

102. The representative of Kazakhstan stated that State property in Kazakhstan included the property of State enterprises and State-owned shares (right of participation) in joint stock companies (JSCs) and limited liability partnerships (LLPs) with State participation. JSCs with majority (i.e., 50% or more) of State participation included national managing holdings, national holdings, and national companies that did not belong to national managing holdings or national holdings. State enterprises were regulated by Civil Code (General Part) No.269-XII of 27 December 1994 (hereinafter: Civil Code), Law No. 413-IV "On State Property" of 1 March 2011 (hereinafter: Law "On State Property") and Law No. 527-IV "On National Security of the Republic of Kazakhstan" of 6 January 2012. JSCs or LLPs with 50% or more of State participation were governed by Law No. 415-II "On Joint Stock Companies" of 13 May 2003 (hereinafter: Law "On Joint Stock Companies"), Law No. 220-I "On Limited and Additional Liability Partnerships" of 22 April 1998 (hereinafter: Law "On Limited Liability Partnerships"), Law No. 461-II "On Securities Market" of 2 July 2003 and the Civil Code.

103. The representative of Kazakhstan emphasized that State enterprises were considered as State-owned, while JSCs/LLPs with 50% or more of State participation were considered as

State-controlled enterprises. State enterprises were defined by Law "On State Property" as enterprises established by the Government or local executive bodies to render State services with the objective to address the social and economic needs of the society and the State. The State was responsible for the liabilities of State enterprises⁵ and had the right to dispose their property. The property assigned to State enterprises entirely belonged to the State, which was indivisible, e.g., could not be distributed among employees of State enterprises or alienated by them. State enterprises were prohibited to conclude transactions not related to the subject or purpose of their activity, assigned by the Government or local executive bodies.

104. Annex 3(F) of this Report contains the list of spheres where State enterprises could be established. When State enterprises were engaged in commercial activity, the sales of produced goods and services were performed independently, except for transactions aimed at disposing the property, where the approval of the competent authority was required by law. This requirement resulted from the need to preserve the property of the State and constituted the difference between State enterprises and other types of juridical persons with State participation.

105. In reply to a question as to whether Kazakhstan agreed that these firms would be considered as "State-owned" for the purposes of being covered by the commitment in paragraph 142, the representative of Kazakhstan clarified that property of State (owned) enterprises was fully owned and operated by the Government and their activities were under strict control of the Government. State-owned enterprises were established in the juridical form of a State enterprise which was a separate legal entity from JSCs and LLPs with State participation. State enterprises could not belong to a national managing holding or a national holding.

106. The representative of Kazakhstan added that the legislation of the Republic of Kazakhstan did not provide the possibility for the Government to exercise special control or special management of the activities of JSCs and LLPs with State participation, whose shares in full or in part were owned by the State. In accordance with Kazakhstan's legislation, the JSCs and LLPs with State participation were not State enterprises due to the following reasons:

- (i) the property of JSCs and LLPs did not belong to the State, hence, the Government did not have the right to dispose of their property;
- (ii) the degree of control over operations of JSCs and LLPs was limited to competence of the Government to act as a shareholder or participant;
- (iii) shareholders of JSCs were not responsible for liabilities of the company and borne the risks of losses related to the activities of the company to the extent of the value of the shares owned; and
- (iv) these companies were subject to the rules of corporate governance and the general rules of Law "On Joint Stock Companies" or Law "On Limited Liability Partnerships". For example, Board of Directors of JSCs included independent directors. Property of such companies was managed by the management board.

Kazakhstan used the term "State-controlled enterprises" with respect to JSCs or LLPs with 50% or more of State participation.

107. The representative of Kazakhstan further explained that according to Article 171 of Law "On State Property", depending on the proportion of State's shares/right of participation, JSCs and LLPs with State participation were divided into two categories: (i) State-controlled JSCs and LLPs, in the charter capital of which the State owned controlling portfolio of shares (right of participation), i.e., more than 50% of the voting shares (right of participation); and, (ii) JSCs and LLPs with non-dominant shares of participation of the State.

108. The representative of Kazakhstan further added that according to Law "On State Property", State-controlled JSCs could be established in the following forms: (i) national managing holding; (ii) national holding; (iii) national company; and, (iv) JSCs under the government agencies.

109. A national managing holding was a JSC, the founder and sole shareholder of which was the Government. National managing holdings were established for effective management of shares

⁵ In cases of bankruptcy resulted from actions of founder, authorized state body or local executive body, and insufficiency of financial resources in cases of liquidation.

(right of participation in charter capital) of national development institutions, national companies and other juridical persons. There were three national managing holdings in Kazakhstan: National Welfare Fund "Samruk-Kazyna", National Managing Holding "KazAgro" and National Managing Holding "Bayterek".

110. A national holding was a JSC, the founder and sole shareholder of which was the Government, established for effective management of shares of national companies and other JSCs, and rights of participation in the charter capital of LLPs. There were two national holdings in Kazakhstan: National Info-Communication Holding "Zerde" and National Scientific-Technological Holding "Parasat"⁶.

111. A national company was a JSC, established by a decision of the Government or local executive bodies, controlling portfolio of shares of which belonged to the State, a national managing holding or a national holding, which operated in the spheres that formed the core of the national economy, or established for promoting development of the economy of regions (socio-entrepreneurial corporations). The national companies, controlling shares (50% and more) of which belonged to national managing holdings and national holdings, were not considered to be State-controlled JSCs as defined in Kazakhstan's law. The national companies, controlling shares of which did not belong to national managing holdings or national holdings, but managed by the government agencies, were considered as State-controlled.

112. With respect to national managing holdings, national holdings, and national companies⁷ and other State-controlled JSCs and LLPs, the Government exercised the following competences (Article 11 of Law "On State Property"):

- took decisions on the establishment, reorganization, change of the title and liquidation of a company;
- determined the procedure for elaboration, approval, monitoring and evaluation of development strategies and plans; and
- determined the procedure for reporting on implementation of development strategies and plans.

113. The representative of Kazakhstan noted that Kazakhstan applied local content requirements, in the form of preferences for purchase of locally produced goods, with the objective to diversify the national economy. In accordance with Kazakhstan's legislation, local content requirements applied in procurement of goods and services⁸ by JSC National Welfare Fund "Samruk-Kazyna"; JSC National Managing Holding "KazAgro"⁹; JSC National Info-Communication Holding "Zerde"; JSC National Scientific and Technological Holding "Parasat"; national companies that did not belong to national managing holdings or national holdings listed above; and in procurement by other JSCs and LLPs with 50% or more of State participation and State-owned enterprises (referred to in Section "Government Procurement" of this Report).

114. In reply to a question, the representative of Kazakhstan also clarified that National Managing Holding "KazAgro", National Info-Communication Holding "Zerde", National Scientific-Technological Holding "Parasat" and State-controlled national companies conducted procurement of goods and services in accordance with their own Procurement Rules, which stipulated local content requirements by application of conditional price discounts in total of up to 20% for locally produced goods and services in tender procurements. These Procurement Rules had been elaborated on the basis of the Model Procurement Rules approved by Government Resolution No. 787 of 28 May 2009.

⁶ "National Medical Holding" had been removed from the list of national holdings by Government Resolution No. 336 of 11 April 2013, and had been transferred to the autonomous educational organization "Nazarbayev University".

⁷ Except for the national companies which belonged to national managing holdings "Samruk-Kazyna" and "KazAgro", and national holdings "Zerde" and "Parasat".

⁸ The term "services" includes both services and work as those terms are used in Law No. 291-IV "On Subsurface and Subsurface Use" of 24 June 2010.

⁹ JSC National Managing Holding "Bayterek" had been established on 22 May 2013. The legal framework for functioning of the holding, including Procurement rules, was planned for adoption by the end of 2013.

115. The representative of Kazakhstan added that, Article 177 of Law "On State Property" and Article 13 of Law "On Joint Stock Companies" provided for the possibility of introduction of a golden share by the decision of the shareholders. The golden share could be owned by the Government or by a private shareholder. At present, the Government did not own any such share. She further clarified that a "golden share" did not participate in the formation of the charter capital and earned no dividends. The owner of a "golden share" had the veto right with regard to decisions of the general shareholder meetings, the Board of Directors and the executive body on the issues, determined by the Charter of the company. The veto right was non-transferrable.

116. The representative of Kazakhstan emphasized that the Government's role in the decision making process and activities of State enterprises, as well as JSCs/LLPs with State participation was strictly defined by the legislation of the Republic of Kazakhstan. The Constitution of the Republic of Kazakhstan stipulated equal protection of both private and State property and ensured that the principle of non-discrimination would be observed regarding the treatment of companies and enterprises of different forms of property rights. The Constitution also provided for the regulation and restriction of monopolistic activity. In her view, this was a sound guarantee that State enterprises and JSCs/LLPs with State participation would not act in a manner that would distort the competitive environment.

117. In response, a Member noted that the Government owned 100% of the shares of national managing holdings and national holdings, and thus exercised control of both the national managing holdings and national holdings, and any JSCs in which the national managing holdings and national holdings owned 50% or more of the shares. Thus, each of the forms of JSCs described in paragraph 108 as well as those national companies where the Government or a national managing holding, or a national holding owned 50% or more of the shares were subject to the provisions of paragraph 142.

118. In addition, the representative of Kazakhstan presented statistical data on the participation of State enterprises in the economy (Annex 3(G) of this Report), which demonstrated that the share of State property, including State enterprises, in the total Gross Value Added¹⁰ accounted for 9.6% in 2011. In particular, the share of State property, including State enterprises, in agriculture, forestry and fishery in 2011 accounted for 6.8% of the Gross Value Added. The share of services produced by State enterprises in 2011 accounted for 14.8% in Gross Value Added (see Annex 3(H) of this Report).

119. A Member requested Kazakhstan to enumerate all enterprises that were State-owned or controlled and all enterprises that enjoyed special privileges, based on an agreed standard, in respect to Kazakhstan's energy sector, and to provide detailed descriptions of all such enterprises in the energy sector. This Member also requested Kazakhstan to provide a more detailed description of "KazMunaiGaz" and the so-called "natural monopolies" that operated pipelines.

120. The representative of Kazakhstan replied that there were no enterprises with special privileges in the energy sector of Kazakhstan within the meaning of Article XVII of the GATT 1994. For example, National Company "KazMunaiGaz" accounted for 11% of the total production of the oil and gas sector (according to data in 2010). "KazMunaiGaz" was engaged in the extraction, transportation and processing of oil and natural gas. The company's main activities included exploration and survey work, development of oil, gas and gas condensate deposits; production and transportation of oil and natural gas; primary processing of oil and gas; and sales of hydrocarbons and processed products. In the oil transportation sector, JSC "KazTransOil", a subsidiary of "KazMunaiGaz", operated the Uzen – Atyrau (Kazakhstan) – Samara (Russia) oil pipeline. This part of the activity was regulated by the Committee on Regulation of Natural Monopolies and Protection of Competition of the Ministry of National Economy. With respect to gas transportation, the principal transporter of natural gas by main-line pipelines was "Intergas Central Asia", a subsidiary of "KazMunaiGaz". It provided domestic transportation, international transit and export transportation services. Tariffs for transportation services rendered to domestic consumers were regulated by the Committee on Regulation of Natural Monopolies and Protection of Competition of

¹⁰ Gross Value Added is the difference between output of goods and services (e.g., sales revenue) and intermediary consumption (e.g., cost of goods and services used in production). Gross Value Added does not include net taxes, which are included into the Gross Domestic Product.

the Ministry of National Economy. Tariffs for export routes and transit of natural gas by pipelines were not subject to State regulation.

121. The representative of Kazakhstan explained that a number of companies with 50% or more of State participation in equity had been included in the portfolio of National Welfare Fund "Samruk-Kazyna", a national managing holding, established in the form of the JSC with 100% participation of the State. The Fund had been established with the objective to improve corporate governance in national companies and enhance the competitiveness of the national economy. Independent ownership also allowed companies to operate more as commercial entities and generate their own profits. The sole founder and shareholder of the Fund was the Government of the Republic of Kazakhstan, which managed the Fund exclusively through fulfilling the competences of the shareholder and through representation in the Board of Directors. The Prime Minister of Kazakhstan *ex officio* chaired the Board of Directors. The Fund interacted with its companies through exercising functions of the shareholder and its representation in their Boards of Directors.

122. In reply to the request of a Member for further clarifications on the role of the Government, the representative of Kazakhstan stated that according to Article 7 of Law No. 550-IV "On the National Welfare Fund" of 1 February 2012 (hereinafter: Law "On the National Welfare Fund"), exclusive competences of the Government, as the sole shareholder of National Welfare Fund "Samruk-Kazyna", were stipulated as the following:

- 1) Approval and introduction of amendments and addenda to the Charter of the Fund;
- 2) Approval of the Annual Financial Statement of the Fund;
- 3) Approval of the Development Strategy of the Fund and introduction of amendments and addenda to the Strategy;
- 4) Decision making on voluntary reorganization and liquidation of the Fund;
- 5) Decision making on increase of number of authorized shares of the Fund or changing the type of unallocated authorized shares of the Fund;
- 6) Determination of the term of office of the Board of Directors of the Fund, election of its members and early termination of their office;
- 7) Sales of shares of the daughter companies, determined by the sole shareholder of the Fund, and transfer of these shares into trust management;
- 8) Decision making on liquidation and reorganization of daughter companies, determined by the sole shareholder of the Fund;
- 9) Appointment and early termination of office of the Chairman of the Board;
- 10) Distribution of net income for the reporting financial year, payment of dividends on ordinary shares and approval of the amount of dividends per one ordinary share of the Fund;
- 11) Decision making on non-payment of dividends on ordinary shares in cases, stipulated by Law "On Joint Stock Companies";
- 12) Approval of the dividend Policy of the Fund;
- 13) Approval of the decision of the Board of Directors of the Fund, on the price, quality and structure of placement of shares of companies within the Fund, offered on the stock market for the purposes of implementing a decision of the Government of the Republic of Kazakhstan;
- 14) Decision making on the purchase and sales of shares of banks and transfer thereof to trust management;
- 15) Approval and introduction of amendments into the Code of Corporate Governance; and,
- 16) Other issues according to Law "On the National Welfare Fund" and/or Charter of the Fund.

123. The representative of Kazakhstan stated that the selection of the Board of Directors was performed on the basis of Law "On Joint Stock Companies" and Law "On the National Welfare Fund". In accordance with Article 35 of Law "On Joint Stock Companies", the Government, as a single shareholder, had the exclusive competence to select members of the Board of Directors. Pursuant to Article 8 of Law "On the National Welfare Fund", the Board of Directors consisted of the Chairperson and members elected by the single shareholder. The Board of Directors was formed from the Cabinet members, CEO, independent Directors and other persons. The number of Directors was defined by the Charter of the Fund, provided that the number of independent Directors was not less than two-fifths of the total number of the Board of Directors. The criteria

and procedure for selecting independent Directors were set in Article 1 of Law "On Joint Stock Companies" and the Rules for the Election of Independent Directors. In particular, independent Directors could not (be):

- affiliated with the given JSC, nor affiliated with the affiliated persons of the given JSC within the last three years prior to election;
- in subordination with an executive of the given JSC or organizations - affiliated persons of the given JSC within the last three years prior to election;
- a civil servant;
- a representative of the shareholder at the meetings of the bodies of the given JSC within the last three years prior to election; and
- have participated as an auditor in auditing of the given JSC within the last three years prior to election.

124. Strategic decisions of the Fund's companies were made from the perspective of increasing their long-term value and effective management of assets. The Government did not interfere in the day-to-day activities of the Fund. The Government was not accountable for liabilities of companies under National Welfare Fund "Samruk-Kazyna", and was not authorized to dispose of their property. The companies under "Samruk-Kazyna" were neither "State enterprises", nor companies with State participation, since their shareholder was National Welfare Fund "Samruk-Kazyna", and not the Government of the Republic of Kazakhstan.

125. The representative of Kazakhstan stated that, based on data provided by the Statistics Agency of the Republic of Kazakhstan, "Samruk-Kazyna" accounted for 7.2% of Kazakhstan's GDP in 2011 and 5.3% in 2012. According to the Statistics Agency of Kazakhstan, the share in GDP of other national managing holdings, national holdings and their entities in total constituted less than 0.5%. A Member noted that, in contrast, in October 2013, Fitch Ratings had noted "Samruk-Kazyna"'s 100% State ownership and its strategic significance to Kazakhstan's economy, and stated that the consolidated assets of "Samruk-Kazyna" and its 405 subsidiaries were equivalent to 50% of the country's GDP. Fitch added that its investment accounted for 7-10% of GDP per year, and that 27% of Kazakhstan's total tax revenues and 6% of its total employment were also accounted for by this national holding company. In response, the representative of Kazakhstan noted that methodologically, consolidated assets of "Samruk-Kazyna" could not be compared to the GDP of Kazakhstan because the GDP represented the total value of final goods and services produced within a country during a specified time period. In 2012, more than half of the GDP, i.e., 52.5%, was accounted for by services, while production of goods constituted 41.4%. In the services sector, "Samruk-Kazyna"'s subsidiaries engaged mainly in transportation and communication services. The share of transportation and warehousing services constituted 7.5% of GDP, while the share of information and communication services constituted 2.6% of GDP. Companies providing services in both sectors were operating in a competitive environment along with other private companies. The share of oil and gas production in GDP was 14.7%. In accordance with data from the Statistics Agency, the share of "Samruk-Kazyna"'s oil and gas producing subsidiary "KazMunaiGaz" in GDP in 2012 was 2.24%.

126. In reply to the question of a Member, the representative of Kazakhstan stated that privatization of national companies, national holdings, national managing holdings and the companies they held was conducted by the means of alienation of shares of the above-mentioned companies. The legal basis for alienation of shares of such companies was Law "On the Joint Stock Companies". Pursuant to paragraph 2.15 of Article 53 of this Law, the decision on alienation of 10% or more shares of the daughter and affiliated companies of National Welfare Fund "Samruk-Kazyna" was under the competence of the Board of Directors of the Fund. Pursuant to Government Resolution No. 280 "On Approval of Complex Plan of Privatization for 2014-2016" of 31 March 2014, as amended on 30 April 2014, the Government recommended to national holdings, national managing holdings and national companies to approve the list of daughter and affiliated companies subject to transfer into competitive environment. There were 106 companies of National Welfare Fund "Samruk-Kazyna" subject to alienation primarily by means of bidding and four companies were subject to "Halyk IPO" procedure. At the moment, one of "Samruk-Kazyna"'s companies, "KazTransOil", had been listed for partial privatization in the form of Halyk (People's) IPO, i.e., offering 10% (minus one share) for private purchase in December 2012. More recently, "Samruk-Kazyna" announced plans for a similar 10% (minus one share) public listing of the Kazakhstan Electricity Grid Operating Company ("KEGOC") for November 2014. Other partial public listings (i.e., under 10% of shares) of "Samruk Energy", "KazAtomProm" and

"KazTemirZholy" were contemplated later in the decade. The companies subject to privatization operated in the spheres of oil and gas, transportation, energy, telecommunication, services and education.

127. The majority of the Fund's portfolio consisting of key national companies operating in oil extraction, telecommunication, mining, railway, electric power transmission and the defence industry, included: "KazMunaiGaz", "Kazakhtelecom", "Kazakhstan Temir Zholy", "KEGOC" "Kazpost", "Samruk-Energo", National Atomic Company "Kazatomprom", "Kazakhstan Engineering", "Air Astana" and "Samruk-Kazyna Pharmacia"¹¹. Other holdings of "Samruk-Kazyna" were represented by companies operating in the financial sector, transportation and the chemical industry. For the most part, the "Samruk-Kazyna" companies were classified as "strategic objects" as they operated assets indicated in paragraph 98. Services provided by national companies in the spheres classified as natural monopolies were regulated in accordance with Law No. 272-I "On Natural Monopolies and Regulated Markets" of 9 July 1998 (for more detailed information see Section "Pricing Policies" of this Working Party Report).

128. National Company "Kazakhtelecom" was an operator of fixed-line telephony services, which rendered traffic transit services providing connection between operating networks of countries bordering Kazakhstan. National Company "Kazpost" rendered public postal services, including delivery, distribution and mailing of periodicals, cash transactions in settlements, and mailing of registered letters within the geographical boundaries of Kazakhstan. National Company "Kazakhstan Temir Zholy" rendered main railway network services, cargo transportation services in domestic and import-export routes, and passenger transportation services. National Company "KEGOC" rendered electric power transmission services via the national electricity grid, technical traffic control services, regulation and reservation of electric power, and management of electric power production-consumption balance.

129. JSC "Samruk-Energo" operated in the following spheres: production of electric and heating energy; transmission and distribution of electric energy; coal mining; and reconstruction, extension and construction of energy-related facilities. National Atomic Company "KazAtomProm" was engaged in the following activities: geological exploration; uranium extraction; production of nuclear fuel cycle products; construction of reactors and nuclear power plants; nonferrous metals industry; and building of construction materials. National Company "Kazakhstan Engineering" was a holding company managing enterprises related to production of goods and services for national defence and law enforcement purposes. JSC "Air Astana" was an airline company, which rendered air transportation services in international and local directions. LLP "Samruk-Kazyna Pharmacia" was the single distributor of pharmaceuticals within the framework of the Government's programme providing guaranteed free medical treatment to the population.

130. The representative of Kazakhstan stated that in 2011, Government Resolution No. 1027 of 8 September 2011 approved the "Programme on Sales of Shares of Daughter and Affiliated Companies of National Welfare Fund "Samruk-Kazyna" on the Stock Market", i.e., the "Halyk IPO". Subsequently, "Samruk-Kazyna" approved the programme on the sales of minority shares of the JSC "KazTransOil" on the stock market. A Member requested Kazakhstan to provide a description of "KazTransOil", information on percentage of shares authorized for sales and on quantity of shares that had been sold, and implications of the sales in terms of management control. The representative of Kazakhstan replied that JSC "KazTransOil" was a subsidiary of National Company "KazMunaiGaz", which transported crude oil and oil products through the main pipelines. The shares of "KazTransOil" were offered to the citizens of Kazakhstan and pension funds of the Republic of Kazakhstan. The citizens of Kazakhstan owning the shares would be able to participate in the management of the company by voting in the general shareholder meetings, and would be entitled to receive dividends paid from the net income of the company. Overall, 10% minus one share of the authorized common shares of "KazTransOil" had been placed on the stock market, and approximately 80% of these shares had been sold to more than 34,000 citizens of Kazakhstan.

131. "Samruk-Kazyna" managed its subsidiaries in accordance with Law "On Joint Stock Companies". Procurement of goods and services by the Fund and organizations in which the Fund

¹¹ "Samruk-Kazyna Pharmacia" was transferred to State ownership by Government Resolution No. 516 of 25 May 2013.

directly or indirectly owned 50% or more of the voting shares (right of participation), was conducted in accordance with the Procurement Rules, approved by the Board of Directors of the Fund on 26 May 2012. In reply to a Member's question as to whether the requirement for local content in procurement for "Samruk-Kazyna" was initiated with the May 2012 Procurement Rules, the representative of Kazakhstan explained that initially the local content requirements had been introduced by the Procurement Rules approved by the Decision of the Board of Directors of 18 November 2009 in accordance with the previous Law "On the National Welfare Fund". The currently applied Procurement Rules were approved in accordance with the new Law "On the National Welfare Fund". Local content provisions had been introduced into the Procurement Rules of National Welfare Fund "Samruk-Kazyna" in 2009, as part of the Government efforts to overcome negative impact of the global financial crisis of 2008-2009 in the economic growth of the country. In particular, the local content provisions were aimed at stabilization of the social and economic situations in 27 single industry towns of Kazakhstan and maintaining jobs in the enterprises, including small and medium-sized businesses, which formed the core business activities of these towns. The Procurement Rules did not apply to companies, in which the Fund's share ownership (right of participation) was less than 50%. Tender was the main method applied for the procurement of goods and services. The Procurement Rules stipulated criteria for the evaluation of bids and provided for the application of conditional price discount in total of up to 20% for locally produced goods and services.

132. Asked to describe the structure of the local content requirements in procurement contracts in terms of scope and duration, the representative of Kazakhstan stated that the procurement contracts, concluded by "Samruk-Kazyna" and its companies, had to contain the local content provisions, which were indicated by a supplier in his/her tender offer or price quotation. "Samruk-Kazyna" and its companies signed a contract with a supplier who accepted the lowest conditional price, as a result of application of conditional price discounts, provided that the technical requirements of tender documentation had been met. Thus, there were several factors affecting tender results, such as conformity with technical requirements, proposed price for goods and services, and the share of local content in goods or services.

133. A Member requested to clarify which firms were engaged in commercial activities and distinguish them from those that were conducting business for the Government. The representative of Kazakhstan replied that all "Samruk-Kazyna" subsidiaries were engaged in commercial activities, except for JSC "Kazakhstan Engineering". JSC "Kazakhstan Engineering", along with machinery construction products and engineering services in commercial sphere, produced goods for national defence purposes. LLP "Samruk-Kazyna Pharmacia" conducted procurement of pharmaceuticals, medical equipment and materials which were distributed to public hospitals and polyclinics for provision of guaranteed free medical treatment to the population by the State. She noted that, at the same time, pursuant to Government Resolution No. 516 of 25 May 2013, 100% portfolio of right of participation in LLP "Samruk-Kazyna Pharmacia" had been transferred to the State ownership from National Welfare Fund "Samruk-Kazyna".

134. Some Members noted that in practical, if not in legal, terms, many of the enterprises in Kazakhstan appeared to enjoy exclusive or special privileges. These Members of the Working Party requested Kazakhstan to submit a draft notification prepared in conformity with the provisions of Article XVII of the GATT 1994 and sought a strong commitment from Kazakhstan that State enterprises, including JSCs/LLPs with State participation, engaged in commercial activities operated in compliance with WTO provisions, including on a commercial basis. A Member noted that Kazakhstan had acknowledged the existence of about 6,000 State-owned enterprises and JSCs and LLPs with State participation in their ownership, which included a number of State-controlled enterprises, some of them involved in import/export operations, and enquired whether a number of these enterprises, including JSCs and LLPs with State participation, would qualify as State-trading enterprises under the criteria set out in Article XVII of the GATT 1994, whether or not "funded by the national budget" or operating as monopolies. This Member pointed out that the substantive provisions of Article XVII of the GATT 1994 were applicable to State-controlled enterprises, such as JSCs and LLPs with State participation in their ownership even without special or exclusive privileges that made them eligible for notification, and that the obligations of these provisions also applied to all purchases and sales "involving either import or export". This Member requested Kazakhstan to submit a revised notification on State-trading enterprises.

135. The representative of Kazakhstan replied that there were only three companies, subsidiaries of National Managing Holding "KazAgro", that were involved in import and export operations with the use of budget funding: National Company "Food Contract Corporation", JSC "KazAgroProduct" (formerly known as "Mal Onimderi Korporatsiyasy") and JSC "KazAgroFinance". However, the representative of Kazakhstan asserted that these enterprises did not fall under notification obligations of the Understanding on Article XVII of the GATT 1994 as they enjoyed neither exclusive, nor special rights with respect to the importation or exportation of goods.

136. National Company "Food Contract Corporation" had been established to ensure the country's food security by maintaining and renewing the State grain reserves through the State grain resources. "Food Contract Corporation", as an agent of the Government, had the exclusive right to implement the budget programme on procurement, storage and transportation of State grain resources (comprising of State grain reserves and realization resources), as well as the stocks for market interventions. The Government approved the rules governing purchases for State grain resources and annually established the volumes and prices for such purchases. The Government had the right to use State resources as food aid to foreign countries through "Food Contract Corporation". "Food Contract Corporation" conducted its foreign trade operations in competition with private traders and subject to market prices. The total share of procurement of "Food Contract Corporation" constituted 16.8% of the total volume of grain produced in Kazakhstan. In response to the question of a Member, the representative of Kazakhstan stated that the local content requirements were stipulated in the Rules on Procurement of Goods and Services of "Food Contract Corporation" approved by the Decision of the Board of Directors of 24 November 2009. In particular, paragraph 30 of the Rules provided for conditional price discounts of up to 20% for domestically produced goods and services in procurements conducted via tender.

137. JSC "KazAgroProduct" had been established in 2001 with the objective to support domestic producers of livestock products. The company was engaged in: (i) procurement, storage, processing and the sale of livestock, raw materials and livestock products in the domestic market and for export; (ii) importation of agricultural and livestock products for further processing and sale; and, (iii) purchase (including importation) of specialized transport, technological equipment for processing and storage of agricultural and livestock products for the company's needs or for sale. The company conducted import and export operations alongside private companies in a competitive environment and its share was less than 1% of the total volume of meat produced in Kazakhstan. In reply to a specific question, the representative of Kazakhstan stated that "KazAgroProduct" conducted its procurement of goods and services in accordance with the Procurement Rules approved by the Decision of the Board of Directors of 18 April 2011. The Procurement Rules provided for application of a conditional price discount in total of up to 20% for locally produced goods and services in procurements conducted via tender, which was a mandatory method for procurements exceeding 4,000 monthly calculation index¹². She further added that since 2007 there were no purchases of specialized transport and technological equipment for processing and storing of agricultural and livestock products. Therefore, there were no local content requirements applied for those particular types of purchases.

138. JSC "KazAgroFinance" was established to implement the State policy aimed at creating a competitive agricultural sector through rendering financial services and provision of agricultural machinery and equipment under financial leasing schemes. "KazAgroFinance" purchased agricultural machinery in the domestic and international markets for subsequent leasing to farmers. In the sphere of foreign economic activity, "KazAgroFinance" was engaged in importation of agricultural machinery, equipment, and animals, and had no monopoly or any other exclusive rights or privileges in this sphere. The Government did not regulate the prices, the volume or the types of agricultural machinery or equipment purchased by the company. All such decisions were made by "KazAgroFinance" in accordance with available financial resources and based on applications from agricultural producers with the specification of the type of machinery they planned to lease from "KazAgroFinance". The Government determined only the interest rates in leasing schemes and other financial support programmes of "KazAgroFinance" funded from the State budget, and did not regulate the interest rates for its financing activities funded from other sources. In reply to a question, the representative of Kazakhstan explained that "KazAgroFinance"

¹² One monthly calculation index (MCI) is equal to KZT 1,852 in 2014. 4,000 MCIs are equal to around US\$40,500 in 2014.

conducted its procurement of goods and services in accordance with the Procurement Rules approved by the Decision of the Board of Directors of 4 April 2011. The Procurement Rules provided for application of a conditional price discount in total of up to 20% for locally produced goods and services in procurements conducted via tender. However, procurement of agricultural machinery and equipment for subsequent leasing to agricultural producers was conducted based on applications from farmers. Therefore, conditional price discounts foreseen for procurements via tender were not applied to the purchases of agricultural machinery and equipment for subsequent leasing to agricultural producers. She added that according to the data provided by the Ministry of Investments and Development, in her view, the share of local content in the procurement of "KazAgroProduct" and "KazAgroFinance" was insignificant. For instance, in 2012 "KazAgroProduct" purchased goods for the amount of KZT 24.5 million, of which local content composed around KZT 2.5 million or 10%. In 2012, "KazAgroFinance" purchased goods for the amount of KZT 48.6 billion, of which local content constituted only KZT 2 billion or 4.2%.

139. With the objective to facilitate the growth and diversification of the economy, attract investments and develop clusters through optimization of the management system of development institutions and financial organizations, National Managing Holding "Bayterek" had been established by Decree of the President of the Republic of Kazakhstan No. 571 of 22 May 2013. The following subsidiaries of National Welfare Fund "Samruk-Kazyna" had been transferred to "Bayterek": JSC "Development Bank of Kazakhstan", JSC "Kazyna Capital Management", JSC Export-Credit Insurance Corporation "KazExportGarant", JSC "Investment Fund of Kazakhstan", JSC Entrepreneurship Development Fund "Damu". The portfolio of "Bayterek" also included a number of JSCs previously supervised by government agencies, such as: JSC "National Agency on Technological Development" (formerly under the auspices of the Ministry of Industry and New Technologies); JSC "Zhilstroyberbank of Kazakhstan", JSC Mortgage Organization "Kazakhstan's Mortgage Company", JSC "Kazakhstan's Fund on Guaranteeing Mortgage Loans" (formerly under the auspices of the Ministry of Regional Development); and, JSC "Distressed Assets Fund" (formerly under the auspices of the Ministry of Economy and Budget Planning).

140. In reply to the question from a Member regarding the establishment of State monopolies in the field of importation or exportation of goods, the representative of Kazakhstan replied that currently Kazakhstan did not maintain nor envisage the establishment of State monopolies for importation or exportation of goods, except for exports of sturgeon roe and other sturgeon products. According to Article 11-1 of Law No. 593-II "On Protection, Reproduction and Use of Fauna" of 9 July 2004, exports of sturgeon roe and other sturgeon products, as well as the activity for catching *Acipenseridae* fish species and their procurement and processing, were referred to the sphere of State monopolies. In 2011, the Government had established the state monopoly, Ural-Atyrau Sturgeon Fishing Plant. Kazakhstan was planning to notify the enterprise as provided for in the Understanding on Article XVII of the GATT 1994.

141. In response to the request from a Member, the representative of Kazakhstan stated that the local content requirements in the form of 20% conditional price discount were applied in procurements of national managing holdings, national holdings and national companies, as well as other JSCs and LLPs with 50% or more of State participation. In response to the question from a Member, the representative of Kazakhstan replied that the entities described from paragraph 109 to paragraph 114 above and paragraph 937 of Section "Government Procurement" of this Report were the only entities in Kazakhstan, other than those described in Section "Trade Related Investment Measures" of this Report, that must comply with the local content provisions when seeking to purchase goods, services or works. Currently the following State-controlled companies existed in Kazakhstan:

- three national managing holdings ("Samruk-Kazyna", "KazAgro" and "Bayterek");
- two national holdings ("Zerde" and "Parasat");
- 33 national companies (including 10 under the national managing holdings); and
- 944 JSCs and LLPs managed by the government agencies.

142. The representative of Kazakhstan confirmed that Kazakhstan had State-owned and State-controlled enterprises that operated in the commercial sphere, including national companies, national managing holdings, national holdings and any JSCs in which the national managing holdings and national holdings owned 50% or more of the shares. She further confirmed that from the date of accession of Kazakhstan to the WTO, such enterprises, when engaged in commercial activity, would make purchases, which were not intended for governmental use, and

sales in international trade in a manner consistent with applicable provisions of the WTO Agreement. She confirmed in particular, that such enterprises would make such purchases and sales in accordance with commercial considerations, including price, quality, availability, marketability, and transportation, and would afford enterprises of other WTO Members adequate opportunity in conformity with customary business practice, to compete for participation in such purchases or sales. She also confirmed that within the scope of the services commitments of Kazakhstan, including the limitations, set-out in its WTO Schedule of Specific Commitments on Trade in Services, the rights and obligations of Kazakhstan under the WTO General Agreement on Trade in Services, and the regulatory measures of Kazakhstan covered by the WTO Agreement, including pricing regulations, and without prejudice to such commitments, rights, obligations, and measures that are consistent with these commitments, rights and obligations, Kazakhstan would ensure that such enterprises would act in accordance with the provisions set-out in this paragraph. She further confirmed that these commitments were without prejudice to the transition period for investment contracts concluded under Law No. 291-IV "On Subsurface and Subsurface Use" of 24 June 2010 set-out in paragraphs 896 and 897 and to Kazakhstan's participation in negotiations on joining the WTO Agreement on Government Procurement or its offer on covered entities in such negotiations. She also confirmed that, upon accession, Kazakhstan would notify enterprises falling within the scope of the Understanding on Article XVII of the WTO General Agreement on Tariffs and Trade 1994. The Working Party took note of these commitments.

- Pricing Policies

143. The representative of Kazakhstan stated that the legal basis for the policy of regulation of natural monopolies within the EAEU was Section XIX "Natural Monopolies" (Article 78) and Annex No. 20 "Protocol on Common Principles and Rules of Regulation of the Activity of Natural Monopolies" of the EAEU Treaty. These provisions replaced the CU Agreement on Common Principles and Rules of Regulation of Activity of Natural Monopolies of 9 December 2010, which was terminated when the EAEU Treaty came into effect on 1 January 2015. From 1 January 2015, Section XIX and Annex No. 20 of the EAEU Treaty provided for basic principles and rules of regulation of activities of natural monopolies. The EAEU Treaty aimed at ensuring balance of interests of consumers and natural monopolies, effectiveness of functioning and development of natural monopolies, and harmonization of national legislations in this sphere. In particular, Annex No. 20 to the EAEU Treaty provided for non-discriminatory access to services rendered by natural monopolies of an EAEU member State to consumers from the other EAEU member States provided technical capacities were duly available. Regulation of tariffs was based on the principle of separate accounting of costs related to services provided by natural monopolies. When regulating tariffs, the following criteria were taken into account: (i) recovery of economically justified costs related to regulated activities; (ii) earning of economically justified profits; (iii) promotion of cost effectiveness; and, (iv) formation of tariffs taking into account reliability and quality of services rendered by natural monopolies.

144. Pursuant to Chapter VII of Annex No. 19 "Protocol on Common Principles and Rules of Competition" to the EAEU Treaty, price regulation could be introduced on the goods markets which were not in the state of natural monopoly in exceptional cases, which included, *inter alia*, emergency situations and natural calamities, national security interests, and for particular types of socially important products.

145. The Eurasian Economic Commission (hereinafter: Commission or EEC) upon request of an EAEU member State could adopt a decision on necessity of repealing the regulated price. The Commission's decision was implemented in accordance with the national legislation of a member State. However, this competence did not extend to the services sector, natural monopolies, state procurement and interventions, and the following goods: (i) natural gas; (ii) liquefied gas for household needs; (iii) electric and heating energy; (iv) vodka, liquor and other alcohol products with strength above 28% (minimum price); (v) ethyl spirits from food raw material (minimum price); (vi) solid and heating fuel; (vii) production of nuclear energy cycle; (viii) kerosene for household needs; (ix) oil products; (x) pharmaceuticals; and, (xi) tobacco products.

146. The representative of Kazakhstan said that Law No. 272-I "On Natural Monopolies and Regulated Markets" of 9 July 1998 (hereinafter: Law "On Natural Monopolies") had established the legal framework for State regulation in the sphere of natural monopolies and regulated markets, including price setting by natural monopolies and regulated market participants. Law "On Natural

Monopolies" was aimed at protecting the interests of consumers, natural monopolies and regulated markets, as well as balancing consumer interests *vis-à-vis* the interests of natural monopolies. A natural monopoly was deemed to exist in a market in which creation of a competitive environment for the provision of a particular type of services / goods / works was not possible or economically viable, due to the technological characteristics of the production process and supply of services / goods / works. State regulation was implemented through establishing: (i) tariff rates / prices / fee rates; (ii) tariff estimates; (iii) temporary compensatory tariffs; (iv) temporary decreasing coefficients; (v) special order for cost formation; (vi) separate calculation of revenue, expenditures and used assets for each type of regulated activities; and, (vii) coordination of accounting policies. The coverage of Law "On Natural Monopolies" extended to both foreign and domestic juridical persons (their branches and representative offices), individual entrepreneurs, public bodies and natural persons in Kazakhstan. The provisions of Law "On Natural Monopolies", however, did not extend to individual entrepreneurs and juridical persons, engaged in activities classified as natural monopolies related to the construction and operation of facilities used for their own needs. She added that by Order of the Agency on Regulation of Natural Monopolies No. 91-OD of 19 March 2005 the "Rules on Increase or Decrease of Tariffs (Prices, Rates and Fees) or the Maximum Levels for Rendered Services (Goods, Works) Subject to Regulation" (hereinafter: Rules on Tariffs) had been approved. Pursuant to Law "On Natural Monopolies" and the Rules on Tariffs, the maximum level at which tariffs were set, as well as any tariff rate changes, had to cover the production cost of services rendered and take into account the profit margin required for effective operation. In addition, many of these controls regulated the price of certain goods (e.g., energy) supplied to households and other non-commercial users, and were also based on domestic social policy considerations. The list of services regulated by the State as natural monopolies is contained in Annex 4 of this Report.

147. A regulated market participant set a ceiling price for its goods / works / services based on production and marketing costs, as well as profit margins. The ceiling price had to be approved by the authorized body as being reasonable, based on the findings of a price appraisal. A regulated market participant had the right to decrease and increase the price for produced / sold goods works / services within the ceiling price level.

148. She added that by Government Resolution No. 1005 of 30 September 2010 the "Programme on the Tariff Policy of the Republic of Kazakhstan for 2010-2014" had been approved. The Programme was aimed at establishing an effective and balanced regulation system in the sphere of natural monopolies, which encouraged investments in modernization and technological upgrades, quality improvements and enhancement of competitiveness of the infrastructural sectors. She added that the legislation did not prevent foreign and domestic enterprises from competing in sectors dominated by natural monopolies. In response to a specific question, she confirmed that "natural monopoly" was a legal term.

149. The representative of Kazakhstan noted that all natural monopolies were subject to a uniform set of requirements and applied prices / tariffs that were approved by the Committee on Regulation of Natural Monopolies and Protection of Competition of the Ministry of National Economy (hereinafter in this Section: Committee). When considering applications, the Committee conducted a financial and, if necessary, technical evaluations of the proposed increases while taking into account the operations of other similar enterprises. The tariffs approved by the Committee had to cover costs required to provide the regulated services and take into account an adequate level of profits necessary to ensure the company's efficient operation. Based on the outcome of the review, the Committee developed a preliminary decision, which was discussed at public hearings (consultation process). The Committee was required to hold public hearings when reviewing applications of natural monopolies for approval of tariffs ceiling levels. Public hearings involved members of local executive branches, representatives from Government agencies, consumers and their public associations, independent experts, as well as the applicant (natural monopoly). Relevant information (e.g., Committee decisions) was published regularly in the media and was available on <http://www.kremzk.gov.kz/eng/>. Asked to provide the list of natural monopolies, she referred to the website: http://www.kremzk.gov.kz/eng/menu2/registry/resp_razd/.

150. She further noted that the adoption of the "Measures on Improvement of the Tariff Policy for Natural Monopolies for the period 2008-2010", approved by Government Resolution No. 1279 of 24 December 2007, had demonstrated the Government's effort to ensure the sustainable operation of natural monopolies. Measures were aimed at improving the legal and regulatory

framework, and the methodology for establishing tariffs, including the introduction of forward-looking methods.

151. The representative of Kazakhstan noted that the production of electric power, natural gas and gas condensate, as well as other forms of energy, was not regulated as a natural monopoly. She added that Law No. 166-III "On Amendments and Addenda to Certain Legislative Acts on Issues of Natural Monopolies" of 5 July 2006 had introduced the concept of "strategic goods" that included: coal, gas, mazut, diesel fuel, and electric power used by natural monopolies. The provisions of the Law required that a natural monopoly / consumer had to purchase those strategic goods directly from producers or direct importers, except in cases where supply shortages existed in a particular market. This requirement had been introduced as a result of the fact that the fuel cost had reached 70% of the expenses of natural monopolies due to the large number of intermediaries in the supply chain from producer to natural monopoly / consumer. In reply to a question, she noted that the term "strategic object" was not related to the term "strategic good". The term "strategic object" was used for regulation of certain infrastructural assets important for protecting the national integrity of Kazakhstan's economy whereas the term "strategic good" was used for the purpose of tariff regulation of natural monopolies.

152. In reply to the question from a Member regarding the regulation of energy prices, especially gas prices, the representative of Kazakhstan stated that, according to Law No. 532-IV "On Gas and Gas Supply" of 9 January 2012, her Government had established maximum wholesale prices for commercial and liquefied petroleum gas on the domestic market, based on the proposal of the Ministry of Energy. In accordance with Law "On Natural Monopolies", retail prices for gas charged by market participants with dominant or monopolistic position on the relevant market were regulated by the Committee. Companies with dominant or monopolistic position had to submit to the Committee notification on the proposed price increases for gas, along with the relevant justification materials. The proposed price was subject to the approval by the Committee based on the results of the price appraisal conducted in accordance with Article 7-2 of Law "On Natural Monopolies", which regulated price setting in regulated markets, as described in paragraph 147. Retail prices for petroleum products were regulated in accordance with Law No. 463-IV "On State Regulation of Production and Turnover of Certain Types of Petroleum Products" of 20 July 2011. The Committee in coordination with the Ministry of Energy approved maximum retail prices for petroleum products in accordance with the procedures established by Government Resolution No. 287 of 2 March 2012. The list of regulated petroleum products was approved by Government Resolution No. 286 of 2 March 2012, which included the following types of oil products: Ai-80, Ai 92 and Ai 93 gasoline brands, summer and inter-seasonal diesel fuel. These measures had been introduced in order to prevent unfair price increases on utility services provided to households and stabilize the situation on the domestic market of petroleum and gas products, in particular to curb high inflation in the country. She added that the Government regulated prices of petroleum products and gas used by households as part of social policy aimed at stabilization of retail prices for socially important products.

153. Asked whether the Government had an authority to apply price controls on goods and whether such controls existed, the representative of Kazakhstan replied that, in principle, in accordance with Article 9.7 of Constitutional Law No. 2688 "On the Government of the Republic of Kazakhstan" of 18 December 1995, the Government had the authority to develop and implement the State pricing policy, as well as to set the prices of goods and services. At the moment, the Government set prices for the following goods: (i) minimum retail prices for vodka, special vodka and other hard liquors (Law No. 429-I "On State Regulation of Production and Turnover of Ethyl Spirits and Alcohol Products" of 16 July 1999 and Government Resolution No. 1592 "On Establishing Minimum Prices for Alcohol Products" of 23 October 1999, as amended in February 2011); (ii) minimum retail prices for filter cigarettes of length between 45mm and 85 mm, and of length between 87.1 mm and 160 mm (Law No. 439-II "On State Regulation of Production and Turnover of Tobacco Products" of 12 June 2003 and Government Resolution No. 260 "On Establishing Minimum Retail Prices for Filter Cigarettes" of 4 April 2007); (iii) maximum retail prices for petroleum products (Law No. 463-IV "On State Regulation of Production and Turnover of Certain Types of Petroleum Products" of 20 July 2011); and (iv) maximum wholesale prices for liquefied petroleum gas on the domestic market (Law No. 532-IV "On Gas and Gas Supply" of 9 January 2012 and Government Resolution No. 1272 "On Establishing Maximum Wholesale Price for Liquefied Petroleum Gas on the Internal Market" of 8 October 2012). Price setting applied only to internal sale, and had not been applied in a discriminatory manner

between domestically produced and imported products. These measures were introduced as part of public health and social stability policies.

154. Concerning the provision of electric power supply services, the representative of Kazakhstan said that by Government Resolution No. 190 of 18 February 2004 the "Concept of Further Development of Market Relations in the Electric Power Industry in the Republic of Kazakhstan" had been approved. She added that Law No. 588-II "On Power Industry" had been adopted on 9 July 2004. In accordance with the provisions of this legislation, electric power supply services (on the retail market for electricity) had been transferred to the competitive market where electricity suppliers set tariffs for final consumers on the basis of market principles. Power supply companies with a dominant (monopolistic) position had been registered at the Committee. Other new developments included the use of centralized bidding for electric power procurement for sale to retail customers; the separation of heating networks from generation plants; and the creation of a level playing field for the supply of electric power with the purpose to promote competition between national-level electric power stations and regional producers of electric power. Transmission and distribution of electricity by inter-regional networks (via National Company "KEGOC") was considered to be an activity within the sphere of natural monopolies, and therefore subject to State price regulation. The methodology of setting tariffs for electric power transmission services had been amended to remove the direct dependence of tariffs rates on the distance of power transmission. An energy deficiency and network capacity coefficient had instead been introduced. She noted that the provisions of the new legislation allowed for an easy access to the wholesale market for electricity.

155. With regard to the regime governing natural gas, a Member enquired whether foreign companies in Kazakhstan benefited from the same prices as Kazakhstan's companies, and whether prices charged for domestic consumers were the same as for export. In addition, this Member asked Kazakhstan to confirm that prices of energy products (notably oil and gas) in Kazakhstan covered at least all costs of extraction, production, transport and marketing of those products, an appropriate contribution to fixed costs and financing charges plus a reasonable profit margin, sufficient to remunerate current fixed and capital investments associated with those products and secure future ones, including maintenance and upgrade of infrastructure and in the exploration and development of new fields done or planned.

156. In reply, the representative of Kazakhstan said that, at present, her Government regulated the prices of gas, in particular the wholesale domestic prices for liquefied petroleum gas (as indicated in paragraphs 152 and 153), and retail domestic prices for petroleum products and retail prices for gas charged by market participants with dominant or monopolistic position on the relevant market (as indicated in paragraph 152). Except for these limitations, gas and crude oil produced in and exported from Kazakhstan were sold at market-based prices. Transportation of gas via pipelines for domestic consumption and crude oil via main pipelines was subject to regulation as natural monopolies. The regulated tariffs for transportation of gas and oil were based on the "cost plus reasonable profit" principle. Tariffs for transportation of gas for export via pipelines were not regulated by the Government.

157. With regard to the regime governing oil, some Members requested more information on the natural monopolies operating in the oil (and gas) pipeline industry and on the procedures set by natural monopolies to access oil pipelines. These Members enquired what criteria were used to provide access to pipelines and whether any form of guidance was provided by the Government with respect to the provision of access.

158. The representative of Kazakhstan replied that the procedure for providing consumers with equal access to regulated services / goods / works of natural monopolies was contained in the "Rules For Granting Equal Access to Regulated Services (Goods, Works) in Oil and/or Oil Products Transportation Via Main Pipelines" (Order of the Chairman of the Agency on Regulation of Natural Monopolies No. 107 of 19 January 2005). At the moment, Kazakhstan's oil was exported via three pipelines: (i) "Uzen-Atyrau (Kazakhstan)-Samara (Russia)" owned by "KazTransOil"; (ii) "Tengiz-Novorossiysk" owned by the Caspian Pipeline Consortium (CPC); and, (iii) "Kenkiyak-Alashangkou" owned by "Kazakhstan-China Pipeline". The volume of oil exports via the "Uzen-Atyrau-Samara" pipeline was determined by its traffic capacity and was based on the annual inter-governmental agreement between the Russian Federation and Kazakhstan.

159. The Ministry of Energy allocated available transportation quotas for exports of crude oil via the "Uzen–Atyrau–Samara" pipeline among Kazakhstan's companies producing crude oil proportionally to the volume of their production depending on the available transport capacities of the main pipeline in Kazakhstan and transit capacity provided by the Russian Federation. Applications from the producers had to indicate the production volume and destination for the transportation of crude oil. Once the quota volume was agreed, the exporter had to sign an Oil Transportation Agreement with the main pipeline operator – "KazTransOil". In negotiations on the annual transit quotas with the Russian Federation, the Government of Kazakhstan took into account the forecasted needs for crude oil transportation of all Kazakhstan's companies. To date, all requests for transportation of crude oil had been met and there had been no shortage of quotas. Thus, quotas were allocated to both domestic and foreign invested companies producing crude oil in Kazakhstan on a non-discriminatory basis.

160. A Member asked if there was an official double pricing policy in any sector and a double pricing regime in practice as a result of Government measures. In reply, the representative of Kazakhstan stated that Kazakhstan's legislation did not provide for double pricing policy. Different tariffs charged for transportation of goods in different directions were explained by the differences in costs incurred by natural monopolies when rendering their services. According to Law "On Natural Monopolies", when establishing tariffs of natural monopolies, the Committee took into account all costs incurred by the entity and the reasonable profit, which could ensure efficient functioning of the operator.

161. Some Members noted that, although *a priori* tariff rates for transport of oil by pipeline were the same for domestic consumption and export, the application of a decreasing (discount) coefficient for domestic consumption resulted in a higher *de facto* rate for transportation of oil for export destination. These Members noted that Article XI of the GATT 1994 provided that "other measures" could not be used to prohibit or restrict the exportation or sale for export of any product destined for the territory of another Member. These Members stated that Kazakhstan was expected to eliminate the discriminatory pricing applicable to oil destined for export prior to its WTO accession.

162. The representative of Kazakhstan replied that Kazakhstan had discontinued the practice of application of decreasing coefficients for transportation of crude oil to domestic refineries in 2010. Instead, the tariffs for transportation of crude oil by mainline pipelines for export and domestic destinations were calculated separately based on actual costs, reasonable profits and the physical capacity of pipelines. Such an approach was necessary to ensure transparency in the accounting of revenues, costs and operational assets in regulated services, as well as transparency in the elaboration of tariff estimates, and the tariff calculation for regulated services delivered by natural monopolies.

163. Some Members also noted that the differential oil transport fees applied by Kazakhstan were in conflict with the provisions of Article V of the GATT 1994 on freedom of transit. In response, the representative of Kazakhstan said that there was no discriminatory treatment with respect to transit routes in Kazakhstan. As of 2004, oil transit from the Russian Federation to the People's Republic of China through Kazakhstan had been conducted by the "Omsk-Pavlodar-Atasu" pipeline, the only transit pipeline of crude oil via Kazakhstan. The transit tariffs were regulated by the Agreement between the Government of Kazakhstan and the Government of the Russian Federation on Transit of Crude Oil of 7 June 2002, as amended in November 2009.

164. The representative of Kazakhstan said that the scope of services monopolization in the railway services market, subject to State regulation as natural monopoly, had been reduced due to the restructuring of the railway transport sector which had begun in 2004. As a result of these reforms, currently only the services of mainline railway networks were regulated by the State as natural monopoly. Different tariffs for railway transportation were set depending on distance, rolling stock (wagons) type, cargo and destination. In her view, the application of these differential tariffs did not contradict WTO requirements. She noted that, in the context of the restructuring of the railway transportation sector between 2006 and 2013, her Government had undertaken a gradual unification of tariffs charged for the mainline railway services in domestic, export and import routes. During the first stage, in 2006, tariffs for transportation of construction materials, ferrous and non-ferrous metals and their scrap had been unified. During the second stage, in 2010, tariffs for transportation of crude oil and coal had also been unified. During the

third stage, in 2011, the unification of tariffs had continued with respect to non-ferrous ore, iron ore, alcohol and alcoholic beverages. The unification of tariffs had been completed during the fourth stage in 2012 for all remaining goods, including chemical and mineral fertilizers, chemicals and sodium bicarbonate, petroleum products and grain.

165. A Member noted that Kazakhstan's authorities had a very large discretionary margin to qualify activities as natural monopolies, and said that this Member did not consider, for instance, telecommunications and postal services to be natural monopolies. Another Member asked Kazakhstan to explain how there was competition in the markets dominated by natural monopolies.

166. In response, the representative of Kazakhstan reiterated that, as evidenced by the description of ongoing reforms in key sectors of the economy, her Government was pursuing liberalization programmes in order to facilitate competition and reduce the list of natural monopolies. In particular, her Government had reduced the types of regulated postal services. The list had originally included eight types of postal services but had subsequently been reduced to only universal postal services (cards, letters, packages and postal wrapper). Regarding telecommunication services, she said that the scope of services subject to Government regulation as natural monopoly had been reduced and currently included only: (i) telecommunication services under conditions of absence of competing operators for reasons of technological infeasibility or commercial inexpediency; and, (ii) leasing or use of cable channels and other basic facilities technologically related to connecting telecommunication. In addition, operator connection services (to the services of the universal telecommunication network) and telephone transit services would remain regulated and would only be excluded from the list of natural monopolies after the development of a competitive environment.

167. Some Members stated that enterprises that had a monopoly position in international trade and/or domestic distribution should be notified under the Understanding on the Interpretation of Article XVII of the GATT 1994, and enquired whether Kazakhstan intended to notify any of its "natural" monopolies. A Member said that there was ample evidence that State-owned natural monopolies in Kazakhstan did not grant equal access, as transporters, and enjoyed extensive special privileges.

168. The representative of Kazakhstan replied that natural monopolies in Kazakhstan acted as transport carriers with equal non-discriminatory (open) access for all suppliers and operators, regardless of the form and type of ownership. In this respect, she pointed to Article 2 of Law No. 266-II "On Railway Transport" of 8 December 2001, which stipulated the principle of non-discriminatory access to railway transport services for all participants of transport market. The "Rules of Non-Discriminatory Access for Carriers to the Services of the Mainline Railway" approved by Order of the Minister of Transport and Communications No. 401-I of 8 November 2004, had been repealed in October 2012. In her view, no exclusive rights or special privileges were granted to natural monopolies and, therefore, natural monopolies did not fall under the notification requirements of the Understanding on the Interpretation of Article XVII of the GATT 1994.

169. A Member asked Kazakhstan to confirm that, upon accession, the Government of Kazakhstan would, in regulating prices, ensure that State-owned enterprises and natural monopolies in Kazakhstan, in respect of their supplies of goods to industrial users, would recover their costs, including a reasonable profit in the ordinary course of their business. Kazakhstan was also asked to confirm that the application of price controls on goods and services would be in a manner consistent with WTO obligations, including Article III:9 of the GATT 1994, and that price controls would not be used for purposes of affording protection to domestic industries or service providers.

170. The representative of Kazakhstan confirmed that, from the date of accession, Kazakhstan would apply price controls on products and services contained in Annex 4 of this Report, and any similar measures that would be introduced or re-introduced in the future, in a manner consistent with the WTO Agreement. She further confirmed that price control measures on goods would take account of the interests of exporting Members, as provided for in Article III:9 of the General Agreement on Tariffs and Trade 1994. Price control measures would not be used for purposes of affording protection to domestic production of goods, or to impair the services commitments of Kazakhstan. The representative of Kazakhstan also confirmed that the lists of goods and services

subject to State price controls in Annex 4 of this Report were comprehensive, and that, from the date of accession, Kazakhstan would publish in the Yegemen Kazakhstan and the Kazakhstanskaya Pravda, notice of any changes in the coverage of goods or services that were subject to price controls. The Working Party took note of these commitments.

- Competition Policy

171. The representative of Kazakhstan stated that the legal basis for the competition policy within the EAEU was Section XVIII "Common Principles and Rules of Competition" (Articles 74-77) and Annex No. 19 "Protocol on Common Principles and Rules of Competition" of the EAEU Treaty. These provisions replaced the Agreement on Common Principles and Rules of Competition of 9 December 2010, which was terminated when the EAEU Treaty came into effect on 1 January 2015. From 1 January 2015, Section XVIII and Annex No. 19 of the EAEU Treaty were aimed at development of common principles and rules of competition, ensuring prevention of anticompetitive actions on the territories of the EAEU member States, and actions that might have negative impact on competition in trans-boundary markets.

172. The Eurasian Economic Commission (hereinafter: EEC or Commission) had the competence to prevent violations of common rules of competition by market participants, natural persons and non-commercial organizations of the EAEU member States if such violations affected or might have affected competition in trans-boundary markets, except for violations, affecting competition in trans-boundary financial markets, prevention of which was performed in accordance with the national legislation of the member States.

173. The Commission had the competence to:

- (i) review applications (materials) on existence of signs of violations of common rules of competition, which affected or might have affected competition on trans-boundary markets, and carry out necessary investigations;
- (ii) initiate and consider cases on violation of common rules of competition, which affected or might have affected competition on trans-boundary markets, on the basis of the appeals by the competent authorities of the member States, economic operators (market participants) of the member States, state bodies of the member States, natural persons or on its own initiative;
- (iii) make determinations and adopt decisions binding for economic operators (market participants), including on application of penalties to economic operators (market participants), regarding actions aimed at termination of violations of common competition rules; elimination of consequences of violations of common competition rules; ensuring competition; prevention of actions which might have hindered establishment of competition and/or might result in restriction, elimination of competition on trans-boundary markets and violations of common rules of competition;
- (iv) request information from competent authorities of the member States, local executive bodies, other bodies or organizations carrying out their functions, natural and juridical persons, including confidential information necessary to fulfill competence to control over compliance with common competition rules on trans-boundary markets; and,
- (v) undertake other functions, necessary to implement the common competition rules established by Section XVIII and Annex No. 19 of the EAEU Treaty.

174. She further added that anti-monopoly legislation of Kazakhstan was developed in line with the Constitution of the Republic of Kazakhstan and comprised, *inter alia*, of the relevant provisions of the Civil Code, Code No.155-III "On Administrative Offences" of 30 January 2001 (hereinafter: Code of Administrative Offences), and Law No. 112-IV "On Competition" of 25 December 2008 (hereinafter: Law "On Competition"), that had entered into force on 1 January 2009. This Law replaced Law No. 173-III "On Competition and Restriction of Monopolistic Activities" of 7 July 2006 and Law No. 232-I "On Unfair Competition" of 9 June 1998. Law "On Competition" was last amended by Law No. 81-V of 6 March 2013.

175. The key objective of Law "On Competition" was protection of free competition and creation of a favorable environment for entrepreneurial and investment activities, and growth of

businesses. This was to be achieved through: (i) prevention of monopolistic activities; (ii) prevention of unfair competition; (iii) de-monopolization of industries; (iv) development of fair and free competition; and, (v) protection of consumer interests. Law "On Competition" was directly applicable and did not contain references to by-laws.

176. The Committee on Regulation of Natural Monopolies and Protection of Competition of the Ministry of National Economy (hereinafter in this Section: Committee) was responsible for implementation of the national policy aimed at developing competition and restricting monopolistic activities. The main functions of the Committee were: (i) to promote development of fair competition; (ii) to prevent, detect and investigate violations of the anti-monopoly legislation of Kazakhstan; (iii) to control economic concentration; and, (iv) de-monopolization of market participants that restrained competition. The development of State policy on competition and restriction of monopolistic activities was one of the key functions of the Ministry of National Economy.

177. Asked about measures taken in the framework of de-monopolization, the representative of Kazakhstan explained that the decisions on de-monopolization of sectors of the economy were made by the Government based on results of the commodity markets analysis conducted by the Committee. For instance, in 2011, the Committee conducted the analysis of interconnection and traffic transmission (interconnection) in telecommunication services. Based on the results of the analysis, the Government took the decision to exclude interconnection services from the sphere of natural monopolies and transfer to competitive environment. Moreover, within the framework of de-monopolization policies, Law "On Competition" stipulated rules, under which State enterprises and juridical persons and their affiliates, where the Government owned 50% or more shares, had to receive the positive conclusion from the Committee for further activities in the relevant commodity market. In 2011, 3% of such enterprises were transferred to competitive environment (including enterprises in such spheres as maintenance of hotels and resorts, maintenance of car parks, construction, etc.).

178. Asked about merger control regulation, the representative of Kazakhstan said that according to sub-paragraph 1, paragraph 1 of Article 50 of Law "On Competition", regulating issues related to control over economic concentration, merger transactions fell under the notion of economic concentration. Articles 49-57 of Law "On Competition" regulated issues of economic concentration control. The Committee conducted control over economic concentration via an approval procedure of merger transactions (actions). In reply to a specific question on current merger thresholds to trigger the obligation for notification in Kazakhstan, the representative of Kazakhstan stated that consent of the Committee to perform transactions, acknowledged as economic concentration, was required in the following cases: (i) merger or acquisition of a market participant; (ii) acquisition by a person / group of persons of more than 25% of the voting shares (right of participation) of a market participant, if previously this person / group of persons had not held the shares (right of participation) of a market participant, or its portion was less than 25%; and, (iii) obtaining ownership, including in payment of the charter capital by a market participant (group of persons) of the main industrial assets and/or intangible assets of a market participant, if the balance value of the property subject to the transaction exceeded 10% of the balance value of the main industrial and intangible assets. Consent for economic concentration with participation of financial organizations could be given in case when the value of assets or amount of equity capital of a financial organization exceeded the amount jointly established by the Committee and the National Bank of Kazakhstan for financial organizations. Market participants had to notify the Committee in the following cases of economic concentration: (i) acquisition of rights (including rights on the basis of trust management agreement and joint activity agreement) by the market participant allowing him/her to give mandatory instructions to other market participant when conducting commercial activities or to perform functions of its executive body; and, (ii) participation of the same natural persons in executive bodies, boards of directors, supervisory boards, and other managing bodies of two or more market participants if these natural persons determine conditions of commercial activities conducted by the market participant. In accordance with paragraph 3 Article 50 of Law "On Competition", the consent and notification mentioned above were required if the aggregate balance value of assets of reorganized market participants (group of persons) or the acquirer (group of persons), and also market participant whose voting shares (rights of participation) in the charter capital had been acquired, or their aggregate volume

of goods sold for the last financial year exceeded 10 million Monthly Calculation Index¹³, or one of the persons participating in the transaction was a market participant with dominant or monopolistic position on the relevant goods market. The consent of the Committee was not required for the following cases, not considered as economic concentration: (i) acquisition of shares (rights of participation) of the market participant by financial organizations, if this acquisition was conducted with the aim of further resale, with the condition that this financial organization did not have voting rights in the managing bodies of the market participant; (ii) acquisition by financial organizations of property, main production assets and/or intangible assets of another market participant with the aim of repayment of the debtor's liability fully or in part, if this acquisition was conducted with the aim of further resale, with the condition that these financial organizations did not use such property to gain profit in their own interest; (iii) appointment of rehabilitation or bankruptcy manager, temporary administration (temporary administrator); and, (iv) economic concentration within one group of persons.

179. Asked about the test for a merger to be prohibited, the representative of Kazakhstan said that, according to Law "On Competition", a general rule was that all mergers leading to restriction of competition were prohibited.

180. Consent of the Committee could be granted provided that the participants of the economic concentration fulfilled certain requirements and commitments eliminating or alleviating the negative impact on competition. For instance, economic concentration should not result in the following:

- restriction of competition;
- breach of the conditions contracted with customers;
- suspension of services being rendered;
- deterioration of quality of the services rendered;
- non-fulfilment of the commitments under the investment contracts concluded with the Ministry of Investments and Development; and,
- unreasonable reduction of production or sales.

181. Such conditions could include restriction in management, use or disposal of property. The Committee, on its own initiative or upon the application of an interested person, could change its decision on economic concentration in cases when:

- within three years upon its adoption, the circumstances giving reasons to reject it were revealed;
- it was adopted on the basis of unreliable information, which led to the adoption of an illegal decision; and,
- requirements and undertaken commitments were not fulfilled.

182. The representative of Kazakhstan added that Law "On Competition" distinguished three types of monopolistic activities: (i) anti-competitive agreements; (ii) anti-competitive coordinated actions; and, (iii) abuse of dominant or monopolistic position. The representative of Kazakhstan noted that agreements or coordinated actions between competing and non-competing market participants, as well as agreements of State and local executive bodies, or between State bodies and market participants, were prohibited when they restricted competition or violated the rights of natural and juridical persons, including by establishing and/or maintaining cooperative pricing or other conditions of acquiring and selling goods, unreasonable limitation of production or sale of goods, unreasonable refusal to conclude contracts with certain sellers (providers) or buyers, and application of discriminating conditions to equivalent contracts with other market participants. She further explained that Law "On Competition" differentiated between "anti-competitive coordinated actions" and "anti-competitive agreements". The difference between anti-competitive agreements and anti-competitive coordinated actions was that anti-competitive agreements provided for intended written arrangement between market participants to conclude anti-competitive agreements, for example, agreements on sale of products at the same price or within certain territory.

¹³ One Monthly Calculation Index (MCI) was equal to KZT 1,852 in 2014 (around US\$10); 10 million MCI equaled to approximately US\$100 million in 2014.

183. The representative of Kazakhstan noted that Law "On Competition" redefined the term "group of persons". Abuse of dominant or monopolistic position by a group of persons was considered as abuse by a single market participant. Market participants were not obliged to seek for approval of economic concentration in cases when transactions were made within one group of persons. Law "On Competition" also contained new definitions of what constituted dominant and monopolistic positions. The position of a market participant(s) in the relevant commodity market was recognised as dominant or monopolistic if such market participant(s) acquired a capability to control the market. A market participant was deemed to have a dominant position if it had a share of 35% or more of the relevant market. Several market participants were considered to have a dominant position (i) if the aggregate share of up to three market participants in a given commodity market was equal or exceeded 50%; or, (ii) if the aggregate share of up to four major market participants in a given commodity market was equal to or exceeded 70%. A financial organization was deemed to have a dominant position (i) if the aggregate share of up to two financial organizations in a given financial services market was equal to or exceeded 50%; or, (ii) if the aggregate share of up to three financial organizations in a given financial services market equalled or exceeded 70%. A company with less than a 15% share of the market, including a financial services market, could not qualify as a company with a dominant position. Natural monopolies, state monopolies and market participants that owned 100% dominant share in the relevant commodity market were considered as companies (market participants) with a monopolistic position.

184. Asked to clarify the differences between the concepts of dominant or monopolistic position and monopolistic activity, the representative of Kazakhstan replied that the concept of monopolistic activity was wider than the concept of dominant or monopolistic position. Monopolistic activity was an activity or actions performed by a market participant, while dominant or monopolistic position was a characteristic of a market participant, defined by the market share. According to paragraph 4 of Article 26 of the Constitution of the Republic of Kazakhstan, monopolistic activity was regulated by the law. Market participants with dominant or monopolistic position had to observe restrictions set-out in Law "On Competition". Hence, monopolistic activity was restricted, but not prohibited. Types of monopolistic activities restricted by Law "On Competition" are described in paragraph 182.

185. In reply to a specific question, the representative of Kazakhstan stated that the dominant or monopolistic position itself was not considered breach of the anti-monopoly legislation. Article 13 of Law "On Competition" listed prohibited cases of abuse of dominant or monopolistic position:

- establishment and maintenance of monopolistically high/low or monopsonistically low prices;
- application of different prices or conditions to equivalent agreements with market participants or customers without objectively justified reasons;
- establishing restrictions for distribution of goods / works / services based on territorial factors, group of customers, purchasing conditions, and also quality and price;
- preconditioning or imposing a conclusion of an agreement where a market participant or a customer would accept additional obligations which, in their essence or according to customary business practice, were not related to the subject of such agreement;
- unreasonable refusal to conclude an agreement with or sell goods / works / services to independent customers while having the ability to produce (or sell) goods / works / services. This also included avoidance from concluding such an agreement within thirty calendar days of a request;
- preconditioning supply of goods / works / services to accept restrictions for purchasing goods / works / services, produced or sold by competitors;
- unjustified reduction of volumes of production and/or supply, including production and/or supply of goods / works / services, for which there was demand or customer orders;
- withdrawal of goods / works / services from circulation, if it resulted in price increase;
- imposition of economically or technologically unjustified agreement terms on a partner, not connected with the subject of the agreement;
- creation of obstacles for other market participants to enter or exit from a goods / works / services market; and,
- unjustified establishment of different prices / tariffs on the same goods / works / services, creating discriminating conditions.

In addition, Kazakhstan's legislation did not provide penalty for dominant or monopolistic position itself, but only for abuse and actions to restrict competition.

186. In reply to the question of a Member regarding economic indicators taken into account for identification of market participants with dominant or monopolistic position, the representative of Kazakhstan noted that in accordance with the "Methodology on Analysis and Assessment of the Competitive Environment in the Commodity Market", approved by Order of the Chairman of the Antimonopoly Agency No. 8-OD of 12 January 2009, and the "Methodology on Analysis and Assessment of the Competitive Environment in the Financial Services Market", approved by Order of the Chairman of the Antimonopoly Agency No. 57-OD of 19 February 2009, the Committee conducted analysis of the competition environment. The results of the analysis provided the picture of development of competition in the given market and identified market participants with dominant or monopolistic position. The methodology of analysis included the following steps: (i) identification of goods or substitute goods; (ii) identification of geographical boundaries of the commodity market; (iii) identification of time intervals; (iv) identification of structure of the market; (v) calculation of commodity market volume and shares of market participants in the market; (vi) assessment of competitive environment in the commodity market; and, (vii) detection of entry barriers to the commodity market. Based on these factors the Committee drew its findings on the competition environment.

187. Law "On Competition" expanded the list of types of unfair competition which included the following: (i) illegal use of trademarks and packaging; (ii) illegal use of a product of another manufacturer; (iii) copying product design; (iv) discrediting a market participant; (v) deliberately misleading, unfair and false advertisement; (vi) tie-in sale of goods; (vii) calling for a boycott of a seller / provider; (viii) calling for discrimination against a buyer / supplier; (ix) calling for a market participant to terminate a contract with a competitor; (x) bribing a seller's (provider's) employee; (xi) bribing a buyer's employee; (xii) illegal use of trade secrets; (xiii) selling goods while providing the customer with unreliable information regarding the character, method and place of production, consumer properties, the goods' qualities and quantities and/or its producers; and, (xiv) improper comparison by the market participant of its goods with the goods produced and/or sold by other market participants.

188. The State could participate in commercial activity in the following cases: (i) failure to ensure national security, national defence capability and protection of the social interests by other means; (ii) use of State-owned strategic objects; and, (iii) public need in public manufacturing of goods where competition was absent or underdeveloped. In the last case, the activities of public enterprises were regulated in coordination with the Committee. The State could participate in commercial activities in the form of the following types of enterprises: (a) a State enterprise, or, (b) a juridical person 50% or more shares (rights of participation) of which belonged to the State and its affiliated entities. State enterprises could engage only in the spheres stipulated in Article 134 of Law No. 413-IV "On State Property" of 1 March 2011 (see Annex 3(F) of this Report). If establishment of such enterprises was not directly mentioned in the laws of Kazakhstan, consent of the Committee was required in the cases mentioned in clause (iii) above. The Committee could deny creation of a State enterprise or a juridical person by the State, if such creation could lead to restriction of competition on the market where there was no competition or it was underdeveloped. Nevertheless, the Committee could grant its consent if a State enterprise or a juridical person undertook special commitments to eliminate or alleviate negative impact on competition.

189. Law "On Competition" also introduced the term "state monopoly" as the exclusive right of the State to produce and/or sell, purchase or use goods. The State had the right to restrict competition by establishing a State monopoly only in those spheres where sale of goods on the competitive market could have negative consequences for the constitutional system, national security, protection of public order, human rights and freedoms, or health of people. The representative of Kazakhstan added that a State monopoly could be established only by law. State monopolies could be established only in the form of State enterprises by the decision of the Government or local executive bodies. In reply to a specific question, she said that the notion of "state monopoly" differed from the notion of "natural monopoly".

190. State monopoly activities were defined in Law No. 85-II "On Safeguarding Activity" of 19 October 2000, Law No. 339-II "On Veterinary" of 10 July 2002, Law No. 456-I "On Trademarks, Service Marks and Appellations of Origin of Goods" of 26 July 1999, Law No. 422-I "On Protection

of Selective Achievements" of 13 July 1999, Law No. 331-II "On Plant Protection" of 3 July 2002, Law No. 593-II "On Protection, Reproduction and Use of Fauna" of 9 July 2004, Law No. 427-I "Patent Law of the Republic of Kazakhstan" of 16 July 1999, as well as Land Code of the Republic of Kazakhstan No. 442-II of 20 June 2003 and Forestry Code of the Republic of Kazakhstan No. 477-II of 8 July 2003. The Committee was responsible for regulation and monitoring activities of State monopolies. At present, State monopolies provided special types of services, including: hydrometeorological monitoring and monitoring of the environmental situation; liquidation of centres of extra hazardous contagious animal diseases; security services for facilities subject to the State protection; production of identification documents of the Republic of Kazakhstan; monitoring of education quality, etc. Kazakhstan's legislation did not prohibit private sector participation in sectors where State enterprises were present, except in the spheres of State monopoly. She explained that Law No. 34-V "On Amendments and Addenda to Certain Legislative Acts on Issues of State Monopoly" of 10 July 2012 provided for the reduction of State monopoly spheres by inviting the private businesses to certain sectors. According to this Law, activities transferred to the competitive market included certification and registration of selective-seed and selective-genetic facilities located on the territory of the State Forest Fund, disposal of waste, construction and operation of landfills, and accreditation in the sphere of conformity assessment.

191. In reply to a specific question on the scope of exemption for State monopolies, the representative of Kazakhstan said that the scope of activities of State monopolies was narrower than the sphere of activities of State enterprises engaged in commercial activity. The types of State monopoly activities were defined in special legal acts, which clearly stipulated the types and scopes of their activities. State monopolies were not allowed to:

- produce goods / works / services, not connected with the State monopoly sphere;
- hold shares (rights of participation in the charter capital) and participate otherwise in activities of juridical persons;
- transfer rights associated with State monopoly; and
- establish prices for produced or sold goods / works / services, different from those established by the Government.

192. The Committee initiated investigations upon receiving information on violations of anti-monopoly legislation such as: (i) files/documents from the Government bodies; (ii) application from a natural or juridical person; (iii) detection by the Committee of anti-monopoly legislation violations; (iv) appeal to the Committee by the mass media; and (v) information in the mass media. The Committee within its competencies conducted investigations on violations of anti-monopoly legislation and adopted a decision based on its results. Investigation was conducted within two months from the date of issuing an order of its initiation. This term could be extended for up to two months.

193. The representative of Kazakhstan added that the Committee took one of the following decisions on the basis of investigation results to: (i) suspend an investigation in cases envisaged by Law "On Competition"; (ii) initiate administrative proceedings; (iii) adopt instructions on elimination of the anti-monopoly legislation violations; or, (iv) initiate criminal proceedings by the law enforcement bodies.

194. She informed Members that Article 147 of Code of "Administrative Offences" provided the following sanctions for violations of the anti-monopoly legislation: a fine in the amount of 150 Monthly Calculation Index (MCI) for individual entrepreneurs, 5% of receipts from the monopolistic activity for small and medium-sized businesses, and 10% of receipts from the monopolistic activity for other businesses. Article 196 of the Criminal Code provided for criminal liability for actions causing severe damage, including fines of 500 to 1,000 MCI, or up to two years of correctional labour, custodial restraint, or imprisonment. For repeated offences, or for actions committed by (organized) groups or officials, the sanctions consisted of fines in the amount of 1,000 to 2,000 MCI, or the equivalent of five to seven months' salary or other income of the convicted person, or imprisonment for up to five years that could be accompanied by deprivation of the right to hold specific posts or engage in certain activities for up to three years, and property expropriation. Offences committed with the use of force or the threat to use force or which could lead to damage, or threat of damage of third party's property, were punishable by three to seven years of imprisonment that could be accompanied by property expropriation.

195. The representative of Kazakhstan added that Chapters 9, 10 and 11 of Law "On Competition", defined responsibilities for violation of the anti-monopoly legislation and established procedures for adoption, appeal, and execution of instructions and decisions taken by the Committee. The Committee had the right to review administrative violations regarding competition protection and restriction of monopolistic activity, impose administrative sanctions provided in Code of "Administrative Offences" and appeal to the courts for enforcement of its instructions and decisions. Law "On Competition" did not provide for introduction of fixed prices by the Government in case of repeated abuses by market dominating entities of their monopolistic positions. In a case in which a market participant that had a dominant or monopolistic position and violated twice within one calendar year the provisions of Law No. 112-IV on (i) "anti-competitive agreements"; (ii) "anti-competitive coordinated actions"; and, (iii) abuse of dominant or monopolistic position; and continued taking actions that restrained competition, the Committee had the right to appeal to the court seeking the splitting of the market participant into several juridical persons or the detachment of one or several juridical persons from the market participant. The instructions and decisions of the Committee could be appealed in accordance with the legislation of the Republic of Kazakhstan. The instructions of the territorial bodies of the Committee could be appealed to the Committee or directly to the courts within three months of the date of handling of an appeal to the entity concerned.

III. FRAMEWORK FOR MAKING AND ENFORCING POLICIES

- Powers of Executive, Legislative and Judicial Branches of Government

196. The representative of Kazakhstan stated that the Republic of Kazakhstan was a unitary State with a Presidential form of Government. Power was divided among the legislative, executive and judicial branches. The President ensured the coordinated functioning of all branches of power. The Parliament of the Republic of Kazakhstan was the highest representative body and performed legislative functions. The Government exercised executive power, headed the executive bodies and provided guidance to them. Judicial power was exercised through civil, criminal and other statutory forms of judicial proceedings by the Supreme Court, local courts and other courts.

197. The President was elected for five year terms on the basis of universal, equal and direct suffrage by secret ballot. The President appointed and could dismiss the members of the Government (including the Prime Minister, the Ministers of Foreign Affairs, Defence, Internal Affairs and Justice, and the Heads of State Committees), the Heads of diplomatic missions, higher Officers of the Armed Forces, the Chairperson and two members of the Constitutional Council, the Chairperson and two members of the Central Election Committee, the Chairperson and two members of the Accounting Committee for Control Over the Implementation of the Republican Budget, 15 Deputies of the Senate, chairpersons and judges of local and other courts, the Prosecutor General, the Chairperson of the National Security Committee, the State Secretary, the Chairperson of the National Bank, and Akims.

198. The President approved laws submitted by the Senate (the upper house of the Parliament) within one month, or returned laws with his comments to the Parliament for consideration, to be reviewed within one month. If the specified deadline was not met, the President's objection would prevail and the law was adopted in the version proposed by the President. If the Parliament overturned the President's objection by a two-thirds majority vote of each Chamber, the law was adopted in the version initially proposed by the Parliament. In cases where the Parliament failed to overturn the President's objection, the law was adopted in the version proposed by the President. The President could prioritize draft laws for consideration by the Parliament and could invite the Parliament to announce a draft law as urgent, i.e., to be considered within one month of its submission. If such a request was not fulfilled, the President could issue a decree, which would remain in effect until the adoption of the new law by the Parliament. Laws came into force within ten calendar days after the date of their first official publication, unless the laws or the relevant implementation acts had specified different terms for entry into force. The Parliament could delegate its legislative powers to the President for a period of up to one year, while the President had the right to dissolve the Parliament in certain circumstances. The President could decide to hold a national referendum, to issue decrees, and to issue decrees having the force of a law.

199. The Parliament was a bicameral legislative body, consisting of a lower chamber, called the Majilis, and an upper chamber, called the Senate. The Parliament was responsible for adopting

constitutional laws, laws, resolutions of the Parliament, separate resolutions of the Senate and the Majilis, and for passing Constitutional amendments, upon the initiative of the President. The Parliament could adopt and amend the State budget, as well as put forward an initiative calling for a national referendum. At separate sessions, the Majilis, and then the Senate, ratified international treaties and took decisions on State loans and other forms of economic assistance. The Senate, *inter alia*, had exclusive jurisdiction, at the initiative of the President, to elect and discharge the Chairperson and Justices of the Supreme Court. The Majilis, *inter alia*, had exclusive jurisdiction to accept draft laws for consideration and to announce regular Presidential elections.

200. The Government was organized and chaired by the Prime Minister. The Government was accountable to the President and to the Parliament. The Government submitted draft laws to the Majilis, and was responsible for their implementation when enacted. By-laws in the form of resolutions and directives could be issued by the Government. By-laws of the Government, as well as the acts of municipal chief executives could be annulled by the President. The mandate of the Government expired with that of the President, unless specifically terminated by the President.

201. The representative of Kazakhstan noted that the Government was responsible for directing the national socio-economic policy. Kazakhstan's socio-economic and trade policies were developed and coordinated by the Ministry of National Economy. The Ministry of Investments and Development was the principal body responsible for development of industrial and investment policies.

202. The representative of Kazakhstan noted that the governmental authority in Kazakhstan was administered at both the central and regional levels. Local governmental power was divided between representative bodies called Maslikhats and executive bodies called Akimats. Akimats were local executive bodies. These were headed by Akims - representatives of the President and the Government - who (i) administered the local executive bodies; (ii) ensured the implementation of State policy on the relevant territory; and, (iii) ensured the coordinated functioning of all territorial branches of the central State bodies. Akims also fulfilled the functions of a local public administration and were responsible for the social and economic development of the administered territory. She further noted that local governments had (i) partial autonomy to regulate region-specific economic relations; (ii) a regional (local) administrative system; (iii) the authority to make provisions for the development of business activities; (iv) the right to conclude concession contracts; (v) the authority to monitor the local budget; and, (vi) the obligation to coordinate foreign trade-related issues.

203. Referring to item (vi) of the preceding paragraph, some Members asked the representative of Kazakhstan to explain if local administration bodies had to consult with the Government when initiating foreign trade-related projects and if they had an obligation to perform foreign trade activity on behalf of the Government. The representative of Kazakhstan replied that, in accordance with Article 61 of the Constitution of the Republic of Kazakhstan, only the President, as well as members of the Parliament and the Government of the Republic of Kazakhstan had the right to initiate legislation, and local administrative bodies did not have the right to initiate legislation related to foreign trade. Local administrative bodies had the right to submit their proposals on the improvement of legislation to the Government, which in turn had the right to initiate the drafting of a regulatory legal act on the basis of the submitted proposals. Local administrative bodies were not authorized to perform foreign trade activities on behalf of the Government. However, they had to adhere to the national foreign, internal, financial and investment policies, determined by the State (Government, President and Parliament).

204. Asked to explain the relationship between local (sub-central) authorities and the central Government in the implementation of WTO provisions, the representative of Kazakhstan said that, according to Article 4 of Law No. 148-II "On Local Government in the Republic of Kazakhstan" of 23 January 2001, Maslikhats and Akimats did not have the right to adopt decisions inconsistent with national policy or Kazakhstan's international commitments, as set-out in ratified international agreements. In particular, sub-central authorities could not independently impose measures aimed at hindering the free exchange of goods and services within the country, such as imposing taxes and issuing regulations. Decisions of Akims or Maslikhats, which derogated from Kazakhstan's commitments ensuing from international agreements (including WTO commitments), could be annulled by the President, the Government, the Akim, as well as through court procedures. In addition, the Prosecutor General's Office exercised constant supervision over the precise and uniform application of laws and other legislative acts.

205. Judicial power was exercised by means of civil, criminal, and other legislation, within the framework of a three-tier unitary court system. The Supreme Court was the supreme body for civil, criminal and other cases. It exercised supervisory powers over the conduct of general jurisdiction courts within a statutory framework, and provided clarifications on issues relating to court practice. The Supreme Court could also act as a *nisi prius* court (first instance court) whose decisions came into legal force from the date of their adoption. Oblast and rayon (district) courts were courts of first instance, and proceedings conducted in these courts took place within two months upon receipt of the claim. This period could vary, however, depending on the category of civil case. Questions challenging the constitutionality of laws or by-laws were reviewed by the Constitutional Council.

206. She further explained that Code No.155-II "On Administrative Offences" of 30 January 2001 was aimed at preventing administrative violations, while protecting the rights, freedoms and lawful interests of persons, citizens and organizations. The Code addressed issues concerning the sanitary and epidemiological welfare and health of the population, the environment, public morals, property, public order and safety, and the established procedure for exercising State powers. A hearing with a judge or an authorized body usually took place within 15 days (with a possible one month extension). A request to reconsider the rulings of a judge or an authorized body could be made within one year from the date the court decision entered into force; the submission of such a request suspended the ruling's execution. The Prosecutor-General or his deputies could ask a board of the Supreme Court to verify the legality and legal grounds of a decision on administrative violations, which had already taken legal effect. The Supreme Court could reconsider previous rulings made by oblast and rayon (district) courts.

207. Some Members asked whether, following accession, the WTO Agreement would have priority over Kazakhstan's national legislation and further sought a description of how, in legal terms, would WTO rules and commitments be ratified. In response, the representative of Kazakhstan stated that paragraph 3 of Article 4 of the Constitution of the Republic of Kazakhstan stipulated that international agreements ratified by Kazakhstan, had priority over national legislation and this provision also applied to the terms of the Protocol of Accession of the Republic of Kazakhstan to the WTO. Ratified international agreements were applied directly, except in cases when a law had to be adopted before an international agreement became applicable. Asked to confirm that Kazakhstan needed to adopt a law domestically in order to make the WTO Agreement applicable, the representative of Kazakhstan replied that a law had to be adopted in cases, where (i) the current legislation did not comply with the WTO Agreement and had to be amended to comply with the WTO Agreement; or, (ii) issues contained in the WTO Agreement were not addressed in existing legislation. Kazakhstan would ensure compliance of its legislation with commitments undertaken in accordance with the Protocol of Accession of the Republic of Kazakhstan to the WTO. In accordance with the procedure of intergovernmental approval, it was planned that for the ratification of Kazakhstan's accession to the WTO, a draft law to that effect would be introduced to the Ministry of Justice, then presented to the Prime Minister's Cabinet for government approval and, finally, sent to the Parliament for enactment upon approval by both Chambers of the Parliament. Current plans were for the draft law to be enacted in the first half of 2015. She also stressed that no contradictions were expected to arise between WTO Membership obligations and those obligations contained in the Protocol of Accession of the Republic of Kazakhstan to the WTO and Kazakhstan's international agreements.

208. The representative of Kazakhstan confirmed that the provisions of the WTO Agreement would be applied uniformly throughout the territory of the Republic of Kazakhstan, including in regions engaging in frontier traffic, special economic zones and other areas where special regimes for tariffs, taxes and regulations could be established. She added that, in order to ensure compliance with provisions of the WTO Agreement any individual or entity could bring to the attention of the authorities of the Government of the Republic of Kazakhstan or competent EAEU body cases of non-application or non-uniform application of provisions of the WTO Agreement in the Republic of Kazakhstan. Such cases would be referred promptly to the responsible authorities without requiring the affected party to petition through the courts, and when non-application or non-uniform application actually existed, the authorities of the Government of the Republic of Kazakhstan or a competent EAEU body would act promptly to address the situation, consistent with the laws and international obligations of the Republic of Kazakhstan. The individual or entity notifying the authorities of the Government of the Republic of Kazakhstan or a competent EAEU body would be informed promptly in writing of any decision and action taken. The Working Party took note of these commitments.

209. The representative of Kazakhstan also confirmed that with respect to matters subject to the WTO Agreement, Kazakhstan's authorities would provide the right for independent review in conformity with WTO obligations, including but not restricted to, Article X:3(b) of the WTO General Agreement on Tariffs and Trade 1994, and relevant provisions of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights and the WTO General Agreement on Trade in Services. The Working Party took note of these commitments.

- **Framework of the Eurasian Economic Union of the Republic of Kazakhstan, the Russian Federation and the Republic of Belarus**

(a) Legal Framework Establishing the Eurasian Economic Union

210. The representative of Kazakhstan informed Members that on 29 May 2014, the Republic of Kazakhstan (Kazakhstan), the Russian Federation (Russia) and the Republic of Belarus (Belarus) had concluded the Eurasian Economic Union Treaty (hereinafter: the EAEU Treaty). The EAEU Treaty established the Eurasian Economic Union (EAEU) with the aim to create free movement of goods, services, capital and natural persons as well as coordinated or agreed policy in the sectors of economy, defined by the Treaty and international treaties within the EAEU. The EAEU was established as an international organization of regional economic integration with international legal personality. The EAEU Treaty replaced the international agreements concluded within the Customs Union (CU) and the Single Economic Space (SES) listed in its Annex No. 33 "Protocol on Termination of International Treaties, Concluded within the Framework of Formation of the Customs Union and Single Economic Space due to Entering into Force of the Treaty on Eurasian Economic Union", which were terminated when the EAEU Treaty came into effect on 1 January 2015.

211. The representative of Kazakhstan explained that according to Article 7 of the EAEU Treaty, the EAEU had the right to exercise international activity aimed at the achievement of the objectives of the EAEU. The EAEU had the right to engage in international relations with states, international organizations and international integration associations, and independently or jointly with the member States, conclude agreements on matters corresponding to its competence. The procedure on international cooperation of the EAEU had to be established by the decision of the Supreme Eurasian Economic Council. The issues concerning conclusion of agreements of the EAEU with a third party had to be determined by the international treaty within the EAEU.

(b) Eurasian Economic Union Structure and Competency in the Area of Trade

212. The representative of Kazakhstan explained that the following bodies were responsible for the implementation of the EAEU Treaty and international treaties within the EAEU:

- the Supreme Eurasian Economic Council;
- the Eurasian Intergovernmental Council;
- the Eurasian Economic Commission (consisting of the Council and the Collegium); and,
- the Court of the Eurasian Economic Union.

(c) The Supreme Eurasian Economic Council

213. The representative of Kazakhstan explained that the Supreme Eurasian Economic Council (hereinafter: the Supreme Council) was the highest level Body of the EAEU, which pursuant to the EAEU Treaty performed the following functions:

- defined the strategy, directions and perspectives of formation and development of the EAEU and took decisions on implementation of objectives of the EAEU;
- approved the structure of the Eurasian Economic Commission (hereinafter: EEC or Commission), assigned responsibilities among the members of the EEC Collegium and took decisions on termination of their powers;
- appointed the Chairman of the EEC Collegium and took decisions on pre-term termination of his/her powers;
- approved the rules on procedures of the Commission;
- upon proposal of any member State of the EAEU, reconsidered decisions adopted by the Eurasian Intergovernmental Council or the Commission;

- upon proposal of the member States appointed judges of the Court of the Eurasian Economic Union (hereinafter: Court of the EAEU);
- requested the opinion of the Court of the EAEU;
- approved the budget of the EAEU, regulation on the budget of the EAEU and report on implementation of the budget of the EAEU;
- upon initiative of the Eurasian Intergovernmental Council or the Commission, considered the issues on which consensus was not achieved;
- determined the order on admission of new members of the EAEU;
- took decisions on granting observer or candidate status on accession to the EAEU;
- approved the procedure on implementation of international activity of the EAEU;
- took decisions on negotiations on behalf of the EAEU with third parties, including decisions on conclusion of international treaties and granting the right to negotiate as well as on expression of consent of the EAEU to be bound by international treaty with third party, termination, suspension or withdrawal from international agreement; and,
- performed other functions provided by the EAEU Treaty and international treaties within the EAEU.

The Supreme Eurasian Economic Council made its decisions and gave orders by consensus.

214. The Supreme Eurasian Economic Council had to be held at the level of Heads of State. Meetings of the Council of Heads of State had to be held at least once a year.

(d) The Eurasian Intergovernmental Council

215. The Eurasian Intergovernmental Council (hereinafter: Intergovernmental Council) was the body of the EAEU that consisted of the Heads of the Governments of member States of the EAEU. Meetings of the Intergovernmental Council were held as necessary, but not less than twice a year.

216. The Intergovernmental Council performed the following functions:

- ensured implementation and control of implementation of the EAEU Treaty, international treaties within the EAEU and decisions of the Supreme Council;
- upon proposal of the Council of the Commission, considered issues on which consensus by the Council of the Commission was not achieved;
- gave instructions to the Commission;
- proposed to the Supreme Council candidates to the members of the Council and Collegium of the Commission;
- approved drafts of the budget of the EAEU, regulations on the budget of the EAEU and reports on performance of the budget of the EAEU;
- upon proposal of any EAEU member State, considered issues on reversal or amendment of the approved decision of the Commission or, if not agreed, took them for consideration of the Supreme Council;
- approved decision on suspension of implementation of decisions of the Council or the Collegium of the Commission; and,
- performed other functions provided by the EAEU Treaty and international treaties within the EAEU.

The Eurasian Intergovernmental Council made its decisions and gave orders by consensus.

(e) The Eurasian Economic Commission

217. The Eurasian Economic Commission (hereinafter: EEC or Commission) was the permanent, regulatory body of the EAEU. The Commission was established on the basis of the Treaty on the Eurasian Economic Commission of 18 November 2011 and continued its powers under the EAEU Treaty.

218. The Commission carried out its activities within the competences stipulated in the EAEU Treaty, resolutions of the Supreme Eurasian Economic Council and international treaties that formed the legal framework of the EAEU.

219. The Commission consisted of the Council and the Collegium. The Council consisted of one representative from each EAEU member State at the level of Deputy Prime Minister. The Council took decisions by consensus and had the authority to cancel or revise any decisions made by the Collegium. The Collegium of the Commission consisted of representatives from each EAEU member State based on the principle of equal representation. The Collegium took decisions by qualified majority voting (i.e., two-thirds of the aggregate membership of the Collegium) or by consensus. Voting took place on all issues or decisions taken by the Collegium.

220. The competences of the Council and the Collegium were established by the EAEU Treaty and its Annex No. 1 "Regulation on the Eurasian Economic Commission".

(f) The Council of the Eurasian Economic Commission

221. The Council of the Eurasian Economic Commission (hereinafter: Council of the Commission or EEC Council) carried out general regulation of integration processes of the EAEU and overall management on the Commission's activities, and performed the following functions:

- organized the work aimed at enhancing the regulatory framework of the EAEU;
- submitted proposals on main directions of the integration process within the EAEU to the Supreme Council for approval;
- reviewed issues on revision or amendment of the Commission's decisions taken by the Collegium of the Commission;
- reviewed issues in respect of monitoring and controlling implementation of international treaties that constituted the legal framework of the EAEU;
- performed functions on organization of the Commission's activities;
- provided instructions to the Collegium of the Commission; and,
- performed other functions provided by the EAEU Treaty and international treaties within the EAEU.

(g) The Collegium of the Eurasian Economic Commission

222. The Collegium of the Eurasian Economic Commission (hereinafter: Collegium of the Commission or EEC Collegium) was the executive body of the Commission. The Collegium of the Commission provided implementation of the following functions and powers:

- elaborated proposals and collected proposals from the EAEU member States on further integration within the EAEU, including development and implementation of main directions of the integration;
- took decisions, orders and recommendations;
- implemented decisions and orders taken by the Supreme Council and the Intergovernmental Council and decisions taken by the Council of the Commission;
- ensured monitoring and control on implementation of international treaties constituting the legal basis of the EAEU and decisions of the Commission and informed the EAEU member States on necessity of their implementation;
- annually reported to the Council of the Commission on its work;
- drafted recommendations on formation, functioning and development of the EAEU;
- prepared written expert opinions on proposals of the EAEU member States submitted to the Commission;
- assisted the EAEU member States in resolving disputes within the EAEU before appealing to the Court of the EAEU;
- represented Commission's interests at court instances, including the Court of the EAEU;
- interacted with public authorities of the EAEU member States within its competence;
- considered requests submitted to the Commission;
- developed drafts of international treaties and decisions of the Commission, taken by the Council of the Commission, as well as other documents, necessary for performing functions of the Commission;
- ensured organization of meetings of the Council of the Commission, the Intergovernmental Council and the Supreme Council as well as subsidiary bodies of the Commission;
- established consultative bodies within the Collegium of the Commission; and,
- performed functions to organize the Commission's activities.

223. A Member asked whether the Eurasian Economic Commission had the authority to negotiate international agreements and if so, who was the legal person signing and being the contact partner for such agreements. The representative of Kazakhstan replied that in accordance with the EAEU Treaty, the Supreme Council took decisions on granting the right to conduct negotiations, expressing consent of the EAEU to be bound by international agreements with third parties, as well as on termination, suspension or withdrawal from such agreements. The decisions on granting such mandates were to be taken on a case-by-case basis.

224. A Member enquired how the Commission interacted with Kazakhstan's domestic law authorities in the following areas: sanitary, veterinary and phytosanitary measures, technical barriers to trade, any other areas where special committees or commissions reporting to the EEC Collegium had been established to administer trade-related authorities. The representative of Kazakhstan replied that in the field of technical regulation, sanitary, veterinary and phytosanitary measures Kazakhstan's national authorities had actively participated in drafting, at that time, of the CU Agreements and, subsequently, the EAEU Treaty and regulations through special mechanisms established by legislation of the EAEU. In particular, the Consultative Committee on Technical Regulation, Application of Sanitary and Phytosanitary Measures was a special consultative body that represented a platform for consultations among representatives from the EAEU member States. Within the framework of the Consultative Committee, Kazakhstan's relevant authorities participated in preparing proposals on draft regulations on TBT and SPS, including draft technical regulations and conducted examination of legal acts of the EAEU.

225. In particular, according to the established procedures, draft technical regulations of the EAEU were developed by the EAEU member States. A member State responsible for the development of a draft technical regulation designated a State body responsible for the development of the draft technical regulation. The State body prepared the draft technical regulation and, taking into account proposals from the competent authorities of the EAEU member States, formed a working group on the development of the draft technical regulation.

226. In general, all EAEU legal acts on TBT and SPS measures had to be reviewed and approved by the relevant national authorities prior to their adoption by the Commission.

227. With regard to other areas, according to paragraph 44 of Annex No. 1 "Regulation on the Eurasian Economic Commission" to the EAEU Treaty, the EEC Collegium had the right to establish consultative bodies. At present, the EEC Collegium had established the following consultative bodies:

- Consultative Committee on Natural Monopoly;
- Consultative Committee on Transport and Infrastructure;
- Consultative Committee on Trade;
- Consultative Committee on Technical Regulation, Veterinary, Sanitary and Phytosanitary Measures;
- Consultative Committee on Tax Policy and Administration;
- Consultative Committee on Customs Regulation;
- Consultative Committee on Electric Power;
- Consultative Committee on Oil and Gas;
- Consultative Committee on Industry;
- Consultative Committee on Agricultural Sector;
- Consultative Committee on Statistics;
- Consultative Committee on Macroeconomic Policy;
- Consultative Committee on Migration Policy;
- Consultative Committee on Entrepreneurship; and,
- Consultative Committee on Intellectual Property.

Consultative committees prepared proposals to the EEC Collegium and developed drafts of agreements and regulations. Consultative committees consisted of representatives of state bodies of each EAEU member State and independent experts. Chairman and Secretary of each Committee were the EEC representatives. Therefore, the member States, through their representatives, participated in the decision making process of the EEC.

228. Asked whether there would be a common EAEU procurement regime for "State and/or municipal procurement", the representative of Kazakhstan replied that the SES Agreement on Government (Municipal) Procurement had granted national treatment for government procurement to other member States from 1 January 2014 on a reciprocal basis. This treatment continued to be authorized according to Section XXII "Government (Municipal) Procurement" and Annex No. 25 "Protocol on Regulation of Procurement" of the EAEU Treaty.

229. Concerning the EEC competency on "mutual trade in services and investments" the representative of Kazakhstan said that trade in services and investments between the EAEU member States were regulated by Section XV "Trade in Services, Establishment, Activity and Investments" and Annex No. 16 "Protocol on Trade in Services, Establishment, Activity and Investments" of the EAEU Treaty. The main objective of these provisions was to promote and liberalize trade in services between the EAEU member States, to create common principles and rules for mutual trade in services and create a favourable investment climate within the EAEU. These provisions did not regulate trade in services and investments between the EAEU member States and third countries, and did not provide the EEC with the authority to regulate services and investments between the EAEU member States or with third countries.

230. A Member asked Kazakhstan to clarify the authority of the EEC in intellectual property protection beyond border control. The representative of Kazakhstan replied that, in accordance with the EAEU Treaty, the EEC conducted general supervision over the implementation of provisions on intellectual property rights of the EAEU Treaty. The EAEU Treaty established common principles of copyright, trademark and patent regulation within the EAEU. Currently, the EEC had not been given any authority in intellectual property protection beyond border control.

231. In response to the request to elaborate on the scope of authority of the EEC in "labour migration" and in "financial markets (banking, insurance, foreign exchange market, stock market)", the representative of Kazakhstan said that relevant provisions could be found in Section XXVI "Labour Migration" of the EAEU Treaty. The EAEU Treaty regulated procedures related to labour activity of migrant workers and social protection of migrant workers (medical assistance and social insurance), who were citizens of the EAEU member States. The EEC was responsible for general supervision over the implementation of the provisions of the EAEU Treaty. The Consultative Committee on Migration Policy was established in order to develop proposals on the establishment of a unified legal regime for employment of citizens of the EAEU member States and the formation of a common immigration policy legal framework.

232. As for the scope of authority of the EEC in "financial markets (banking, insurance, foreign exchange market, stock market)", the representative of Kazakhstan explained that relevant provisions could be found in Section XIV "Monetary Policy" and Annex No. 15 "Protocol on Measures Aimed at Coordinated Monetary Policy" of the EAEU Treaty. Under the EAEU Treaty, the Commission was not delegated a decision-making authority in the area of fiscal and monetary policy within the EAEU. Decisions regarding policies in this area were made by each EAEU member State at the national level. The EAEU member States agreed that the coordination of exchange rate policy would be performed by a separate body, composed of the Heads of the National (Central) Banks of the EAEU member States. Article 103 of the EAEU Treaty provided that this body would be established in 2025.

(h) Decision-making within the Bodies of the EAEU

233. In accordance with Article 18 and paragraph 13 of Annex No. 1 "Regulation on the Eurasian Economic Commission" of the EAEU Treaty, the Commission within its authority took decisions mandatory for implementation by the EAEU member States, orders and recommendations. Decisions of the Commission consisted of decisions made by the EEC Council and the EEC Collegium and were included in the legal framework of the EAEU, and were directly applicable in the territories of the EAEU member States. The EEC Council and the EEC Collegium adopted decisions, orders and recommendations of the Commission within their powers.

234. In accordance with paragraph 30 of Annex No. 1 "Regulation on the Eurasian Economic Commission" to the EAEU Treaty, a member State or member of the EEC Council had the right to make a proposal to the EEC Collegium on repealing or amending the decision within 15 calendar days from the date when the decision was adopted by the EEC Collegium.

235. Upon receipt of all required documents from the EEC Collegium, the EEC Council had to make its decision within 10 calendar days. A member State that did not agree with the adopted decision of the EEC Collegium could send a letter signed by the Head of its Government to repeal or amend the decision of the EEC Collegium by the Supreme Council. This decision could not enter into force before its consideration by the Intergovernmental Council and/or the Supreme Council.

(i) The Court of the Eurasian Economic Union

236. The representative of Kazakhstan informed Members that provisions of the Statute of the Court of the Eurasian Economic Union (hereinafter: Court of the EAEU) could be found in Annex No. 2 to the EAEU Treaty. In addition to establishing the Court of the EAEU, the Statute of the Court established the Court's competence and rules of procedure to be applied. She explained that pursuant to provisions of the Statute, the Court was authorized to:

- ensure uniform application and interpretation of international treaties within the EAEU, international treaties between the EAEU and third party and decisions taken by the bodies of the EAEU;
- consider disputes arising on implementation of the EAEU Treaty, international treaties within the EAEU and/or decisions of the bodies of the EAEU; and,
- interpret provisions of international treaties in force within the framework of the EAEU.

237. In connection with the operation of the EAEU, the Court of the EAEU considered disputes regarding implementation of the EAEU Treaty, international treaties within the EAEU and decisions of the bodies of the EAEU:

1) upon application of a member State of the EAEU:

- on compliance of international treaties within the EAEU or their provisions with the EAEU Treaty;
- on compliance by other member States with the EAEU Treaty, international treaties within the EAEU and/or decisions of the bodies of the EAEU as well as specific provisions of those international treaties and/or decisions;
- on compliance of a decision of the Commission and/or its provisions with the EAEU Treaty, international treaties within the EAEU and decisions of the bodies of the EAEU; and,
- on actions and/or omissions of the Commission.

2) upon application of an economic operator:

- on compliance of a decision of the Commission and/or its provisions that affected his/her rights and legal interests in the sphere of economic activity with the EAEU Treaty and/or international treaties within the EAEU;
- on actions and/or omissions of the Commission affecting his/her rights and legal interests in the sphere of economic activity with the EAEU Treaty and/or international treaties within the EAEU.

238. The representative of Kazakhstan explained that if an EAEU member State or the Commission did not settle the matter within 3 months, the dispute could then be referred to the Court of the EAEU. By mutual consent of the parties, the dispute could be referred to the Court of the EAEU prior to the expiration of this period.

239. The representative of Kazakhstan emphasized that the competence of the Court of the EAEU was defined by the provisions of Part IV "Jurisdiction of the Court" of Annex No. 2 "Statute of the Court of the Eurasian Economic Union" to the EAEU Treaty. The Court of the EAEU did not have jurisdiction to opine directly on the member States' WTO obligations and the Court of the EAEU could not rule on compliance with such obligations. She also noted that the competence of the Court could be enlarged or limited only if it was prescribed directly by an international treaty constituting part of the legal framework of the EAEU. The Treaty on the Functioning of the Customs Union in the Framework of the Multilateral Trading System of 19 May 2011 was such a Treaty. Since this Treaty was part of the legal framework of the EAEU, an infringement by an EAEU member State, by the Supreme Council or by the EEC of such rights and obligations under the Treaty to the extent that they were part of the legal framework of the EAEU could be

challenged by an EAEU member State before the Court of the EAEU in accordance with the Court's Statute. In addition, economic operators could assert breaches of the provisions of the above-mentioned Treaty in the Court of the EAEU.

240. The representative of Kazakhstan noted that the Statute of the Court of the EAEU also authorized the Court to issue clarifications on the EAEU Treaty, the provisions of the international treaties within the EAEU, as well as decisions of the bodies of the EAEU. Such opinions were issued at the request of EAEU member States or the bodies of the EAEU, and were in the form of advisory opinions that did not prevent the member States from providing their own joint interpretations.

241. With regard to who could apply to the Court of the EAEU to hear a case, the representative of Kazakhstan explained that with regard to cases involving the EAEU, cases could be brought before the Court based on the application submitted by:

- EAEU member States;
- economic operators.

242. Under the EAEU Treaty, economic operators of the EAEU member States and of third countries were able to bring actions to the Court of the EAEU to:

- challenge decisions of the Commission in the sphere of economic activity if such decisions affected their rights and legal interests under the EAEU Treaty and/or international treaties within the EAEU; and,
- challenge the actions and/or omissions of the EEC in the sphere of economic activity if such actions and/or omissions affect their rights and legal interests under the EAEU Treaty and/or international treaties within the EAEU.

243. The grounds to challenge acts of the EEC, or their individual provisions, or any action and/or omission of the EEC were their non-compliance with international treaties concluded within the framework of the EAEU, which resulted in the violation of the rights and lawful interests of economic operators in the field of entrepreneurial and other economic activities, provided for by those international treaties. She further explained that the Court of the EAEU would not consider applications to bring an action, if the decision of the Court on a previously considered case regarding the same subject and based on the same grounds was in effect. A decision of the Court could be reviewed due to newly discovered circumstances.

244. The representative of Kazakhstan further explained that, the EAEU member States had created an Appeals Chamber within the Court of the EAEU. A party to the case had the right to appeal the decision of a panel of judges to the Appeals Chamber of the Court. The Appeals Chamber consisted of judges of the Court from the member States, which had not participated in the panel that had taken the decision that was being appealed. The decision of the Appeals Chamber was the final decision in the case and could not be appealed.

245. The representative of Kazakhstan stated that, with regard to disputes of an economic nature arising between the EAEU member States on the implementation of decisions of the bodies of the EAEU, treaty provisions in force in the framework of the EAEU, and cases in connection with the EAEU, the decisions of the Court were binding on the Parties to the dispute. The decision of a panel of judges, if not appealed, entered into force 15 days after the date of its pronouncement. Decisions of the Appeals Chamber were effective on the date of pronouncement. If the decision of the Court was not implemented within the time-frame specified by the Court, any EAEU member State Party to the case could apply to the Supreme Council for a decision on implementation. In cases involving an economic operator where the EEC failed to implement the decision of the Court of the EAEU, the economic operator had the right to file an application to the Court on introduction of measures on the execution of the said decision. The Court was obliged, within 15 days from receipt of the application from the economic operator, to address the Supreme Council with a request to take a decision on the issue.

(j) Transparency

246. The representative of Kazakhstan explained that proposals for the introduction, amendment or elimination of a measure were prepared by the interested EAEU member State in accordance with its national legislation. This member State consulted with interested stakeholders on the proposal, as provided for in its applicable national legislation. She also informed Members that such proposals by another member State, once submitted to Kazakhstan for consideration, would be promptly made subject to public consultations in the same way as proposals prepared by Kazakhstan. In accordance with Annex No. 7 "Protocol on Non-Tariff Measures Concerning Third Countries" to the EAEU Treaty, participants of foreign activity of the member States could also provide their proposals and comments within the procedure of the development of draft Decision of the Commission on introduction, implementation or withdrawal of a non-tariff measure concerning trade in goods with third countries. Furthermore, interested persons could also participate in consultations and be informed on the results according to the procedures and forms defined by the Commission.

247. The representative of Kazakhstan explained that the date when a Decision of the EAEU bodies was published on the EAEU website was the basis for determining the date of entry into force of that decision. Specifically, Decisions of the EEC, rather than recommendations, as a general rule, entered into force not earlier than 30 days after the date of publication on the EAEU website. Decisions of the EEC were posted on the website www.eurasiancommission.org within two working days from the date of their adoption.

248. Members expressed concerns regarding transparency, and also noted that it appeared that neither international agreements within the EAEU, nor EEC Decisions, including those promulgating Regulations and other acts, provided WTO Members and interested persons of WTO Members with the right to consult with and provide views directly to the EEC. This deficiency raised concerns about whether international agreements within the EAEU and procedures complied with WTO requirements. These Members requested that Kazakhstan explain how it intended to implement its commitments under Section "Transparency" of this Report in cases where the EEC was responsible for proposing or adopting legal acts, including decisions, or other measures.

249. With regard to concerns raised by Members about transparency and access to the EEC, the representative of Kazakhstan informed Members that nothing precluded WTO Members from providing comments directly to the EEC. She noted that Kazakhstan invited views from Members on proposals that it was presenting to the EEC.

250. The representative of Kazakhstan confirmed that Commission Decision No. 308 "Decision-Making at the Commission of the Customs Union" of 18 June 2010 had been amended to establish and put into effect a mechanism for publication of proposed EAEU legal acts covered under paragraph 1141 of Section "Transparency" of this Report before their adoption and to provide a reasonable period of time for Members and interested persons to provide comments to the competent EAEU body, which was authorized to take these comments into account in its consideration of the proposed legal act. Moreover, from the date of Kazakhstan's accession to the WTO, pursuant to this mechanism, no EAEU legal act covered under paragraph 1146 of Section "Transparency" of this Report would become effective prior to publication as provided for in the applicable provisions of the WTO Agreement. The Working Party took note of these commitments.

(k) Implementation of WTO Commitments under the EAEU Regime

251. The representative of Kazakhstan explained that the EAEU member States had concluded the Treaty on the Functioning of the Customs Union in the Framework of the Multilateral Trading System of 19 May 2011 (hereinafter: Treaty on the Multilateral System). This interstate Treaty had entered into force in accordance with the provisions of the Protocol "On the Rules of Entry into Force of International Treaties Comprising the Legal Basis of the Customs Union, Withdrawal from Them and Accession to Them" of 6 October 2007, and continued to be in effect under the EAEU Treaty. According to the Treaty on the Multilateral System, from the date of accession of any EAEU member State to the WTO, the provisions of the WTO Agreement, as set-out in its Protocol of Accession, including the commitments undertaken by that member State as part of the terms of its accession to the WTO, which related to matters that the member States had authorized the EAEU bodies to regulate in the framework of the EAEU, as well as to the legal relationships

regulated by the international treaties constituting the legal framework of the EAEU, became an integral part of the legal framework of the EAEU. As such, these provisions were part of the single undertaking and were international agreements within the EAEU that were part of the single undertaking for each member State. Under the Treaty on the Multilateral System, EAEU member States were obligated when making an international treaty in the framework of the EAEU to ensure that such EAEU treaty or agreement was consistent with the WTO commitments of each EAEU member State. Similarly, when EAEU bodies adopted and applied EAEU acts, those acts had to comply with those commitments. The representative of Kazakhstan further explained that the rights and obligations of the member States resulting from the WTO Agreement, as they were set out in the Protocol of Accession of each member State, including the commitments undertaken by each member State as part of the terms of its accession to the WTO and that became a part of the legal framework of the EAEU, could not be subject to abrogation or limitation by decision of the EAEU bodies, including the Court of the EAEU or by an international treaty of the member States. When another EAEU member State became a WTO Member, the rights and obligations of that member State under the WTO Agreement also became an integral part of the legal framework of the EAEU. She explained that WTO provisions which regulated the creation and functioning of customs unions also applied. She noted that an EAEU member State that was not a WTO Member could deviate from provisions of the WTO Agreement in certain cases. When that member State became a WTO Member, however, any deviation from the WTO Agreement would be allowed only as specifically provided for in the terms of accession to the WTO of that member State. Finally, the EAEU member States were required to adopt measures to adjust the EAEU legal framework and decisions of the EAEU bodies to comply with the WTO Agreement as set-out in the Protocol of Accession of each member State. Until those measures were adopted, other EAEU treaties and decisions of the EAEU bodies would apply only to the extent that they complied with the WTO Agreement. Thus, the rights and obligations of an EAEU member State under the WTO Agreement would override prior and future EAEU treaties and agreements and decisions of the EAEU bodies.

252. The representative of Kazakhstan explained that the Treaty on the Multilateral System was an EAEU treaty and part of the domestic legal framework of each EAEU member State. As such, the national courts would apply the provisions of the Treaty. She also confirmed that the Treaty on the Multilateral System established obligations on the EAEU member States and the Supreme Council and the EEC regarding the commitments undertaken by each member State as part of the terms of its accession to the WTO and became part of the legal framework of the EAEU. Thus, an infringement of such rights and obligations by an EAEU member State or the Supreme Council or the EEC could be challenged by an EAEU member State, or the EEC before the Court of the EAEU. In addition, economic operators could assert breaches of the provisions of the Treaty on the Multilateral System in the Court of the EAEU, as provided for in provisions of the Statute of the Court and in the Treaty on Judicial Recourse of 9 October 2010.

- **Government Entities Responsible for Making and Implementing Policies Affecting Foreign Trade; Right of Appeal**

253. The representative of Kazakhstan informed Members that the Court of the EAEU and the national judicial system of the Republic of Kazakhstan were independent. The Statute of the Court of the EAEU provided that the highest judicial authority of the Republic of Kazakhstan was authorized to apply to the Court of the EAEU for an opinion on interpretation of certain international treaties. The Court of the EAEU, however, did not serve as an appeals court for the national judicial system. The representative of Kazakhstan noted that, in accordance with the Statute of the Court of the EAEU, the national Supreme Court of an EAEU member State could ask the Court of the EAEU to provide an advisory opinion in respect of implementation of EAEU legal acts. Subsequently, the national Supreme Court could reflect this opinion in a normative resolution, which would be taken into account by all lower national courts.

254. The representative of Kazakhstan stated that Decision of the Interstate Council of the Eurasian Economic Community (EurAsEC) at the level of Heads of State No. 16 of 27 November 2009 had established the Experts Council of the Supreme Body of the CU or the EAEU as of 1 January 2015, and had also adopted regulations on the operation of the Experts Council. Interstate Council Decision No. 69 of 9 December 2010 had appointed the members of the Experts Council. Economic operators could apply to the Experts Council for an opinion on whether an EEC Decision complied with an international treaty that was part of the legal framework of the EAEU. If the Experts Council accepted an application, a Conciliation Commission

was formed to examine the issue and to provide an opinion to the EEC on whether the EEC Decision conformed with the legal basis of the EAEU and, if the Decision did not conform, recommendations on revising the EEC Decision. The EEC was required to inform the Supreme Council of the opinion of the Experts Council and the results of the consideration by the EEC of that opinion.

255. Some Members enquired about the administrative and judicial channels for appeal of administrative decisions made on WTO-related issues, namely, how importers and exporters could appeal: (i) customs and other WTO-related decisions within administrative channels; and, (ii) administrative rulings to a court or other "independent tribunal" as provided for in Article X of the GATT 1994.

256. The representative of Kazakhstan replied that Kazakhstan applied the Treaty on the Customs Code of the Customs Union of 27 November 2009 (hereinafter: CU Customs Code) that had entered into force as of 1 July 2010. According to Article 9 of the CU Customs Code, any person had the right to appeal against decisions made by the customs bodies, action and/or inaction of the customs bodies and their officials. At the same time, such persons had to appeal in accordance with the national legislation of the country where the customs body or an official made a decision. Thus, in accordance with Article 12 of Law of Kazakhstan No. 221-III "On Order of Review of Requests of Natural and Juridical Persons" of 12 January 2007, natural and juridical persons had the right to appeal against actions and/or inactions of the customs officials and decisions made by the customs bodies to a senior official or higher-level body no later than three months from the moment a natural or juridical person learned about an action or decision made by the relevant customs body or an official. In case there was no senior official or an appellant did not agree with the decision, an appellant could appeal to the court in accordance with Code of Civil Procedure of Kazakhstan No. 411-I of 13 July 1999 (hereinafter: Code of Civil Procedure). Article 278 of the Code of Civil Procedure defined the common judicial procedure for appeals, including administrative appeals, as well as for special proceedings. According to Article 280 of the Code of Civil Procedure, natural and juridical persons had the right to appeal to the court within three months from the date when it had become known that their rights, freedoms and interests protected by law, were abused. Besides, in both cases, a failure of a natural or juridical person to submit an application for appeal within the stated term of three months could not constitute a ground for rejecting an application. The reason for failure to submit an application within the term of three months had to be investigated when considering a complaint and could be one of the grounds for rejection of the complaint. The review of judicial decisions of rayon (district), oblast (regional) and other local courts made at first instance was carried out through an appeal/supervision procedure. Prior appeal to higher bodies did not constitute a mandatory precondition for a direct appeal to the courts. Irrespective of whether or not they participated in the hearing, the Prosecutor-General, rayon, oblast and other public prosecutors of equal stature, as well as their deputies, had the right to appeal against court judgments which had not yet come into force (other than judgments of the Supreme Court). Parties to a case, as well as other parties affected by the decision, could also appeal against such decision. Appeals had to be made within one month of the date of infringement and heard no later than one month from the date of receipt of the appeal by the court of first instance. The court of appeal was authorized to make new findings of facts within the limits of the claim and investigate new evidence, which, for valid reasons, had not been presented at first instance. Court decisions, rulings, decrees and orders, which had already come into force, could be reviewed and appealed within a year, on grounds stipulated in the Code of Civil Procedure (e.g., discovery of new facts), in line with the judicial supervision procedure. Reviews of decisions made by the supervisory board of the Supreme Court, and a second review of the case by the supervisory board of the Supreme Court, were also allowed in certain cases.

257. As regards appeals and complaints in the sphere of technical regulation, including SPS issues, the representative of Kazakhstan explained that, under the EAEU, there was a common system of technical regulations, including SPS matters, and thus the Court of the EAEU had jurisdiction over appeals covered by the relevant EAEU agreements, EEC Decisions, including those promulgating EAEU regulations and other EAEU measures. With regard to decisions, actions or inactions of the authorized bodies of the Republic of Kazakhstan, related to technical regulation, including SPS issues, she explained that legal measures were in place to allow appeals to be made via the independent judicial system against any decisions of the relevant authorities of the Republic of Kazakhstan and to ensure corrective action was taken, in accordance with decisions of the court, when a complaint was justified.

IV. POLICIES AFFECTING TRADE IN GOODS

- Registration Requirements for Import and Export Operations

258. The representative of Kazakhstan said that the right of all domestic and foreign natural and juridical persons to carry out foreign trade activity in Kazakhstan, and any exceptions or restrictions upon those rights, were stipulated in the Eurasian Economic Union Treaty (EAEU Treaty), decisions of the Eurasian Economic Commission (hereinafter: EEC or Commission), other EAEU legal acts and national legislation. In general terms, Article 2 of Civil Code of Kazakhstan (General Part) No. 269-XII of 27 December 1994 provided that goods, services and capital moved on a free basis within the territory of Kazakhstan, and Code of the Republic of Kazakhstan No. 296-IV "On Customs Issues in the Republic of Kazakhstan" of 30 June 2010 (hereinafter: Customs Code of Kazakhstan) elaborated on that mandate. She stated that from 1 January 2015, as a result of the entry into force of the EAEU Treaty, the principal requirements for importing goods into and exporting goods from Kazakhstan were based on Annex No. 7 "Protocol on Non-Tariff Measures Concerning Third Countries" to the EAEU Treaty which replaced the provisions of the following Customs Union (CU) Agreements: the Agreement "On Common Measures of Non-tariff Regulation in Respect of Third Countries" of 25 January 2008, the Agreement "On the Introduction and Implementation of Measures, Concerning Foreign Trade in Goods, on the Common Customs Territory in Respect of Third Countries" of 9 June 2009, the Agreement "On Licensing in the Area of Foreign Merchandise Trade" of 9 June 2009 which were terminated when the EAEU Treaty came into effect on 1 January 2015. The following Decisions remained in force: Decision of the CU Commission No. 132 "On Common Non-Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation" of 27 November 2009 (hereinafter: CU Decision No. 132) and Decision of the Collegium of the Commission No. 134 "On Normative Legislative Acts in the Area of Non-Tariff Regulation" of 16 August 2012 (hereinafter: Collegium Decision No. 134). The procedure for the importation of specific products, such as ethyl spirits and alcohol products, products with cryptographic capabilities (encryption products), and medicines and pharmaceutical ingredients, were set-out in Regulations of the CU Commission approved by CU Decision No. 132 and re-approved by Collegium Decision No. 134. Specific Sections of this Report relating to the import and export regimes of Kazakhstan provided descriptions of the provisions of the EAEU Treaty, Commission Decisions and other EAEU legal acts, including requirements for non-automatic import or export licenses and/or automatic licenses (permits). The representative of Kazakhstan explained that, from 1 January 2015, pursuant to Annex No. 7 to the EAEU Treaty, these Decisions and Regulations, the authorized body of each EAEU member State was responsible for issuing non-automatic import and export licenses and/or automatic licenses (permits), as well as activity licenses.

259. The representative of Kazakhstan explained that only declarants (importers/ exporters), or their representatives registered for that purpose, could perform the customs activities associated with the importation or exportation of goods (presenting customs documents, declaring origin and valuation, paying tariffs and taxes, securing release of the goods, right of appeal, etc.). The requirements and rights of declarants (importers/exporters) were regulated by the Treaty on the Customs Code of the Customs Union of 27 November 2009 (hereinafter: CU Customs Code) and the Customs Code of Kazakhstan. Pursuant to Article 284 of the Customs Code of Kazakhstan, as well as Article 186 of the CU Customs Code, the declarant had to be a natural or a juridical person of one of the EAEU member States who either had a contract for importation or exportation (or had had the contract concluded on his/her behalf) or owned the goods being imported or exported. The requirements for a person or an entity to register as a juridical person of Kazakhstan were provided in Law No. 2198 "On State Registration of Juridical Persons and Statistical Record-Keeping Registration of Branches and Representative Offices" of 17 April 1995 (hereinafter: Law No. 2198), Law No. 57-III "On Currency Regulation and Currency Control" of 13 June 2005 (hereinafter: Law No. 57-III), Budget Code of the Republic of Kazakhstan No. 95-IV of 4 December 2008 (hereinafter: Budget Code of Kazakhstan) and Code of Kazakhstan No. 99-IV "On Taxes and Other Obligatory Payments to the Budget (Tax Code)" of 10 December 2008 (hereinafter: Tax Code).

260. A Member raised concerns about the ability of natural and juridical persons located outside Kazakhstan to act as a declarant (importer of record) when importing goods into Kazakhstan. This Member noted, in particular, that Kazakhstan's regime did not appear to permit such natural and juridical persons to serve as a declarant (importer of record) so as to be responsible for

clearing all customs formalities in connection with their imports. This Member asked Kazakhstan what steps it would take to provide such rights.

261. The representative of Kazakhstan explained that Articles 186-194 of the CU Customs Code set forth the requirements for persons to import goods into the customs territory of the EAEU and perform all necessary customs procedures, including payment of customs duties and charges. Article 186 of the CU Customs Code provided that only a juridical person of an EAEU member State could become a declarant. Therefore, a subsidiary of a foreign company registered as a juridical person of Kazakhstan could become a declarant. However, a foreign natural person could act as a declarant of goods for personal use without registering as a juridical person of Kazakhstan.

262. The representative of Kazakhstan explained that requirements for actual registration of natural and juridical persons for commercial activities, including importing and exporting, were strictly a matter of the national legislation of each EAEU member State and this situation was not expected to change. She emphasized that the requirement to be registered in Kazakhstan was necessary to ensure proper implementation of customs legislation, including its provisions on conditional release of goods into the territory of Kazakhstan and post-entry control that permitted accelerated customs procedures at the entry and destination customs checkpoints.

263. Concerning registration requirements, the representative of Kazakhstan stated that pursuant to Article 3 of Law No. 2198, State registration was mandatory for all juridical persons established on the territory of Kazakhstan regardless of the purpose and type of their activities. Registration was necessary for: (i) certifying and keeping a record on establishment, reorganization and liquidation of juridical persons, branches and representative offices; (ii) keeping the single State register of juridical persons, and record of branches and representative offices; and, (iii) dissemination of the data on juridical persons, branches and representative offices registered in Kazakhstan (other than confidential information and commercial secrets) in the order established by the national legislation.

264. Pursuant to Article 9 of Law No. 2198, State registration of small businesses, as well as medium and large-scale enterprises operating on the basis of a Model Charter, was performed within one working day and their re-registration within three working days from the date of submission of a complete set of application documents. State registration (re-registration) of medium and large-scale enterprises not operating under a Model Charter was performed within seven working days from the date of submission of a complete set of application documents. According to Article 6 of Law No. 2198, to apply for registration, juridical persons had to submit three copies of the following documents: (i) standard application; (ii) articles of incorporation (charter); (iii) proof of payment of the registration fee; (iv) document certifying location/address of its office or its agent's office; and, (v) for juridical persons established as a result of restructuring, the act of transfer, including proof that creditors had been notified about the restructuring. In response to a specific question, the representative of Kazakhstan explained that pursuant to Article 6 of Law No. 2198, either of the following documents was recognized as a document certifying location/address of a juridical person: a notarized copy of (i) a leasing contract, (ii) a sales contract, or, (iii) other documents confirming the property right. If the owner of the leased office was a natural person, a notarized document confirming consent of the natural person for the use of the office as a place of location of the juridical person had to be presented. She noted that pursuant to Law No. 60-V "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Issues of State Registration of Juridical Persons and Statistical Record-Keeping Registration of Branches and Representative Offices" of 24 December 2012, state registration of all commercial juridical persons, except for joint stock companies, was performed within one working day. Furthermore, article of incorporation (charter), except for joint stock companies (article of incorporation (charter) was required), and document certifying location/address of its office or its agent's office were no longer required for state registration as a juridical person.

265. In addition to submitting the documents described above, and unless otherwise provided by international treaties, juridical persons of Kazakhstan with foreign participation had to submit: (i) a notarized and consularized (legalized) document certifying that the applicant was established in accordance with the legislation of the foreign country, accompanied by a notarized translation in Kazakh and Russian languages; and, (ii) a copy of the identification papers of the person registering the company (e.g., passport, identification card or residency permit), accompanied by a notarized translation in Kazakh and Russian languages. These requirements applied in a uniform

manner to all juridical persons with foreign participation and did not constitute actual discrimination against them.

266. Registration could only be refused for lack of compliance of the company's founding documents with Kazakhstan's legislation and breaching the legal rules on the establishment of juridical persons. The basis for refusal of registration (re-registration) was provided in Article 11 of Law No. 2198. Refusals were communicated in writing within 10 working days, with a reference to the underlying reasons, and could be appealed to the courts.

267. Pursuant to Law No. 537-II "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Issues of State Registration of Juridical Persons" of 18 March 2004, juridical persons, their branches and representative offices, obtained all certificates from the justice authorities on the basis of the "one-stop-shop" principle. These certificates included a State registration certificate, a taxpayer registration certificate and a statistical certificate of registration in the State statistical register. Registration certificates were issued for an unlimited period and a single registration was valid on the entire territory of Kazakhstan. A registration certificate would be replaced only at re-registration or when there had been a change in location. A table summarizing the requirements for registration of juridical persons, including the duration of the procedure and applicable fees, is provided in Annex 5(A) of this Report.

268. Some Members raised concerns about the requirement for re-registration and duplicate registration, since this requirement would amount to an *ad valorem* fee that appeared to place an extra burden on foreign businesses/entities. These Members asked Kazakhstan to confirm that it would bring its registration fees into conformity with the requirements of Article VIII of the GATT 1994 prior to WTO accession, given that commercial registration was a requirement to import or export goods other than for personal use in Kazakhstan. In response, the representative of Kazakhstan said that, pursuant to the "Methodology for Calculation of Fees and Fees for State Registration of Juridical Persons" approved by Order of the Ministry of Economy and Budget Planning No. 135 of 28 October 2005, registration fees for juridical persons, including small businesses, reflected the cost of services rendered. The same criteria were applied to the calculation of fees for activity licenses necessary for importation or exportation. Fees for State registration of juridical persons were calculated based on the Monthly Calculation Index (MCI) defined by the Tax Code. The registration fee for small businesses was set at 2 MCIs (approximately US\$20 in 2014); the rate for other juridical persons was 6.5 MCIs (approximately US\$65 in 2014). This difference was caused by the different level of costs/resources involved. Less time and resources were required for the assessment of a registration for small businesses due to the lesser number of documents required for the registration of small businesses. Therefore, the cost of services rendered was less than for the registration of other juridical persons. All registration fees were applied uniformly on the territory of Kazakhstan. The methodology for the calculation of fees is provided in Annex 5(B) of this Report.

269. A Member noted the substantial difference between the time required for registration of small businesses and other juridical persons and encouraged Kazakhstan to implement further reform so that the turn-around time for registration applications was equal for all business entities. In response, the representative of Kazakhstan said that simplified State registration procedures applied to small businesses, including a reduced list of documents required for registration, and, consequently, a shorter registration period and smaller registration fee. These simplified procedures were based on the fact that all such enterprises operated on the basis of a simplified Model Charter. To date, her Government had not received any complaint on these procedures. These preferential terms for small businesses were part of the Government's broader efforts aimed at addressing the strategic goal of reducing poverty and social disparity, and strengthening the middle class, a policy goal shared by other countries that provided special help to the formation and development of small businesses. She held the view that these policy measures were applied on a non-discriminatory basis to both domestic and foreign entities and natural persons applying for registration and as such, did not, in her view, contradict WTO norms. She further recalled that pursuant to Law No. 60-V "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Issues of State Registration of Juridical Persons and Statistical Record-Keeping Registration of Branches and Representative Offices" of 24 December 2012, State registration of all commercial juridical persons, except for joint stock companies, was performed within one working day.

270. In response to another question from a Member, the representative of Kazakhstan explained that an "authorized economic operator" was a juridical person of an EAEU member State that met certain conditions, set forth in Article 39 of the CU Customs Code and Chapter 6 of the Customs Code of Kazakhstan, including provision of a guarantee for the payment of customs duties and taxes, a history of engaging in foreign economic activity, the absence of unfulfilled obligations or debts to the customs authority, the absence of administrative offences in the year prior to the application date, the availability of sufficient record-keeping procedures, and compliance with other relevant requirements of the EAEU member State, in this case, Kazakhstan, under which the juridical person was established. According to Article 41 of the CU Customs Code and Article 65 of the Customs Code of Kazakhstan, an authorized economic operator enjoyed simplified and expedited customs procedures, including those concerning goods in transit. Authorized economic operator status and access to simplified procedures applied only in the territory of the EAEU member State, which granted that status. The representative of Kazakhstan also noted that an authorized economic operator could use simplified procedures provided that this operator had the right to act as the declarant of goods, towards which such special simplifications were applied.

271. A Member asked the representative of Kazakhstan whether a firm or an enterprise registered in Kazakhstan was considered a "resident" for the purposes of preferential trade with other CIS countries. This Member asked Kazakhstan to provide a clear distinction between juridical personhood in Kazakhstan through registration and being a "resident". The representative of Kazakhstan replied that when a ratified international agreement did not contain a definition of the term "resident" for the purposes of the given agreement, the "residency" status was regulated by the provisions of the Budget Code, Law No. 57-III and the Tax Code. According to these legal acts, companies were eligible to benefit from preferential trade under free trade agreements, including among the CIS, if they were registered in Kazakhstan as resident tax payers.

272. Several Members noted that laws and regulations relating to the right to trade in goods, "registration requirements" or "activity licensing" had not to be more burdensome than necessary and, thus, restrict imports in violation of the general prohibition on quantitative restrictions under Article XI:1 of the GATT 1994, nor should they discriminate against imported goods in violation of the provisions of Article III:4 of the GATT 1994. Furthermore, fees and charges levied on the right to import had to be limited to the cost of services rendered as under Article VIII:1(a) and Article VIII:4(c) of the GATT 1994, and internal taxes or other internal charges on the right to trade in imported goods had not to lead to discrimination in favour of like domestic products as required by Article III:2 of the GATT 1994.

273. Members also asked Kazakhstan to confirm that foreign juridical persons could be the "importer and exporter of record" and that foreign importers and exporters could legally sign import/export contracts with foreign entities with a physical presence in Kazakhstan. In reply, the representative of Kazakhstan explained that foreign juridical persons who registered their commercial presence in the form of juridical persons of Kazakhstan could be the importer and exporter of record, and such importers and exporters could legally sign import/export contracts with foreign entities and act as declarants for the purposes of importation and exportation.

274. In response to further questions from Members, the representative of Kazakhstan stated that the Government, in respect of measures affecting trade in goods with other WTO Members, would continue its policy of maintaining an expeditious registration process, and applying transparent and predictable requirements that were not burdensome to satisfy. She added that Kazakhstan would not apply registration requirements to limit the possibility for juridical persons to engage in importing and exporting, and that once registered in the form of juridical persons of Kazakhstan, they could import or export products as described in this Report. The representative of Kazakhstan confirmed that Kazakhstan would not make the procedures or overall requirements to register as a juridical person more burdensome than necessary, would not discriminate between foreign and domestic applicants in approving requests for registration, would not apply procedures and requirements in a restrictive manner and would also comply with other applicable provisions of the WTO Agreement including transparency obligations. The Working Party took note of these commitments.

- (a) **Ethyl Spirits and Alcohol Products**

275. Some Members expressed concern over the restrictive consequences of the activity licensing system for the sale of alcoholic beverages. They requested information on the current legislation and Kazakhstan's intention to introduce new legislation in this area. In particular, these Members sought information on the activity licensing fees charged for the right to import alcoholic beverages and on any plans for establishment of a State monopoly on alcoholic beverages.

276. The representative of Kazakhstan explained that pursuant to Law No. 461-IV "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Issues of Improvement of Permission System" of 15 July 2011, amending Law No. 214-III "On Licensing" of 11 January 2007 (hereinafter: Law "On Licensing"), the requirement for an activity licence for importation of ethyl spirits and alcohol products, which was used as a condition for obtaining an import licence for ethyl spirits and alcohol products, had been eliminated as of 30 January 2012. She noted, however, that importers into Kazakhstan of ethyl spirits and alcohol products were still required to have an activity licence for production, distribution, or storage of ethyl spirits and alcohol products, and to obtain and apply strip stamps for the purposes of excise tax payments, as described in Section "Application of Internal Taxes to Import" of this Report.

277. In addition, in accordance with CU Commission Decision No. 747 "On Amendments to Normative Legal Acts of the Customs Union in the Sphere of Non-tariff Regulation in Relation to Ethyl Spirits and Alcohol Products" of 16 August 2011, upon accession of any EAEU member State to the WTO, non-automatic import licensing requirements to ethyl spirits and alcohol products would be eliminated and replaced by an automatic licensing requirement. As a consequence, existing domestic legislation requiring non-automatic import licensing for these products would be amended accordingly, including: Law No. 429-I "On State Regulation of Production and Turnover of Ethyl Spirits and Alcohol Products" of 16 July 1999 (hereinafter: Law "On Regulation of Ethyl Spirits and Alcohol Products"). With the aim to eliminate import licence of ethyl spirits and alcohol products from the List of Goods Subject to Export and Import Licensing, the Rules on Export and Import Licensing, including Licensing of Goods Subject to Export Controls, and the Rules on Automatic Import Licensing of Certain Goods, Qualification Requirements for Licensed Activities and Approval of the List of Goods Subject to Export and Import Licensing, approved by Resolution of the Government of Kazakhstan No. 578 "On Certain Issues on Export and Import Licensing of Goods" of 12 June 2008, had been amended by Resolution of the Government of Kazakhstan No. 1320 of 17 October 2012.

278. In response to a question from a Member, the representative of Kazakhstan said that according to Resolution of the Government of Kazakhstan No. 57 "On Certain Issues of Activity Licensing for Production of Ethyl Spirits and Production, Storage, Wholesale and/or Retail Sale of Alcohol Products Except for Storage, Wholesale and/or Retail Sale of Alcohol Products within the Territory of Production" of 29 January 2013, the prerequisites for obtaining an activity licence for storage and distribution of alcohol products included the requirement that the applicant had to either own or lease specialized premises for storage and distribution of alcohol products, provided that they complied with qualification requirements. In this case, the applicant had to submit a copy of the sales or leasing contract.

279. A Member asked whether importers of non-food products containing denatured alcohol, e.g., cosmetics, fragrances, cleaning products, paints and stains, etc. were required to obtain an activity licence for the "manufacture of alcohol products", the "storage, wholesale and/or retail sale of alcohol products", and the "import of ethyl alcohol and alcohol products". The representative of Kazakhstan replied that the terms "manufacture of alcohol products", "storage, wholesale and/or retail sale of alcohol products" (found in Article 36 of Law "On Licensing") did not include non-food products containing denatured alcohol, e.g., cosmetics, fragrances, cleaning products, paints and stains, etc. Pursuant to Law "On Regulation of Ethyl Spirits and Alcohol Products", the term "alcohol product" was defined as a food product with alcohol by volume of more than 1.5% produced with the use of ethyl spirits from food raw material and/or alcohol-containing food product, except for those of medical purposes registered as medicine in accordance with the legislation of Kazakhstan. Law "On Regulation of Ethyl Spirits and Alcohol Products" and EAEU legal acts did not regulate the importation of non-food products containing denatured alcohol, such as cosmetics, fragrances, cleaning products, paints and stains, etc.

- **(b) Pharmaceuticals**

280. A Member asked if the requirement for an activity licence to perform "pharmaceutical activities: production, manufacture, wholesale and retail sale of medical preparations" included the act of importation only without the right to distribute in Kazakhstan. The representative of Kazakhstan replied that activity licensing in respect of pharmaceuticals, including veterinary drugs, was maintained on production and distribution of pharmaceuticals because of potential damage of such activities to human or animal life and health. Pursuant to Article 80 of Code of the Republic of Kazakhstan No. 193-IV "On People's Health and Healthcare System" of 18 September 2009, the right to import pharmaceuticals, including veterinary drugs, was granted to the following Kazakhstan entities, including foreign-invested enterprises, registered as a juridical person of Kazakhstan:

- producers holding an activity licence for production;
- enterprises holding an activity licence for wholesale of pharmaceuticals;
- R&D organizations and laboratories importing pharmaceuticals for the purposes of development and State registration of the pharmaceuticals;
- foreign producers or their authorized representatives for the purposes of conducting clinical trials, State registration and exhibitions; and,
- medical organizations for provision of medical services.

More detailed information regarding registration and import licensing procedures for pharmaceuticals, including veterinary drugs, could be found in Chapter IV "Policies Affecting Trade in Goods", Section A "Import Regulations", Subsection (b) "Import Licensing" of this Report.

- **(c) Products containing cryptographic capabilities, including goods with encryption technology and special technical devices**

281. Some Members noted that Kazakhstan required an activity licence to engage in production or distribution of goods with encryption technology, and required that applicants for a licence to import certain goods with encryption technology also had an activity licence. In the opinion of a Working Party Member, an activity licence requirement imposed by Kazakhstan as a condition for importation or exportation of encryption products, as opposed to domestic distribution, constituted an unnecessary impediment to the right to import and export. The Working Party Member asked how Kazakhstan would bring its import licensing regime for encryption products into conformity with WTO requirements. Working Party Members also asked for assurances that the requirement to have an activity licence as a condition for obtaining an import licence, i.e., simply to import such goods, would not be applied as an unjustifiable restriction on imports.

282. In response, the representative of Kazakhstan explained that the term "distribution" in this case did not include the term "import". Under Law "On Licensing", production and domestic distribution of encryption products were licensed activities in Kazakhstan, and an activity licence for production or distribution of encryption products was required to import encryption products.

283. The representative of Kazakhstan recalled the sensitivity of the goods that were subject to the import licensing requirement, and noted that many WTO Members regulated trade in encryption goods. She added that no discrimination against imports was intended by this licensing system. Moreover, the representative of Kazakhstan explained that pursuant to the Regulation "On the Order of Entry into the Customs Territory of the Customs Union and Removal from the Customs Territory of the Customs Union of Encryption (Cryptographic) Means" approved by Collegium Decision No. 134 (hereinafter: the Encryption Regulation), and as described in Chapter IV "Policies Affecting Trade in Goods", Section A "Import Regulations", Subsection (b) "Import Licensing" of this Report, many goods with encryption technology no longer required an import licence and hence their importation did not require an activity licence either.

284. In response to a specific question, the representative of Kazakhstan informed Members that to obtain an activity licence related to production and sale of encryption products, a company, including a foreign-invested company, registered as a juridical person of Kazakhstan, had to have in its structure one expert with higher education in engineering. The expert could be a citizen of Kazakhstan or a foreign national.

285. A Member stated that pursuant to Article 18 of Law "On Licensing", the "technical protection of State secrets", including the "repair and servicing of technical means for protection of State secrets", and the "development and selling (including another transfer) of means for information cryptographic protection", both required an activity licence. This Member asked if these activities included: importation, wholesale, or retail sale and leasing of commercially available electronic equipment and software with encryption technology used for purposes other than protecting State secrets, e.g., computers, smart cards, cell phones, etc.; or service and repair of after-sales or leased commercially available electronic equipment and software containing encryption technology used for purposes other than protecting State secrets. In reply, the representative of Kazakhstan noted that the requirement for an activity licence for the "technical protection of State secrets", including "repair and servicing of technical means for protection of State secrets", had been eliminated by Law No. 36-V "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Issues of Reduction of Licensing Documents and Optimization of Control and Supervisory Functions Of State Bodies" of 10 July 2012. The representative of Kazakhstan noted that within the framework of the EAEU, pursuant to paragraph 11 of the Encryption Regulation, the importation of certain goods with encryption technology, including "mass market goods", was subject to a onetime notification and hence did not require an import licence or an activity licence. Maintenance and repair services of goods were not subject to licensing. However, for distribution of goods with encryption technology in both wholesale and retail sale on the territory of the Republic of Kazakhstan, an activity licence was required for both domestic and imported goods.

286. An activity licence was a prerequisite to obtain a licence to import a special technical device, as defined in the Regulation "On the Order of Importation into the Customs Territory of the Customs Union and Exportation from the Customs Territory of the Customs Union of Special Technical Devices Designed to Search Technical Channels of Information Leakage" approved by Collegium Decision No. 134. An activity licence for development and production or repair and distribution of special technical devices was required when imported or produced domestically special technical devices were supplied to Operative-Investigation Agency entities in the territory of Kazakhstan. To obtain an activity licence, the founders of such company had to have access to State secrets of the Republic of Kazakhstan.

287. In reply to a specific question, the representative of Kazakhstan said that domestically produced special technical devices had to undergo the same approval procedure at the National Security Committee of the Republic of Kazakhstan as imported special technical devices. An activity licence was required for "development and manufacturing" and "repair and distribution" of special technical devices. She confirmed that the term "distribution" in this case did not include importation as a separate action, but that importers of special technical devices were required to hold one of the activity licenses due to the sensitivity of the goods. Previously, an activity licence had been issued within 45 days. However, pursuant to Law No. 461-IV "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Issues of Improvement of Permission System" of 15 July 2011, the period for issuing an activity licence had been reduced to 15 days. Activities subject to licensing are listed in the last column of Annex 6 of this Report.

- (d) **Conclusion**

288. The representative of Kazakhstan confirmed that, from the date of accession, the application of all laws, regulations and other measures affecting importation or exportation of goods, whether by Kazakhstan or the competent bodies of the EAEU, would be in conformity with relevant provisions of the WTO Agreement, including the WTO Agreement on Import Licensing Procedures and Articles I, III, VIII, and XI of the WTO General Agreement on Tariffs and Trade 1994. She confirmed that, upon its accession to the WTO, Kazakhstan would ensure that the person who had the right, according to the EAEU Treaty, EAEU legal instruments, Commission Decisions or Kazakhstan legislation, to declare the imported goods would be permitted to pay relevant customs duties, fees and charges in connection with importation of alcohol products, pharmaceuticals or products with encryption technology without presenting an import and/or activity licence(s) to the customs authorities, and that these goods would be permitted to be withdrawn from the territory of the customs checkpoint for the purpose of free circulation in the territory of the Republic of Kazakhstan by the holder of the respective import and/or activity licenses. The Working Party took note of these commitments.

A. IMPORT REGULATIONS

- Ordinary Customs Duties

289. The representative of Kazakhstan explained that from 1 January 2015, the legal basis for the customs tariff of Kazakhstan was Article 42 "Common External Tariff of the Eurasian Economic Union" and Annex No. 6 "Protocol on Common Customs and Tariff Regulation" of the EAEU Treaty. The Common External Tariff (CET) was established by Decision of the Interstate Council of the Eurasian Economic Community (EurAsEC) No. 18 "On Common Customs Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation" of 27 November 2009 (hereinafter: Decision of the EurAsEC Interstate Council No. 18). According to Article 42 of the EAEU Treaty, the main objectives and purposes of the CET were: (i) to rationalize the structure of the import of goods to the customs territory of the EAEU; (ii) to maintain a rational proportion of imported and exported goods on the customs territory of the EAEU; (iii) to create conditions for progressive changes in the structure of manufacturing and consumption of goods in the EAEU; (iv) to provide conditions for effective integration of the EAEU into the world economy; and, (v) to support the sectors of the economy of the EAEU.

290. Pursuant to Decision of the EurAsEC Interstate Council No. 18, tariff rates were established by the Eurasian Economic Commission (hereinafter: EEC or Commission). Furthermore, the rules for granting tariff preferences to developing and least-developed countries were stipulated in the Protocol on Common System of Tariff Preferences of the Customs Union of 12 December 2008 (hereinafter: Protocol on Tariff Preferences).

291. According to the EAEU Treaty, the Commission issued decisions on CET rates based on the results of negotiations among the EAEU member States. From 1 January 2010, the EAEU member States had no authority to change import customs duty rates unilaterally. The representative of Kazakhstan further explained that the tariff exemptions applied by the EAEU member States were described in Sections "Investment Regime", "Tariff Exemptions" and "Trade-Related Investment Measures" of this Report.

292. The representative of Kazakhstan added that decisions on CET rates would normally be taken by the EEC by a two-thirds qualified majority vote, except for sensitive products (the 5,012 specified tariff lines listed in Annex 7 of this Report) on which consensus was required. Consensus might also be required in other cases specified in the agreements comprising the legal basis of the EAEU. She added that the position of Kazakhstan on trade policy issues that had been delegated to the competence of the EEC, including changes proposed by Kazakhstan or other EAEU member States in CET and non-tariff measures, was reviewed and approved by the Government Inter-Agency Commission on Trade Policy Issues and Participation in International Economic Organizations.

293. In response to the request of a Member to remove from Article 1 of the Agreement on Common Customs and Tariff Regulation of 25 January 2008 the provision stating the objective of the CET as "to protect the economy of the Customs Union from unfavourable influence of foreign competition", the representative of Kazakhstan replied that this provision was not incorporated into the EAEU Treaty and therefore no longer existed as of 1 January 2015.

294. The representative of Kazakhstan said that Kazakhstan had replaced a 9-digit tariff nomenclature with a 10-digit nomenclature on 1 January 2004, which had been based on the 2002 revision of the Harmonized Description and Coding System (HS 2002). Later, new import duties had been established by Government Resolution No. 1317 "On Customs Tariff and Goods Nomenclature of Foreign Economic Activity of the Republic of Kazakhstan" of 28 December 2007 and these had been applied until 1 January 2010. Asked to provide the Customs Tariff schedule in HS 2007, including the concordance table between HS 2002 and HS 2007, the representative of Kazakhstan said that CET rates could be found on the official website of the Commission (<http://www.eurasiancommission.org/en/act/trade/catr/Pages/default.aspx>). The concordance table HS 2002-2007 had been provided separately to the WTO Secretariat.

295. The representative of Kazakhstan added that, from 1 January 2010, CET applied tariff rates had been established in the Common Tariff Nomenclature of the Foreign Economic Activity of

the Customs Union, which had been based on the HS 2007 nomenclature, as provided for in the Agreement "On Common Tariff Nomenclature of Foreign Economic Activity of the EurAsEC" of 11 June 2003. As of January 2012, according to CU Commission Decision No. 850 "On New Version of the Common Commodity Nomenclature of Foreign Economic Activity of the Customs Union and Common External Tariff of the Customs Union" of 18 November 2011, Kazakhstan applied CET tariff rates based on the HS 2012 nomenclature. WTO tariff negotiations had been conducted in the HS 2002 nomenclature, reflecting the tariff nomenclature Kazakhstan had been using at the time these negotiations had commenced. Based on the results of bilateral market access negotiations on goods, the WTO Secretariat had completed the Draft Consolidated Schedule of Tariff Concessions and Commitments and had converted it into the HS 2007 nomenclature.

296. The representative of Kazakhstan noted that currently the CET consisted of 11,170 tariff lines. A significant majority of tariff lines (9,208 items) were subject to *ad valorem* duties and 216 tariff lines were subject to specific duties. The *ad valorem* rates ranged from 0% to 30%, except for a limited number of products, including meat products, i.e., beef, pork and poultry, on which EAEU member States applied tariff rate quotas, where in-quota rates were established at the level between 0% and 25%, and out-of-quota rates were between 50% and 80%. Tariff items subject to specific rates included apples, chocolate, beer, and strong alcoholic beverages.

297. The representative of Kazakhstan explained that the remaining 1,746 tariff items in the CET were subject to combined (mixed) duties. She explained that combined duties were expressed in terms of alternative rates, one as an *ad valorem* rate and the other as a specific rate that served as a minimum rate of duty, e.g., 5%, but no less than €1 per kg. Either the *ad valorem* duty rate or the specific duty rate was applied depending exclusively on the customs value of the goods. In response to a question, she noted that combined tariff rates were applied to: live swine, meat, certain species of fish, fermented or acidified milk and cream, whey, butter and cheese, bird's eggs, flowers, tomatoes, cucumbers, bananas, citrus fruits, coffee and tea, rice, malt and starches, preserved vegetables, plant oils, sausages and other preparations of meat, juices, tea and coffee extracts, yeasts, food preparations not elsewhere specified (ex. HS 2106), waters and ethyl alcohol, preparations used in animal feeding, cigars and cigarettes, sodium sulphides, resorcinol and its salts, maleic anhydride, bleaches and soap, dextrin and modified starches, plastics and articles thereof, tyres of rubber, leather and fur articles, articles of paper and paperboard, nonwovens, carpets and textile floor coverings, coated fabrics, textiles, footwear, headgear, artificial flowers, ceramic products, imitation jewellery, aluminium and articles thereof, tin and articles thereof, apparels, home electronics, cars, watches and furniture.

298. The representative of Kazakhstan confirmed that for goods subject to a combined duty, it would be ensured, whether by Kazakhstan or the competent bodies of the EAEU, that the *ad valorem* equivalent of the specific duty rate for each tariff line, calculated based on the average customs value, would be no higher than the alternative *ad valorem* duty rate for that tariff line in the Schedule of the Republic of Kazakhstan in accordance with the following provisions:

- (i) On an annual basis, it would be determined, whether by Kazakhstan or by the competent bodies of the EAEU, whether it was necessary to reduce the applied specific duty rate to ensure that it was no higher than the applied *ad valorem* duty rate;
- (ii) This calculation would be done two months before the end of each calendar year, beginning in the first calendar year after the date of the accession of Kazakhstan;
- (iii) Data for the calculations would be from a three-year period, determined by taking trade data from a recent five-year representative period and excluding data for years with the highest and lowest trade for that period;
- (iv) Data on trade with countries or territories with which Kazakhstan had a customs union or free trade agreement would be excluded from the calculation; and,
- (v) Data would be drawn from the Official Customs Statistics of the Republic of Kazakhstan notified to the WTO Integrated Database (IDB) unless such data was unavailable. In such case, IDB and COMTRADE data would be used.

Kazakhstan would inform Members of the results of these calculations on a tariff line basis and, if the results showed that it was necessary to reduce the specific duty rate alternative, this reduction would be made and would go into effect automatically, beginning on 1 January of the year following the calculation. In no case would the applied duty (whether expressed in *ad valorem* or specific terms and whether determined by Kazakhstan or the competent bodies of the EAEU) exceed the bound rate of the combined duty. If, after reductions based on the annual

re-calculation and changed circumstances, the specific duty rate alternative became significantly lower than the *ad valorem* alternative rate of duty, Kazakhstan reserved the right to modify permanently the form of the duty to a purely *ad valorem* duty, at a level that complied with the binding for the relevant tariff line. The Working Party took note of these commitments.

299. The representative of Kazakhstan informed Members that the provision allowing for the application of the customs duties at the double MFN rate to the import of goods of undeterminable country origin had been eliminated pursuant to Law No. 211-III "On Amendments and Addenda to the Customs Code of the Republic of Kazakhstan" of 8 January 2007. Subsequently, such imports were subject to the normal MFN rate. She further stated that in accordance with Article 36 "Tariff Preferences in Respect of Goods Originating from Developing and/or Least Developed Countries" of the EAEU Treaty and the Protocol on Tariff Preferences, Kazakhstan applied the EAEU Generalized System of Tariff Preferences for developing and least-developed countries (EAEU GSP Scheme). The lists of developing countries beneficiaries of the EAEU GSP Scheme (Annex 8 of this Report), least developed countries beneficiaries of the EAEU GSP Scheme (Annex 9 of this Report) and goods originating and imported from developing and least developed countries subject to the EAEU GSP Scheme (Annex 10 of this Report) were established by Decision of the EurAsEC Interstate Council No. 18 and adopted by CU Commission Decision No. 130 "On Common Customs Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation" of 27 November 2009 (hereinafter: CU Commission Decision No. 130). Under the EAEU GSP Scheme, the import duties applicable to products included into Annex 10 of this Report and originating from developing countries were at the level of 75% of the MFN duty rates and from least developed countries at the level of 0%.

300. In response to a question by a Member, the representative of Kazakhstan explained that tariff preferences for goods originating from developing or least developed countries, that were subject to the EAEU GSP Scheme, would be granted if the goods were purchased in that country from a resident of the country. Such goods had to be delivered directly or in transit through third countries to the territory of the EAEU, without them being put into free circulation in those third countries in case of transit. As provided for in the Annex to the CU Agreement on Rules for Determining the Origin of Goods from Developing and Least Developed Countries of 12 December 2008, goods were also considered purchased in the country of origin if they were purchased at an exhibition or fair.

301. In response to requests from Members, the representative of Kazakhstan confirmed that, upon its accession to the WTO, the GSP Scheme for developing and least developed countries would be applied, whether by Kazakhstan or by the competent bodies of the EAEU, in conformity with the relevant provisions of the WTO Agreement. The Working Party took note of this commitment.

302. Some Members expressed concerns that paragraphs 2 and 7 of CU Commission Decision No. 130 could allow the application of import duties in a discriminatory manner, either *vis-à-vis* third countries or in relation to certain imports exempted from duties for investment projects. The representative of Kazakhstan confirmed that all import tariffs were applied by Kazakhstan in a non-discriminatory manner *vis-à-vis* third countries on the basis of trade and cooperation agreements, except if otherwise provided for under regional trade agreements or the EAEU GSP Scheme. Exemptions from the CET within the framework of investment projects were described in the Sections "Investment Regime", "Tariff Exemptions" and "Trade-Related Investment Measures" of this Report, as appropriate.

303. In response to requests from Members, the representative of Kazakhstan confirmed that Kazakhstan would submit its Information Technology Agreement (ITA) Schedule to the ITA Committee for verification, in accordance with ITA procedures, in order to enable Kazakhstan to join the ITA when it became a WTO Member. The Working Party took note of this commitment.

304. Kazakhstan undertook bilateral market access negotiations on goods with Members of the Working Party. The results of those negotiations were reflected in a draft consolidated Schedule of Concessions and Commitments on Goods circulated by the WTO Secretariat on 26 September 2012 as document WT/ACC/SPEC/KAZ/10/Rev.3. Following Kazakhstan's membership to the EAEU, some Members noted that the tariff rates applied by Kazakhstan under the CET differed from the results agreed to in the bilateral goods market access negotiations. Since Kazakhstan had limited

exceptions from the CET, these Members expressed concern that Kazakhstan would not be in a position to implement the tariff rates agreed to in the bilateral market access negotiations.

305. In response, the representative of Kazakhstan confirmed that, as a result of negotiations with those WTO Members with whom it had concluded bilateral goods market access protocols, upon accession:

- (a) for those goods for which the final bound tariff rate agreed in bilateral negotiations with WTO Members was lower than the final bound tariff rate of the Russian Federation as set out in its Protocol of Accession, Kazakhstan would bind its final bound tariff rate at the lower rate;
- (b) for those goods for which the final bound tariff rate of the Russian Federation as set out in its Protocol of Accession was lower than the final bound tariff rate agreed in Kazakhstan's bilateral tariff negotiations, Kazakhstan would bind its relevant final bound tariff rate at the lower final bound tariff rate of the Russian Federation;
- (c) for goods identified under subparagraph (b), Kazakhstan would adjust its bindings to reflect the staging of reductions that result from the Protocol of Accession of the Russian Federation; and,
- (d) For those goods for which the current bound tariff rate of the Russian Federation as set out in its Protocol of Accession was lower than the initial or current bound tariff agreed in Kazakhstan's bilateral tariff negotiations, Kazakhstan would bind its relevant initial or current bound tariff rate at the lower current bound tariff rate of the Russian Federation at every stage of implementation.

The results of the bilateral market access negotiations and the commitments undertaken in subparagraphs (a) through (d) are contained in the Schedule of Concessions and Commitments on Goods number CLXXII and form Annex 1 to the Protocol of Accession (hereafter: "the Accession Schedule").

306. Noting the fact that the tariffs that Kazakhstan applied under the CET were, in some cases, higher than those contained in the Accession Schedule, Members inquired how Kazakhstan would ensure the respect of its obligations stemming from its membership of both the WTO and the EAEU.

307. The representative of Kazakhstan confirmed that Kazakhstan would fully implement upon accession the commitments contained in the Accession Schedule in particular through the relevant EAEU instruments, including the maintenance of exceptions from the EAEU CET with respect to tariff lines for which the EAEU tariff rates are inconsistent with the Accession Schedule, until such time as the adjusted tariff rates negotiated and agreed to pursuant to paragraphs 308 to 311 have been bound in the modified schedule of Kazakhstan and been implemented by the EAEU. In case the EAEU does not implement the adjusted rates, the commitments contained in the Accession Schedule would prevail. She further confirmed that all goods, including those referred to in subparagraph (a) of paragraph 305, entering the EAEU territory for import in Kazakhstan would benefit from the rules on transit as they are set out in the WTO Agreement, including Article V of the GATT 1994, irrespective of prohibitions or restrictions of imports into its own territory that a specific EAEU member may apply. The Working Party took note of these commitments.

308. The representative of Kazakhstan further confirmed that no earlier than three years and six months from the date of full implementation of all the final bound tariff rates contained in the Accession Schedule for goods covered by sub-paragraph (a) of paragraph 305, Kazakhstan would seek to align the Accession Schedule with the final bound tariff rate of the Russian Federation as set out in its Protocol of Accession and, therefore, commence negotiations with those WTO Members that had concluded bilateral goods market access protocols with Kazakhstan and would be affected by such alignment, i.e., those holding INRs or those having a principal or substantial supplying interest by the date on which the negotiations start or those having annual average imports into Kazakhstan of at least US\$ 175,000 per tariff line per year during the period of 2008-2013 (hereafter: "affected Members"). For that purpose, six months before the start of the negotiations Kazakhstan would notify WTO Members of its intention to commence them and would provide to Signatory Members that had concluded bilateral goods market access protocols with Kazakhstan all data relevant for the conduct of those negotiations, which includes the list of items subject to modification with the corresponding tariff line numbers and tariff rate information

and statistics of imports of the products involved, by country of origin, for the last three years for which statistics are available. The Working Party took note of these commitments.

309. The negotiations referred to in paragraph 308 would include the tariff rate increases on goods subject to sub-paragraph (a) of paragraph 305. The negotiations referred to in paragraph 308 would not include tariff rate increases on goods subject to sub-paragraph (b) of paragraph 305. For goods subject to negotiation, the representative of Kazakhstan confirmed that no tariff lines subject to increase of the bound import tariff rates of Kazakhstan would be *a priori* excluded from the scope of these negotiations. The Working Party took note of these commitments.

310. The negotiations referred to in paragraph 308 would be entered into in good faith with a view to achieving within 3 years from commencement of such negotiations mutually satisfactory compensatory adjustment. The negotiations of compensatory adjustment may include formula approaches and requests on specific priority tariff lines. The value of compensatory adjustment with respect to each affected Member should be calculated as the difference between the value of duties payable for the average yearly MFN imports to Kazakhstan from that affected Member that occurred during the reference period of three years of trade data available at the start of the negotiations, calculated on the basis of the final bound tariff rates of the Russian Federation, and the value of duties payable for the same trade, calculated on the basis of the final bound tariff rates of Kazakhstan. In these negotiations any SPS measures or special circumstances existing in the EAEU that have affected trade during the reference period will be taken into account. In the event that satisfactory compensatory adjustment is not achieved within the timeframe for the negotiations, the matter should be referred to the WTO General Council. The Working Party took note of these commitments.

311. The representative of Kazakhstan confirmed that, as the alignment of the Schedule results from membership in a customs union, she should endeavor to ensure all members of the EAEU which are WTO Members should enter into those negotiations and participate in the compensatory tariff adjustment negotiations. She further confirmed that the representative of the Russian Federation had stated on several occasions that the Russian Federation, which is also a member of the EAEU, would have to participate in such compensatory adjustment in line with WTO obligations applicable to customs unions. The Working Party took note of these commitments.

312. The representative of Kazakhstan confirmed that, under the EAEU regime described in paragraphs 251 and 252 of the Report of the Working Party on the Accession of Kazakhstan and in paragraphs 185 and 186 of the Report of the Working Party on the Accession of the Russian Federation to the WTO, the WTO commitments undertaken by an EAEU member are part of the EAEU legal framework. The representative of the Russian Federation supported the statements of the representative of Kazakhstan reflected under paragraphs 311 and 312 of this Report.

313. To reflect the results of these negotiations, the CET and the Accession Schedule will be modified. For goods subject to negotiation according to paragraph 309 Kazakhstan confirmed that it would not have recourse to Articles XXIV:6 or XXVIII of the GATT 1994 and will continue to apply the commitments contained in the Accession Schedule from the date of its accession until such time as the adjusted tariff rates are negotiated and agreed by consensus with the affected Members have been bound in the modified schedule of Kazakhstan and been implemented by the EAEU. In case the EAEU does not implement the adjusted rates, the commitments contained in the Accession Schedule would prevail. The Working Party took note of these commitments.

- **Other Duties and Charges**

314. A Member sought a commitment from Kazakhstan that it would not list any other duties and charges (ODCs) in its Goods Schedule under Article II:1(b) of the GATT 1994, binding such charges at zero from the date of accession to the WTO.

315. The representative of Kazakhstan replied that duties on imports were applied in accordance with Article 42 "Common External Tariff of the Eurasian Economic Union" and Annex No. 6 "Protocol on Common Customs and Tariff Regulation" of the EAEU Treaty, Decision of the Interstate Council of the Eurasian Economic Community (EurAsEC) No. 18 "On Common Customs and Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation" of 27 November 2009 and CU Commission Decision No. 130

"On Common Customs and Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation" of 27 November 2009. These provisions authorized the Commission to establish and change the customs tariffs of the EAEU member States, including Kazakhstan, as described in Section "Ordinary Customs Duties" of this Report. No other duties and charges were authorized. Therefore, she confirmed that Kazakhstan did not apply any other duties and charges on imports within the meaning of Article II:1(b) of the GATT 1994.

316. Noting this statement, some Members asked Kazakhstan to bind at zero other duties and charges (ODCs) in its Schedule of Concessions and Commitments on Goods and to undertake a commitment that it would not apply such measures except in conformity with WTO obligations.

317. The representative of Kazakhstan confirmed that Kazakhstan had bound all tariffs in its Schedule of Concessions and Commitments on Goods. She confirmed that from the date of its accession to the WTO, Kazakhstan would not apply other duties and charges within the meaning of Article II:1(b) of the GATT 1994 and would bind such duties and charges at zero in relation to all goods. These bindings were recorded in the Schedule of Concessions and Commitments on Goods of the Republic of Kazakhstan annexed to the GATT 1994. The Working Party took note of these commitments.

- **Tariff Exemptions**

318. The representative of Kazakhstan noted that from 1 January 2015, the legal basis for granting tariff exemptions imported into the EAEU was Article 43 "Tariff Exemptions" and Part II of Annex No. 6 "Protocol on Common Customs and Tariff Regulation" of the EAEU Treaty. Part II of Annex No. 6 to the EAEU Treaty provided a framework for a unified list of tariff exemptions. Article 45 of the EAEU Treaty authorized the EEC to establish unified lists. More specific provisions regarding the unified list of tariff exempted goods were elaborated in the Decision of the Interstate Council of the Eurasian Economic Community (EurAsEC) No. 18 "On Common Customs Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation" (hereinafter: Decision of the EurAsEC Council No. 18) and CU Commission Decision No. 130 "On Common Customs and Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation" of 27 November 2009 (hereinafter: CU Commission Decision No. 130). CU Commission Decision No. 331 "On Approval of the List of Goods Temporarily Imported with Conditional Exemptions from Payments of Customs Duties, Taxes, and on Conditions of such Exemptions, including Time-Frames" of 18 June 2010 (hereinafter: CU Commission Decision No. 331) approved the list of temporarily imported goods fully exempt from payment of customs duties. The EAEU Treaty and the Decisions also provided for other types of exemptions, e.g., for investment purposes (described in Sections "Trade-Related Investment Measures" and "Industrial Policy including Subsidies" of this Report), tariff preferences for developing and least developed countries (described in Section "Ordinary Customs Duties" of this Report) and tariff rate quotas (described in Section "Tariff Rate Quotas" of this Report). Special limited derogations for individual EAEU member States from the CET were elaborated in the Protocol on Conditions and Procedure for Use in Exceptional Cases of the Rates of Import Customs Duties Other than Common Customs Tariff Rates of 12 December 2008 (hereinafter: Protocol on Exceptions from the CET), which expired on 1 January 2015.

319. The representative of Kazakhstan said that prior to 1 January 2010, the granting of tariff exemptions had been regulated by Customs Code of Kazakhstan No.401-II of 5 April 2003, and Resolutions of the Government of Kazakhstan No. 668 "On Adoption of the List of Temporarily Imported Goods Exempt from All Customs Duties and Taxes and Temporarily Exported Goods from All Customs Duties" of 8 July 2003 (hereinafter: Government Resolution No. 668), and No. 1092 "On Adoption of the List of Leasing Objects Subject to the Customs Regime of Temporary Importation and Temporary Exportation of Goods" of 21 August 2001 (hereinafter: Government Resolution No. 1092). Article 330 of the Customs Code of Kazakhstan had provided for tariff exemptions for: (i) diplomatic imports; and (ii) goods imported for implementation of investment projects granted for a period of up to five years. The Investments Committee under the Ministry of Industry and Trade had been in charge of providing investment preferences, including customs duty exemptions.

320. In accordance with Part II of Annex No. 6 to the EAEU Treaty and the relevant provisions of the CU Customs Code, tariff exemptions could be granted to the following goods imported into

the customs territory of the EAEU: (i) goods imported under the customs control within the customs regimes established by the customs legislation; (ii) goods imported as a contribution to the charter capital by foreign investor within the time-frame determined by the charter documents for capital formation; and, (iii) goods imported within the framework of international cooperation of the EAEU member States with third countries in the field of research and exploration of space, and also within the agreements regarding services in spacecraft launch. The specific list of the above-mentioned goods to be exempted was approved by CU Commission Decision No. 727 "On Introduction of Amendments to Decision of the Customs Union Commission No.130 'On Common Customs and Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation' of 27 November 2009" of 22 June 2011.

321. The representative of Kazakhstan noted that goods could be exempted from the customs duty within the framework of customs regimes provided for in relevant customs legislation e.g., the CU Customs Code. Article 80 of the CU Customs Code listed the situations when customs duties need not to be paid, which reflected circumstances faced by customs officials in the course of customs processing. These circumstances included: (i) when it was provided for in accordance with the legislation of the EAEU member States or the provisions of the CU Customs Code; (ii) when customs duties had already been paid or when the amount owed was less than EUR5; (iii) when goods were exempted from customs duties during the period of validity of such an exemption and when fulfilling the conditions, under which such exemption was granted; (iv) when goods were placed under customs procedures (regimes) not providing for such payment; (v) when the total customs value of goods imported by one person on one invoice did not exceed €200; (vi) when goods had been destroyed or irretrievably lost as a consequence of an accident, *force majeure*, or as the result of natural deterioration under normal transportation and storage prior to their release; (vii) when goods had been converted into property of a member State in accordance with its national legislation; and, (viii) when goods were not released.

322. The representative of Kazakhstan added that Annex No. 6 to the EAEU Treaty and the relevant provisions of the CU Customs code provided that for the list of exemptions from the customs tariff rates, the following categories of goods were exempt from import customs duty: (i) means of transport of international shipments of freight, baggage and passengers, and goods that maintained them; (ii) products of fishing operations owned or leased by natural and juridical persons of the EAEU member States; (iii) goods imported for official or personal use by third countries' diplomats; (iv) currency and securities in accordance with the national legislation of the member States; (v) goods imported as humanitarian or disaster aid; (vi) goods imported as assistance (including technical assistance) and charity from third countries and international organizations; (vii) goods covered by import customs regimes which called for such duty exemption; (viii) goods imported by natural persons for their own use, in accordance with customs regulation legislation; and, (ix) goods subject to Government expropriation by the member States as provided for in their legislation. Tariff exemptions could also be provided in other cases established by the EAEU Treaty, international agreements of the EAEU with third parties and acts of the Commission.

323. Tariff exemptions in cases not stipulated in Annex No. 6 to the EAEU Treaty were applied only by the Commission decisions based on consensus. CU Commission Decision No. 130 approved tariff exemptions applied by the EAEU member States apart from tariff exemptions stipulated in Annex No. 6 to the EAEU Treaty.

324. The EEC was authorized by the EAEU Treaty and Decision of the EurAsEC Interstate Council No. 18 to operate the CET, including the authority to add or remove goods from the list of exemptions. A consensus vote was required, if an EEC Decision concerned changes in customs duty levels on goods included into the List of sensitive products, or where the decision on granting of tariff exemptions was taken.

325. She added that, in accordance with Article 2 of the Protocol on Exceptions from the CET, the EEC could decide that a higher duty rate than the CET would be applied by one of the EAEU member States in case if such a measure was a necessary condition for development of the relevant industry of that member State. A lower duty rate would be applied in the following cases: (i) the concerned member State faced critical shortage of goods; (ii) such a measure was necessary to address the social needs of the population for the concerned member State; or (iii) to address the needs of industries, which depended largely on imports from third countries and could not be replaced with the production of supplementary or similar goods produced in the EAEU.

Article 4 of the Protocol on Exceptions from the CET provided that the EEC Decisions, in these cases, were adopted by consensus and that a different tariff rate by one member State could be applied for no longer than six months, unless extended, following the relevant procedures foreseen in the Protocol on Exceptions from the CET.

326. A Member asked if there was a process for third parties to challenge such exceptions from the CET. The representative of Kazakhstan stated that the EEC took a decision on application of a higher or lower tariff rate upon proposal by an EAEU member State, provided that such measure was justified and other EAEU member States did not agree to change the CET tariff rate. She added that exceptions from the CET applied in "exceptional circumstances" should be based on an MFN principle and should not be higher than the import duty bound rates committed by any member State upon accession to the WTO. Therefore, Kazakhstan did not see a basis for challenging the exceptions by third parties.

327. CU Commission Decision No. 130 had initially included a list of 409 tariff lines, towards which Kazakhstan applied import customs duty rates different from the CET during various transitional periods of up to five years. Subsequently, taking into account that for some goods the transitional periods had already expired, as well as due to difficulties with monitoring the movement of goods across the border after the formation of a common customs territory and the removal of customs border checkpoints between the Russian Federation and the Republic of Kazakhstan as of 1 July 2011, the list had been revised and significantly reduced down to 72 tariff lines (see Annex 11 of this Report). These exemptions expired on 1 January 2015.

328. She further added that CU Commission Decision No. 130 allowed duty-free importation of raw cane sugar (HS 1701 11) in 2010-2019 for processing in sugar-processing plants on the territory of the Republic of Kazakhstan. Raw cane sugar could be imported only upon obtaining a permit from the authorized body of Kazakhstan (the Ministry of National Economy). The permit prescribed the end-use of raw cane sugar. The raw cane sugar and white sugar produced from such raw cane sugar could not be exported to the territories of other member States. Government Resolutions No. 146 "On Certain Issues of Importation of Sugar and Raw Sugar to the Territory of the Republic of Kazakhstan" of 1 March 2010 and No. 34 "On Certain Issues of Importation of Raw Sugar to the Territory of the Republic of Kazakhstan" of 26 January 2011 determined the duty-free quota for imported raw cane sugar for 2010 and 2011, respectively, and approved the list of sugar producers to which the quota was allocated.

329. The representative of Kazakhstan noted that in case an EAEU member State defined individual beneficiaries of a tariff exemption, this member State had to present to the EEC its proposals on the control mechanism over the use of the imported goods with a view to preventing their misuse and release into free circulation on the territory of other member States. The exemption was granted by approval of the EEC.

330. A Member enquired about Government Resolutions Nos. 668 and 1092. In particular, this Member asked Kazakhstan to specify the goods falling within the scope of Government Resolutions Nos. 668 and 1092 and clarify the terms of the 3% charge per month on other temporary goods: if this was 3 percentage points of the total tariff level or 3% of the duties that would have been collected and if the total charge applicable capped at the amount of the normally payable duty. This Member also asked if this covered "trade in transit" or if "temporary importation" was a separate customs regime from transit. In reply, the representative of Kazakhstan said that Government Resolutions No. 668 and No. 1092 were no longer in force.

331. She further explained that goods temporarily imported to Kazakhstan (i.e., subject to subsequent exportation) could be exempt from customs duties and taxes, either in whole or in part. The list of temporarily imported goods fully exempt from payment of customs duties and taxes had been approved by CU Commission Decision No. 331 and included the following groups of goods: (i) containers and other returnable containers; (ii) goods imported to assist foreign trade and international cooperation; (iii) goods temporarily imported for application in science, culture, cinematography, sports and tourism; (iv) goods imported for humanitarian aid; and (v) other goods. While goods falling within the scope of CU Commission Decision No. 331 were fully exempt from payment of duties, other temporarily-imported goods as stipulated in Article 282 of the CU Customs Code were subject to a fee of 3% of the amount of the import customs duty and taxes payable, that would have been collected if the goods were released for domestic consumption, for each month the goods remained on the customs territory of the EAEU. The term of temporary

importation was determined by the customs body on the basis of the objectives and circumstances of the importation, and could not exceed a period of two years from the date when the goods were placed under the customs procedure of temporary importation. The term of temporary importation could be extended beyond two years at the written request of an applicant. To conform to the provisions of the temporary importation procedure, goods had to remain unchanged during the period of temporary importation. The total charge applicable capped at the amount of the normally payable duty. She added that the provisions established for the customs procedure of "temporary import of goods" did not extend to the customs procedure of "transit of goods".

332. The representative of Kazakhstan added that CU Commission Decisions No. 130 and No. 331 granted certain tariff exemptions for imported civil aircraft (for more details, see Chapter IV "Policies Affecting Trade in Goods", Section C "Internal Policies Affecting Foreign Trade in Goods", Sub-section "Trade in Civil Aircraft" of this Report).

333. The representative of Kazakhstan informed Members that Kazakhstan did not apply any other tariff exemptions than those described in this and other relevant Sections of this Report.

- **Tariff Rate Quotas**

334. Some Members considered that the introduction of tariff rate quotas (TRQs) had been a step backward from the trade liberalization that should be expected from the country acceding to the WTO and that, in their view, a tariff-only regime would be preferable as it would allow for the market to select suppliers that provided the best combination of price, quality, and stable offer of goods. They requested a description of the current and prospective legal authority for introducing TRQs and determining the rules for allocating quota among importers as well as any related licensing procedures in Kazakhstan and in the EAEU.

335. The representative of Kazakhstan said that Article 44 "Tariff Rate Quotas" (TRQs) and Part III of Annex No. 6 "Protocol on Common Customs and Tariff Regulation" of the EAEU Treaty provided the general legal framework for the introduction of TRQs in the EAEU member States, including Kazakhstan. The national legislation included Law No. 544-II "On Regulation of Trade Activity" of 12 April 2004 (hereinafter: Law No. 544-II) and other measures adopted on the basis of the EAEU legal acts.

336. The representative of Kazakhstan added that, pursuant to paragraph 2 of Part I of Annex No. 6 to the EAEU Treaty, a tariff rate quota was a measure of control over the importation into the customs territory of the EAEU of certain kinds of agricultural products originating in third countries applied within a fixed period of time. Such measures provided for application of differentiated rates of the CET with regard to goods imported within the established volume (in kind and in value) within a fixed period of time and in excess of that volume. The criteria for introduction of TRQs were provided for in Article 44 of the EAEU Treaty. TRQs could be introduced for agricultural products originating in third countries if the like goods were produced (extracted, cultivated) on the customs territory of the EAEU. Pursuant to this Article, volumes of imported goods exceeding quota levels were levied at rates of the CET. Between 2010 and 2012, the CU Commission had allocated TRQs on an annual basis among the member States based on proposals from the member States. Starting from 1 February 2012, the member States delegated this authority to the EEC.

337. CU Commission Decision No. 865 of 18 November 2011 had approved the list of products subject to TRQs (beef, pork and poultry), had allocated TRQs, and had fixed the volumes of TRQs for importation of these goods to the territory of each member State for 2012. Resolution of the Government of Kazakhstan No. 269 "On Certain Issues of Allocation of Tariff Rate Quotas Volumes for Importation of Certain Kinds of Meat" of 24 March 2011 (hereinafter: Government Resolution No. 269) had approved the rules for allocation of TRQ volumes among suppliers. Kazakhstan had not applied any TRQs to imports before 2010.

338. In accordance with paragraphs 7 and 8 of Part III of Annex No. 6 to the EAEU Treaty, the method of TRQs allocation among participants of foreign trade activities (suppliers) had to be non-discriminatory with respect to the form of ownership, place of registration or market share. The EEC, when taking a decision on application of TRQs to agricultural products, had to observe

the following terms: (i) TRQs had to be established for a specific period of time; (ii) if TRQs had to be distributed among third countries, all the interested third countries had to be duly informed of the allocated TRQ volumes; and (iii) information on the establishment of TRQs, its global volume and duration, in-quota import duty rates, as well as on the distribution among third countries had to be published.

339. According to paragraphs 5 and 6 of Part III of Annex No. 6 to the EAEU Treaty, the TRQ volume established by the EEC imports of goods into the customs territory of the EAEU could not exceed the difference between the volume of consumption and production of the like product on the customs territory of the EAEU. If the production volume of the like product was equal to the volume of consumption on the customs territory of the EAEU, or exceeded it, TRQs could not be established. However, if the production volume of the like product was equal to the volume of consumption of the product or exceeded it in one of the EAEU member States, such difference was not considered when allocating the TRQ volumes for the customs territory of the EAEU.

340. The representative of Kazakhstan further explained that customs clearance of goods subject to TRQs had to be made in the EAEU member State where the supplier received its TRQ share. The goods had to be accompanied with an original licence issued by the authorized government body, the Ministry of National Economy of the Republic of Kazakhstan. In this context, she noted that Annex No. 7 "Protocol on Non-Tariff Regulation Concerning Third Countries" to the EAEU Treaty contained provisions on the licensing procedure. Licenses were issued within 15 working days from the date of submission of the following set of documents: (i) an application for a licence; (ii) an electronic copy of the application; (iii) a copy of a foreign trade agreement (contract); (iv) a copy of the registration document in tax authorities; and, (v) a document confirming payment of a licensing fee. The set of documents for a licence had to be submitted to the Ministry of National Economy of the Republic of Kazakhstan. Licenses remained valid until the end of the calendar year in which they were issued.

341. The EEC had also determined that the TRQs in the EAEU member States were to be administered by the governments of the EAEU member States in accordance with their respective national legislation. In Kazakhstan, TRQs were regulated by Law No. 544-II and Government Resolution No. 269. Government Resolution No. 269 approved the rules for allocation of volumes of TRQs between suppliers, which provided for allocation based on the "historical principle", i.e., allocations proportionate to the volume of imports in the previous period. She stated that Government Resolution No. 269 also contained the following definitions:

- (i) TRQ volume - the volume of imported goods determined by the Government of Kazakhstan annually which were subject to the in-quota import duty rate;
- (ii) participants of foreign economic activities (suppliers) – natural or juridical persons that had been importing beef, pork or poultry during the previous period in accordance with the following criteria: it had been importing beef, pork or poultry (i) from the country-suppliers; (ii) in volumes not less than 25 kg during the year prior to the year of TRQ establishment; and, (iii) during the year prior to the year of TRQ establishment;
- (iii) the previous period – two years prior to the year of TRQ establishment;
- (iv) country-suppliers - the countries that had no free trade agreements with the EAEU member States or had exemptions from the free trade regime with regard to beef, pork or poultry under TRQs; and,
- (v) the supplier's import volume - the actual volume of beef, pork or poultry under TRQs imported by the supplier from the country-suppliers, which was determined on the basis of foreign trade statistics.

342. Some Members expressed concern that the TRQ regime that Kazakhstan applied under the EAEU, did not appear to allocate any in-quota volume to new entrants. As the representative stated above, it appeared that a new importer entering the market had to import at the over-quota rate which acted to limit the quantity of imports. Thus, in subsequent years, this importer would qualify only for a small in-quota allocation, since allocations were based on imports over the previous year. In these Members' view, this did not provide sufficient flexibility in the market. These Members further emphasized that allocating TRQs only to historical suppliers could be problematic as some suppliers were no longer participants in the market.

343. The representative of Kazakhstan stated that Resolution of the Government of the Republic of Kazakhstan No. 1189 "On Certain Issues of Allocation of Volumes of Tariff Rate Quotas on

Imports of Certain Kinds of Meat" of 8 November 2013, had introduced the mechanism of allocation of TRQs for new suppliers. Pursuant to this Resolution, the volumes of TRQs were allocated among new suppliers in the order of priority of application for new suppliers for import licenses. Import licenses were issued by the authorized body in the field of regulation of trade activity until exhaustion of volumes of TRQs established for new suppliers. She also noted that allocation of the in-quota volume per supplier should not exceed 15% of the total volume of tariff rate quota established for new suppliers.

344. In response to a specific question regarding the "economically viable quantities", the representative of Kazakhstan explained that in calculation of the share of historical suppliers within the total volume of imports during the two preceding years, all supplies exceeding 25 kg were taken into account. Thus, TRQs were allocated between historical suppliers in proportion to the shares determined based on mathematical formulae. Suppliers could annually apply for the in-quota volume not exceeding their yearly share within the in-quota volume annually established by the Government. Therefore, in her opinion, the TRQ allocation mechanism established by Government Resolution No. 269 was fully consistent with the provisions of the WTO Agreement on Import Licensing Procedures.

345. The representative of Kazakhstan further stated that in accordance with the rules approved by Government Resolution No. 269, TRQ volumes for beef, pork or poultry were allocated in two stages: at the first stage, annually by 31 December of the year preceding the year when a TRQ entered into force, 25% of the total annual TRQ volumes were allocated among suppliers according to the formula; and at the second stage, annually by 1 April of the year when a TRQ entered into force, 100% of the total annual TRQ volumes were allocated according to the formula, which deducted the TRQ volume allocated during the first stage. TRQs for imports of beef, fresh or chilled (HS Code 0201) were allocated on a "first come, first served" basis. The formulae used for allocation of TRQ volumes between suppliers, are provided in Annex 12 of this Report.

346. The representative of Kazakhstan recalled that TRQ volumes were determined on an annual basis. She stated that CU Commission Decisions No. 505 of 18 November 2010 and No. 865 of 18 November 2011 had allocated TRQs for beef, pork and poultry, and had established the TRQ volumes for each member State in 2011 and 2012, respectively. The TRQ volumes established for Kazakhstan had been the same in 2010 and 2011. In 2012, TRQ volumes for beef and pork had been increased. EEC Decision No. 229 "On the List of Products, with respect to which Tariff Rate Quotas, and the Volumes of Tariff Rate Quotas to the Territories of the member States of the Customs Union and the Single Economic Space for 2013 are Established" of 20 November 2012, had introduced a tariff rate quota on milk whey and established TRQ volumes for 2013. EEC Collegium Decision No. 242 "On the List of Goods with respect to which Tariff Rate Quotas, and the Volumes of Tariff Rate Quotas for Imports to the Territories of the member-States of the Customs Union and the Single Economic Space for 2014 are Established" of 29 October 2013 had provided for TRQ volumes for 2014. The TRQ volumes for 2010-2014 are provided in Table 1.

Table 1: TRQ Volumes for 2010 – 2014

| HS Code | Product Name | TRQ volumes for 2010 – 2014, thousand tonnes | | | | |
|---------------------------------|------------------------|--|-------|-------|-------|-------|
| | | 2010 | 2011 | 2012 | 2013 | 2014 |
| 0201 | Beef, fresh or chilled | 0.02 | 0.02 | 0.02 | 15.4 | 0.02 |
| 0202 | Beef, frozen | 10.0 | 10.0 | 13.9 | | 15.3 |
| 0203 | Pork | 7.4 | 7.4 | 9.4 | 9.7 | 9.7 |
| 0203 29 550 2, 0203 29 900 2 | Pork trimmings | | | | | |
| 0207 | Poultry | 110.0 | 110.0 | 110.0 | 110.0 | 110.0 |

347. A Member expressed concern regarding delays in allocating the 2012 TRQ volumes and that these delays were precluding trade. This Member reported that according to industry sources, the Government Resolution allocating the quota volumes had not been signed. The Member requested information on when the Resolution would be signed and requested that the situation be resolved quickly to allow for trade. Further, the Member requested assurances that these types of delays would not occur in the future. The representative of Kazakhstan replied that Government Resolution No. 1085 on allocated TRQ volumes for the year 2012 had been adopted on 24 August 2012. The delays were caused due to problems related to the accuracy of customs

statistics. She further stated that in accordance with Law No. 239-V "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on the Issues of Delimitation of Competence between the Levels of Public Administration" of 29 September 2014, the substantial part of state decision-making authority had been delegated from the level of the Government to the central and local executive bodies. Thus, the Law delegated to the body responsible for regulation of trade activities the authority to establish TRQs on imports and/or exports of certain kinds of goods, determine allocation methods and procedures, the volume and period of application of TRQs. The representative of Kazakhstan recalled that the Ministry of National Economy of the Republic of Kazakhstan was the authorized body for allocation of volumes of tariff rate quotas and for issuing import licenses for beef, pork or poultry under TRQs. Decision on allocation of volumes of tariff rate quotas was adopted by the Decree of the Minister of National Economy that reduced the timeframes for TRQ allocation. The State Revenue Committee of the Ministry of Finance of the Republic of Kazakhstan had to report to the Ministry of National Economy quarterly on the actual volume of imported beef, pork and poultry, respectively. The procedure and mechanism of allocation of tariff rate quotas remained the same, as described in paragraphs 341, 343, 344, 345 and 346 of this Report.

348. A Member expressed concern regarding the imposition of TRQs for poultry products and stated that imposition of new trade restrictions during the course of WTO accession was contrary to the general principle of standstill with regard to trade restrictions during accession negotiations. In reply, the representative of Kazakhstan stated that production of poultry was one of the key segments of agricultural sector in Kazakhstan, which provided thousands of jobs in rural areas. Hence for Kazakhstan, it was important to preserve the right to apply TRQs on poultry. She noted that Kazakhstan had been working closely with Working Party Members in order to elaborate a mutually acceptable solution.

349. In response to a question from a Member, the representative of Kazakhstan explained that the TRQ mechanism set-out in Section I-B of Part I of the Schedule of Tariff Concessions and Commitments on Goods of Kazakhstan contained the information on in-quota tariff rates and quantities eligible for the in-quota tariff rates for TRQs for beef, pork and poultry. The representative of Kazakhstan further explained that currently Kazakhstan did not allocate country-specific TRQs. Therefore, TRQs were allocated on the basis of the "historical principle" among suppliers - residents of Kazakhstan - proportionally to the volume of the goods imported in the previous period. Thus, at this time, Kazakhstan had no need for a reallocation mechanism and did not have one in place.

350. One Member emphasized that the WTO Agreement on Import Licensing Procedures required that in the administration of quotas by means of licensing, quota allocations make provision for new entrants to the market and the issuing of licences for imports in commercially viable quantities. This Member stated that provision also needed to be made for the reallocation of unused quantities of the TRQs by the original recipients of the licences in the cases of country specific allocations. This Member stated that Kazakhstan should establish a mechanism to allow for access to the TRQs by new entrants, that ensured that allocated amounts were commercially viable, and that dealt with the issue of reallocation of unused quota designations to ensure full utilization of the TRQs when allocations were made on a country-specific basis.

351. The representative of Kazakhstan confirmed that from the date of accession of Kazakhstan to the WTO, import TRQs applied in Kazakhstan would be administered, whether by the competent bodies of the EAEU or by authorities of Kazakhstan, in a manner that was consistent with the GATT 1994 and other relevant WTO Agreements, including the Agreement on Import Licensing Procedures and the Agreement on Agriculture. She further confirmed that, in implementing TRQs, Kazakhstan would provide opportunity for new entrants seeking access to in-quota allocations under the TRQs, and would provide for allocations under the TRQs in economic quantities as provided for in paragraph 5 of the "Understanding on Tariff Rate Quota Administration Provisions of Agricultural Products, as Defined in Article 2 of the Agreement on Agriculture"¹⁴. In case, if Kazakhstan decided to allocate TRQs on a country-specific basis, it would provide for a transparent, predictable and timely reallocation mechanism that allowed for full utilization of TRQs by WTO Members. The Working Party took note of these commitments.

¹⁴ WT/MIN(13)/39; WT/L/914.

- **Fees and Charges for Services Rendered**

352. The representative of Kazakhstan informed Members that Article 72 of the Customs Union (CU) Customs Code left the authority for the application of customs fees to the EAEU member States. In Kazakhstan, customs fees and charges currently were regulated by the Code of the Republic of Kazakhstan No. 296-IV "On Customs Issues in the Republic of Kazakhstan" of 30 June 2010 (hereinafter: Customs Code of Kazakhstan) and Government Resolution No. 24 "On Adoption of Rates of Customs Fees Levied by Customs Bodies" of 21 January 2011. Government Resolution No. 669 "On Adoption of Rates of Customs Charges, Charges and Fees Levied by Customs Bodies" of 8 July 2003 was no longer in force.

353. The representative of Kazakhstan further noted that before adoption of the Customs Code of Kazakhstan, which had entered into force as of 1 July 2010, customs fees had been levied for (i) customs clearance; (ii) customs escort of goods; and (iii) customs warehousing of goods. Fees also had been levied for issuing preliminary decisions on the classification of goods and the methodology used for identifying the origin and customs value of goods. In accordance with Article 116 of the Customs Code of Kazakhstan, customs fees were levied only for (i) customs clearance at the time of declaration of goods; (ii) customs escort of goods; and (iii) issuing preliminary decisions.

354. The Customs Code of Kazakhstan had abolished the old customs clearance fee levied at 0.2% of the customs value. Customs clearance fees and customs escort fees applied in accordance with Government Resolution No. 24 "On Adoption of Rates of Fees Levied by Customs Bodies" of 21 January 2011, which established customs clearance fees levied at the time of declaration in fixed amounts (euro €) per declaration and levied customs escort fees on the basis of distance. The methodology used for calculating customs escort fees included travel expenses of customs officials, costs of fuel for transportation, and depreciation costs of vehicles, and it did not cover the salaries of customs officials. In her view, the fees were calculated on the basis of the actual cost of services rendered and therefore were in conformity with Article VIII of the GATT 1994. Customs fees levied for customs declaration of goods, customs escort, and issuing of preliminary decisions were paid to the budget and were non-refundable.

355. The customs clearance of goods (and vehicles) in Kazakhstan included: (i) registration of a customs declaration; (ii) verification of the application of tariff and non-tariff regulations; (iii) verification of accuracy of the declared customs regimes (such as customs transit, customs warehouse, etc.) with customs requirements; (iv) administration of customs fees; (v) determination of customs value; and, (vi) classification of goods for the purpose of customs examination and customs expert evaluation. According to paragraph 3 of Article 115 of the Customs Code of Kazakhstan, the amount of customs clearance fees levied could not exceed the actual costs incurred by customs bodies during the customs clearance process. Customs clearance fees were set based on the customs declaration at €60 for the main list of goods in the customs declaration, and at €25 for every additional list, in case of declaring more than one type of goods at once. Pursuant to Article 120 of the Customs Code of Kazakhstan, customs clearance fees had to be paid before or at the time of submission of the customs declaration. The fee for issuing preliminary decisions on the classification of goods and the origin of goods by the customs bodies was set at €70 and had to be paid before the issuance of such decisions. In response to a specific question from a Member, the representative of Kazakhstan confirmed that Kazakhstan applied a fixed fee for all customs clearance activities irrespective of the type of good, clearance place, time and transportation mode.

356. In response to a question from a Member, the representative of Kazakhstan confirmed that only transit escort fees were levied on the basis of distance. According to Article 322 of the Customs Code of Kazakhstan, customs escort was a measure used by the customs bodies or other organizations stipulated by the legislation of Kazakhstan to convey goods in accordance with the customs procedure of the customs transit. The customs bodies could authorize this procedure in cases: (i) determined on the basis of the risk management system; (ii) when customs duties and taxes had not been paid or had not been paid in full; (iii) when the carrier had repeatedly failed to fulfil duties with regard to the delivery of goods in accordance with the customs procedure of customs transit; and, (iv) as provided for in international agreements to which the Republic of Kazakhstan was a party.

357. The customs escort was initiated no later than within 24 hours of the time the customs bodies made the decision on the need for customs escort. Customs escort fees were calculated on the basis of the distance between the customs point of departure of the goods to the customs point of destination (e.g., ranging from €11 for a distance of up to 50 km to €878 for a distance of over 2,000 km). The methodology for calculation of customs escort fees is provided in Annex 13 of this Report. The fees charged, covered the travel expenses of customs officials, the cost of fuel used for transportation, and depreciation cost of vehicles; it did not cover the salaries of customs officials. If customs escort was provided to the goods transported by several vehicles, the customs fee was applied proportionally depending on the number of vehicles. Customs fees for customs escort had to be paid after the decision on customs escort was made, but no later than on the day that the customs escort began.

358. The following items were exempt from payment of customs fees: (i) vehicles transporting passengers and baggage internationally on a regular basis as well as other belongings necessary during transportation; (ii) maintenance supplies, fuel, food and other items exported from the customs territory of the EAEU in order to provide for the operation of Kazakhstan's vessels or vessels chartered by Kazakhstan's persons used for marine fishery, as well as marine fishery products imported into Kazakhstan; (iii) national and foreign banknotes and coins (except for banknotes and coins of cultural and historical value), and securities; (iv) goods (except for excisable goods) imported as humanitarian aid; (v) goods (except for excisable goods, excluding cars for medical purposes) imported for charity purposes; (vi) materials imported by the National Bank of Kazakhstan for the production of banknotes and coins; (vii) goods imported and exported for official use of foreign diplomatic missions and consular establishments, diplomatic, administrative and technical personnel of these establishments, including their family members who were not citizens of the Republic of Kazakhstan; (viii) goods declared under the customs procedure of refusal in favour of the State; and, (ix) goods acquired using the grants of governments and international organizations in accordance with the tax legislation of Kazakhstan.

359. The representative of Kazakhstan confirmed that Kazakhstan would, from the date of accession, ensure that any fees and charges for services rendered imposed on or in connection with importation and exportation, including those listed in paragraph 353 and Annex 13 of this Report, or introduced in the future would be applied in conformity with the relevant provisions of the WTO Agreement, in particular Articles VIII and X of the WTO General Agreement on Tariffs and Trade 1994. She further confirmed that, from the date of accession, all laws and regulations regarding the application and level of any such fees and charges would be published. Further, upon receipt of a written request of a concerned Member, Kazakhstan would provide to that Member information on the revenue collected from a specific fee or charge and on the costs of providing the associated services. The Working Party took note of these commitments.

- Application of Internal Taxes to Imports

360. The representative of Kazakhstan stated that, as of 1 January 2015, the legal framework governing the application of indirect taxation on imports (and exports) among the EAEU member States was contained in the EAEU Treaty: Section XVII "Taxes and Taxation" (Articles 71-72) and Annex No. 18 "The Protocol on the Procedure of Levying Indirect Taxes and on the Mechanism of Control over their Payment while Exporting/Importing Goods, Performing Works and Rendering Services". These provisions replaced the Agreement on the Principles of Indirect Tax Collection at Export and Import of Goods, Performing Works and Rendering Services in the Customs Union of 25 January 2008, as amended by the Protocol on Amending the Agreement on the Principles of Collection of Indirect Taxes on Exports and Imports of Goods, Performing Works and Rendering Services in the Customs Union of 11 December 2009; the Protocol on the Procedure of Levying Indirect Taxes upon Performing Works and Rendering Services in the Customs Union of 11 December 2009; and the Protocol on the Procedure of Collection of Indirect Taxes and on the Mechanism of Carrying Out the Control over their Payment while Exporting/Importing Goods from/to the Customs Union of 11 December 2009, which were terminated when the EAEU Treaty came into effect on 1 January 2015.

361. From 1 January 2015, Section XVII and Annex No. 18 of the EAEU Treaty established that goods entering from an EAEU member State to another member State were subject to excise and value-added taxes (VAT) and that goods from an EAEU member State destined to another member State were exempted from excise taxes and/or subject to VAT at a zero rate applied by the exporting EAEU member State, provided that documentary confirmation of the fact of the export

and payment of indirect taxes (VAT and excise taxes) to the budget of the importing EAEU member State was submitted to the exporting EAEU member State's tax authorities. Article 72 of the EAEU Treaty also confirmed that the rate of duty of these indirect taxes applied to imports did not exceed the rate applicable to domestic goods. Application of indirect taxes to imports into special economic zones and free warehouses was established in the Agreement on Free (Special) Economic Zones on the Customs Territory of the Customs Union and the Customs Procedures of the Free Customs Zones of 18 June 2010 and the Agreement On Free Warehouses and Free Warehouse Customs Procedure of 18 June 2010, as well as in the CU Customs Code. Article 70 of the CU Customs Code in force as of 1 July 2010, confirmed that customs bodies of the EAEU member States collected VAT and excise taxes on imports into the EAEU from third parties. Articles 74, 75 and 76 of the CU Customs Code stated that the levels, method of collection and taxable base for these taxes on imports were regulated by the national legislation of the EAEU member States. Thus, within the framework of the EAEU, Kazakhstan's national legislation determining the application of indirect taxes to imports and exports prior to 1 January 2010 continued to apply.

362. The representative of Kazakhstan stated that the Code of the Republic of Kazakhstan No. 99-IV "On Taxes and Other Obligatory Payments to the Budget (Tax Code)" of 10 December 2008 (hereinafter: Tax Code) provided the legal framework for application of internal taxes (VAT and excise taxes) on imported goods in the Republic of Kazakhstan. Local authorities did not have the right to introduce import taxes, as these taxes could only be introduced by the Government through the adoption of new legislative acts or amendments to the Tax Code. The Tax Code had entered into force on 1 January 2009, and was based on the following key principles: (i) reduction of the tax burden of the non-extracting sectors of economy; (ii) reduction of administrative barriers; and (iii) increase in the effectiveness of the tax administration.

- Value Added Tax

363. The representative of Kazakhstan said that VAT was set at a general rate of 12%, which was levied uniformly on domestic and imported products, including those originating from the EAEU member States. VAT was levied on domestic products on the basis of the volume of taxable turnover while for imports VAT was levied on the sum of the customs value of goods, as well as other taxes and mandatory payments. In reply to a specific question from a Member, she specified that in case of excisable goods, excise taxes were included in the taxable base of both domestic and imported goods for the purposes of applying VAT. In reply to a request to detail the "other taxes and mandatory payments", the representative of Kazakhstan replied that her Government applied excise taxes, import duties and, where applicable, customs levies for customs clearance, customs escort and issuing of preliminary decisions. Kazakhstan applied the "country of destination" principle to imports originating from all trading partners, including the EAEU member States and CIS countries. Specifically, as of 1 January 2005, all imports of oil, natural gas and gas condensate had been subject to the normal VAT rate, irrespective of the country of origin. Pursuant to Article 242 of the Tax Code, all exported goods were zero-rated for VAT purposes. Specifically, since 1 January 2005, the export of ferrous and non-ferrous scrap had been zero-rated for VAT purposes.

364. She noted that, in accordance with Article 248 of the Tax Code, the sales turnover of certain goods / works / services was exempted from the payment of VAT. Goods /works / services with sales turnover exempt from the payment of VAT are listed in Annex 14(A) of this Report. She further said that the application of VAT within special economic zones and free warehouses was discussed in Chapter IV "Policies Affecting Trade in Goods", Section (C) "Internal Policies Affecting Foreign Trade in Goods", Sub-section "Free Zones, Special Economic Areas" of this Report.

365. She further explained that, pursuant to Article 255 of the Tax Code, VAT was not levied on the imports of: (i) national and foreign currencies (except for currencies of cultural and historic value), and securities; (ii) goods, imported by natural persons under duty-free regulations of the EAEU and the Republic of Kazakhstan; (iii) humanitarian aid, except for excisable goods, imported in accordance with procedures established by the Government; (iv) goods, except for excisable goods, imported as charitable assistance through official channels from States, Governments thereof, and international organizations, including for technical assistance purposes; (v) goods imported by accredited diplomatic missions and consular offices for official use, as well as goods imported for personal use by the diplomatic and administrative personnel of these missions, by

consular officers and employees, and members of their families living with them, that were exempted in accordance with international agreements, ratified by Kazakhstan; (vi) goods subject to declaration under the customs regulation of the EAEU and/or the Republic of Kazakhstan under customs regimes providing for tax exemptions - customs transit, customs warehouse, processing on the customs territory, processing for domestic production, temporary importation, re-importation, duty-free trade, refusal of the good in favour of the State, free warehouse, destruction and free customs zone; (vii) Government-approved medicines, including medicinal substances; articles intended for medical (veterinary) use, including prosthetic and orthopaedic devices, devices for the deaf and blind, medical and veterinary equipment; materials and components for the production of medicines, including substances, medical (veterinary) products, including prosthetic and orthopaedic devices, and medical (veterinary) equipment; (viii) postage stamps (except for collectibles); (ix) raw materials for production of banknotes by the National Bank of Kazakhstan and its subordinate bodies; (x) goods imported under the grants provided by States, Governments thereof and international organizations; (xi) imported investment gold, except for investment gold imported by the National Bank of Kazakhstan under certain conditions; and (xii) investment gold imported by the National Bank of Kazakhstan.

366. A Member asked the representative of Kazakhstan to confirm that the general rate of VAT was applied equally to all goods, imported and domestic. In particular, this Member enquired if Kazakhstan exempted small businesses and entrepreneurs from VAT payments based on the (low) level of their revenues. Kazakhstan was also asked if there were exemptions from application of the VAT on domestic raw agricultural produce at its first point of sale from the farm. This Member further stated that such exemptions for sales of domestic agricultural produce, but not for similar imported articles, appeared to conflict with obligations that Kazakhstan would assume under Article III of the GATT 1994. This Member asked how Kazakhstan would alter or eliminate the tax exemption on domestic agricultural output to restore non-discriminatory treatment *vis-à-vis* similar and identical imported goods.

367. The representative of Kazakhstan replied that VAT was applied equally to imported and domestic goods. Kazakhstan maintained a simplified taxation system for small businesses, including farmers that were not required to register as VAT payers due to their small annual turnover (less than 30,000 MCI). She stated that this minimum threshold was an accepted international practice applied to small producers with limited technical capacity to apply complex tax methodologies.

368. The representative of Kazakhstan further added that producers and processors of agricultural products could qualify for the following tax regimes: (i) a regime applicable to peasant farms; (ii) a regime applicable to juridical persons - producers of agricultural products and products of aquaculture (fish-breeding) and rural consumer cooperatives (agricultural producers); or, (iii) a regime applicable to processors of primary agricultural products.

369. The representative of Kazakhstan explained that the first regime applied to peasant farms¹⁵ producing agricultural goods or processing and selling their own agricultural produce. This regime was based on a "single land tax" (set at 0.1% to 0.5% of the assessed value of the land) which replaced the individual income tax, land tax and charges for its use, property tax, transport tax and VAT. To be eligible for this tax regime, peasant farms had to own land plots on the basis of property rights and/or land use rights. Farms that chose to use this tax regime did not have to register as VAT payers.

370. The second tax regime was applied to juridical persons - producers of agricultural products. To be eligible for the tax regime, juridical persons had to: (i) produce agricultural products and products of aquaculture with the use of land, process and sell these products of own production; and (ii) produce animal and poultry products (including breeding) in a full cycle of production (starting from rearing), products of beekeeping and aquaculture (fish farming) and process and market these products of own production. According to this regime, the VAT payable was determined normally, i.e., by the difference between the VAT charged in the price of product

¹⁵ Peasant farm is a labour union of individuals exercising individual entrepreneurship that is inextricably linked with the use of agricultural land for agricultural production and processing and marketing of their products. The peasant farmers are citizens of the Republic of Kazakhstan engaged in entrepreneurial activities without forming a juridical person.

sold and the VAT paid for inputs (works, services). The amount of the VAT payable by the agricultural producers to the budget after sale of their products could be reduced by 70%, and as a result, they paid to the budget only 30% of VAT. The price of these agricultural goods to the first purchaser/consumer, including food processing enterprises, incorporated the full 12% VAT.

371. Furthermore, the representative of Kazakhstan noted that in the third tax regime, based on the provisions of Article 267 of the Tax Code, processors of agricultural primary products could also reduce the amount of the VAT payable to the budget by 70%, whereas, the price of final products to the first purchaser/consumer included the full 12% VAT. To be eligible for the preference, agricultural processors had to receive not less than 90% of their aggregate annual income from carrying out the following types of businesses: (i) production of meat and meat products; (ii) processing and canning of fruits and vegetables; (iii) production of vegetable and animal oils and fats; (iv) processing of milk and production of cheese; (v) production of flour and cereal products; (vi) production of ready fodder for animals; (vii) production of bread; (viii) production of baby foods and dietetic nourishments; and/or, (ix) production of starch and molasses. The representative of Kazakhstan noted that the preference was aimed at addressing the current social situation in the agricultural sector. She explained that almost 97% of domestic agricultural producers that supplied their products to processors of agricultural primary products were small farmers and households with annual turnover of less than 30,000 MCI, i.e., they were not VAT payers. This meant that in the absence of the preference, the processors would have to pay larger amounts of VAT than in the normal situation, because they had no VAT to deduct when they calculated the VAT payable to the budget. Thus, the VAT preference was aimed at compensating the losses of the processors incurred as a result of purchase of primary agricultural products from small farmers and households not registered as VAT payers.

372. One Member expressed its concern that the scheme to provide revenue from VAT payments directly to the agricultural producers and processors at the time of the first sale to consumers might allow the producer or processor to charge less for his/her goods based on the expected subsidy. This Member maintained that, as applied, it could operate as a discriminatory measure against imports. This Member held the view that VAT preferences should either be eliminated or brought into conformity with WTO provisions.

373. In response, the representative of Kazakhstan stated that around 46% of Kazakhstan's population lived in rural areas and almost one third of the working population was engaged in agricultural production. Along with this, over 93% of agricultural producers were households and small farms that lacked financial and technical resources. Thus, existing VAT preferences for agricultural producers and processors played an important role in addressing social challenges and ensuring food safety, and as such formed an integral part of Kazakhstan's agricultural support system. At the same time the Government of Kazakhstan planned to reform the VAT preferences for agricultural producers and processors by introducing alternative WTO compatible agricultural subsidy mechanism. In this regard, the transitional period until 1 January 2018 was required to introduce amendments into the Tax Code with the purpose to eliminate the VAT preferences and, thus, ensuring that the tax treatment for imported agricultural products was no less favorable than that applied to similar domestic goods, and develop a WTO compatible subsidy mechanism for agricultural producers.

- Excise Tax

374. The representative of Kazakhstan noted that the legal framework for excise taxation in Kazakhstan was provided in Section 9 of the Tax Code. It set the list of products which were subject to excise taxes and established the tax rates (see Annex 14(B) of this Report). Asked about the target date for unification of excise taxes (which for many years had been applied at higher rates on imported goods than on domestic goods), she responded that, according to the Tax Code, excise taxes for domestic and imported goods had been fully unified as of 1 January 2012.

375. A Member requested more details on the taxable base for domestic and imported goods for the application of excise taxes. This Member also sought more information on the process that had been used to unify excise taxes and asked Kazakhstan to provide a table listing all excise taxes currently applied. If necessary, an implementation table for Kazakhstan's progressive unification of excise taxes where the rates of such taxes now differed as applied to domestic production or imported goods should also be provided. Moreover, this Member enquired whether

Kazakhstan's tax regime expressed (and collected) excise taxes in different currencies for domestically produced products and imports. If this was the case, how did Kazakhstan ensure that exchange rate shifts did not result in different excise tax rates. This Member also enquired whether the unified tax would be payable in local currency for all goods. Finally, this Member considered that, to ensure their conformity with Article III of the GATT 1994, the excise tax regime should not impose different currency requirements for taxes on domestic goods and on imports as payment of taxes in euro might result in less favourable treatment in terms of the actual revenue collected. Some Members asked the representative of Kazakhstan to confirm that there were no additional excise tax exemptions, namely that excise tax was applied to all similar goods imported from all countries in a non-discriminatory manner. Members emphasized that Kazakhstan should eliminate any remaining differential excise taxes from the date of accession to the WTO, i.e., it would unify all of its excise rates in terms of their application to domestic and imported goods or otherwise bring their application into conformity with the provisions of Articles I and III of the GATT 1994.

376. The representative of Kazakhstan replied that the taxable base for domestic goods for application of excise taxes was defined as the amount (volume or quantity) of excisable goods produced or sold in physical (measurement) units (Article 283 of the Tax Code). The taxable base for imported excisable goods was defined as the volume or quantity of imported excisable goods in physical (measurement) units (Article 297 of the Tax Code). In general, excise taxes were applied to domestic goods upon their sale. In accordance with Article 282 of the Tax Code, the date of sale was the date of unloading (transfer) of excisable goods to the recipient. Excise taxes on domestic goods, except for alcohol and tobacco products, had to be paid to the budget no later than the twentieth day of the month following the tax reporting period. For goods imported from the territory of other EAEU members, except for alcohol and tobacco products, excise taxes had to be paid no later than the twentieth day of the month following the date of record of imported excisable goods. Excise taxes on goods imported from third countries, except for alcohol and tobacco products, had to be paid when goods were crossing the customs border. In case of alcohol (except for wine material and beer for which there was no requirement to apply strip stamps) and tobacco products, both imported and domestic, excise taxes had to be paid three days prior to the receipt of excise stamps from the tax authorities.

377. She further stated that according to the Tax Code, as amended by Law No. 297-IV "On Amendments and Addenda to Certain Legislative Acts on Issues of Customs Regulation and Taxation" of 30 June 2010, excise tax rates on spirits and alcohol beverages had been unified since 1 January 2012. The excise tax rates on automobiles and fuel had already been unified since 2009, on tobacco products since 2011. She added that only motor vehicles with engine capacity over 3,000 cm³ were subject to excise taxes. This was aimed primarily at addressing environmental concerns and had no discriminatory effect on imports. As of 2009, excise taxes were levied on all eligible goods, both domestically produced and imported, in the national currency (tenge). She also confirmed that excise taxes were applicable to domestic and imported goods regardless of the country of origin. Currently applied excise taxes are listed in Annex 14(B) of this Report.

378. She further noted that Kazakhstan did not apply excise tax on imports of: (i) excisable goods imported by natural persons within the limits set by the Government; (ii) excisable goods required for the operation of vehicles involved in international transportation, *en route* and at intermediate stops; (iii) goods damaged prior to being transported across the customs border and rendered unusable as products and materials; (iv) goods imported for use (including personal use) by foreign diplomatic representative offices and offices of the same status, exempted from excise taxes under international agreements to which Kazakhstan was a party; (v) goods moving across the customs border of the EAEU and placed under the following customs procedures established by the customs legislation of the EAEU and the Republic of Kazakhstan: customs transit, customs warehouse, processing on the customs territory, processing for domestic production, re-importation, duty-free trade, refusal of the good in favour of the State, destruction, free warehouse, free customs zone, except for the customs procedure release of goods for domestic consumption; and, (vi) products containing alcohol used in medicine (except for balm), registered in accordance with Kazakhstan's legislation.

379. A Member asked Kazakhstan to describe the customs regime of "duty-free trade" and explain why it allowed for the non-application of excise taxes on otherwise excisable goods citing the domestic or EAEU legislation that provided for this treatment. The representative of

Kazakhstan replied that in accordance with paragraph 4 of Article 299 of the Tax Code of Kazakhstan, excisable goods imported to the EAEU were exempt from excise taxes if they were placed under customs procedures which provided for excise tax exemption in accordance with the customs legislation of the EAEU and/or the Republic of Kazakhstan, except for the customs procedure for release for domestic consumption. In accordance with Article 302 of the CU Customs Code, duty-free trade was the customs procedure under which goods were sold at retail duty-free shops to natural persons leaving the customs territory of the EAEU or foreign diplomatic representative offices, representative offices of international organizations equivalent to them, consular establishments as well as diplomatic agents, consular officials and members of their families living with them, without payment of customs duties and indirect taxes (VAT and excise taxes) and without application of any non-tariff measures. Thus, all goods placed under this regime were exempt from payment of excise taxes.

380. A member asked Kazakhstan to provide information on efforts of the EAEU member States to gradually harmonize excise taxes. The representative of Kazakhstan explained that in accordance with the provisions of the EAEU Treaty, from 1 January 2015, the EAEU member States had to determine directions, forms and procedures of harmonization (approximation) of excise tax rates for the most sensitive excisable goods. At the same time, the harmonization process should not lead to restriction of competition nor impede free movement of goods, works and services within the EAEU and its member States. There was no specific deadline established for harmonization of excise tax rates among the EAEU member States.

381. A Member asked Kazakhstan to provide information on the scope and nature of the excise tax increases, and the date when they would be implemented. The representative of Kazakhstan explained that Law No. 152-V "On Amendments and Addenda to the Certain Legislative Acts of the Republic of Kazakhstan on Issues of Taxation " of 5 December 2013 (hereinafter: Law No. 152-V) envisaged gradual increase of excise tax rates for imported and locally produced tobacco and alcohol products on a uniform and non-discriminatory basis as provided in Table 2.

Table 2: Excise Tax Rates for Tobacco and Alcohol Products

| Types of tobacco products: | 2014 (tenge/kg) | 2015 (tenge/kg) | 2016 (tenge/kg) |
|----------------------------------|-----------------|-----------------|-----------------|
| Filter-tipped cigarettes | 3000 | 3900 | 5000 |
| Non-filter cigarettes, smokables | 3000 | 3900 | 5000 |
| Cigarillos | 3700 | 4800 | 6225 |
| Cigars | 475 | 620 | 565 |
| Tobacco | 3800 | 4900 | 7345 |

| Types of alcohol products: | 2014 (tenge/l) | 2015 (tenge/l) | 2016 (tenge/l) |
|---|----------------|----------------|----------------|
| Alcohol products | 1000 | 1200 | 1600 |
| Cognac, brandy from imported cognac spirits | 250 | 250 | 250 |
| Cognac, brandy from domestic cognac spirits | | | |

382. Asked about Kazakhstan's plans to introduce transport tax, the representative of Kazakhstan said that according to the Tax Code of the Republic of Kazakhstan, automotive vehicles were subject to transport tax based on engine size. She noted that the transport tax was distinct from the excise tax. She further explained that Law No. 152-V provided for an increase in tax rates for automotive vehicles with an engine capacity of more than 3,000 cm³, which was paid on an annual basis. The Law had entered into force on 1 January 2014. The following increased tax rates (in Table 3) were applied to automotive vehicles produced (manufactured or assembled) in the Republic of Kazakhstan and/or imported to the Republic of Kazakhstan after 31 December 2013.

Table 3: Transport Tax

| No. | | Tax rate (Monthly Calculation Index) |
|-----|---|---|
| 1. | Automotive vehicles with an engine capacity of: | |
| | over 3 000 to 3 200 cm ³ inclusive | 35 |
| | over 3 200 to 3 500 cm ³ inclusive | 46 |
| | over 3 500 to 4 000 cm ³ inclusive | 66 |
| | over 4 000 to 5 000 cm ³ inclusive | 130 |
| | over 5 000 cm ³ | 200 |

383. The representative of Kazakhstan confirmed that, from the date of accession, Kazakhstan would apply its domestic taxes and exemptions thereof, including VAT, excise taxes, and other taxes, in a non-discriminatory manner in compliance with Articles I and III of the GATT 1994, except for VAT preferences for agricultural producers and processors described in paragraphs 370 and 371. The Republic of Kazakhstan would bring these VAT preferences applied to agricultural producers and processors into conformity with the WTO rules by 1 January 2018, as laid out in paragraph 373. She added that during this period, the scope of the exemption would not be increased, either in terms of coverage or level of exemption. The Working Party took note of this commitment.

- Quantitative Import Restrictions, including Prohibitions, Quotas and Licensing Systems

384. The representative of Kazakhstan said that, as a result of the entry into force of the EAEU Treaty on 1 January 2015, the legal authority for the imposition of quantitative import restrictions in the Republic of Kazakhstan was based on Annex No. 7 "Protocol on Non-Tariff Measures Concerning Third Countries" to the EAEU Treaty, which replaced the following legal acts: the Agreement on Common Measures of Non-Tariff Regulation in Respect of Third Countries of 25 January 2008 (hereinafter: CU Agreement on Non-Tariff Regulation), the Agreement on the Introduction and Implementation of Measures Concerning Foreign Trade in Goods, on the Common Customs Territory in Respect of Third Countries of 9 June 2009, and the Agreement on the Licensing in the Area of Foreign Merchandise Trade of 9 June 2009, which were terminated when the EAEU Treaty came into effect on 1 January 2015. The following Decisions remained in force: Decision No. 19 of the Interstate Council of the Eurasian Economic Community (EurAsEC) "On Common Non-Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation" of 27 November 2009 (hereinafter: Decision of the EurAsEC Interstate Council No.19) and Decision of the Collegium of the Eurasian Economic Commission No.134 "On Normative Legal Acts in the Area of Non-Tariff Regulation" of 16 August 2012 (hereinafter: Collegium Decision No. 134). As a consequence, decisions to apply non-tariff measures on third-country imports into the EAEU were taken by the Eurasian Economic Commission (hereinafter: EEC or Commission). The EEC Collegium had re-approved the Common List of Goods that are Subject to Bans and Restrictions on Importation and Exportation by Parties of the Customs Union of the Eurasian Economic Community in Trade with Third Countries (hereinafter - Common List) by Collegium Decision No. 134, which had come into force on 16 September 2012 (see Annex 6 of this Report for the Common List). Previously, the Common List had been approved by CU Commission Decision No. 132 "On Common Non-Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation" of 27 November 2009. From 1 January 2015, according to Annex No. 7 to the EAEU Treaty, non-tariff measures could include quantitative restrictions, bans, exclusive import licenses, automatic licenses (permits) or non-automatic licenses. The non-tariff measures listed in Annex 6 of this Report were comprehensive, and Kazakhstan did not have such additional restrictions in the national legislation.

385. Prior to the establishment of the CU, application of non-tariff measures was governed by Law No. 544-II "On Regulation of Trade Activity" of 12 April 2004. This Law had been amended by Law No. 297-IV "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Issues of Customs Regulation and Taxation" of 30 June 2010 and Law No. 400-IV "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Issues of Regulation of Trade Activity" of 26 January 2011, upon enforcement of the CU Agreements regulating non-tariff measures. The representative of Kazakhstan noted that the EAEU member States did not apply non-tariff measures in mutual trade.

386. The representative of Kazakhstan explained that in addition to goods that had been subject to non-tariff regulation in Kazakhstan prior to the establishment of the CU, the Common List had added the following goods: certain products with encryption capabilities (goods containing encryption technology) and instruments for catching aquatic biological resources and skins of Greenland seals and baby seals. Weak and medium distillates, which had been subject to import licensing in Kazakhstan prior to establishment of the CU, were not included in the Common List, and hence were no longer subject to non-tariff regulation. Finally, she noted that upon establishment of the CU, Kazakhstan's import ban on certain types of narcotic drugs and psychotropic substances and their precursors had been replaced by an import licensing regime. In response to a Member's question, she stated that Kazakhstan did not apply any prohibition on imports of second-hand clothes and tires.

387. The representative of Kazakhstan further explained that Government Resolution No. 681 "On Bans Imposed on Goods and Vehicles Imported to and Exported from Kazakhstan, Lists of Goods Prohibited to be Placed under Certain Customs Regimes, and Bans and Restrictions for Conducting Operations with Goods Placed under Certain Custom Regimes" of 10 July 2003, banning imports of: (i) military weapons and ammunition, materials and equipment which could be used in the production of weapons of mass destruction; (ii) certain kinds of narcotics, psychotropic agents and precursors, as well as instruments for their consumption; (iii) printed and illustrative materials aimed at creating propaganda for war, terrorism, violence, racism, as well as pornographic materials; (iv) certain ozone-depleting substances; and (v) goods containing ozone-depleting substances, had been repealed by Government Resolution No. 272 of 25 March 2011. She added that a quota on imported grinding and forged spheres (imposed by Government Resolution No. 1243 "On Introduction of Restriction for Import And Export of Certain Goods" of 5 December 1998), and restrictions on imports of ethyl spirits and alcohol products (imposed by Government Resolution No. 1031 "On Import Licensing of Ethyl Spirits and Alcohol Products in the Republic of Kazakhstan" of 27 June 1997) also had been abolished on 1 January 2003 and 17 June 2004, respectively.

- **(a) Quantitative Import Restrictions, including Prohibitions and Quotas**

388. The representative of Kazakhstan noted that Kazakhstan did not maintain any quantitative import restrictions, prohibitions or quotas within the meaning of Article XI of the GATT 1994, nor was any such measure in place in the EAEU. The representative of Kazakhstan explained that under the EAEU legislation, import restrictions could be applied pursuant to Part VII of Annex No. 7 to the EAEU Treaty and in accordance with national laws and international treaties of Kazakhstan, if those measures were: (i) necessary to maintain public morals or law and order; (ii) necessary to protect the life or health of citizens, environment, life or health of animals and plants; (iii) required to prevent the exhaustion of irreplaceable natural resources and implemented simultaneously with curtailment of the domestic production or consumption associated with the utilisation of irreplaceable natural resources; (iv) applied to protect cultural valuables and heritage; (v) linked to a limitation of exports of domestic raw materials to provide sufficient quantity of such materials for the domestic manufacturing industry in periods when domestic prices for such materials were kept lower than world prices as the result of a stabilization plan implemented by the Government; (vi) essential to acquire or distribute goods in case of their general or local shortage; (vii) essential to comply with the international obligations; (viii) essential to ensure the defence of the country and security of the State; (ix) necessary to ensure regulatory legal acts not contravening international commitments and related to the application of the customs law, preservation of the environment, protection of intellectual property and other legal acts; or (x) related to imports of gold or silver.

389. In addition, the representative of Kazakhstan explained that pursuant to paragraph 12 of Part III of Annex No. 7 to the EAEU Treaty, quantitative import restrictions could be introduced on agricultural or fishery products imported into the EAEU, in accordance with Article XI:2 of the GATT 1994, when such measures were necessary to: (i) reduce the production or sale of similar domestic goods; (ii) reduce the production or sale of domestic goods that could be directly replaced with imported goods unless there was a large-scale production of similar domestic goods; (iii) remove from the market a temporary surplus of similar domestic goods by providing the available surplus of such goods to some groups of consumers either free of charge or at prices lower than market prices; (iv) remove from the market a temporary surplus of domestic goods that may be directly replaced with imported goods unless there was a large-scale production of similar domestic goods by providing the available surplus of such goods to some groups of

consumers either free of charge or at prices lower than market prices. In addition, import prohibitions and restrictions could be applied if they were necessary for the application of standards or regulations for the classification, grading or marketing of commodities in international trade, as stated in paragraph 12.2 of Annex No. 7 to the EAEU Treaty. In response to a question from a Member, the representative of Kazakhstan explained that "domestic good" in this context meant a good produced in any EAEU member State.

390. A Member enquired whether any import restrictions on agricultural products under Article XI:2(c) of the GATT 1994 had been or were being applied. This Member requested Kazakhstan to enter a commitment to comply with Article 4.2 of the WTO Agreement on Agriculture, which had superseded Article XI:2(c) of the GATT 1994, as from the date of its accession and to remove any measures that could be inconsistent with that Article. In response, the representative of Kazakhstan said no import restrictions under Article XI:2(c) of the GATT 1994 were applied under the national legislation of Kazakhstan or Commission Decisions. She further stated that in order to comply with Article 4.2 of the WTO Agreement on Agriculture, paragraph 12 of Annex No. 7 to the EAEU Treaty did not contain a provision on import restrictions of agricultural products.

391. She further stated that, pursuant to Part II of Annex No. 7 to the EAEU Treaty, the Commission was authorized to apply quantitative import restrictions and prohibitions to protect the external financial situation and safeguard the balance of payments. To meet these obligations, the Commission was authorized to apply quantitative import restrictions or grant exclusive licenses to import or export based on proposals from the EAEU member State. Such measures would be taken in accordance with the laws of Kazakhstan and the international agreements to which Kazakhstan was a party. In response to a question from a Member, the representative of Kazakhstan explained that the list of general exceptions stipulated in Part VII of Annex No. 7 to the EAEU Treaty was exhaustive and no other document within the EAEU provided for such exceptions.

392. The representative of Kazakhstan explained that, as of 1 January 2015, pursuant to Part II of Annex No. 7 to the EAEU Treaty, the authority to impose non-tariff measures on third-country imports in the EAEU was transferred from the individual EAEU member States to the Commission. A proposal to apply a non-tariff measure could be filed by an EAEU member State or the Commission. The Commission was required to make its determination within 30 days from the date the proposal was submitted, and the decision would come into force within 45 days from the date of publication. Any non-tariff measure was applied to goods originating in third countries, and applied equally to imports from all countries. In response to a question from a Member, the representative of Kazakhstan explained that all changes to EAEU Treaty and EAEU legislative acts (including the Common List) were published on the EAEU website (www.eurasiancommission.org).

393. In response to a question from a Member, the representative of Kazakhstan explained that under Part X of Annex No. 7 to the EAEU Treaty, an EAEU member State could unilaterally impose temporarily a non-tariff measure if such a measure was due to the reasons stipulated in paragraphs 388 and 389. Furthermore, Part VIII of Annex No. 7 to the EAEU Treaty provided further grounds to introduce unilateral non-tariff measures with a view to protecting the external financial position and safeguarding the balance of payments. Such a unilateral measure could be imposed for only six months. The EAEU member States not imposing the non-tariff measure were to take the necessary steps to prevent the importation of the concerned goods into the member State which unilaterally applied the non-tariff measure.

394. Some Members stated that certain elements of Part VII of Annex No. 7 to the EAEU Treaty, such as paragraph 6, reached beyond grounds provided for under the GATT, in particular Articles XX and XI. Those Members requested a commitment that Part VII of Annex No. 7 to the EAEU Treaty, whether applied by Kazakhstan or the competent bodies of the EAEU, would be in conformity with the relevant provisions of the WTO Agreement.

395. In response, the representative of Kazakhstan stated that, in her view, paragraph 6 of Part VII of Annex No. 7 to the EAEU Treaty was in conformity with Article XX(j) of the GATT 1994. She also confirmed that measures applied on the basis of that provision would be in conformity with the relevant provisions of the WTO Agreement, whether applied by Kazakhstan or the competent bodies of the EAEU.

- (b) **Import Licensing**

396. The representative of Kazakhstan noted that as of 1 January 2015, the licensing regime in Kazakhstan was governed by Annex No. 7 to the EAEU Treaty and its Appendix, by Commission Decisions listed in paragraph 384 of this Report and by Annex No. 6 to the EAEU Treaty (TRQs). The purpose of the licensing regime was to monitor and control imports of goods which, for various reasons, were classified as sensitive by the EAEU member States and/or by the international community. Annex No. 7 to the EAEU Treaty and these Commission Decisions did not cover the issues of technical regulation, application of sanitary and phytosanitary measures, or anti-dumping, safeguard and countervailing measures. These issues were regulated by separate provisions of the EAEU Treaty and/or national legislation. The procedure for importation of specific goods included in the Common List, such as goods containing encryption technology, ethyl spirits and alcohol products, etc. was set out in EAEU regulations and national legislation. The authorized body of each EAEU member State was responsible for issuing and monitoring implementation of non-automatic licenses and/or automatic licenses (permits).

397. The representative of Kazakhstan explained that the national legislation of Kazakhstan continued to apply to the extent that it did not contradict the EAEU Treaty, Commission Decisions and other EAEU legal acts. Kazakhstan's national legislation in this area included: Law No. 214-III "On Licensing" of 11 January 2007, as amended by Law No. 400-IV "On Amendment and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Issues of Regulation of Trade Activity" of 26 January 2011 and Law No. 461-IV "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Issues of Improvement of the Permission System" of 15 July 2011 (hereinafter: Law-214-III); and Government Resolution No. 578 "On Certain Issues on Export and Import Licensing of Goods" of 12 June 2008, as amended by Resolution of the Government of Kazakhstan No. 1320 of 17 October 2012 (hereinafter: Government Resolution No. 578).

398. The representative of Kazakhstan explained that an import licence or permit authorized the licensee or permit holder to import the relevant goods into only the EAEU member State that issued the licence or permit; the licence or permit did not authorize the licensee to import the relevant goods into other EAEU member States. She further explained that the licence or permit did, however, give the licensee/permit holder the right to transit the goods through the other EAEU member State's territory to the territory of the EAEU member State that issued the licence or permit.

399. According to Part IX of Annex No. 7 to the EAEU Treaty, licensing was required: (i) in the event of temporary quantitative restrictions on imports of certain types of goods; (ii) to regulate the importation of certain goods for reasons of national security, health, safety or environmental protection; (iii) to grant an exclusive right to import certain goods; or, (iv) to carry out international obligations. Import licenses were also required to regulate the importation of goods subject to tariff rate quotas. The type of non-tariff restrictions and the list of goods subject to these restrictions were established by the Commission. The current list of such goods is set out in Annex 6 of this Report. The Commission could decide to add or remove goods from this list upon request of an EAEU member State or on its own initiative.

400. The procedure for obtaining automatic and non-automatic import licenses (permits) was unified throughout the territory of the EAEU, including uniform licence and permit applications and forms, the list of documents to be submitted when applying for licence, the list of goods subject to import licensing, and the licensing procedures for each category of goods.

401. The representative of Kazakhstan said that according to Part IX of Annex No. 7 to the EAEU Treaty, the "authorized State bodies of executive power" (hereinafter, in this Sub-section: authorized body) issued three types of non-automatic licenses: one-time, general and exclusive licenses, as well as permits in case of automatic licensing. In Kazakhstan, the "authorized body" responsible for granting the licence depended on the type of licence and goods subject to licensing. The authorized bodies responsible for issuing import licenses are listed in Annex 6 of this Report.

402. One-time licenses were issued by the authorized body of the Government of Kazakhstan to foreign trade participants on the basis of a foreign trade contract related to goods subject to import licensing and granted the right to import certain types of goods in the quantity determined

by the licence. A licence was issued for the quantity of goods specified in a foreign trade contract and was valid for up to one year from the date of its entering into force. Import licenses issued for goods subject to temporary quantitative restrictions were valid until the end of the calendar year for which a quota was established. One-time licence holders had to submit to the authorized body a certificate of performance within 15 days after the expiration date of the licence.

403. General licenses were issued by the authorized body of the Government of Kazakhstan to foreign trade participants and granted them the right to import certain types of goods subject to licensing in the quantity determined by the licence. According to CU Commission Decision No. 168 "On Ensuring Functioning of the System of Common Non-Tariff Regulation of the Customs Union of the Republic of Belarus, Republic of Kazakhstan and the Russian Federation" of 27 January 2010 (hereinafter: CU Commission Decision No. 168), only products described in Sections 2.9 (precious metals and precious stones), 2.10 (unpolished precious metals, scrap and wastes of precious metals, ores and concentrates of precious metals, and raw materials containing precious metals), 2.25 (goods subject to authorization procedures), and 2.27 (goods subject to tariff rate quotas) of the Common List could be imported under a general licence as amended by Collegium Decision No. 134. A general licence was valid for up to one year from the date of its entering into force and for goods subject to quantitative restrictions, a general licence was valid until the end of the calendar year for which a quota was established. General licence holders had to submit to the authorized body a certificate of performance on a quarterly basis. In response to a question, the representative of Kazakhstan noted that at this moment Kazakhstan did not issue any general licenses.

404. Exclusive licenses were issued by the authorized body of the Government of Kazakhstan for a period not exceeding the term established in a decision of the Commission and gave the applicant the exclusive right to import/export certain types of goods. According to CU Commission Decision No. 168, exclusive licenses could be granted only for products in Section 2.26 (goods subject to exclusive rights) of the Common List, and were issued consistent with the laws of the relevant EAEU member State. In response to a question, the representative of Kazakhstan noted that Kazakhstan had not issued any exclusive licenses.

405. Pursuant to Part II of the Appendix to Annex No. 7 "Rules of the Issuance of Licenses and Permits to Export and/or Import Goods" to the EAEU Treaty, all types of non-automatic import licences were issued within 15 working days from the date of submission of the complete set of documents. These documents consisted of an application for a licence, an electronic copy of the application, a copy of the contract, a copy of the certificate confirming that the applicant was registered with a regional tax authority as a tax-payer, a copy of the activity licence (if applicable) and other documents, as required. In reply to a specific question, the representative of Kazakhstan explained that other documents were specified in separate Regulations adopted by Collegium Decision No. 134, which merely repeated in content the Regulations approved by Decision No. 19 of the EurAsEC Interstate Council. For instance, additional documents related to safety requirements for a limited number of specific goods were established in the Regulations, such as ozone-depleting substances, hazardous wastes, plant protection chemicals, special technical devices, etc. Licenses had to be renewed in cases of change of the legal form of the licence holder, change of name or place of registration or residence, or loss of the licence. Kazakhstan applied uniform import licensing fees for all goods. According to the Code of the Republic of Kazakhstan No. 99-IV "On Taxes and Other Obligatory Payments to the Budget (Tax Code)" of 10 December 2008 (hereinafter: Tax Code), the licensing fee was equal to 10 Monthly Calculation Index (MCI). In 2014, the import/export licensing fee was equal to 18,520 tenge (approximately US\$100).

406. The representative of Kazakhstan explained that pursuant to Part III of the Appendix to Annex No. 7 to the EAEU Treaty, permits were issued without restriction to all applicants within three working days from the date of the submission of the draft permit in a format approved by CU Commission Decision No. 168, and remained valid until the end of the calendar year in which they were issued. No other documents were required for issuance of a permit. Application could be submitted on any working day before customs clearance. The list of goods subject to permits was approved by the Commission (Section 2.25 of the Common List).

407. Non-automatic import licenses were issued by the Ministry of Investments and Development, except for import licenses for narcotic drugs, psychotropic substances and their precursors that were issued by the Ministry of Internal Affairs; import licenses for ozone-depleting

substances that were issued by the Ministry of Energy; and import licenses for human organs and tissues, blood and its components that were issued by the Ministry of Public Health and Social Development. In accordance with CU Commission Decision No. 747 "On Amendments to Normative Legal Acts of the Customs Union in the Sphere of Non-Tariff Regulation in Relation to Ethyl Spirits and Alcohol Products" of 16 August 2011 (hereinafter: CU Commission Decision No. 747), upon accession of any EAEU member State to the WTO, non-automatic import licensing requirements for spirits and alcohol products would be eliminated and replaced by automatic licensing requirement. At this stage, however, all import licensing requirements for ethyl spirits and alcohol products had been eliminated in Kazakhstan as of 22 August 2012. In case of application of the automatic import licence in the future, the "authorized body" would be the State Revenue Committee of the Ministry of Finance of the Republic of Kazakhstan.

408. In response to a question from a Member, the representative of Kazakhstan confirmed that proprietary and/or confidential information contained in an import licence application would be protected under the applicable laws of the Republic of Kazakhstan.

409. A Member expressed concern that import licenses expired at the end of each calendar year and that importers could submit applications for renewal only as from the 15th January of the following year and would thus face an up to six-week hiatus from supply due to renewal procedure as opposed to domestic producers that were not required to obtain an import licence. The representative of Kazakhstan stated that because Annex No. 7 to the EAEU Treaty did not provide a separate procedure for the renewal of licenses, a licence holder wishing to renew a licence had to submit a new application, along with the full set of required documents and the same fee of 10 MCI. An applicant could apply for a new licence at any time before the expiration of the current licence in order to avoid a disruption of supply of goods.

410. Part II of the Appendix to Annex No. 7 to the EAEU Treaty established the grounds for refusing licenses. A licence could be refused on the following grounds: (i) incomplete or inaccurate information in the documents submitted by the applicant to obtain a licence; (ii) non-compliance with the requirements stipulated in the Appendix to Annex No. 7 to the EAEU Treaty; (iii) termination or suspension of one or more documents that served as the basis for issuance of a licence; (iv) violation of international obligations of an EAEU member State, which could occur as a result of performance of the contract which required a licence; (v) exhaustion of quota (in the case of registration of a licence for goods subject to quotas); and (vi) in cases established by the Commission. The decision to refuse a licence had to be justified and presented by the authorized body to the applicant in writing. The representative of Kazakhstan confirmed that licenses would not be refused due to minor documentation errors.

411. The representative of Kazakhstan stated that a decision to terminate or suspend an import licence was made by the authorized body of Kazakhstan based on the criteria established in CU Commission Decision No. 488 "On Approval of the Provision on the Procedure of License Suspension or Termination" of 8 December 2010. Pursuant to this Decision, the authorized body of Kazakhstan had the right to terminate or suspend an import licence in the cases stipulated by the Appendix to Annex No. 7 to the EAEU Treaty, including a change in the constituent documents of a licensee registered as a juridical person (e.g., a change of the organizational/legal form, name, or its location) or a change in the passport information of a licensee registered as a natural person. In such circumstances, the Appendix to Annex No. 7 to the EAEU Treaty provided that the licensee could request that the authorized body terminate the existing licence and register a new licence. In order to register a new licence, the licensee was required to submit a new application and documents confirming the abovementioned change(s). In case of loss of the licence, the licensee was entitled to a duplicate licence, which would be issued within three working days from the date of submission of the request explaining the causes and circumstances of the loss of the licence.

412. The representative of Kazakhstan explained that in order to obtain an import licence for certain goods, the importer was required to have an activity licence. Law No. 214-III provided a complete list of activities subject to licensing. Activity licensing requirements were established for: (i) national security reasons; (ii) implementation of State monopoly functions; (iii) strengthening the rule of law; or (iv) protection of the environment, property, and the life and health of citizens. Goods for which an activity licence was required in order to obtain an import licence are indicated in the last column of Annex 6 of this Report.

413. A Member noted that pursuant to Article 4.9 of Law No. 214-III, certain "State bodies", autonomous educational organizations and related foreign entities, and the Kazakhstan Development Bank were not required to have an activity licence for certain activities that would otherwise require one. This Member asked if "State bodies" included State-owned or State-controlled enterprises or if they were limited to official agencies of the Government of Kazakhstan and asked for an explanation as to why these exemptions existed, how the exempted potential licensees were otherwise regulated and if these exemptions provided discriminatory preferential treatment. The representative of Kazakhstan replied that these laws did not provide for preferential treatment for domestic entities with regard to activity licences required for obtaining import licences, nor did the exemptions cover activities involving imports or exports.

414. A Member asked if Article 40 of Law No.214-III authorized the requirements for import licences for goods under international agreements (e.g., the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Kimberley Process) and what specific circumstances were contemplated for the use of import licences "for the purposes of protection of home manufacturers of the goods and economic safety of the Republic of Kazakhstan without application of quantity restrictions". The representative of Kazakhstan explained that Law No.214-III had been amended in accordance with the CU Agreement on Non-Tariff Measures and now in accordance with Annex No. 7 to the EAEU Treaty. Specifically, Articles 39 and 40 had been excluded from Law No.214-III by Law No. 400-IV "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Issues of Regulation of Trade Activity" of 26 January 2011 (hereinafter: Law No.400-IV). Goods subject to the international agreements (e.g., CITES, Kimberley Process) could be regulated according to Part VII of Annex No. 7 to the EAEU Treaty.

415. Similarly, a Member expressed concern with Article 40 of Law No.214-III, which permitted introduction of import licenses "in order to protect domestic producers of the commodity", and such justification did not appear consistent with Kazakhstan's WTO obligations. The Member asked Kazakhstan how it would bring its import licensing regime into compliance with the WTO rules. The representative of Kazakhstan explained that Article 40 had been eliminated by Law No. 400-IV. She reiterated that Annex No. 7 to the EAEU Treaty set forth the only reasons for which import licenses could be required.

416. Some Members expressed concerns that the current application of licensing requirements to products such as ethyl spirits and alcohol products, goods containing encryption technology, and special technical devices operated to restrict imports. A Member requested that Kazakhstan explain how these restrictions would be modified or eliminated to comply with the WTO requirements. In response, the representative of Kazakhstan stated that the grounds upon which import licensing for those goods was introduced complied with the exemptions stipulated by Article XX of the GATT 1994. In her view, the import licensing procedures had been brought into compliance with the WTO Agreement on Import Licensing Procedures.

- **(i) Ethyl Spirits and Alcohol Products**

417. The representative of Kazakhstan explained that since 1 January 2015, the importation into the Republic of Kazakhstan of ethyl spirits and alcohol products had been governed by Annex No. 7 to the EAEU Treaty and Decisions listed in paragraph 384, as well as Kazakhstan's domestic legislation: Law No. 429-I "On State Regulation of Production and Turnover of Ethyl Spirits and Alcohol Products" of 16 July 1999 (hereinafter: Law No. 429-I) and Resolution of the Government of Kazakhstan No. 57 "On Certain Issues of Activity Licensing for Production of Ethyl Spirits and Production, Storage, Wholesale and/or Retail Sale of Alcohol Products Except for Storage, Wholesale and/or Retail Sale of Alcohol Products within the Territory of Production" of 29 January 2013.

418. The representative of Kazakhstan further explained that, pursuant to CU Commission Decision No. 747 "On Amendments to Normative Legal Acts of the Customs Union in the Sphere of Non-tariff Regulation in Relation to Ethyl Spirits and Alcohol Products" of 16 August 2011 (hereinafter: CU Commission Decision No. 747), upon accession to the WTO of any EAEU member State, non-automatic import licensing requirements for ethyl spirits and alcohol products (Section 2.18 of the Common List) would be eliminated and replaced by an automatic licensing procedure whereby licenses would be issued upon submission of the appropriate and complete documentation. She further noted that pursuant to Law No. 461-IV "On Amendments and

Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Issues of Improvement of Permission System" of 15 July 2011 amending Law No. 214-III, the requirements for an activity licence for importation of ethyl spirits and alcohol products, which was used as a condition for obtaining an import licence for ethyl spirits and alcohol products, had been eliminated as of 30 January 2012. As of 22 August 2012, non-automatic licensing of imports of ethyl spirits and alcohol products was not applied in Kazakhstan in accordance with CU Commission Decision No. 747. She noted, however, that importers into Kazakhstan of ethyl spirits and alcohol products were still required to hold an activity licence for production, distribution, or storage of ethyl spirits and alcohol products, and to obtain and apply strip stamps for the purposes of excise tax payments, as described in Section "Application of Internal Taxes to Imports" of this Report. In response to a question from a Member, the representative of Kazakhstan confirmed that Law No. 429-I would be amended to reflect the changes in licensing regime applied to imports of ethyl spirits and alcohol products by the date of Kazakhstan's accession to the WTO. In response to a question from another Member concerning licensing requirements for non-food products containing denatured alcohol, e.g., fuel mixtures, cosmetics, fragrances, cleaning products, paints and stains, the representative of Kazakhstan confirmed that Law No. 429-I and EAEU legal acts did not regulate importation of these products.

- (ii) **Pharmaceuticals**

419. The representative of Kazakhstan noted that since 1 January 2015, the importation of medicines and pharmaceutical substances (hereinafter: "pharmaceuticals) into Kazakhstan was regulated by Annex No. 7 to the EAEU Treaty, Decisions listed in paragraph 384, and more specifically by the Regulation "On the Order of Importation of Medicines and Pharmaceutical Substances to the Customs Territory of the Customs Union" approved by Collegium Decision No. 134 (hereinafter: CU Regulation on Import of Pharmaceuticals), Code of the Republic of Kazakhstan No. 193-IV "On Public Health and Healthcare System" of 18 September 2009 (hereinafter: Code No.193-IV) and Resolution of the Government of the Republic of Kazakhstan No. 711 "On Approval of the Rules on Importation and Exportation of Medicines, Products of Medical Purposes and Medical Equipment" of 31 May 2012 (hereinafter: Government Resolution No.711).

420. The representative of Kazakhstan said that, pursuant to CU Commission Decision No. 748 "On Amendments to the Regulations on the Order of Importation of Medicines and Pharmaceutical Substances to the Customs Territory of the Customs Union" of 16 August 2011, as of 1 October 2011, pharmaceuticals were no longer subject to an import licensing requirement. Pharmaceuticals were, however, still subject to a registration requirement. Pursuant to the CU Regulation on Import of Pharmaceuticals, only pharmaceuticals included in the national registries of pharmaceuticals of the EAEU member States could be imported into the EAEU. The national registry of Kazakhstan was administered in accordance with the national legislation, and only pharmaceuticals registered in Kazakhstan (i.e., in accordance with Code No.193-IV) could be imported into the territory of Kazakhstan; non-registered pharmaceuticals could be imported only with a conclusion (permit) as described in paragraph 425. In response to a question from a Member, the representative of Kazakhstan confirmed that as described in paragraph 280 of Section "Registration Requirements for Import and Export Operations" of this Report, importation of pharmaceuticals was restricted to juridical persons of Kazakhstan meeting the requirements of Article 80 of Code No.193-IV, which included holding an activity licence to engage in production or distribution of pharmaceuticals.

421. A Member noted that Kazakhstan's registration process was burdensome and constituted a problem for its exporters. A major concern was that registration for imported products took about a year to renew, whereas a registration for locally produced generic products was renewed in about a month. In addition, the renewal process required the same procedures as the original registration. This Member asked how Kazakhstan would ensure that the import licensing procedures for pharmaceuticals would conform to WTO requirements.

422. In response, the representative of Kazakhstan emphasized that there could be no such discrimination under national legislation or EAEU legal instruments either in the process for the registration or re-registration of pharmaceuticals in Kazakhstan. In accordance with Government Resolution No. 351 "On Approval of Standard of State Service 'State Registration, Re-registration and Introduction of Changes in Registration Record of Medicines, Products of Medical Purpose and Medical Equipment'" of 4 April 2011, (i) State registration was conducted within 227 days; and,

(ii) State re-registration took 137 days. For the procedure of re-registration, fewer documents and procedures were required. In reply to a specific question, the representative of Kazakhstan said that conditions for State registration and re-registration were identical for locally produced and imported pharmaceuticals in Kazakhstan. The same list of documents was required in Kazakhstan for registration of locally produced and imported pharmaceuticals. The term "simplified list of documents" did not exist in the legislation of Kazakhstan.

423. With regard to a concern raised by a Member on the renewal of registration, the representative of Kazakhstan said that, at present, the "Rules on State Registration, Re-registration and Introduction of Changes in Registration Record of Medicines, Products of Medical Purpose and Medical Equipment" (hereinafter in this Section: Rules), approved by Order No. 735 of the Minister of the Public Health of Kazakhstan of 18 November 2009, envisaged simplification of one of the stages of re-registration procedure, analysis and examination. Analysis and examination were not required for pharmaceuticals marketed in Kazakhstan for over 15 years if the pharmaceuticals had received no complaint relating to their safety, quality and efficacy. At the same time, a registration record of pharmaceuticals, produced in accordance with Good Manufacturing Practice (GMP), was prepared in the form of a common technical document consisting of 5 modules. All 5 modules (1-5) were required for the State registration and 1-3 modules were required for the State re-registration. Therefore, fewer documents had to be submitted for re-registration. Furthermore, the State Programme "On Developments of Pharmaceutical Industry for the Period of 2010-2014", approved by Government Resolution No.791 of 4 August 2010, envisaged implementation of the GMP by pharmaceutical companies in Kazakhstan. In addition, the State Programme of the Development of Public Healthcare "Salamatti Kazakhstan" (Healthy Kazakhstan), approved by Decree of the President of Kazakhstan No. 1113 of 29 November 2010, envisaged accession of the national inspectorate to the Pharmaceutical Inspection Convention and Pharmaceutical Inspection Co-operation Scheme by 2015. Implementation of the goals stipulated in these programmes would allow Kazakhstan to introduce a one-time State re-registration procedure.

424. The representative of Kazakhstan further explained that information confirming that pharmaceuticals intended for importation were in the State registry had to be provided in the customs declaration. Registration of medicinal products for medical purpose and medical equipment in the State registry was permitted only after a review conducted to evaluate safety, effectiveness and quality of the medicine on the basis of an examination. The list of pharmaceuticals currently registered could be found on the website of the National Center for Expertise of Medicines, Products of Medical Purpose and Medical Equipment: <http://www.dari.kz/index.php?lang=eng&uin=1282274831>.

425. The representative of Kazakhstan added that non-registered pharmaceuticals could be imported only with a conclusion (permit) issued by the authorized body (the Ministry of Public Health and Social Development of Kazakhstan) for the purpose of: (i) State registration; (ii) exhibitions without the rights to sell them afterwards; (iii) life-saving treatment and rendering medical aid to patients having rare and/or severe pathology; (iv) prevention and elimination consequences of emergency situations; (v) equipping organizations of public health service with unique medical equipment that had not been analogously registered in Kazakhstan; and, (vi) conducting clinical research as stated in Article 80.3 of Code No. 193-IV. The list of documents required to obtain a conclusion (permit) for each of the above-stated categories of pharmaceuticals was provided in Government Resolution No. 711.

426. She noted, however, that pharmaceuticals (including non-registered pharmaceuticals) could be imported without a conclusion (permit) issued by the authorized body (the Ministry of Public Health and Social Development), if they were imported for personal use by natural persons, diplomats or representatives of international organizations, as part of first-aid kits of vessels, international airlines, trains and vehicles arriving to the EAEU customs territory, or for medical aid to participants of international expeditions, cultural and sport events.

427. In response to a question from a Member, the representative of Kazakhstan confirmed that narcotic drugs, psychotropic substances and their precursors (Section 2.12 of the Common List) were still subject to import licensing. Importation into the EAEU customs territory of narcotic drugs, psychotropic substances and their precursors was regulated by the separate Regulation "On the Order of Importation, Exportation and Transit of Narcotic Drugs, Psychotropic Substances and their Precursors across the Customs Territory of the Customs Union", approved by Collegium

Decision No. 134. According to the Regulation, juridical persons could import narcotic drugs, psychotropic substances and their precursors to the EAEU customs territory, provided they obtained a licence issued by the authorized body (the Ministry of Internal Affairs) in coordination with the Ministry of Public Health and Social Development. Natural persons could import narcotic drugs and psychotropic substances as prescribed medicine for personal use in limited quantities. The following could be imported without licenses: (i) narcotic drugs, psychotropic substances and their precursors intended for first aid in emergency situations, (ii) first-aid kits of vessels and international airlines, and, (iii) precursors used as supplies in quantity necessary for operation of equipment and technical devices of air, sea (river) and railway transport.

- **(iii) Products containing cryptographic capabilities, including goods with encryption technology and special technical devices**

428. The representative of Kazakhstan explained that within the framework of the CU and EAEU, since 1 January 2010 imports of certain products containing cryptographic capabilities (goods containing encryption technology, listed in Annex 15(A) of this Report) previously not subject to import licensing were now covered by the licensing regime and included in the Common List. Special technical devices designed for the clandestine interception or extraction of information (listed in Annex 15(B) of this Report) were included in the Common List and remained subject to import licensing.

429. Some Members requested information on the application by Kazakhstan of requirements for importation of goods containing encryption technology. These Members noted that most countries did not limit imports of these products and questioned the need and justification for licensing, in particular, non-automatic licensing of commercially traded, mass market goods, and goods that were covered under the Information Technology Agreement (ITA). Members expressed concern that such licensing requirements could nullify or impair the market access commitments on a wide range of products undertaken by the Republic of Kazakhstan. Members stated that to the extent that the Republic of Kazakhstan intended to establish or apply licensing requirements, such requirements should apply only to products that clearly presented a threat to security. In such cases, licensing procedures should be applied in a non-discriminatory manner and comply with all WTO requirements.

430. The representative of Kazakhstan explained that, prior to 1 January 2010, the importation of goods containing encryption technology had only been subject to an activity licence, pursuant to Resolution of the Government of Kazakhstan No. 1160 "On Approval of Licensing Rules and Qualification Requirements for Activity in the Sphere of Development and Sale (including other Transfer) of Devices for Cryptographic Protection of Information" of 30 November 2007, and no import licence had been required. Currently, the importation of goods containing encryption technology was regulated by Annex No. 7 to the EAEU Treaty, the Decisions listed in paragraph 384 of this Section, and the Regulation "On the Order of Entry into the Customs Territory of the Customs Union and Removal from the Customs Territory of the Customs Union of Encryption (Cryptographic) Means" (hereinafter: Encryption Regulation), approved by Collegium Decision No. 134. She further stated that the Encryption Regulation had been amended by Decision of the EEC Collegium No. 103 "On Amendments to the Regulation on the Application of Restrictions" of 14 May 2013 with the purpose to include the definition of "mass market goods", as defined in Annex 15(C) of this Report. A Member stated that the amendment to the Encryption Regulation in EEC Collegium Decision No. 103 narrowed the definition of "mass market goods" as defined in Annex 15(C) of this Report and introduced additional hurdles for products that qualified for mass market treatment. It also created additional barriers that would affect the ability of goods covered by the Information Technology Agreement (ITA) to access the market. This Member asked that these inconsistencies with the agreed definition be corrected prior to conclusion of the negotiations. The representative of Kazakhstan replied that the CU Encryption Regulation had been amended by Decision of the Collegium of the EEC No. 103 "On Amendments to the Regulation on the Application of Restrictions" of 14 May 2013 with the purpose to include the definition of "mass market goods", as defined in Annex 15(C) of this Report.

431. The representative of Kazakhstan confirmed that any procedures or requirements relating to licensing imports of goods containing encryption technology, whether by the Republic of Kazakhstan or by the competent bodies of the EAEU, would be applied on a non-discriminatory basis and in conformity with the relevant provisions of the WTO Agreement, in particular, Articles I and III of the WTO General Agreement on Tariffs and Trade 1994, and that procedures related to

the notification, evaluation, approval, and licensing of goods containing encryption technology, would be transparent and predictable and would not impose unreasonable or burdensome requirements on such goods. The Working Party took note of these commitments.

432. In response to a concern raised by a Member that Kazakhstan's import licensing regime for goods containing encryption technology was now more restrictive than prior to the formation of the Customs Union, the representative of Kazakhstan explained that, in order to facilitate trade, Kazakhstan and its EAEU partners had developed and applied an interim system of regulation of goods containing encryption technology. Under this interim system, all goods containing encryption technology were divided into three groups: (i) certain goods containing encryption technology could be imported without any formalities related to encryption; (ii) other goods with encryption technology would be subject to a one-time notification requirement; and, (iii) a category of goods with encryption technology would be subject to an expert evaluation and require an import licence. The import licence was issued by the Ministry of Investments and Development, based on a "conclusion" issued by the executive body in the field of national security of the EAEU member State (the National Security Committee in the case of Kazakhstan), following an "expert examination". She noted that other formalities, such as customs or those necessary to implement technical regulations, would continue to apply in respect of imports of all these goods.

433. In response to a request by a Member to clarify the meaning of the wording "without any formalities related to encryption" in the previous paragraph, the representative of Kazakhstan said that such formalities were understood as the formalities concerning the goods listed in Annex 15(C) of this Report and described in the second and subsequent sentences of paragraph 435, and the formalities listed in paragraph 438 concerning the goods which were subject to import licensing and expert evaluation. She further explained that "formalities" not related to encryption that could be applied to goods containing encryption technology could relate to the requirements resulting from application of the legislation on customs regulation, technical regulation, intellectual property rights, and other legal acts, which were usually applied with respect to the imported goods or goods designed for internal circulation in the market.

434. The representative of Kazakhstan confirmed that the conditions for importation of goods containing encryption technology, subject to current and any future exemptions, indicated in all of the Notes to Category 5, Part 2 "Information Security" of the Wassenaar Arrangement Dual Use List, whether imposed by Kazakhstan or the competent bodies of the EAEU, would not be more restrictive than those in effect on 1 June 2012. The Working Party took note of these commitments.

435. With respect to goods falling into the categories set out in Annex 15(C) of this Report, the representative of Kazakhstan confirmed that, within the framework of the interim system, any restrictions existing before 1 January 2010 would be eliminated and no new restrictions, such as expert evaluations, approvals, and licenses, for the importation of those goods would be adopted or applied, whether by Kazakhstan or the competent bodies of the EAEU. She further informed Members that within the framework of the interim system, importation of goods in the categories set out in Annex 15(C) of this Report would be permitted based on a one-time submission of a notification. To comply with this requirement, the manufacturer of the goods would submit a completed paper copy of a form containing information specified in Annex 15(D) of this Report. Further, the representative of Kazakhstan confirmed that no licenses would be required, whether by Kazakhstan or by the competent bodies of the EAEU, for imports into Kazakhstan of goods containing encryption technologies included in Annex 15(C) of this Report, and the exemptions set out in paragraph 434. The Working Party took note of these commitments.

436. Addressing a request from a Member, the representative of Kazakhstan confirmed that all goods with encryption technology released by future Wassenaar Arrangement Category 5, Part 2 "Information Security" de-controls would be allowed to be imported "without any formalities related to encryption". Goods subject to a notification requirement, in accordance with the preceding paragraph were listed in Annex 15(C) of this Report. In response to a question from a Member, the representative of Kazakhstan explained that, consistent with Wassenaar practice, the regulating country (Kazakhstan) would determine which goods qualified as "mass market goods", as defined in Annex 15(C) of this Report. She added that the data to be submitted for a "one-time notification" application were listed in Annex 15(D) of this Report. She confirmed that, if a good had been imported subject to the "one-time notification" process, that good would not be subject to any other notifications by any parties importing that good. The information on goods approved

for import through the "one-time notification" process would be available to the public on the websites of the National Security Committee of Kazakhstan and the EAEU.

437. In response to a question from a Member, the representative of Kazakhstan explained that, if proprietary information was submitted in the notification, and the manufacturer identified that information as proprietary, that information would be protected. Confirmation of notification would be automatic, unless the manufacturer or its authorized representative in the Republic of Kazakhstan was contacted within ten working days after submission of the notification regarding its compliance with the requirements, including whether the product was correctly subject to notification, set out in paragraph 435. In the Republic of Kazakhstan, the National Security Committee would maintain a public internet site where such confirmations would be posted; the EAEU would also maintain a public internet site where this list would be available to the public. Any importer or shipper could rely on a relevant confirmation. Once a good was notified and confirmed, that good would not be subject to any other notifications by any parties importing that good; rather an importer/shipper would be required to indicate only that the good appeared on the internet site in the relevant customs declaration. She further explained that this notification procedure was intended to facilitate the entry of the goods listed above and would not result in any delays or additional approval procedures.

438. For goods containing encryption technology that needed an import licence, the representative of Kazakhstan confirmed that, within the framework of an interim system, such goods would need to undergo expert evaluation and approval (conclusion) only once. If an expert evaluator needed additional information for its evaluation, it was required to notify the manufacturer or its authorized representative in the Republic of Kazakhstan and request such information within ten working days of the application. Manufacturers would not be obligated to submit source code and failure to submit such code alone, would not result in denial of an application. After the good was approved, the same good, or a good used for the same purpose with identical encryption, could be imported into the Republic of Kazakhstan with a licence issued in a manner consistent with Article 2 of the WTO Agreement on Import Licensing Procedures. The time period for completing import licensing procedures, including the time required to obtain an experts' evaluation, to receive approval and the import licence, would not exceed three months. Fees for experts' evaluations and licensing would be transparent and based on the costs of services rendered. The Working Party took note of these commitments.

439. The representative of Kazakhstan confirmed that Kazakhstan would engage interested Members in a review of the operation of this interim system. The purpose of this review would be to clarify and refine procedures for notification, confirmation, and licensing of goods with encryption technology and, where possible, to further improve and expand the products covered under paragraph 434 and Annex 15(C) of this Report. The Working Party took note of these commitments.

440. To obtain an import licence, along with the standard set of documents indicated in the Appendix to Annex No. 7 to the EAEU Treaty, an applicant had to submit to the authorized body a conclusion (described in paragraph 438) issued by the National Security Committee on the permissibility of importing the specific encryption product. Pursuant to the Encryption Regulation, in order to obtain a conclusion, an applicant had to submit to the National Security Committee an application for a conclusion on the import of a cryptographic device, indicating the product's full name and identifying characteristics such as model name and serial number; a copy of the required activity licence; technical documentation on the encryption device; and if requested, a sample of the encryption device. The National Security Committee conducted a technical analysis of imported devices to determine only if the product contained cryptographic capabilities, and issued a document with its expert conclusion.

441. The representative of Kazakhstan confirmed that the procedure for technical analysis and obtaining the import and activity licenses for goods containing encryption technology did not require an applicant to disclose its confidential business information, including the source code of the product. The submission of a product sample was not mandatory. In practice, most of the approvals were made on the basis of detailed description of the product's non-secret technical characteristics.

442. Members of the Working Party thanked Kazakhstan for reporting this change, but noted that this was a more restrictive system than had previously been in place. They expressed

concern about how Kazakhstan would ensure that goods not containing encryption technology would be excluded from any requirements relating to importation of goods containing such technology. In their view, goods that did not contain encryption technology should not be subject to any encryption-related requirements or formalities. Further, Kazakhstan should not require an activity licence for the importation of encryption goods subject only to notification requirements.

443. The representative of Kazakhstan confirmed that goods that did not contain encryption technology would not be subject to any encryption-related requirements or formalities. She further confirmed that activity licenses would not be required as a condition for importation of goods that were not subject to requirements or formalities related to encryption and goods subject only to notification requirements. The Working Party took note of these commitments.

444. In response to a question from a Member, the representative of Kazakhstan explained that the importation of special technical devices (STDs) (Section 2.17 of the Common List) was regulated by Annex No. 7 to the EAEU Treaty and Decisions listed in paragraph 384 of this Section, including the Common List approved by Collegium Decision No. 134 and in particular, the Regulation "On the Order of Importation to the Customs Territory of the Customs Union and Exportation from the Customs Territory of the Customs Union of the Special Technical Devices Designed for the Clandestine Interception or Extraction of Information" approved by Collegium Decision No. 134. The list of STDs subject to import licensing was contained in Annex 15(B) of this Report. EAEU legal instruments regulating the licensing of STDs superseded Kazakhstan's national legislation. STDs were defined as special software and technical products containing hardware or software features designed only for the clandestine interception or extraction of audio, video and other information as well as devices designed to detect the technical channels of leakage of information. In response to a Member's question, the representative of Kazakhstan confirmed that STDs differed from cryptographic devices by their intended purpose and use. Cryptographic devices were designed to protect confidential information whereas STDs were designed to obtain information clandestinely. She further confirmed that devices designed for open use, but which as a result of modification, unintended use, or some other way, could be used for clandestine interception of information, for example voice recorders or normal surveillance cameras, were not considered to be STDs.

445. The representative of Kazakhstan confirmed that, from the date of accession, quantitative restrictions on imports, such as quotas, bans, permits, prior authorization requirements, licensing requirements or other requirements or restrictions having equivalent effect that could not be justified under the provisions of the WTO Agreement would be eliminated and not introduced, re-introduced or applied, whether by the Republic of Kazakhstan or the competent bodies of the EAEU. From the date of accession, any such requirements or restrictions on imports, whether applied by the Republic of Kazakhstan or the competent bodies of the EAEU, would be in conformity with the provisions of the WTO Agreement. She confirmed that the administrative procedures of the Republic of Kazakhstan for the operation of its import licensing regime and their application would, from the date of accession, be in compliance with all relevant provisions of the WTO Agreement, including the WTO Agreement on Import Licensing Procedures. The Working Party took note of these commitments.

- **Customs Valuation**

446. The representative of Kazakhstan stated that the basic provisions relating to customs valuation principles and policies in Kazakhstan were contained in the Agreement on the Determination of Customs Value of Goods, Transferred Across Customs Border of the Customs Union of 25 January 2008 (hereinafter: CU Agreement on Customs Valuation), the Treaty on the Customs Code of the Customs Union of 27 November 2009 (hereinafter - CU Customs Code) and Code of the Republic of Kazakhstan No. 296-IV "On Customs Issues in the Republic of Kazakhstan" of 30 June 2010 (hereinafter: Customs Code of Kazakhstan). The CU Agreement on Customs Valuation and the CU Customs Code had entered into force in Kazakhstan on 1 July 2010. These legal instruments remained in force after 1 January 2015. Prior to 1 July 2010, customs clearance and control in Kazakhstan, including customs valuation, had been carried out in accordance with the national legislation, mainly the former Customs Code of Kazakhstan No. 401-II of 5 April 2003. The CU Agreement on Customs Valuation specified those areas that were implemented through national legislation. In other cases, the CU Agreement on Customs Valuation applied directly as law. Provisions of Code No. 155-II "On Administrative Offences" of 30 January 2001 and Law No. 221-III "On Order of Review of Requests of Natural and

Juridical Persons" of 12 January 2007 (hereinafter – Law No. 221-III) related to customs valuation also continued to apply after 1 July 2010.

447. The representative of Kazakhstan confirmed that, as provided in Article 1.3 of the CU Agreement on Customs Valuation, the relevant provisions of the CU Agreements and national legislation were based on the provisions of the WTO Agreement on the Implementation of Article VII of the GATT 1994 (hereinafter: WTO Agreement on Customs Valuation) and that, in her view, the CU Agreement on Customs Valuation had been drafted to fully implement the WTO Agreement on Customs Valuation. All six methods of customs valuation applied were based on the provisions of Articles 1, 2, 3, 5, 6, 7 and 8 of the WTO Agreement on Customs Valuation, including most of the provisions of the Interpretative Notes. The rest of the Interpretative Notes were incorporated in EAEU legal instruments. The provisions of Articles 9, 10, 11, 12, 13 and 16 of the WTO Agreement on Customs Valuation were also implemented in EAEU legal instruments and Kazakhstan's national legislation. She noted, in particular, that in accordance with Article 2 of the CU Customs Code, the term "customs territory of importation", as defined in Article 15.2 of the WTO Agreement on Customs Valuation, was the customs territory of the EAEU, consisting of the territories of the EAEU member States, as well as artificial islands, installations and other objects located beyond the territory of the EAEU member States in respect of which those EAEU member States enjoyed exclusive jurisdiction. Article 3 of the CU Agreement on Customs Valuation confirmed that goods "produced" in the customs territory (including identical or similar goods) included those extracted, raised, or manufactured, as defined in Article 15.1 of the WTO Agreement on Customs Valuation. She stated that the term used in Article 3 of the CU Agreement on Customs Valuation, i.e., that these goods belonged to "one or the same group of goods or a line of commodities, including identical and similar goods, which are manufactured within the framework of a certain economic activity", was based on the meaning of the term "goods of the same class or kind" set out in Article 15.3 of the WTO Agreement on Customs Valuation. She further added that terms such as identical goods, similar goods, and related parties were used as described in Article 15 of the WTO Agreement on Customs Valuation, and their definitions could be found in Article 3 of the CU Agreement on Customs Valuation.

448. The representative of Kazakhstan stated that the customs value of goods imported to the EAEU customs territory was declared by a declarant when submitting a customs declaration of goods as provided for in the Agreement on the Declaration Order of the Customs Value of Goods Transferred through the Customs Border of the Customs Union of 12 December 2008, and Article 65 and Chapter 27 of the CU Customs Code. The Agreement on the Declaration Order of the Customs Value of Goods Transferred through the Customs Border of the Customs Union of 12 December 2008 was terminated as of 1 January 2015. The importer declared the customs value of imported goods by providing the following information: (i) the method chosen by the declarant for customs valuation of imported goods; (ii) the customs value of goods; (iii) conditions and circumstances surrounding the transaction related to the customs valuation of goods; and (iv) documents confirming such information. The representative of Kazakhstan noted that the customs value of imported goods was determined in accordance with six methods listed in the priority order: (i) transaction value; (ii) transaction value of identical goods; (iii) transaction value of similar goods; (iv) deductive method; (v) computed method; and, (vi) fall-back method, as provided for in Articles 4 and 6 to 9 and 10 of the CU Agreement on Customs Valuation. The customs value of imported goods was as much as possible based on the price of transaction with these goods as provided in Article 2 and Article 4 of the CU Agreement on Customs Valuation, which established that the "customs valuation of imported goods shall be, as a matter of principle, based on the price of transaction with these goods" and "the customs value of goods imported to the customs territory of the EAEU was the price of the respective transaction, i.e., the price actually paid or payable for these goods sold for export to the country of importation to the customs territory of the EAEU". The customs value of goods and the information related to their valuation were based on reliable and computable data and supported by documentary evidence. The procedure of customs valuation was universal, i.e., did not differ depending on the source of goods (country of origin, type of goods, participants of a transaction, etc.).

449. The representative of Kazakhstan stated that the transaction value method established the customs value of goods on the basis of the price actually paid or liable to be paid for these goods at their sale for importing to the EAEU customs territory, and had priority over other methods of customs valuation. She further noted that the methods of valuation provided for in the WTO Agreement on Customs Valuation other than the transaction value were contained in Articles 6 to 10 of the CU Agreement on Customs Valuation. She further explained that Article 10

of the CU Agreement on Customs Valuation and Article 107 of the Customs Code of Kazakhstan provided for the use of the fall-back method. If the customs value of the imported goods could not be determined under the provisions of Articles 4 and 6 to 9 of the CU Agreement on Customs Valuation (Articles 101 to 106 of the Customs Code of Kazakhstan), the customs value would be determined using reasonable means consistent with the principles and provisions of the CU Agreement on Customs Valuation.

450. The methods of customs valuation used under the fall-back method were provided by Articles 101 to 106 of the Customs Code of Kazakhstan and were consistent with the provisions of Articles 4 and 6 to 10 of the CU Agreement on Customs Valuation, and Article 7 of the WTO Agreement on Customs Valuation. The use of the fall-back method of customs valuation of goods was described in Article 10 of the CU Agreement on Customs Valuation and was the same as the other methods; however, it could be applied with some flexibility, for example:

- determination of customs value could be based on the transaction value of identical or similar goods produced in the country other than the country of production of the goods being valued;
- in determining customs value using the transaction value of identical or similar goods, a reasonable flexibility was allowed in respect of the interpretation of the requirement of Articles 6 and 7 of the CU Agreement on Customs Valuation and Articles 103 and 104 of the Customs Code of Kazakhstan that the identical or similar goods should be exported at or about the same time as the goods being valued, as a rule, up to 90 days;
- customs values of identical or similar imported goods already determined under the provisions of Articles 8 and 9 of the CU Agreement on Customs Valuation and Articles 105 and 106 of the Customs Code of Kazakhstan could be used in determining customs value; and,
- in determining customs value using the deductive method, the "90 days" requirement established by paragraph 3 of Article 8 of the CU Agreement on Customs Valuation and paragraph 3 of Article 105 of the Customs Code of Kazakhstan could be administered flexibly (in accordance with the Interpretative Note to Article 7.3(c) of the WTO Agreement on Customs Valuation).

451. At the same time, customs valuation of goods using the fall-back method could not be based on the following: (i) the price of goods in the internal market of the EAEU produced on the territory of the EAEU; (ii) the system of choosing for customs purposes the higher price from two alternatives; (iii) the price of goods in the domestic market of the exporting country; (iv) costs other than those included in the estimated cost determined for identical or similar goods in the computed method; (v) the price of goods delivered from the exporting country to third countries; (vi) minimum customs value; and (vii) arbitrary or fictitious customs value.

452. In addition, the representative of Kazakhstan informed Members that, pursuant to Articles 68 and 69 of the CU Customs Code, if the customs officer discovered signs suggesting that the information on the customs value of the goods stated by the declarant could contain inaccurate details, the customs officer could perform additional measures of control, including inspection of the documents and/or goods. Release of the goods was permitted by customs bodies on condition of presentation of a guarantee of the dutiable payments and taxes. Pursuant to Article 1.2 of the CU Agreement on Customs Valuation and Article 113 of the Customs Code of Kazakhstan, these payments included: (i) import customs duty; (ii) export customs duty; (iii) value-added tax levied upon importation of goods into the customs territory of Kazakhstan; (iv) excise tax levied upon importation of goods into the customs territory of Kazakhstan; and, (v) customs fees (fees for customs declaration, escort or preliminary decision). For confirmation of the stated information, the declarant, upon request of the customs body, provided additional documents, information and explanations. She further added that the declarant had the right to prove the correctness of the selected method of determination of the customs value of the goods and the authenticity of the information presented to the customs body. In cases when the transaction value was rejected, the customs body proposed to the declarant that the customs value of the goods be determined by using another method. In such situations, the customs body and the declarant could hold consultations with regard to the method applicable for determination of the customs value of the goods. Notably, the customs value was determined by the customs body by proceeding sequentially through the methods of determination of the customs value of the goods, as confirmed in Article 2 of the CU Agreement on Customs Valuation. She also noted that the current legislation of Kazakhstan did not envisage the adoption of any preliminary decision, i.e., advanced

ruling regarding customs value. The customs value of the goods was determined by the declarant and declared to the customs body at the instance of the goods declaration.

453. The representative of Kazakhstan added that, where the exchange of currency was necessary for the determination of customs value, the official exchange rate effective on the day of registration of the customs declaration by the customs body was to be used, unless otherwise provided by the Customs Code and/or international treaties of the EAEU member States. Pursuant to Article 78 of the CU Customs Code for the calculation of customs duties and taxes and the determination of customs value, the customs body of the relevant EAEU member State was required to use the exchange rate established in accordance with the national legislation of this EAEU member State. According to Article 56 of Law No. 2155 "On the National Bank of the Republic of Kazakhstan" of 30 March 1995, the National Bank of Kazakhstan established and published the official exchange rate of foreign currencies with respect to the tenge. This information could be accessed on the website of the National Bank of Kazakhstan (www.nationalbank.kz).

454. The representative of Kazakhstan said that, pursuant to Article 64 of the CU Customs Code, the legal framework for customs valuation of exported goods had to be implemented in accordance with the national legislation of EAEU member States. In Kazakhstan, this issue was regulated by Article 98 of the Customs Code of Kazakhstan.

455. A Member requested Kazakhstan to amend the legislation of Kazakhstan to remove the provision allowing the use of reference books that enforced minimum values for certain imports. In reply, the representative of Kazakhstan said that the use of information reference books for the purposes of customs valuation of goods had been discontinued under the Customs Code of Kazakhstan, the CU Customs Code and the CU Agreement on Customs Valuation.

456. Asked about the existing procedures for judicial review of customs measures, the representative of Kazakhstan said that Code No. 155-II "On Administrative Offences" had been adopted on 30 January 2001. This Code governed procedures for disputes related to customs valuation, as well as cases involving deliberate evasion of customs duties and taxes. Bodies authorized to address cases of administrative violation and the imposition of sanctions were appointed according to this Code.

457. Concerning the right of appeal, she said that Article 9 of the CU Customs Code and Article 17 of the Customs Code of Kazakhstan provided for the right of appeal and stated that any person had the right to appeal against decisions made by the customs bodies, actions (inactions) of the customs body or its officials in accordance with procedures and time-frames established by the legislation of the Republic of Kazakhstan. In accordance with Article 12 of Law No. 221-III, the decisions of authorities (State and local Government bodies), and the actions (inactions) of officials, could be appealed to a senior official. In cases where there was no senior official, or where the appellant did not agree with the decision of the senior official, the appellant could appeal directly to the court without exhausting all avenues of administrative appeal. This principle was also confirmed in Article 278 of Code of Civil Procedure of Kazakhstan No.411-I of 13 July 1999. The general time-frame for processing appeals to a senior official was described in paragraph 459 of this Report. In this case, appeals had to be resolved in the court within one month, as stipulated in Article 174 of the Code of Civil Procedure of Kazakhstan. Thus, importers could appeal against decisions made by the customs body to a senior customs official or to the court. No penalty was attached to the choice to appeal.

458. Confidentiality requirements (Article 10 of the WTO Agreement on Customs Valuation) were provided in Article 8 of the CU Customs Code. According to Article 8, any information received by the relevant customs body in accordance with the customs legislation of the EAEU and/or legislation of an EAEU member State was to be used by the customs bodies solely for customs purposes, including prevention of administrative offences and violations of laws. Customs bodies, their officials and other persons granted access to such information had no right to disclose, use for personal purposes, or pass to third parties, including state bodies, information which constituted State, commercial, bank, tax or other secret information protected by law, and confidential information, except for the cases provided by the Customs Code and/or the legislation of the relevant EAEU member State. Pursuant to Article 16 of the Customs Code of Kazakhstan, information received by the customs body in accordance with EAEU legal acts and the national legislation of the Republic of Kazakhstan was used by customs officials exclusively for customs

purposes, and would not be disclosed or disseminated, even to state bodies, except when the transfer of such information to other state authorities was necessary for law enforcement and for judicial proceedings in accordance with the legislation of the Republic of Kazakhstan.

459. Concerning the transparency and publication requirements of the CU Agreement on Customs Valuation, the representative of Kazakhstan said that Article 10 of the CU Customs Code provided for dissemination of information on CU customs agreements and other legal acts by publishing all EAEU acts on customs legislation in official and other periodicals and by means of television and radio, with the use of information technologies and other means of information dissemination. The Commission and each EAEU member State's customs body had to provide free access to information on EAEU legal acts relating to customs matters, including publication on their official websites: www.eurasiancommission.org and www.customs.kz. Relevant information had to be also disseminated at various border checkpoints; airports, railway and car terminals, as well as seaports; on the board of vehicles, as well as aircraft and marine vessels involved in international traffic; and in customs control zones. The State Revenue Committee of the Ministry of Finance of Kazakhstan provided information on relevant customs-related legislation and foreign trade statistics on its website, www.customs.kz and in the periodicals "Official Gazette", "Zan", "Keden" and "Customs Bulletin". All documents that had a binding character were published on the official website of the State Revenue Committee. Pursuant to Article 11 of the CU Customs Code, customs officials were available to provide explanations ("consulting") on the provisions of the customs legislation and other issues within the competence of the customs body, both in person and in writing. Upon written request from an interested party, the customs body provided information in writing in the shortest term possible, but no later than the term established by the legislation of the relevant EAEU member State. Consultations on how to complete the documents to be submitted to the customs bodies had to be given by customs officers orally, without reviewing the information provided by the interested person. According to Article 8 of Law No. 221-III requests of natural and juridical persons, which did not need the customs official to obtain information from other state bodies or their officials, had to be reviewed within 15 calendar days. Requests that required a customs official to obtain information from other state bodies and their officials had to be reviewed within 30 calendar days. The term could be prolonged for no more than 30 calendar days.

460. The representative of Kazakhstan stated that pursuant to Article 11 of the CU Agreement on Customs Valuation, if there was a need to postpone the decision with regard to customs valuation of certain evaluated (imported) goods, the declarant was permitted to take the goods, when necessary, by providing sufficient guarantee of payment of the applicable customs duties and taxes on such goods in accordance with the legislation of the EAEU. Surety bond (warranty) provisions were covered by Chapter 12 of the CU Customs Code and Chapter 16 of the Customs Code of Kazakhstan. Customs bodies had the right to release the goods conditionally, as long as customs duties, taxes and fees were secured in the amount of the customs payment determined by the customs bodies on the basis of available price information. Guarantees could take the form of (i) cash; (ii) bank guarantees; (iii) surety; (iv) mortgage; or, (v) insurance contracts. The payer had the right to choose any of the above-mentioned means of ensuring the customs payment (taxes and duties). Pursuant to Article 113 of the Customs Code of Kazakhstan, these payments included import customs duty; export customs duty; value-added tax levied upon importation of goods into the customs territory of Kazakhstan; excise tax levied upon importation of goods into the customs territory of Kazakhstan; and customs fees (fees for customs declaration, escort, or preliminary decision). In 2011, 0.2% of customs entries into Kazakhstan had made use of this provision. The term of the guarantee had to be sufficient to allow for the timely submission by the customs body of a request to the declarant to fulfil the obligation owed to the customs body, to which such guarantee had been granted. Pursuant to Article 156 of the Customs Code of Kazakhstan, a deposit would be refunded, within 10 working days of receipt of the request, when the commitments of the declarant before the customs body were fulfilled. The request could be submitted no later than five years after the commitment had been fulfilled. She further added that guarantees of payments of customs duties and taxes were required in certain cases prescribed by the CU Customs Code and by other customs legislation of the Republic of Kazakhstan, including the Customs Code of Kazakhstan. In particular, this included the following cases:

- transportation of goods in accordance with the procedure of customs transit;
- if goods were put under the customs procedure of processing of goods beyond the customs territory;
- conditional release of goods; and,

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- change of time-frames for payment of customs duties and taxes, if international treaties or legislation of the EAEU member States provided for that.

461. Members expressed concern regarding the treatment of related parties and noted in this regard that Article 4.4 of the CU Agreement on Customs Valuation required the imported good in such cases to meet certain price benchmarks. This did not appear to be consistent with either Interpretative Note 1 to Article 1.2(a) and (b) of the WTO Agreement on Customs Valuation or with Article 4.3 of the CU Agreement on Customs Valuation.

462. The representative of Kazakhstan replied that, in accordance with Article 4.3 of the CU Agreement on Customs Valuation, the fact that the buyer and the seller were related should not in itself be grounds for regarding the transaction value as unacceptable. In such case, the circumstances surrounding the sale should be examined. If, on the basis of information presented by the declarant or received by the customs bodies by other means, signs that such relationship had influenced the price were discovered, the customs bodies should inform the declarant in written form about such signs. The declarant was then entitled to demonstrate to the customs bodies that the relationship did not influence the price. She also noted that, in a sale between related persons, the transaction value also should be accepted whenever the declarant demonstrated that such value closely approximated one of the following occurring at or about the same time:

- the transaction value in sales to unrelated buyers of identical or similar goods for export to the Republic of Kazakhstan;
- the customs value of identical or similar goods as determined under the provisions of Article 8 of the CU Agreement on Customs Valuation; or,
- the customs value of identical or similar goods as determined under the provisions of Article 9 of the CU Agreement on Customs Valuation.

463. The representative of Kazakhstan stated that Articles 4.3 and 4.4 of the CU Agreement on Customs Valuation had been amended by the Protocol on Amendments and Addenda to the Agreement on the Determination of Customs Value of Goods, Transferred Across Customs Border of the Customs Union of 25 January 2008 (hereinafter: Protocol) , which had been provisionally applied from the date of its signature, 23 April 2012, and ratified by Law of the Republic of Kazakhstan No. 109-V "On Ratification of Protocol on Introduction of Amendments and Addenda to the Agreement on the Determination of Customs Value of Goods, Transferred Across Customs Border of the Customs Union of 25 January 2008" of 21 June 2013. She further noted that pursuant to Decision of the Interstate Council of the Eurasian Economic Community (EurAsEC) No. 86 "On Entering into Force of the Protocol on Amendments and Addenda to the Agreement on the Determination of Customs Value of Goods, Transferred Across Customs Border of the Customs Union of 25 January 2008", the Protocol had entered into full force as of 10 October 2014. Pursuant to the Protocol, declarants were provided an opportunity to demonstrate two different means of establishing the acceptability of a transaction value: examination of the circumstances surrounding the sale and demonstration by the declarant that the transaction value closely approximated a "test value" previously accepted by the customs body.

464. The representative of Kazakhstan confirmed that Articles 4.3 and 4.4 of the CU Agreement on the Determination of Customs Value of Goods, Transferred Across Customs Border of the Customs Union of 25 January 2008 would be modified prior to the date of Kazakhstan's accession to the WTO to ensure their consistency with the provisions of the WTO Agreement on Implementation of Article VII of the GATT 1994. Declarants would be provided an opportunity to demonstrate two different means of establishing the acceptability of a transaction value: examination of the circumstances surrounding the sale and demonstration by the declarant that the transaction value closely approximated a "test value" previously accepted by the customs body. The Working Party took note of this commitment.

465. Members also expressed concern that the CU Agreement on Customs Valuation, the CU Protocols, and national implementing legislation all appeared to lack a provision for the acceptance of paragraph 2 of Decision No. 4.1 of the Technical Committee on Customs Valuation "On the Valuation of Carrier Media Bearing Software for Data Processing Equipment", which provided that the valuation of carrier media bearing software for data processing equipment should be based on the value of the media, and Decision No. 3.1 "On the Treatment of Interest

Charges in the Customs Value of Imported Goods". Moreover, a Member noted that Kazakhstan had not fully implemented the Interpretative Notes in domestic legislation. Members sought information from Kazakhstan on how these issues would be addressed in EAEU legal instruments or Kazakhstan's national legislation.

466. The representative of Kazakhstan replied that Article 4.7 of the CU Agreement on Customs Valuation corresponded to the provisions of Decision No. 3.1 of the Technical Committee on Customs Valuation "On the Treatment of Interest Charges in the Customs Value of Imported Goods", which provided that the amount of interest charges would not be included in the customs value. She added that the provisions of paragraph 2 of Decision No. 4.1 of the Technical Committee on Customs Valuation "On the Valuation of Carrier Media Bearing Software, for Data Processing Equipment" were included in paragraph 8 of Article 101 of the Customs Code of Kazakhstan.

467. With respect to Article 14 of the WTO Agreement on Implementation of Article VII of the GATT 1994, which stated that the Interpretative Notes in Annex I formed an integral part of the WTO Agreement on Implementation of Article VII of the GATT 1994, the representative of Kazakhstan confirmed that the provisions of most of the Interpretative Notes were already reflected in the CU Agreement on the Determination of Customs Value of Goods Transferred Across Customs Border of the Customs Union of 25 January 2008 and implemented along with other provisions of the WTO Agreement on Implementation of Article VII of the GATT 1994 in Code of the Republic of Kazakhstan No. 296-IV "On Customs Issues in the Republic of Kazakhstan" of 30 June 2010, and the Treaty on the Customs Code of the Customs Union of 27 November 2009. The remaining provisions of the Interpretative Notes would be implemented in a decision of the Eurasian Economic Commission, a successor of the CU Commission, or in national legislation upon Kazakhstan's accession to the WTO. The Working Party took note of this commitment.

468. Asked to provide further information on the process of implementation of the Interpretative Notes in EAEU and national legal acts, the representative of Kazakhstan responded that the Protocol on Amendments and Addenda to the Agreement on the Determination of Customs Value of Goods, Transferred Across Customs Border of the Customs Union of 25 January 2008 was aimed at bringing the CU Agreement on Customs Valuation into compliance with the WTO Agreement on Customs Valuation. Certain provisions of the Interpretative Notes were illustrative and did not represent legal norms, therefore, had not been included into the CU Agreement on Customs Valuation. For instance, such provisions as illustrative examples of the Interpretative Note to Article 5 provided for deductive value method, illustrative examples of the Interpretative Note to Article 2 applied in the transaction value method of identical goods, etc. Therefore, the Commission jointly with EAEU member States had adopted documents that incorporated the remaining provisions of the Interpretative Notes. These documents were adopted by decisions of the Commission. In particular, the Collegium of the Commission had approved: (i) "The Rules on Application of Methods on Determination of Customs Value of Goods According to the Transaction Value of Identical Goods (Method 2) and According to the Transaction Value of Similar Goods (Method 3)" on 30 October 2012, which incorporated illustrative examples of the Interpretative Notes to Articles 2 and 3 of the WTO Agreement on Customs Valuation; (ii) "The Rules on Application of Method on Determination of Customs Value of Goods According to the Deductive Value Method (Method 4)" on 13 November 2012; (iii) "The Rules on Application of Method on Determination of Customs Value of Goods According to the Computed Value Method (Method 5)" on 12 December 2012; and (iv) "The Rules on Application of Method on Determination of Customs Value of Goods According to the Transaction Value Method (Method 1)" on 20 December 2012, which incorporated the remaining relevant provisions of the Interpretative Notes.

469. The representative of Kazakhstan confirmed that, from the date of accession, Kazakhstan would apply its customs valuation laws, regulations and practices, including those to prevent under-valuation of goods, in conformity with the WTO Agreement, including Article I of the WTO General Agreement on Tariffs and Trade 1994 and the WTO Agreement on Implementation of Article VII of the GATT 1994. Accordingly, Kazakhstan would not use any form of minimum value, such as reference prices, or fixed valuation schedule for customs valuation of goods. In addition, Kazakhstan would ensure that in the event that its customs service could not determine the proper customs value or disputed the transaction value offered, it would release the goods subject to the posting of sufficient guarantee for the maximum amount of the customs payments that could be owed as defined by the customs body of Kazakhstan. She further confirmed that, in determining

the value of imports, Kazakhstan would apply the provisions of paragraph 2 of Decision No. 4.1 of the Technical Committee on Customs Valuation "On Valuation of Carrier Media Bearing Software for Data Processing Equipment" and Decision No. 3.1 of the Technical Committee on Customs Valuation "On the Treatment of Interest Charges in the Customs Value of Imported Goods". The Working Party took note of these commitments.

- **Rules of Origin**

470. The representative of Kazakhstan said that as of 1 July 2010, Kazakhstan applied rules of origin to imports in accordance with Chapter 7 of the Treaty on the Customs Code of the Customs Union of 27 November 2009 (hereinafter: CU Customs Code). Non-preferential rules of origin and their application were governed by the provisions of the Agreement on Common Rules for Determining the Country of Origin of Goods of 25 January 2008 (hereinafter: CU Agreement on Rules of Origin), including the Rules of Determination of the Country of Origin (hereinafter: CU Rules of Origin). These instruments closely followed the work of the World Customs Organization (WCO) and the WTO regarding the application and harmonization of non-preferential rules of origin. The principles for determination of the country of origin of goods were based on international practices and implemented the recommendations of the revised Kyoto Convention, which had come into force in 2009. Paragraph 3 of Article 58 of the CU Customs Code provided that the determination of the country of origin had to be carried out in accordance with international treaties of the EAEU member States that defined the procedure for determining the country of origin of goods. She further stated that the determination of the origin of goods originating from developing and least-developed countries and eligible for the system of preferences maintained by the EAEU member States was governed by the Agreement on Rules of Origin of Goods, Originating from Developing and Least Developed Countries of 12 December 2008 (hereinafter: CU Agreement on Origin of Goods from Developing and Least Developed Countries), including the CU Rules of Origin of Goods, Originating from Developing and Least Developed Countries (hereinafter: CU Rules of Origin for Developing and Least Developed Countries). The customs procedures for determination of the country of origin of goods provided in the CU Customs Code had replaced the customs procedures contained in Customs Code of Kazakhstan No. 401-II of 5 April 2003, and these procedures were no longer in force. Additional provisions on rules of origin could be found in Chapter 10 of Code of the Republic of Kazakhstan No. 296-IV "On Customs Issues in the Republic of Kazakhstan" of 30 June 2010 (hereinafter: Customs Code of Kazakhstan) that had replaced Customs Code No. 401-II of 5 April 2003. She stressed that the country of origin of goods was determined in all cases when application of measures of customs tariff and non-tariff regulations depended on the country of origin of goods.

471. The representative of Kazakhstan noted that, pursuant to Article 58 of the CU Customs Code, goods were recognized as originating from a specific country if they were wholly made in that country or substantially transformed in accordance with criteria set forth in the EAEU customs acts. The basic criterion for substantial transformation for non-preferential goods was the shift in the tariff classification of the goods on the level of at least one of the first four digits, as established by paragraph 4 of the CU Rules of Origin annexed to the CU Agreement on Rules of Origin. Paragraph 2 of the CU Rules of Origin provided a complete list of the kinds of goods which could be produced wholly in a country. Paragraph 5 of the CU Rules of Origin included an illustrative list of operations which did not satisfy the criteria for production of goods within a country. Other criteria of sufficient transformation could be established exclusively by the Commission as set out in paragraph 6 of the CU Rules of Origin.

472. In response to a specific question from a Member, she confirmed that the tariff nomenclature referred to in Article 348 of the Customs Code of Kazakhstan corresponded to the subheadings and headings of the tariff nomenclature mentioned in Article 2(a)(i) of the WTO Agreement on Rules of Origin, adding that Kazakhstan had adopted the 2012 Harmonized System Nomenclature. As of 1 January 2010, classification of goods was based on the Common Tariff Nomenclature of the Foreign Economic Activity of the Customs Union, established by Decision of the CU Commission No. 130 of 27 November 2009. The Common Tariff Nomenclature of the Foreign Economic Activity of the Customs Union had been modified in accordance with the 2012 Harmonized Commodity Description and Coding System.

473. Members requested further information on the CU Agreements, CU Decisions, CU Customs Code and EAEU legal acts that governed the application of rules of origin to imports into Kazakhstan, as well as Kazakhstan's domestic legislation containing such regulations. They sought

assurances that Kazakhstan's rules of origin complied with the provisions of the WTO Agreement on Rules of Origin, including information on how these measures established preferential and non-preferential rules of origin. Members also sought elimination of Kazakhstan's requirement that imports where MFN origin could not be initially proven were subject to twice the MFN tariff rate, as this requirement was unduly burdensome given that after the accession of Kazakhstan to the WTO, goods originating in only a small number of countries could possibly originate from non-MFN trading partners. These Members sought a commitment that Kazakhstan would assess the MFN rate on all goods originating from countries enjoying MFN duty rate from the date of the accession to the WTO. They also asked Kazakhstan to clarify whether, for goods whose origin could not be clearly established and which could be cleared through customs only after payment of customs duties at double the MFN rate, it was possible to submit a certificate of origin or other proof subsequent to customs clearance and, if origin was subsequently satisfactorily established, whether excess duties could then be refunded.

474. The representative of Kazakhstan responded that, pursuant to Article 58 of the CU Customs Code, goods were recognized as originating from a specific country if they were wholly made in that country or substantially transformed in accordance with the criteria set forth in the CU Rules of Origin and Commission Decisions. Furthermore, Article 59 of the CU Customs Code established that the country of origin of goods could be certified by either a declaration of origin or a certificate of origin. Article 60 of the Code stipulated that the declaration of origin of goods constituted a statement on the country of origin of goods made by the manufacturer, seller or sender in connection with exportation of the goods, provided that the statement specified information allowing to determine the country of origin of goods. Commercial or any other documents related to the goods could also be used as such a declaration. Pursuant to Article 61 of the CU Customs Code, the certificate of origin of goods constituted documentary proof of the country of origin of goods, if issued by the competent body or organization of a given country, or of the country of exportation of the said goods in cases where the country of exportation issued such certificates, based on the information obtained from the country of origin of such goods. The certificate of origin had to be submitted with the customs declaration and other documents presented for customs clearance.

475. The representative of Kazakhstan said that, pursuant to paragraph 4 of Article 61 of the CU Customs Code, if the certificate of origin of goods was not properly completed, e.g., there were violations of the EAEU certificate form requirements, the customs bodies independently took a decision concerning denial to consider the certificate as a basis for granting tariff preferences. According to paragraph 5 of Article 61 of the CU Customs Code, the customs bodies could also request additional documentary proofs or clarifications when conducting customs control. Such requests, however, did not impede the release of goods based on the information of the country of origin declared when placing the goods under the customs procedure.

476. The representative of Kazakhstan noted that a certificate of origin had to contain an indication of the country of origin; a written declaration that the goods conformed to the corresponding criteria of origin; and a written certification regarding the accuracy of the supplied information, issued by the competent body of the country of exportation. Certificates of origin were not obligatory for non-preferential trade, except if the customs bodies found that the information on the country of origin of goods that influenced application of rates of customs duties, taxes and/or non-tariff regulation measures, was inaccurate; or if a certificate of origin was required by international agreements to which Kazakhstan was a party. Failure to provide a correctly drafted certificate or information on the origin of the goods was not a sufficient reason for denial of customs clearance, except for cases stipulated in paragraph 2 of Article 62 of the CU Customs Code (e.g., if the goods originated in countries from which imports to the customs territory of the EAEU or transit through its territory were prohibited in accordance with the customs legislation of the EAEU or the legislation of the EAEU member States). Goods imported without a correctly completed certificate of origin would be subject to MFN duty rates.

477. The representative of Kazakhstan also explained that in the event goods were delivered in a dismantled or unassembled state over several shipments, when it was impossible to deliver the whole lot at one time due to production or transportation problems or when the lot of goods had, by mistake, been divided into parts, paragraphs 8 and 9 of the CU Rules of Origin established a number of specific rules to assist in determining the country of origin of goods (e.g., the indicated goods could, at the discretion of the importer, be considered as one shipment).

478. She added that in accordance with Article 62 of the CU Customs Code, when goods were brought into the EAEU customs territory, a document confirming the country of origin of the goods had to be shown if Kazakhstan (or other EAEU member States) granted preferential tariffs to the country of origin of the goods pursuant to Kazakhstan's customs legislation and/or international agreements of the EAEU member States. Currently, a certificate of origin (either the "A" Document attached to the Annex 1 to the CU Rules of Origin for Developing and Least Developed Countries, or the ST-1 Document for CIS preferences, was required. Goods were considered as originating from a developing or least developed country subject to preferential tariff treatment when they were fully produced in such country. She added that Part III of the Rules of Origin for Developing and Least Developed Countries provided that the EAEU member States could establish a procedure for application of criteria of substantial transformation for countries eligible for tariff preferences based on the determination that the value of inputs used in the production process and originating from countries not covered by preferential treatment or of unknown origin did not exceed 50% of the total declared value. She also noted that Part VI of the CU Rules of Origin for Developing and Least Developed Countries provided the terms for application of the rules of direct purchase and direct shipping for granting such preferential tariffs. Pursuant to Part VIII of the CU Rules of Origin for Developing and Least Developed Countries, in cases where there were reasonable doubts regarding the authenticity of the certificate or information contained in the certificate, the customs bodies could request the competent bodies of the developing or least developed country that had issued the certificate of origin to provide additional documentary proof.

479. The representative of Kazakhstan explained that with respect to goods traded within the EAEU and/or goods covered by free trade agreements between Kazakhstan and other CIS countries, Kazakhstan applied the "Rules of Origin of Goods in the CIS" approved by the Council of Heads of CIS Governments on 20 November 2009 (hereinafter: Rules of Origin of the CIS), and the Agreement of the CIS countries on Rules of Origin of Goods Originating from Developing Countries for the Purpose of Tariff Preferences when Granting Tariff Preferences under the Generalized System of Preferences of 12 April 1996. These rules had been developed in accordance with the international practice for determination of origin of goods. Additional criteria of direct purchase were used, along with the requirement that the exporter be established legally in a Party to the Agreement on Free Trade Area signed by the CIS countries on 18 October 2011 (hereinafter: CIS Free Trade Agreement 2011), as originally provided for in the Decision of the Heads of Governments of CIS Countries of 18 October 1996. Currently, there were no other arrangements for the determination of the country of origin of goods within the framework of the EAEU, the Eurasian Economic Community or the CIS. For any free trade arrangements with countries not members of the CIS, she noted that the rules of origin for these preferential arrangements were contained in the free trade agreements themselves.

480. Members sought clarification of the requirement that, in order for imported goods to be eligible for preferential tariff rates under CIS free trade agreements, the exporter had to be a legally established resident in a Party to a CIS free trade agreement, and asked if corporate registration would satisfy that requirement, or whether there were other criteria that had to be satisfied. In response, the representative of Kazakhstan stated that, as for the requirement that the exporter be legally established in a Party to the CIS Free Trade Agreement 2011 there were not any other criteria, apart from registration, to qualify. In addition, to obtain a preferential tariff, goods had to be purchased directly from the other CIS countries, i.e., pursuant to paragraph 5.1 of the Rules of Origin in the CIS, only CIS goods that did not leave the CIS territory, except for transit of goods under customs control through third countries, were eligible for preferential tariff rates under the CIS Free Trade Agreement.

481. Some Members also asked for further explanation about the possibility, under EAEU legal instruments, that "the country of origin could also be understood to mean a group of countries, region or part of a country, if this was necessary to identify them, with a view to determining the origin of goods". They noted that the WTO Agreement lacked such provisions, and they requested a clarification of how and under what circumstances the origin of a good could be ascribed to a region or part of a country. These Members requested confirmation from Kazakhstan that these provisions would be applied in full conformity with the WTO Agreement. In response, the representative of Kazakhstan confirmed that paragraph 1 of Article 58 of the CU Customs Code stated that the country of origin of goods could be a group of countries, a customs union as well as a region or a part of a country, if it was difficult to determine the exact country of origin within the group of countries. Under those circumstances, the relevant group of countries, customs union, or if necessary in order to identify origin, a region or part of a country could be considered as the

country of origin. The representative for Kazakhstan noted that a region or part of a country was considered as the country of origin in cases where it was necessary to define the origin of the goods as such, and to date had only been used in trade remedy cases.

482. A Member noted that the right to seek a determination of origin prior to importation was contained in Article 2(h) and paragraph 3(d) of Annex II of the WTO Agreement on Rules of Origin. Some Members stated that Kazakhstan should implement this and other aspects of the Agreement (e.g., right of appeal) prior to WTO accession. In response, the representative of Kazakhstan said that the EAEU member States could make preliminary decisions with regard to determination of the country of origin of goods in the order stipulated by its national legislation, as determined by Article 58 of the CU Customs Code. According to Article 91 of the Customs Code of Kazakhstan, the customs bodies could make preliminary decisions on the country of origin of goods. The customs bodies, on request of an applicant, made preliminary decisions with regard to determination of the country of origin of goods when the information on the goods was available. Preliminary decisions with regard to determination of the country of origin of goods were made by the customs bodies with the application of preferential and non-preferential regimes and in the form approved by Government Resolution No. 912 "On Form of Approval for Classification of Goods, on Classification of Goods in Unassembled State and Adoption of Preliminary Decisions Concerning the Determination of the Country of Origin of Goods for Preferential and Non-Preferential Regimes" of 8 September 2010. She also noted that, as of 1 July 2010, Order of the Chairman of Customs Control Agency No. 210 "On Approval of the Rules for Preliminary Decisions and Their Form" of 15 May 2003 was no longer in force.

483. The representative of Kazakhstan confirmed that from the date of accession, measures on rules of origin, whether adopted by Kazakhstan or the competent bodies of the EAEU, would be applied in Kazakhstan in conformity with the provisions of the WTO Agreement on Rules of Origin, and would reflect the interim rules in Annex II to that Agreement, including the provisions for transparency, right of appeal, and notifications to the WTO Committee on Rules of Origin. She further confirmed that, consistent with the requirements of Article 2(h) and of paragraph 3(d) of Annex II of the WTO Agreement on Rules of Origin, both for non-preferential and preferential rules of origin, customs bodies would provide an assessment of the origin of goods subject to import upon the request of an exporter, importer or any person with a justifiable cause and issue the assessment no later than 150 days after a request provided that all necessary elements had been submitted. According to the provisions of the WTO Agreement on Rules of Origin, any request for such an assessment would be accepted before trade in the goods concerned had begun, and any such assessment would be valid for three years provided that the facts and conditions, including the rules of origin, under which they had been made remained comparable. She further confirmed that the previous practice of using "double MFN" rates as the default tariff rates for imports of undeterminable origin had been eliminated. The Working Party took note of these commitments.

- Other Customs Formalities

484. Some Members stated that the requirement to obtain an import "transaction passport", in addition to registration and licensing for currency control was duplicative and an unnecessary burden on trade. These Members of the Working Party were concerned that the "transaction passport" constituted an unacceptable universal licensing system and currency control incompatible with Articles XI and XV of the GATT 1994. These Members asked Kazakhstan to remove the "transaction passport" requirement prior to WTO accession.

485. The representative of Kazakhstan noted that the Treaty on the Customs Code of the Customs Union of 27 November 2009 (hereinafter: CU Customs Code) or other EAEU legal acts did not regulate the "transaction passport" requirement. This issue was left to the national competence of the EAEU member States. She further explained that, within the framework of reduction of administrative barriers to trade, the "transaction passport" had been cancelled in accordance with Law No. 530-IV "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Issues of Currency Control and Regulation" of 6 January 2012, which had amended Law No. 57-III "On Currency Regulation and Currency Control" of 13 June 2005. The "transaction passport" had been replaced by a procedure for registration of foreign trade contract exceeding the equivalent of US\$50,000. The exporter or importer had to register its foreign trade contract prior to any money payments under the contract and/or movement of goods across the border of the Republic of Kazakhstan. To this end, the exporter or importer had to

submit to the bank an application form and an original or a copy of the contract. The bank had to register the contract and assign the registration number within one working day. The registration procedure for foreign trade contracts was required only for the purposes of statistical data gathering and for monitoring foreign trade payments.

486. Some Members expressed concerns regarding the requirement to provide an electronic copy of the import and export declaration as part of the required customs documentation, as well as the granting of an exclusive licence for the provision of electronic copies of these declarations to "Accept" Corporation. The cost to the importer of obtaining such an electronic copy, and the requirement that importers still had to present a paper copy of the import declaration also represented a concern.

487. The representative of Kazakhstan replied that, to facilitate control at the border, her Government was in the process of implementing the Unified Automated Information System (UAIS). As a first step, the Government of Kazakhstan had introduced an electronic customs declaration system. Paper customs declarations continued to be used in parallel. At the moment, test application of the electronic customs declaration system was being conducted in several regions of Kazakhstan. The system would be applied across the country when all necessary test applications were completed. The date of introduction of the system across the country depended on the outcomes of implementation of the system in the pilot regions. Concerning the protection of confidential information under the UAIS, she said that the State Revenue Committee of the Ministry of Finance used standard software to ensure the security of information in the system. She pointed to Article 16 of Code of the Republic of Kazakhstan No. 296-IV "On Customs Issues of the Republic of Kazakhstan" of 30 June 2010 (hereinafter: Customs Code of Kazakhstan), pursuant to which customs bodies, customs officials as well as other persons who had access to information in accordance with the legislation of the Republic of Kazakhstan had no right to disclose, use for personal purposes, or transfer to third parties (including Government bodies), information regarded as State, commercial, bank or tax secret, or other secrets protected by laws as well as other confidential information (exceptions were contained in paragraph 3 of this Article).

488. Asked about the results of the review of the temporary customs warehouse storage regime, the representative of Kazakhstan replied that the temporary storage regime was regulated by Chapter 30 of the Customs Code of Kazakhstan (Articles 259-270). According to Article 260, temporary storage of goods was not limited or restricted to the use of temporary warehouses but could also involve the importer's own warehouses, customs and free warehouses; as well as premises, open-air and other locations belonging to the authorized economic operator. In addition, pursuant to Article 265 of the Customs Code of Kazakhstan, upon written request and provision of guarantee for the payment of customs duties and taxes, imported goods could be temporarily stored in an unauthorized warehouse belonging to the recipient of goods, in automobile vehicles located on the territory owned or leased by the recipient of goods, or railway vehicles located on the territory owned or leased by the owner of the goods. According to paragraph 2 of Article 259 of the Customs Code of Kazakhstan, temporary storage of goods was not required for goods transported by pipeline and by electricity transmission line.

489. Asked about any regulations mandating specific customs entry points for specific goods, the representative of Kazakhstan stated that, according to Article 248 of the Customs Code of Kazakhstan, customs clearance took place at the point of placement of goods under a customs procedure. These provisions were the same within the framework of the EAEU. According to Article 156 of the CU Customs Code, customs operations regarding the placement of goods under customs procedure took place at the customs points during their office hours. Article 248 of the Customs Code of Kazakhstan authorized the Government of Kazakhstan to designate customs entry checkpoints for certain categories of goods. Pursuant to the Regulations to items 2.9 and 2.10 of the "Common List of Goods that are Subject to Bans and Restrictions for Importation and Exportation by Parties of the Customs Union of the Eurasian Economic Community in Trade with Third Countries" approved by Collegium Decision No. 134 of 26 August 2012, State control had to be established over the exportation of natural diamonds, in accordance with the requirements of the Kimberley Process Certification Scheme. In addition, the importation of the following categories of goods had to take place at designated customs checkpoints: natural diamonds (HS tariff line 7102 21 000 0); raw precious stones (HS Codes 7106, 7108 and 7110); ores and concentrates of precious metals (HS Code 2616); and scrap and wastes from precious metals (HS Code 7112).

- **Preshipment Inspection**

490. The representative of Kazakhstan stated that preshipment inspection currently did not exist in Kazakhstan. Preshipment inspection had been applied in accordance with Government Resolution No. 1301 "On the Implementation of Independent System for Preshipment Inspection of Goods Imported into the Republic of Kazakhstan" of 4 October 1995 for three years from 1996 to 1999. Pursuant to Government Resolution No. 1301, preshipment inspection had been carried out by "Société Générale de Surveillance S.A.". The preshipment inspection procedure had applied to all imported goods, except for: (i) goods imported from CIS countries; (ii) goods of customs value lower than US\$3,000; (iii) goods of strategic importance; (iv) dual-purpose goods; and (v) printing materials. Government Resolution No. 1301 had been repealed by Government Resolution No. 1778 of 24 November 1999.

491. She also noted that in 2001-2005, an independent expert examination of the customs value of imported goods had been conducted by the private company "ICS Inspection and Control Services Kazakhstan". This procedure had not represented a preshipment inspection as the decision had been taken within 30 days of the sampling of imported goods. The independent expert examination had applied to all imported goods, except for goods included in the List of Goods not Subject to Independent Examination, such as goods of strategic importance and medicines. This system was also no longer in place.

492. The representative of Kazakhstan emphasized that there were currently no plans to re-establish preshipment inspection requirements for imports, but that Kazakhstan reserved the right to have recourse to such measures in the future, should it be deemed necessary by the Government. The authority to establish preshipment inspection existed in EAEU legal instruments. Part VII of Annex No. 7 "Protocol on Non-Tariff Measures Concerning Third Countries" to the EAEU Treaty replaced the corresponding provisions of the CU Agreement on Common Measures for Non-tariff Regulation in Respect to Third Countries of 25 January 2008. From 1 January 2015, these EAEU provisions authorized the imposition of non-tariff regulatory measures on the basis of national interests, *inter alia*, to implement national laws not in conflict with international agreements. Part II of Annex No. 7 to the EAEU Treaty replaced corresponding provisions of the CU Agreement on the Introduction and Implementation of Measures, Concerning Foreign Trade in Goods, on the Common Customs Territory in Respect of Third Countries of 9 June 2009. These EAEU provisions authorized the Commission to introduce non-economic measures affecting goods in foreign trade from third countries on the basis of proposals from the EAEU member States. Pursuant to Part X of Annex No. 7 to the EAEU Treaty, Kazakhstan could propose to introduce preshipment inspection. Even if the Commission rejected the proposal, such measures could be imposed unilaterally for up to six months, as provided for in Part X of Annex No. 7 to the EAEU Treaty.

493. The representative of Kazakhstan confirmed that, from the date of accession, if a preshipment inspection scheme were to be introduced in the future, whether by Kazakhstan or by the competent bodies of the EAEU, its operation would be in conformity with the relevant provisions of the WTO Agreement, including the WTO Agreement on Preshipment Inspection, and the WTO Agreement on the Implementation of Article VII of the GATT 1994, *inter alia*, in respect of the due process and transparency requirements of the WTO Agreements, in particular Article X of the WTO General Agreement on Tariffs and Trade 1994 and WTO Agreement on the Implementation of Article VII of the GATT 1994 and confidentiality of data received would be ensured. In addition, it would be ensured by Kazakhstan or by the competent bodies of the EAEU that charges and fees for preshipment inspection would comply with Article VIII of the GATT 1994, that preshipment entities would establish and maintain appeals procedures as foreseen by Article 2.21 of the WTO Agreement on Preshipment Inspection, and that that scheme would not constitute an undue and additional burden on exporters to or importers of goods into Kazakhstan. Further, she confirmed that the duration of any such scheme would be limited to three years and that importers and exporters would not be precluded from challenging facts found and findings made by preshipment inspection entities as part of administrative appeals against decisions of Kazakhstan or the competent bodies of the EAEU where such decisions were based on those facts or findings. The Working Party took note of these commitments.

- **Anti-dumping, Countervailing Duty and Safeguard Regimes**

494. The representative of Kazakhstan noted that the application of anti-dumping, countervailing and safeguard measures was regulated by the following legal acts: (i) Articles 48 – 50 of Section IX "Foreign Trade Policy" and Annex No. 8 "Protocol on Application of Safeguard, Anti-Dumping and Countervailing Measures with Respect to Third Countries" of the EAEU Treaty; and, (ii) Decision of the Collegium of the Commission No. 1 "On Certain Issues of Application of Safeguard, Anti-Dumping and Countervailing Measures on the Common Customs Territory of the Customs Union" of 7 March 2012 (hereinafter: EEC Collegium Decision No.1); as well as the following national legislation: Law No. 421-I "On Anti-Dumping Measures" of 13 July 1999 (hereinafter: Law "On Anti-Dumping Measures"); Law No. 441-I "On Subsidies and Countervailing Measures" of 16 July 1999 (hereinafter: Law "On Subsidies and Countervailing Measures"), as amended by Law No. 114-III "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Subsidies, Countervailing and Anti-Dumping Measures" of 9 January 2006; Law No. 337-I "On Measures to Protect the Domestic Market upon Importation of Goods" of 28 December 1998 (hereinafter: Law "On Safeguard Measures"), as amended by Law No. 53-III "On Amendments and Addenda to Law 'On Safeguard Measures to Protect the Domestic Market upon Importation of Goods'" of 16 June 2005; and Resolution of the Government of Kazakhstan No. 1374 "On Approval of the Rules for Conducting Investigations prior to Introduction of Safeguard, Countervailing and Anti-Dumping Measures" of 9 September 2000 (hereinafter: Government Resolution No. 1374). She stated that Kazakhstan was in the process of amending Law "On Safeguard Measures", Law "On Anti-Dumping Measures" and Law "On Subsidies and Countervailing Measures" with the purpose to bring them into conformity with the EAEU Treaty and the relevant WTO Agreements. The provisions of the EAEU Treaty replaced the Agreement on Application of Safeguard, Anti-Dumping and Countervailing Measures to the Third Countries between the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation of 25 January 2008 (hereinafter: Agreement on Application of Safeguard, Anti-Dumping and Countervailing Measures to the Third Countries) and the Protocol "On the Order on Submission to Authority Conducting the Investigation of the Information including Confidential Information for the Purposes of Safeguard, Anti-Dumping and Countervailing Investigations" of 19 November 2010 which were terminated when the EAEU Treaty came into effect on 1 January 2015.

495. The representative of Kazakhstan said that during the time when the Customs Union was in force (2010-2014), the transitional arrangements that were set out in the additional Agreement on Application of Safeguard, Anti-Dumping and Countervailing Measures to Third Countries in the Transitional Period of 19 November 2010 (hereinafter: Transitional Period Agreement) had been applicable during unification of safeguard, anti-dumping and countervailing measures of the Customs Union. Upon expiration of the transitional period, the provisions of the national laws and regulations applied to the extent they did not contradict the Agreement on Application of Safeguard, Anti-Dumping and Countervailing Measures to the Third Countries. The investigations ongoing on the date of the entry into force of the Agreement on Application of Safeguard, Anti-Dumping and Countervailing Measures to the Third Countries had continued in accordance with the new rules and the national regulations to the extent those regulations did not contradict that Agreement. Therefore, if the national industry met the criteria of the domestic industry of the Customs Union as stipulated by the Agreement on Application of Safeguard, Anti-Dumping and Countervailing Measures to the Third Countries, the investigation had continued, otherwise it had been terminated. The representative of Kazakhstan provided additional information on trade remedy measures currently applied in Kazakhstan and the EAEU in Annex 16 of this Report.

496. The representative of Kazakhstan informed Members that starting from 17 April 2012 the Department for Domestic Market Protection of the Eurasian Economic Commission (hereinafter: Department or investigating body) was authorized to carry out new safeguard, anti-dumping and countervailing investigations on the common customs territory of the Customs Union by EEC Collegium Decision No. 1. This authority was continued under the EAEU Treaty.

- **(a) Transitional regime**

497. The Transitional Period Agreement stipulated that all safeguard, anti-dumping and countervailing measures that had been in force prior to 19 November 2010 had to be reviewed by the national authorized body in accordance with the criteria used to define the domestic industry of the Customs Union. If the domestic producers, which had filed applications for the national measures, met the criteria of the domestic industry of the Customs Union, promulgated in the

Agreement on Application of Safeguard, Anti-Dumping and Countervailing Measures to the Third Countries, the measures could be extended to the customs territory of the Customs Union by a Decision of the CU Commission for the period which had been determined initially. In case the domestic industry definitional criteria were not met, the measure would continue to be applied at the national level. The representative of Kazakhstan added that in case national investigations on application of safeguard, anti-dumping and countervailing measures had been finished by the time of signing of the Transitional Period Agreement, but the measure had not been taken, safeguard, anti-dumping and countervailing measures would be applied at the national level by a decision of the national authorized body and had to be reviewed in accordance with the provisions of the Transitional Period Agreement. If safeguard, anti-dumping and countervailing investigations had not been finished by the time of signing of the Transitional Period Agreement and investigations had still been conducted, safeguard, anti-dumping and countervailing measures would be applied in accordance with the Agreement on Application of Safeguard, Anti-Dumping and Countervailing Measures to the Third Countries. During the transitional period provided for in the Transitional Period Agreement, the national authorized body of the Republic of Kazakhstan had continued ongoing investigations and had conducted new trade remedy investigations in the Republic of Kazakhstan upon request of the domestic industry of the CU. However, all decisions to impose, extend, review or terminate trade remedy measures had to be taken by the Commission on the basis of a proposal from the Government of the member State that carried out the investigation.

498. In response to the question of a Member on the status of the "transitional period", the representative of Kazakhstan stated that the term "transitional period" referred to the period that had been necessary for the review of existing national measures in force in the territory of member States. The transitional period, which had ended on 1 August 2012, also had allowed national governments of the member States to delegate the authority to conduct investigations and introduce trade remedy measures from national bodies to the supranational body – the Eurasian Economic Commission.

499. According to CU Commission Decision No. 44 "On Certain Issues of Protection of the Internal Market" of 16 May 2012, all the ongoing investigations had been transferred to the Department by 31 July 2012. Accordingly, from 1 August 2012, the Department would be the single authorized body to conduct safeguard, anti-dumping and countervailing investigations on the common customs territory of the CU. This authority was continued under the EAEU Treaty.

- **(b) Regime established under the EAEU Treaty**

500. The representative of Kazakhstan stated that the provisions of Section IX of the EAEU Treaty provided the principles for application of trade remedies by the EAEU member States – the Republic of Kazakhstan, the Russian Federation and the Republic of Belarus – with regard to third countries. The provisions of the EAEU Treaty, in her view, complied with the principles of the WTO Agreement.

501. According to Article 48 of Section IX of the EAEU Treaty, all decisions with respect to common trade remedies in the EAEU member States had to be taken by the Commission. The decisions of the Commission would be collectively applied by all the EAEU member States within the customs territory of the EAEU against the imports of relevant third countries.

502. According to Annex No. 8 to the EAEU Treaty, (i) anti-dumping investigations could be initiated, provided there was evidence of dumped imports and material injury, threat of such injury or material retardation of the establishment (material injury) of the sector of economy of the member States as a result of such imports; (ii) investigations regarding safeguard measure application could be initiated, provided that there was evidence of imports of products into the EAEU customs territory in such increased quantities, absolute or relative to production, and under such conditions as to cause or threaten to cause serious injury to the sector of economy of the member States that produced like or directly competitive products; and, (iii) countervailing investigations could be initiated, provided there was evidence of a specific subsidy and subsidized imports into the EAEU customs territory that caused material injury to the sector of economy of the member States.

503. According to Annex No. 8 to the EAEU Treaty, the sector of economy of the member States was defined as: (i) all producers of a like product - for the purposes of anti-dumping and

countervailing investigations; (ii) all producers of a like product or a directly competitive product - for the purposes of safeguard investigations; or, (iii) producers of a like product - for the purposes of anti-dumping and countervailing investigations, and producers of a like or a directly competitive product - for the purposes of safeguard investigations, whose share in the total production volume in the EAEU member States constituted at least 25% of total production. Similarly, the relevant import was measured as the import inflow into the entire EAEU customs territory.

504. A Member asked a question regarding the initiation of investigations under the national legislation. The representative of Kazakhstan stated that all investigations on the customs territory of the EAEU were initiated and conducted in accordance with the EAEU legal framework. The representative of Kazakhstan further noted that pursuant to Annex No. 8 to the EAEU Treaty, application for initiation of investigations with respect to anti-dumping and countervailing measures was considered to have been made "by or on behalf of the sector of economy of the member States" if it was supported by those producers whose collective output in the EAEU member States constituted more than 50% of the total production of the like product produced by that portion of the sector of economy of the member States expressing either support for or opposition to the application; and investigation could only be initiated provided that producers in the EAEU member States expressly supporting the application accounted for no less than 25% of the total production of the like product produced by the sector of economy of the member States. Application for initiation of investigations with respect to safeguard measures was considered to have been made "by or on behalf of the sector of economy of the member States" if producers in the EAEU member States supporting the application accounted for no less than 25% of the total production of the like or directly competitive product produced by the sector of economy of the member States.

505. A Member questioned Kazakhstan regarding a deadline to accept or reject a request for safeguard investigation made by the domestic industry mentioned in Government Resolution No. 1374. In particular, this Member asked if the authorized body had 45 days from the date of submission to decide on acceptance or rejection and to publish a notice of initiation of investigation in the official mass media, and also if it was required, within these 45 days, to notify the applicant within 10 days from submission of the application in case some information was missing and if a decision not to initiate an investigation was made. The representative of Kazakhstan replied that according to the provisions established by Annex No. 8 to the EAEU Treaty, the investigating body had 30 calendar days from the date of a safeguard, anti-dumping or countervailing application, to verify the accuracy and completeness of the information stated in the application. Such period could be extended but could not exceed 60 calendar days in total. An application was refused if an applicant failed to submit all the necessary documents. The 30-day period did not include the notification procedure in the mass-media and official publications about initiation of investigation. In cases when initiation of an investigation was refused, the investigating body informed the applicant of the refusal and its reason within 10 working days from the date of taking such decision. If the decision on initiation of the investigation was taken, the investigating body notified the authorized body of the exporting foreign country and other interested parties and published the notification on the official website of the Commission within 10 working days from the date of taking such decision.

506. A Member asked if the period of 30 calendar days to notify stakeholders started from the date when the authorized body took the decision to initiate an investigation and without any relation to 45 days for publishing the notice of initiation in the media. In response, the representative of Kazakhstan said that, in accordance with the provisions established by Annex No. 8 to the EAEU Treaty, stakeholders would be notified within 10 working days from the date when a decision to initiate the investigation was taken. The investigating body had to notify the EAEU member States and announce via the official website of the Commission the initiation of the investigation in order to involve all interested parties. This period did not relate to the 30-day period during which the investigating body reviewed the application and took a decision about initiating an investigation or rejecting an application. The investigating body notified interested parties and published the notification on the official website of the Commission about initiating an investigation within 10 working days from the date when a decision to initiate the investigation was taken.

507. Further, a Member pointed out that neither Kazakhstan's Law "On Anti-Dumping Measures" nor its Law "On Subsidies and Countervailing Measures" appeared to address how the investigating authority would treat an interested party who refused access to, or otherwise did not provide,

necessary information within a reasonable period or significantly impeded an investigation, as provided under Article 6.8 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (hereinafter: WTO Anti-Dumping Agreement or the ADA). This Member also asked Kazakhstan to explain how Annex II of the ADA was reflected in Kazakhstan's legislation.

508. In response, the representative of Kazakhstan said that, according to Law "On Anti-Dumping Measures" and Law "On Subsidies and Countervailing Measures", if an interested party did not provide necessary information within the time periods established by the authorized body, or otherwise significantly impeded an investigation, the authorized body could conduct an investigation on the basis of the facts available. Annex No. 8 to the EAEU Treaty also stipulated that in cases when an interested party refused access to, or failed to submit necessary information to the investigating body within the time periods established by the investigating body, or otherwise significantly impeded an investigation, such party was considered as uncooperative and the investigating body would make preliminary and final determinations on the basis of the facts available. As regards the provisions of Annex II of the ADA, they were reflected in paragraphs 239-243 of Annex No. 8 to the EAEU Treaty, which provided for data collection within the course of investigation. Paragraph 239 of Annex No. 8 to the EAEU Treaty provided that after a decision on the initiation of the investigation was made, the investigating body would issue questionnaires to certain interested parties. Within the course of the investigation, the investigating body would verify the accuracy and reliability of the information provided by the interested parties.

509. In reply to a specific question, the representative of Kazakhstan clarified that during the investigation, the investigating body had the right to request additional information from the interested parties. A request was considered to be received after seven calendar days from the date of posting or handing it over to a representative of an interested party. She added that pursuant to Annex No. 8 to the EAEU Treaty responses had to be submitted to the investigating body within 30 calendar days from the date of receipt. In case the responses were submitted after the deadline, the investigating body had the right not to consider such information.

510. In response to the request by a Member to clarify the legal authority that provided protection of confidential information in trade remedy investigations, the representative of Kazakhstan stated that confidential information provided by the interested parties to the investigating body was protected by internal regulations of the Commission and paragraphs 254-258 of Annex No. 8 to the EAEU Treaty. In particular, paragraph 258 of Annex No. 8 to the EAEU Treaty stipulated that confidential information could not be disclosed without permission of the interested parties which submitted the information. Interested parties providing confidential information also had to provide a non-confidential summary of the information. She further added that in accordance with paragraph 258 of Annex No. 8 to the EAEU Treaty, officials and employees of the investigating body accountable for the disclosure of the confidential information provided to the investigating body could be deprived from the privileges and immunities provided by the international treaty within the EAEU and prosecuted in accordance to the procedure established by the Commission.

511. Another Member asked Kazakhstan to describe the very limited situations provided for by the legislation of the Republic of Kazakhstan where confidential information could be disclosed. The representative of Kazakhstan responded that such cases were set out in Code of Criminal Procedure of the Republic of Kazakhstan No. 231-V of 4 July 2014. Persons requested by a relevant competent body carrying out a criminal investigation to provide confidential information could not refuse to provide information because it needed to be kept secret. However, the results of the preliminary criminal investigation, including commercial secrets, were confidential. The evidence containing commercial secrets, upon request of the persons concerned, could be reviewed at a closed proceeding. After the proceeding, the legal documents of the case containing commercial and other secrets were confidentially retained with the case records.

512. A Member asked if provisions on retroactivity, duration, review of anti-dumping duties, consultation and dispute settlement were foreseen in Law "On Anti-Dumping Measures". In reply, the representative of Kazakhstan said that paragraphs 104 and 105 of Annex No. 8 to the EAEU Treaty provided for use of anti-dumping measures retroactively in the cases envisaged by Articles 10.2 and 10.6 of the ADA. According to paragraph 104 of Annex No. 8 to the EAEU Treaty, a definitive anti-dumping duty might be levied on products not more than 90 days prior to the date of application of provisional measures, if according to the results of the investigation in respect of

that product it was found that: (i) there was a history of dumped imports which caused injury or that the importer had been, or should have been, aware that the exporter delivered the product at a price below its normal value, and that such import would cause injury, and (ii) the injury was caused by substantially increased dumped imports in a relatively short period of time which in light of the duration and the volume as well as other circumstances (including rapid growth of inventories of the imported products) could significantly undermine the remedial effect of the anti-dumping duty to be applied, under the condition that the importers of the product concerned should be given an opportunity to comment. As for the duration and review of anti-dumping duties, paragraph 107 of Annex No. 8 to the EAEU Treaty provided that the effective period of anti-dumping duty would not exceed the period necessary to counteract the dumping which was causing injury. This period would not exceed five years from the date of its introduction or the last sunset review. The period of an application of anti-dumping measures could be extended if a sunset review of the measures showed that the expiry of the measure was likely to lead to a recurrence of dumping and injury. Annex No. 8 to the EAEU Treaty stipulated that the sunset review procedures of anti-dumping measures were carried out by the investigating body on its own initiative or on the basis of the interested parties' application submitted not later than six months prior to anti-dumping duty termination.

513. In reply to a question on procedural fairness, the representative of Kazakhstan stated that Article 29 of Law "On Anti-Dumping Measures" and paragraph 215 of Annex No. 8 to the EAEU Treaty established that all interested parties had the right to defend their interests during an anti-dumping investigation. For this purpose and upon request of an interested party, the investigating body had to provide an opportunity for the parties with opposing interests to discuss the investigation documentation and provide for additional information within the time-frame that did not disrupt the course of investigation. The investigating body had to duly provide all interested parties with the possibility of acquainting themselves with public information used by the investigating body in anti-dumping investigation in order to allow them prepare arguments for their cases.

514. As for dispute resolution, the representative of Kazakhstan explained that provisions regulating appeals to decisions and actions of the Commission were stipulated in the Statute of the Court of the Eurasian Economic Union. In particular, paragraph 39 of the Statute provided for the right of economic operators in the EAEU member States and all other interested parties, including foreign economic operators, to bring a case against the decisions of the Commission to the EAEU Court. In accordance with the Statute, appeals to the Court by the domestic and foreign economic operators and peculiarities of the legal proceedings were determined by the Statute of the Court of the Eurasian Economic Union.

515. A Member asked Kazakhstan to indicate whether and how Article 13 of the WTO Agreement on Subsidies and Countervailing Measures (hereinafter: SCM Agreement) concerning consultations before initiation was reflected in Section 4 on countervailing measures of the Agreement on Application of Safeguard, Anti-Dumping and Countervailing Measures to the Third Countries. The representative of Kazakhstan responded that from 1 January 2015, paragraph 225 of Annex No. 8 to the EAEU Treaty provided for consultation procedures. In particular, before initiating an investigation, the investigating body had to send invitations for consultations to the foreign countries concerned in order to clarify the situation and seek to reach a mutually agreeable solution. In the course of investigation, the foreign countries were allowed to continue the consultations with the investigating body. Conducting consultations did not prevent the initiation of an investigation and application of provisional or final countervailing measures.

516. The representative of Kazakhstan noted that pursuant to paragraph 90 of Annex No. 8 to the EAEU Treaty, investigation proceedings could be suspended or terminated by the investigating body without the imposition of anti-dumping duties upon receipt, in writing, of satisfactory voluntary undertakings from any exporter of the product under investigation to revise its prices or to cease exports to the customs territory of the EAEU at prices lower than its normal value, if such exporter's undertakings were supported by its affiliated persons in the EAEU member States and the investigating body came to a conclusion that accepting such undertakings eliminated the injurious effects of dumped imports and decided to approve these undertakings. Thus, the exporters could choose between two options: (i) pay anti-dumping duties and continue supplying the goods to the customs territory of the EAEU; or, (ii) agree to a price undertaking for the purposes of eliminating the injurious effects of dumping. A price undertaking was not mandatory.

The investigating body could not require a price undertaking which increased prices higher than the dumping margin. Price increase could be less than the dumping margin if the investigating body established that the price increase resulting from the undertaking was enough to remove the injury to the sector of economy of the member States. Investigation proceedings regarding subsidized goods could be suspended or terminated by the investigating body without imposition of countervailing duties upon receipt in writing of satisfactory voluntary undertakings from (i) an exporting foreign country to terminate or reduce the subsidies being provided or take measures to eliminate the injury caused to the sector of economy of the member States; or (ii) an exporter of the goods concerned increased the price for these goods in such a way that it would eliminate the injury caused to the sector of economy of the member States.

517. The representative of Kazakhstan said that in anti-dumping and countervailing duty cases the amount of the duty had to be sufficient to eliminate injury to the domestic industry; an anti-dumping duty could not exceed the calculated dumping margin, and a countervailing duty could not exceed the amount of the subsidy of the exporting foreign country calculated for a product unit. If a safeguard measure was applied by establishing an import quota, the import quota could not be lower than the annual average level (in relation to quantity or value) of the import volume of the product under investigation for three years preceding the date of submitting an application for investigation, for which the statistical data was available, except for cases when clear justification was given that a lower import quota to prevent or remedy serious injury or a threat of such injury to the domestic industry was necessary.

518. A Member noted that Kazakhstan's anti-dumping law did not appear to address whether an individual anti-dumping rate could or would be calculated for a company who was not chosen as a mandatory respondent because the authority limited the examination of interested parties to a "reasonable number" of respondents, such as that contemplated in Article 6.10.2 of the ADA. The representative of Kazakhstan replied that Law "On Anti-Dumping Measures" did not cover this specific situation. However, this situation was provided for in Annex No. 8 to the EAEU Treaty. Pursuant to paragraph 50 of Annex No. 8 to the EAEU Treaty, if a company was not chosen as a mandatory respondent, the amount of the margin of dumping calculated in respect of every foreign exporter or foreign producer that was not selected but submitted the necessary information within a period established for such submission during the investigation, could not exceed the weighted average dumping margin established in respect of the selected foreign exporters or foreign producers of the allegedly dumped imports. As noted above, should there be any discrepancies between the national law and the EAEU Treaty, the EAEU Treaty would prevail.

519. A Member noted that paragraph 11 of Article 10 and paragraph 4 of Article 16 of the Agreement on Application of Safeguard, Anti-Dumping and Countervailing Measures to the Third Countries stated that the "all others" rate or duty would be based on the highest margin of dumping determined during the investigation and asked the representative of the Kazakhstan to explain why an adverse inference was made (i.e., the highest margin of dumping) in setting the "all others" rate, as opposed to choosing a more neutral method (e.g., the weighted average margin of all participating respondents). Furthermore, this Member asked the representative of Kazakhstan to explain how this methodology was consistent with Article 9.4 of the Agreement on Implementation of Article VI of the GATT 1994.

520. The representative of Kazakhstan stated that, if the investigating body found that an interested party had failed to cooperate for the purpose of the investigation, the investigating body could use an inference that was adverse to the interests of that interested party. The investigating body could also determine the dumping margin on the basis of any other information at its disposal, including the weighted average margin of all participants. These provisions could be found in paragraphs 51 and 212 of Annex No. 8 to the Treaty.

521. The representative of Kazakhstan confirmed that, if an interested party cooperated, but was not selected for the calculation of an individual dumping margin, the anti-dumping duty applied would be applied in accordance with Article 9.4 of the WTO Agreement on Implementation of Article VI of the GATT 1994. The Working Party took note of this commitment.

522. The representative of Kazakhstan further stated that an anti-dumping investigation would be terminated in cases when the investigating body determined that the dumping margin was considered to be less or equal to *de minimis* (i.e., 2%), or that the volume of dumped imports was negligible. The volume of dumped imports would be normally regarded as negligible if the volume

of dumped imports from a particular country was found to account for less than 3% of imports of the like product to the EAEU customs territory, unless countries which individually accounted for less than 3% of the imports of the like product to the EAEU customs territory collectively accounted for more than 7% of imports of the like product to the EAEU customs territory. This provision was, in her view, in line with Article 5.8 of the ADA.

523. The representative of Kazakhstan explained that Law "On Anti-Dumping Measures" had been amended in line with the provisions of the ADA. The term "normal price" had been replaced by "normal value" and the concept of ordinary course of trade had been modified in line with the ADA. The *de minimis* dumping margin had been reduced from 5% to 2%, in accordance with the ADA. To ensure transparency and confidentiality, the authorized body would be required to make written evidence, presented by one interested party, promptly available to other interested parties participating in the investigation, with the exception of confidential information.

524. The representative of Kazakhstan noted that Law "On Subsidies and Countervailing Measures" had been amended to introduce new definitions of the terms "domestic producers", "like products" and "specific subsidy". In her view, the provisions of the Law had been brought in conformity with the provisions of Article 8 of the WTO SCM Agreement with regard to non-actionable subsidies. The new amendments had introduced provisions for holding consultations aimed at reaching a mutually acceptable solution, prior to conducting an investigation, as provided under Article 13 of the WTO SCM Agreement. Throughout the investigation, foreign states would be given a reasonable opportunity to continue such consultations. In reply to a specific question, she said that the concept of "benefit" was contained in paragraph 16 of Article 1 of Law "On Subsidies and Countervailing Measures". The definition of a subsidy in this Law conformed to the definition provided in Article 1 of the WTO SCM Agreement.

525. Several important changes had been introduced to Law "On Safeguard Measures". Namely, the definitions of key terms used in the law – such as domestic industry, serious injury and threat of serious injury – had been modified in accordance with the definitions of the WTO Agreement on Safeguards. The procedure for the imposition of provisional safeguard measures and, in particular, refund procedures had also been adjusted. Opportunities would be provided to all interested parties to present evidence and express their views. A provision that envisaged progressive liberalization of safeguard measures after their first year of application had been added. The representative of the Republic of Kazakhstan noted that provisions of the national laws and regulations on trade remedy measures applied in Kazakhstan to the extent that they did not contradict the EAEU Treaty.

526. A Member expressed concern about the application of safeguard measures to certain products by the Republic of Kazakhstan and considered that maintaining such measures contradicted the existing Law of the Republic of Kazakhstan No. 337-I "On Measures to Protect the Domestic Market upon Importation of Goods" of 28 December 1998, Article 13a of the Free Trade Agreement of 15 April 1994 as amended on 2 April 1999 and provisions of the WTO Agreement on Safeguards. The representative of Kazakhstan confirmed that Resolution of the Government of Kazakhstan No. 1055 "On Introduction of Safeguard Measures to Import of Certain Kinds of Confectionary Products" of 14 September 2011 would be revoked by the date of Kazakhstan's accession to the WTO. The Working Party took note of this commitment.

527. The representative of Kazakhstan confirmed that, from the date of accession, compliance with the provisions of the WTO Agreement on Implementation of Article VI of the GATT 1994, the WTO Agreement on Subsidies and Countervailing Measures, and the WTO Agreement on Safeguards, whether by the competent authorities of Kazakhstan or the competent bodies of the EAEU, would be ensured. She further confirmed that Kazakhstan would notify and implement, upon accession, all appropriate laws and regulations applicable in Kazakhstan in conformity with the provisions of these Agreements. She confirmed that, from the date of accession, WTO requirements would be met in applying anti-dumping, countervailing and safeguard measures in Kazakhstan, whether by the competent authority of Kazakhstan or by the competent body of the EAEU. The representative of Kazakhstan further confirmed that any trade remedy measure applied on the date of WTO accession of Kazakhstan and any trade remedy measure procedure launched before the date of accession as well as any trade remedy measure resulting therefrom, whether by the competent authority of Kazakhstan or the competent bodies of the EAEU, would be consistent with the relevant WTO Agreement, as of the date of accession. She also confirmed that all interested parties, as defined in the relevant WTO Agreement, would have access to any non-

confidential information that was relevant to any trade remedy measure applied on the date of WTO accession of Kazakhstan, or adopted subsequently, on the basis of an investigation or review launched before its accession. The representative of Kazakhstan also confirmed that, from the date of WTO accession of Kazakhstan, any interested party could request the initiation of a review of any trade remedy measure, applied on the date of accession or adopted subsequently, on the basis of an investigation or review launched before the WTO accession of Kazakhstan, identifying the elements of that measure, which were, in their view, not consistent with the above-mentioned WTO Agreement. The Working Party took note of these commitments.

B. EXPORT REGULATIONS

- Customs Tariffs, Fees and Charges for Services Rendered, Application of Internal Taxes to Exports

528. The representative of Kazakhstan said that export duties were levied pursuant to Resolution of the Government of the Republic of Kazakhstan No. 520 "On Customs Duty Rates" of 7 June 2010. According to this Resolution, export duties were applied to the following list of goods: livestock raw skin and wool, ferrous and non-ferrous metal scrap and waste, and oil products. The export duties for these goods varied from 10% (uncombed wool) to 30% (copper waste and scrap). Export duties were subject to publication after approval by the Government and had to enter into force within 30 calendar days after the first official publication. Export duties currently applied in Kazakhstan are listed in Annex 17(A) of this Report.

529. She added that within the framework of the CU, the member States elaborated the Agreement on Export Duties with regard to Third Countries of 25 January 2008 (hereinafter: CU Agreement on Export Duties) and agreed that it would form the legal basis for levying export duties on goods exported from the member States to third countries after it entered into force and necessary implementing arrangements were concluded, which was not yet the case. The CU Agreement on Export Duties was a framework agreement which established general terms on which export duties within the CU had to be applied. However, it did not provide unified regulations and unified rates of export duties. Thus, from the date of the CU establishment on 1 January 2010, export duties remained subject to regulation at the national level. Article 1 of the CU Agreement on Export Duties called for the eventual development of a Common List of Goods Subject to Export Duties (CU Common List), to be established by the member States within 60 days of its entry into force. Accordingly, each member State was in the process of developing a list of goods subject to export duties with the rates of the duties established according to the national legislation. Once developed, the list would be submitted to the EEC. The EEC on the basis of information provided by the member States would create the Common List. She also added that pursuant to Article 3 of the Agreement, if a product made on the territory of a member State levying export duties on this product was exported to a third country from the territory of another Party that was not levying export duties on this product or was applying lower rates, such Party had to ensure that export duties were: (i) levied at the rates applied by the producing Party; and (ii) included into the Common List of Goods Subject to Export Duties.

530. As regards the common policy to be further developed in this field, some Members observed that the WTO commitments undertaken by each of the EAEU member States define the ceilings for setting common export duties of the EAEU. The representative of Kazakhstan confirmed that, under the EAEU regime described in paragraphs 251 and 252 in Chapter III "Framework for Making and Enforcing Policies" of this Report and in paragraphs 185 and 186 of Chapter III "Framework for Making and Enforcing Policies" of the Working Party Report on the Accession of the Russian Federation to the WTO, the WTO commitments undertaken by an EAEU member are part of the EAEU legal framework. The representative of the Russian Federation supported this statement of the representative of Kazakhstan.

531. The representative of Kazakhstan said that Kazakhstan applied export duties on an MFN basis. However, exports under the free trade regime between members of the Eurasian Economic Community (EurAsEC) and under the bilateral free trade agreements in force with all other CIS countries were exempt from the payment of export duties, except for Moldova. At the same time, in accordance with the Agreement on Free Trade Area signed by the CIS countries (Armenia, Belarus, Kazakhstan, the Kyrgyz Republic, Moldova, the Russian Federation, Tajikistan and Ukraine) on 18 October 2011, Kazakhstan had reserved the right to apply export duties for exports of certain goods to other parties of the Agreement, except for the EAEU member States. Upon its

entry into force, the new Agreement would replace the bilateral FTAs of the CIS countries with Kazakhstan (for more details please see Chapter VIII "Trade Agreements" of this Report). She further noted that the Agreement between Kazakhstan and the European Union on Trade in Certain Steel Products approved by Government Resolution No. 738 of 19 July 2005, had abolished customs duties, charges or any similar measures on exports of ferrous scrap and waste to the EU falling under heading 7204 of the EU Combined Nomenclature (paragraph 3, Article 2).

532. Some Members noted that export duties appeared to be introduced to displace foreign products, which would otherwise be imported, with domestic products or otherwise distort trade. These Members considered that this application of export duties was unacceptable and inconsistent with Articles II and XXIII of the GATT 1994. Some Members disagreed with these views. These Members also stated that, in their view, the discriminatory export duty exemptions granted to EAEU member States were inconsistent with Article I of the GATT 1994. In addition, a Member expressed particular concerns regarding the export duty imposed on iron and steel scrap, considering the pressure that it placed on countries not applying such restrictions in the current market. This Member also noted the non-MFN treatment of ferrous scrap in Kazakhstan's exports to the European Union, and stated that this practice had to be eliminated prior to WTO accession. Finally, this Member enquired as to whether, as was the case with one other EAEU member State, only exports to the EAEU were exempt from the payment of export duties. Given that Kazakhstan had free trade area relations with other CIS countries, discrimination in the elimination of duties and charges among preferential trading partners would have implications for the consistency of such a measure with Article XXIV of the GATT 1994.

533. The representative of Kazakhstan replied that export duties were applied on a limited number of goods mainly for fiscal and regulatory purposes as well as environmental reasons and, as such, did not violate the provisions of the GATT 1994. She added that her Government was undertaking steps to narrow down the list of goods subject to export duties. To this end, the export duty on aluminium and beryllium ligature (Ex. HS Code 7601 20 100 0) had been eliminated.

534. Kazakhstan was also planning to reduce the export duty on ferrous scrap (HS Code 7204). The representative of Kazakhstan noted that these reductions in export duties on ferrous waste and scrap contained in HS heading 7204 and others had come about through bilateral negotiations and the results of these negotiations had been duly reflected. A Member indicated that it had accepted Kazakhstan's invitation to engage in bilateral negotiations to reduce its export duties on the above-mentioned products in the context of Kazakhstan's accession to the WTO. The results of these negotiations are provided in Annex 17(B) of this Report. In the view of this Member, these results formed part of the balance of commitments and concessions in the terms of accession of Kazakhstan. This Member emphasized that, if Kazakhstan subsequently increased these export duties above the commitment level, it would disturb the balance of concessions established in the bilateral and multilateral negotiations for WTO accession, and this Member would have the right to take appropriate action to rebalance the concessions. Some other Members stated that this was without prejudice to their views in respect of the status and legality of export duties in the framework of the WTO Agreement.

535. With respect to application of export duties to CIS countries, the representative of Kazakhstan stated that export duty exemptions applied to CIS countries were applied in accordance with Article XXIV of the GATT 1994. In particular, the volume of Kazakhstan's exports to CIS countries subject to export duties was less than 1% of the total volume of goods exported to CIS countries. She held the view that Kazakhstan's participation in FTAs was in compliance with Article XXIV:8(b) since the duties were eliminated on substantially all the trade between the FTA's participants. With regard to exports of ferrous scrap to the European Union, she noted that the bilateral Agreement between the Republic of Kazakhstan and the European Union on Trade in Certain Steel Products had expired, without replacement, on 31 December 2006; and the preferential treatment granted thereunder had ceased at that time.

536. Asked to explain how Kazakhstan would schedule its export levies so as to avoid distortion of domestic or international trade, the representative of Kazakhstan said that export duties for goods continued to play an important fiscal role in Kazakhstan. She noted that export duties did not affect the price at which an exported commodity (i.e., oil, oil products and non-ferrous metals) was purchased abroad. Therefore, they were not used by Kazakhstan in a way that distorted domestic or international trade.

537. Some Members asked Kazakhstan to describe the new tax regime for oil operations. In addition, a Member asked Kazakhstan specifically to provide further information on how the world price of crude oil was determined for the purposes of revising the export duty on this product.

538. The representative of Kazakhstan replied that Kazakhstan had introduced a new tax regime for oil operations designed to increase oil revenue from the export of crude oil. The new tax regime for oil operations applied for all contractual obligations, except for Production Sharing Agreements (PSAs) concluded between the Government and subsurface users prior to 1 January 2009 and which had passed the obligatory tax assessment. Subsurface users operating under PSAs were bound by the tax conditions stipulated in the PSAs in accordance with the provisions of the tax legislation which applied on the date the contract had been signed. The conditions of the PSAs were fixed and could not be changed with subsequent changes in legislation without the prior agreement of both parties (see also Chapter II "Economic Policies", Section "Monetary and Fiscal Policy" of this Report).

539. Natural persons and juridical persons (subsurface users), operating under the new tax regime were subject to taxes affecting ordinary tax payers, as well as specific taxes, including a rent tax on the export of crude oil and gas condensate, excess profits tax, minerals extraction tax, corporate income tax and bonuses. The rent tax had been established by Article 303 of Code of the Republic of Kazakhstan No. 99-IV "On Taxes and Other Obligatory Payments to the Budget (Tax Code)" of 10 December 2008 (hereinafter: Tax Code). It was calculated based on the value of exported crude oil and gas condensate, which was set on the basis of the actual volume exported and its market (world) price. The market (world) price of crude oil was determined by multiplying the average of daily price quotations by the average exchange rates of KZT (tenge) to a related foreign currency. Most particularly, price quotations of crude oil in foreign currency of each standard type of crude oil of Brent DTD or Urals MED for the tax period published by "Platts Crude Oil Marketwire" or "Argus Crude" were used for calculation of the rent tax. Rent tax rates ranged from 0% when the world price was US\$20 per barrel to 32% when the world price exceeded US\$200 per barrel. The rent tax applied to all juridical and natural persons engaged in the export of crude oil and gas condensate. The export rent tax was aimed at recovering excess profits from subsurface users.

540. The representative of Kazakhstan confirmed that Kazakhstan would implement, from the date of accession, its tariff concessions and commitments contained in Part V of the Schedule of Concessions and Commitments on Goods of Kazakhstan. Accordingly, products described in Part V of that Schedule would, subject to the terms, conditions or qualifications set-forth in that Part of the Schedule, be exempt from export duties in excess of those set-forth and provided therein. The representative of Kazakhstan further confirmed that Kazakhstan would not apply other measures having an equivalent effect to export duties on those products. She confirmed that, from the date of accession, Kazakhstan would apply export duties in conformity with the WTO Agreement, in particular with Article I of the GATT 1994. Accordingly, with respect to export duties and charges of any kind imposed on, or in connection with exportation, any advantage, favour, privilege or immunity granted by Kazakhstan to any product destined for any other country shall be accorded immediately and unconditionally to the like product destined for the territories of all other WTO Members. The representative of Kazakhstan confirmed that, in the event of a future EAEU common policy on export duties referred to in paragraph 530, Kazakhstan will fully implement its WTO commitments on export duties as set out in Part V of the Schedule of Concessions and Commitments on Goods of Kazakhstan and subject to the terms, conditions or qualifications set-forth in that Part of the Schedule. In particular, section (b) of Part V of the Schedule of Concessions and Commitments on Goods of Kazakhstan provided for the alignment of Kazakhstan's rates with lower rates of the Russian Federation for a number of products in case the competent bodies of the EAEU decide to unify export duties on these tariff lines. Until such unification, Kazakhstan would only be bound by the commitments indicated in section (a) of Part V of the Schedule of Concessions and Commitments on Goods of Kazakhstan. The representative of Kazakhstan confirmed that any changes of its export duties and measures having an equivalent effect would be notified to the WTO providing all relevant information on the day of their publication and in any case at least 30 days before any such changes enter into force. The representative of Kazakhstan confirmed that Kazakhstan would, from the date of accession to the WTO, administer export tariff rate quotas (TRQs) in a manner that is consistent with the WTO Agreement and in particular the WTO General Agreement on Tariffs and Trade 1994 and the

WTO Agreement on Import Licensing Procedures. The Working Party took note of these commitments.

- **Quantitative Export Restrictions, including Prohibitions and Quotas**

541. The representative of Kazakhstan noted that as of 1 January 2015, the legal basis for the application of export restrictions on goods exported to third countries from the EAEU could be found in Annex No. 7 "Protocol on Non-Tariff Measures Concerning Third Countries" to the EAEU Treaty, which replaced the following Agreements: (i) on Common Measures of Non-tariff Regulation in Respect of Third Countries of 25 January 2008; (ii) on the Procedure of Introduction and Implementation of Measures Concerning Foreign Trade in Goods on the Common Customs Territory in Respect of Third Countries of 9 June 2009; and (iii) on the Rules of Licensing in the Area of Foreign Merchandise Trade of 9 June 2009. According to Annex No. 7 to the EAEU Treaty, decisions to apply non-tariff measures on exports from the EAEU member States to third countries were taken by the Commission. By Decision of the Collegium of the Commission No. 134 "On Normative Legislative Acts in the Area of Non-Tariff Regulation" of 16 August 2012, which had replaced Decision of the CU Commission No. 132 "On Common Non-Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation" of 27 November 2009, the Commission had approved the "Common List of Goods that are Subject to Bans and Restrictions on Importation and Exportation by Parties of the Customs Union of the Eurasian Economic Community in Trade with Third Countries" (hereinafter: Common List). The Common List originally had entered into force on 1 January 2010. Among the goods subject to export prohibition were: (i) printed information or information on audio-visual and other devices containing information, which might cause damage to the political or economic interests of the Republic of Kazakhstan, to its State security, to the health and morality of its citizens; (ii) timber, recovered paper, paperboard and wastepaper; and (iii) service or civil weapons, their main parts and cartridges. The representative of Kazakhstan further explained that, according to Parts III and VII of Annex No. 7 to the EAEU Treaty, and in accordance with the national legislation, non-tariff measures could be introduced on exports from the EAEU if those measures were: (i) necessary to prevent or reduce a critical shortage of foodstuffs or other goods considered essential for the domestic market; (ii) necessary to maintain public morals or law and order; (iii) necessary to protect the life or health of citizens, environment, animal and plant life or health; (iv) related to the export of gold or silver; (v) applied to protect cultural valuables and heritage; (vi) required to prevent the exhaustion of exhaustible natural resources and implemented simultaneously with reduction/restriction of the domestic production or consumption associated with the conservation of exhaustible natural resources; (vii) linked to an export limitation of domestic raw materials to provide sufficient quantity of such materials for the domestic processing industry in periods when domestic prices for such materials were lower than the world prices as a result of a stabilization plan implemented by the Government; (viii) essential to acquire or distribute goods in case of their general or local shortage; (ix) essential to comply with international obligations; (x) essential to ensure the defence and security of the State; (xi) necessary to ensure observance of regulatory legal acts consistent with international commitments and related to the application of the customs law, preservation of the environment, protection of intellectual property, and other legal acts; and, (xii) necessary to the application of standards or regulations for the classification, grading or marketing of commodities in international trade.

542. Furthermore, pursuant to Part VIII of Annex No. 7 to the EAEU Treaty, the Commission was authorized to apply quantitative export restrictions and prohibitions to protect the external financial situation and safeguard the balance of payments. For this reason, the Commission was authorized to apply quantitative export restrictions or grant exclusive licenses to import or export based on proposals from EAEU member States.

543. The representative of Kazakhstan explained that as of 1 January 2015, pursuant to Part II of Annex No. 7 to the EAEU Treaty, the authority to impose non-tariff measures on exports from an EAEU member State to third countries had been transferred to the Commission. A proposal to apply a non-tariff measure could be filed by an EAEU member State or by the Commission. The Commission had to take its decision within 30 days from the date the proposal had been submitted. The decision, if positive, would come into force 45 days after the date of its publication. Such non-tariff measures would be applied to goods destined for third countries, and applied equally to exports to all countries.

544. In response to a question from a Member, the representative of Kazakhstan explained that under Part X of Annex No. 7 to the EAEU Treaty, an EAEU member State could unilaterally impose a temporary non-tariff measure, if such a measure was due to the reasons stipulated in paragraphs 541 and 542. Furthermore, an EAEU member State could, pursuant to Part X of Annex No. 7 to the EAEU Treaty, request the Commission to impose non-tariff measures on exports. If the Commission rejected the proposal, the EAEU member State could, under Parts VII and VIII of Annex No. 7 to the EAEU Treaty, impose such measures unilaterally, in conformity with Part X of Annex No. 7 to the EAEU Treaty. Under these provisions, unilateral measures could be imposed for only six months. The EAEU member States not imposing the non-tariff measure were to take the necessary steps to prevent the exportation of the subject good(s) from the EAEU member State applying the non-tariff measures to third countries. EAEU member States not applying the measure were to require licenses and/or permits for exportation of the subject goods from their respective territories.

545. The representative of Kazakhstan further stated that Kazakhstan currently imposed prohibitions on the export of lumber, saw timber, certain wood products, reusable paper, cardboard, raw paper materials and paper waste that were included in the Common List. Asked to confirm whether the prohibition on the export of lumber and saw timber was only applied by Kazakhstan or by all EAEU member States, the representative of Kazakhstan confirmed that this export prohibition was only applied by Kazakhstan. The measure was applied in conjunction with the ban on cutting forest trees in "specially protected natural territories" (SPNTs). The SPNTs included geographical territories of special interest which had environmental, scientific, cultural and recreational value placed under special protection regime (Law No. 175-III "On Specially Protected Natural Territories" of 7 July 2006). The prohibitions were related to conservation of exhaustible natural resources and had been introduced to maintain the ecological balance and prevent deforestation, given Kazakhstan's highly limited reserves of wood. The representative of Kazakhstan considered that this export prohibition was applied in compliance with paragraphs (b) and (g) of Article XX of the GATT 1994, on a non-discriminatory basis, and in a manner which did not constitute a means of disguised restriction on international trade. Goods subject to export restrictions are listed in Annex 6 of this Report.

546. The representative of Kazakhstan added that Kazakhstan currently did not apply any quantitative or other restrictions on the export of grain or any other agricultural products.

547. A Member noted that Kazakhstan had implemented export restrictions on sunflower seeds and wheat until September 2008. This Member enquired as to whether export restrictions on sunflower seeds and wheat were still in place. In this respect, this Member asked the representative of Kazakhstan to explain the justification behind these actions. In response, the representative of Kazakhstan said that, due to the critical shortage of food made from wheat on the domestic market, her Government had applied export restrictions on certain types of wheat in 2008. In particular, the Government had adopted Resolutions "On Export Restrictions of Wheat" No. 343 of 15 April 2008 and No. 777 of 28 August 2008. These Resolutions had remained in effect until 1 September 2008. Government Resolution No. 930 "On Introduction of Amendments and Addenda to Resolution of the Government of Kazakhstan No. 681 of 10 July 2003" of 8 October 2008 had applied export restrictions on sunflower seeds, which had been intended to be in effect until 1 April 2009. However, in February 2009 export prohibitions on sunflower seeds had been repealed. The Government of the Republic of Kazakhstan had adopted Resolution No. 1042 "On Introduction of Ban on Exportation of Certain Goods" of 5 October 2010 for export ban on oilseeds, vegetable oils and buckwheat in order to avoid supply shortages and mitigate price volatility in the domestic market. The Resolution had remained in effect until 18 April 2011. At the moment, export restrictions on agricultural products were not applied in Kazakhstan. Furthermore, she added that Kazakhstan did not require any kind of sanctions/permits/licences applicable to grain exports.

548. In response to the question by a Member concerning temporary bans on exports of petroleum products from the territory of Kazakhstan, the representative of Kazakhstan replied that Resolution of the Government of Kazakhstan No. 713 "On Introduction of Temporary Ban on Export of Light Distillates and Products, Kerosene, Gasoline and other Oil Products" of 27 June 2014 had established the temporary ban on exports of light distillates and products (HS heading 2710 12), middle distillates, kerosene gas oil, diesel oil (HS tariff lines 2710 19 110 0 - 2710 19 480 0, 2710 20 110 0 - 2710 20 190 0) and motor oil (HS tariff line 2710 19 820 0), fluid for hydraulic purposes (HS tariff line 2710 19 840 0), light oil (HS tariff line 2710 19860 0), oil for

gears (HS tariff line 2710 19 880 0), electrical lubricating oil (HS tariff line 2710 19 940 0) and other petroleum products (HS tariff line 2710 20 900 0), except for house heating fuel. She further added that the temporary bans were introduced in order to prevent a critical shortage of goods essential for the domestic market, since domestic oil refineries did not have sufficient technological capacity to fully meet the domestic needs in petroleum products. At the moment, Kazakhstan imported more than 50% of petroleum products consumed within the country. With the objective to eliminate a critical shortage of petroleum products on its market by 2018, in accordance with the Government Resolution No. 567 "On Approval of Complex Plan on Development of Oil and Gas Sector for 2014-2018", Kazakhstan started technological modernization of oil refineries. In her view, the temporary measures applied by Kazakhstan were in full conformity with paragraph 2(a) of Article XI of the GATT 1994.

549. A Member noted that export bans and quantitative restrictions on commercial products were prohibited under the GATT 1994, unless justified under WTO provisions. This Member sought a commitment from Kazakhstan that, from the date of accession, Kazakhstan's export restrictions would be in conformity with WTO provisions, including Article XI of the GATT 1994.

550. The representative of Kazakhstan replied that, upon accession to the WTO, Kazakhstan would apply such quantitative export restrictions only in accordance with Article XI of the GATT 1994 and Article 12 of the WTO Agreement on Agriculture, and would amend its existing legislation to bring its legislation on export restrictions into compliance with the provisions of Article XI of the GATT 1994. She further mentioned that paragraph 15 of Annex No. 7 to the EAEU Treaty incorporated provisions of Article 12 of the WTO Agreement on Agriculture. In addition, her Government had adopted Resolution No. 1404 of 27 December 2004, which had eliminated the export ban on aluminium and nickel waste and scrap.

551. In response to concerns raised by some Members who noted that, although minimum export prices had previously been eliminated, it appeared that the authorities were still operating a system with a similar effect, the representative of Kazakhstan said that Government Resolution No. 994 of 19 July 1997 had eliminated contract registration at the commodity exchange, and that Kazakhstan had no provisions stipulating minimum export prices on grain and, in general, did not apply minimum export prices.

- Export Licensing Procedures

552. The representative of Kazakhstan stated that, as with import licensing, as of 1 January 2015, the legal basis for the export licensing system in Kazakhstan was established in Annex No. 7 to the EAEU Treaty, which replaced the following Agreements: (i) on Common Measures of Non-Tariff Regulation in Respect of Third Countries of 25 January 2008; (ii) on the Procedure of Introduction and Implementation of Measures, Concerning Foreign Trade in Goods on the Common Customs Territory in Respect of Third Countries of 9 June 2009; and, (iii) on the Rules of Licensing in the Area of Foreign Merchandise Trade of 9 June 2009. By Decision of the Collegium of the Commission No. 134 "On Normative Legislative Acts in the Area of Non-Tariff Regulation" of 16 August 2012, which had replaced Decision of the CU Commission No. 132 "On Common Non-Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation" of 27 November 2009, the Commission had approved the "Common List of Goods Subject to Bans and Restrictions on Importation and Exportation by Parties of the Customs Union of the Eurasian Economic Community in Trade with Third Countries" (hereinafter: Common List), which had originally entered into force on 1 January 2010 (Annex 6 of this Report). Kazakhstan confirmed that Annex 6 of this Report was exhaustive and that currently there were no other exports subject to licensing requirements.

553. Among the goods subject to export licensing were: (i) hazardous waste; (ii) collectible materials in mineralogy and paleontology; (iii) wild-growing crude drugs (plants, parts of plants, seeds and fruits); (iv) wild live animals and certain wild growing plants; (v) rare and endangered species of wild animals and wild growing plants and plants thereof and/or derivatives inscribed in the "Red Books" of EAEU member States; (vi) precious metals and gems; (vii) unprocessed precious metals, waste and scrap of precious metals, ores and concentrates of precious metals and commodities containing precious metals; (viii) mineral raw materials (only untreated stones); (ix) drugs substances with psychotropic effects and their precursors; (x) toxic substances, except for precursors of the drugs and substances with psychotropic effect; (xi) special devices for unauthorized obtaining of information; (xii) encryption devices; (xiii) cultural valuables, documents

of the national archive funds, originals of the archive documents; (xiv) human organs and tissues, blood and its components; and, (xv) service and civil weapons, their main parts and cartridges. Currently, no goods were subject to automatic export licensing in Kazakhstan. All goods listed for export licensing in Annex 6 of this Report were subject to non-automatic licensing.

554. The representative of Kazakhstan explained that, according to Part IX of Annex No. 7 to the EAEU Treaty, the Ministry of Investments and Development (Ministry responsible for administration of licenses in Kazakhstan) issued three types of licenses: one-time, general, and exclusive. One-time licenses were issued on the basis of a foreign trade contract related to goods subject to export licensing. General licenses had to be issued upon decision of the Commission. Both types of licenses granted the right to export certain types of goods subject to licensing, in the quantity determined by the licence, and were valid for one year or, for goods with respect to which provisional quantitative restrictions had been introduced, until 1 January of the following calendar year. Exclusive licenses gave the applicant the exclusive right to export certain types of goods. The goods subject to exclusive licensing and the holders of exclusive licenses were to be decided by the Commission. At the moment, Kazakhstan had not issued any exclusive licenses.

555. One-time licenses were issued by the Ministry of Investments and Development, with the exception of licenses for the exportation of military products and goods that could be used to create weapons of mass destruction, means of transportation of such weapons, and other armament and defence technology. Licenses were issued upon receipt of: (i) an application for the licence; (ii) an electronic version of the application; (iii) a copy of the contract; (iv) a copy of a certificate confirming that the applicant was registered by a regional tax authority as a taxpayer; (v) a copy of the activity licence, if applicable; and, (vi) other documents, if so decided by the Commission, pursuant to which a licensing of this product had been introduced.

556. The representative of Kazakhstan explained that in addition to Annex No. 7 to the EAEU Treaty and Commission Decisions, the national legislation of Kazakhstan, including Law No. 214-III "On Licensing" of 11 January 2007, continued to regulate the application of the licensing regime in Kazakhstan.

557. A Member also requested more information regarding the procedures for issuance of export licenses and the applied fees related to these procedures. In response, the representative of Kazakhstan stated that procedure used for export licensing was identical to the procedure used for import licensing (for further details, see Chapter IV "Policies Affecting Trade in Goods", Section (A) "Import Regulations", Sub-section "Quantitative Import Restrictions, including Prohibitions, Quotas and Licensing Systems" of this Report). With regard to export licensing fees, Kazakhstan applied uniform import/export licensing fees in relation to all goods. According to Code of the Republic of Kazakhstan No. 99-IV "On Taxes and Other Obligatory Payments to the Budget (Tax Code)" of 10 December 2008 (hereinafter: Tax Code), the import/export licensing fee was equal to 10 Monthly Calculation Index (MCI). In 2014, the import/export licensing fee was equal to KZT 18,520 (approximately US\$100) and the fee for re-issuance of licence was equal to KZT 1,852 (approximately US\$10).

558. The representative of Kazakhstan added that the export of certain flora and fauna species under threat of extinction, listed in Appendices I, II and III of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) was subject to export permits issued in Kazakhstan.

559. The representative of Kazakhstan confirmed that, from the date of accession, quantitative restrictions on exports or restrictions on the sale for export of goods, such as quotas, bans, permits, prior authorization requirements, licensing requirements (including the requirements listed in Annex 6 of this Report), domestic market supply requirements or measures having equivalent effect that could not be justified under the provisions of the WTO Agreement, would be eliminated and not introduced, re-introduced or applied, whether by Kazakhstan or the competent bodies of the EAEU. She further confirmed that discretionary authority to temporarily ban exports or otherwise restrict exports, whether exercised by Kazakhstan or the competent bodies of the EAEU, would be applied from the date of accession in conformity with the provisions of the WTO Agreement. She also confirmed that, if Kazakhstan took recourse to Article XX(i) of the WTO General Agreement on Tariffs and Trade 1994, with respect to any measures, whether applied by Kazakhstan or the competent bodies of the EAEU, restricting exports of domestic materials necessary to ensure essential quantities of such materials to a domestic or EAEU processing

industry, such measures would not operate to increase the exports of or the protection of such industry. The Working Party took note of these commitments.

C. INTERNAL POLICIES AFFECTING FOREIGN TRADE IN GOODS

- Industrial Policy, including Subsidies

560. The representative of Kazakhstan stated that Article 93 "Industrial Subsidies" and Annex No. 28 "Protocol on Common Rules for Granting Industrial Subsidies" of the EAEU Treaty from 1 January 2015, established basic rules for granting industrial subsidies within the framework of the EAEU. These provisions replaced the Agreement on Common Rules for Granting Industrial Subsidies between the Republic of Kazakhstan, the Republic of Belarus and the Russian Federation of 9 December 2010 which had entered into force as of 1 January 2012 within the framework of the Single Economic Space, which was terminated when the EAEU Treaty came into effect on 1 January 2015. Article 93 and Annex No. 28 to the EAEU Treaty were aimed at ensuring a level playing field for companies operating within the EAEU in the absence of trade barriers. Article 93 and Annex No. 28 to the EAEU Treaty incorporated the main principles of the WTO Agreement on Subsidies and Countervailing Measures, and stipulated procedures for notification of specific subsidies, monitoring, disputesettlement, and conducting investigations by national authorities. From 1 January 2017, EAEU member States could request the Eurasian Economic Commission (hereinafter: EEC or Commission) for approval of their specific subsidies. The approved subsidies could not be challenged by other member States. She further added that provision of subsidies in Kazakhstan was regulated by budget, tax, customs and investment legislation. State support to the industrial sector of Kazakhstan's economy was mainly provided from the republican (central) budget. In response to the questions of some Members of the Working Party about the objective, criteria and guidelines that governed the availability of regional subsidies and their use by regional bodies, the representative of Kazakhstan explained that, in accordance with Budget Code of the Republic of Kazakhstan No. 95-IV of 4 December 2008, regional subventions were official transfers from higher-level to lower-level budgets, received within the limits of approved amounts in the republican or regional budgets, for the purpose of carrying out public services, such as development and maintenance of local infrastructure, running schools, and making social income support payments unrelated to the production of goods.

561. The representative of Kazakhstan added that State support to the industrial sector was aimed mainly at attracting investment into priority sectors of the economy, development of innovative industries, support of small and medium enterprises and development of regions. The main instruments of State support included: (i) investment preferences in the form of tax and customs duty exemptions on imports; (ii) in-kind State grants; (iii) preferences on land tax and property tax for juridical persons implementing strategic investment projects; (iv) subsidization of interest rates on commercial loans and providing partial guarantees of loans; (v) leasing on preferential terms; (vi) development of industrial infrastructure; (vii) industrial preferences for juridical persons implementing strategic investment projects in socially and economically disadvantaged regions; (viii) service support of businesses; (ix) tax deferrals; and (x) innovation grants.

562. A Member asked Kazakhstan to provide more details on corporate income tax preferences provided to industries investing in the petrochemical sector and on special tax treatment for companies primarily engaged in information technology research and development, which operated in special economic zones (SEZs). This Member also requested more information on the benefits provided for investment and industrial activities in Code of the Republic of Kazakhstan No. 99-IV "On Taxes and Other Obligatory Payments to the Budget (Tax Code)" of 10 December 2008 (hereinafter: Tax Code). The representative of Kazakhstan replied that application of a preferential tax regime for industries engaged in the petrochemical sector was aimed at diversification of the national economy through development of processing industries. She acknowledged that previously a preferential corporate income tax regime had been provided to companies in the petrochemical sector, in cases where 90% of the company's income had been generated from refining oil and gas resources produced in Kazakhstan. However, this provision had been eliminated by Law No.89-III "On Amendments and Addenda to Certain Legislative Acts on Issues of Taxation" of 22 November 2005. She further stated that tax and customs duty exemptions granted to companies registered in SEZs were discussed in Chapter IV "Policies Affecting Trade in Goods", Section (C) "Internal Policies Affecting Foreign Trade in Goods", Sub-section "Free Zones, Special Economic Areas" of this Report.

563. With respect to "soft loans", i.e., loans with subsidized interest rates, from Kazakhstan's ExImBank, some Members of the Working Party expressed specific concerns that, to the extent that these loans were contingent upon export or import substitution, they could constitute a prohibited subsidy under Article 3.1 of the WTO Agreement on Subsidies and Countervailing Measures (hereinafter: SCM Agreement). Kazakhstan was asked to confirm that the financing provided by the ExImBank conformed to the rules set out in items (j) and (k) of Annex I of the WTO SCM Agreement. In response, the representative of Kazakhstan explained that, pursuant to Decree of the President of Kazakhstan No. 1815 "On Establishment of the State Export - Import Bank of the Republic of Kazakhstan" of 16 July 1994, the main functions of the ExImBank had consisted of borrowing on international capital markets under State guarantee and providing loans on the domestic market. Uniform terms and conditions had been applied by the ExImBank in financing enterprises engaged in priority sectors of the economy. For example, companies had received loans from the ExImBank for the following purposes: (i) importation of agricultural equipment and machinery for the production of sugar beet; (ii) importation of equipment for construction projects and production of construction materials; (iii) importation of fertilizers; (iv) construction of electric power plants and pump producing plants; and (v) food processing. The ExImBank had financed three- to five-year investment projects, at a 6% interest rate, and with a grace period of two to three years. She stated that the provision of loans had not been contingent upon export performance or import substitution requirements. Since 2004, the ExImBank had been privatized and no longer operated on behalf of the Government, nor received any Government guarantees for loans extended to the ExImBank. It now provided general banking services in the market as any other commercial bank of Kazakhstan.

564. Referring to a statement made by the representative of Kazakhstan regarding "soft loans" granted to support extraction and exportation of non-ferrous products and gold by the Development Bank of Kazakhstan, some Members of the Working Party requested further information on the nature of the financing (e.g., benefits to exports) provided by this Bank. Kazakhstan was asked to confirm that the financing provided by the Development Bank conformed to the rules set out in item (k) of Annex I of the WTO SCM Agreement. The representative of Kazakhstan replied that the terms for financing export operations by the Development Bank were regulated by Law No. 178-II "On the Development Bank of Kazakhstan" of 25 April 2001 (hereinafter: Law "On the Development Bank"). She stated that for the provision of financial services, the Development Bank used funds borrowed on domestic and international capital markets on commercial terms. Moreover, pursuant to Article 12 of Law "On the Development Bank", the interest rates charged for loans were based on the average cost of borrowing and operating costs of the Bank. Thus, on legal grounds, the Bank was prevented from subsidizing the interest rates charged on its loans. She stated that the Bank's financing of companies, including its loans for export operations, could not, in her view, be considered as export subsidies within the scope of Article 3.1 and Annex I of the WTO SCM Agreement.

565. A Member noted that Kazakhstan applied a system of decreasing (discount) coefficients on tariffs for railway transportation, which appeared to provide tariff reductions to producers of sulphuric acid and iron ore products, and was only available for export transportation. This Member stated that, to the extent that these incentives were contingent upon export (even if this was not necessarily the specific goal of the legislation), they could constitute prohibited export subsidies under Article 3.1 of the WTO SCM Agreement. This Member asked Kazakhstan to explain how it planned to bring this programme into compliance with WTO provisions. The representative of Kazakhstan replied that the use of decreasing coefficients on tariffs for railway transportation of sulphuric acid, which was a by-product of the refining process and not demanded domestically, and iron ore had not been implemented to support exports of domestic goods. A temporary decreasing coefficient had been applied for transportation of sulphuric acid on export routes, to address a potential negative environmental impact in Kazakhstan. However, since 2003 no decreasing coefficients had been applied for transportation of sulphuric acid. A decreasing coefficient on the transportation of iron ore had been applied due to the high volume of iron ore transported by railway. The representative of Kazakhstan further explained that a temporary 0.25 decreasing coefficient had been applied from 22 February to 31 December 2004 for transportation of iron ore on export routes. Since then decreasing (discount) coefficients had not been applied on the transportation of iron ore in Kazakhstan.

566. The representative of Kazakhstan added that in 2004, by Order of the Acting Chairman of the Agency On Regulation of Natural Monopolies and Protection of Competition No. 375-OD of 8 September 2004, "Rules Governing Application and Discontinuation of Temporary Decreasing

Coefficients on Tariffs for Mainline Railway Transportation" had been adopted. These new rules affected only the services provided using the mainline railway network, which qualified as a natural monopoly. Temporary decreasing coefficients only applied under any of the following conditions: (i) the volume of transportation of the good by railway exceeded, or was equal to the actual volume of transportation of this good during a similar period in the preceding year; (ii) idle/under-utilised segments of the mainline railway network would be used; (iii) the good was a by-product of industrial production and presented an environmental hazard; (iv) to provide equal tariff conditions for access to regulated services of the mainline railway network and railway transportation facilities under concession agreements; and (v) transportation of passengers was socially important. Once established, decreasing coefficients for railway transportation of a particular type of goods applied on a temporary basis to all entities (consignors) transporting these goods and were valid for all destinations, including domestic, export and import routes. The representative of Kazakhstan stated that the criteria used for the application of decreasing coefficients on tariffs charged for the mainline railway transportation services were not contingent, in law or in fact, upon exportation or the use of domestic over imported goods. In her view, as such, these measures could not be viewed as providing a prohibited subsidy within the meaning of Article 3 of the WTO SCM Agreement and Article XVI of the GATT 1994. She added that other aspects of railway tariffs were addressed in Section "Pricing Policies" of this Report.

567. Some Members of the Working Party noted that Kazakhstan provided tax exemptions for exporters of yellow phosphorus, ground phosphate rock and phosphate fertilizer, and expressed concern that these tax exemptions were contingent upon export and thus prohibited under Article 3 of the WTO SCM Agreement. In response, the representative of Kazakhstan said that "Kazphosphat" Ltd. was engaged in a priority sector of the economy and had received investment preferences in the form of 50% reduction of corporate income tax until 31 August 2008, and 50% reduction of property and land taxes until 2007, in accordance with investment contracts concluded in 1999-2000. No such preferences had been provided since 2008. She confirmed that the criteria used for granting these tax preferences were not contingent, in law or in fact, upon export performance or the use of domestic over imported goods, rather on the strategic importance of the industry for diversification of the national economy.

568. In response to concerns raised by some Members of the Working Party, who noted that tax exemptions had been granted under Law No. 75-I "On State Support to Direct Investments" of 28 February 1997, the representative of Kazakhstan said that Law No. 75-I and Law No. 266-XIII "On Foreign Investments" of 27 December 1994 had been abolished and replaced by Law No. 373-II "On Investments" of 8 January 2003. She acknowledged that tax preferences granted prior to the adoption of the new Law "On Investments" remained in effect until the expiration of the terms of the contracts signed between the authorized body and investors (i.e., by early 2009 for the last remaining contracts). The new Law did not contain requirements concerning the minimum volume of investments to be made in order to be eligible for investment preferences. She added that the detailed information on the investment preferences granted under Law "On Investment" was contained in Section "Investment Regime" of this Report.

569. Some Members of the Working Party requested Kazakhstan to provide comprehensive information on subsidies that would have to be notified under Article 25 of the WTO SCM Agreement. In particular, Kazakhstan was asked whether there had been any administered programmes, other than the ones described in the preceding paragraphs, which provided industrial incentives or met the definition of a specific subsidy. The representative of Kazakhstan responded that there were a number of other investment and industrial incentives provided for in Kazakhstan's National Programme of Accelerated Industrial and Innovative Development for 2010-2014 approved by Decree of the President of Kazakhstan No. 1958 of 19 March 2010, including tax incentives, grants, research and development funding and concessional lending through the Development Bank of Kazakhstan and second-tier banks in priority sectors aimed at diversification of the national economy. More specifically, Law No. 534-IV "On State Support of Industrial and Innovative Activities" of 9 January 2012 defined state measures aimed at supporting industrial and innovative projects, i.e., projects aimed at transfer of technologies, and creation of new and improved productions, technologies, goods and services.

570. A Member expressed the view that some of the sectoral plans under the National Programme of Accelerated Industrial and Innovative Development for 2010-2014 - and more specifically, the plan for "granting of financial stimulation for improvement of export of Kazakhstan's mechanical engineering products" - might contain export contingent elements.

This Member added that to the extent that incentives under the programme were export contingent, they would appear to be prohibited, as provided under Article 3 of the WTO SCM Agreement. This Member asked how Kazakhstan planned to bring this programme into compliance with the WTO SCM Agreement prior to accession.

571. The representative of Kazakhstan replied that the National Programme on Accelerated Industrial and Innovative Development for 2010-2014 was a framework document that established the main directions and objectives of industrial and innovative development of Kazakhstan for 2010-2014. The Programme outlined priority sectors for development, established objectives and targets in each of these sectors and outlined instruments that could be used to achieve these objectives and targets. Concrete mechanisms aimed at implementing the objectives set in the National Programme were provided in separate legal acts and programmes such as the Programme "Business Road Map - 2020", the Programme "Productivity - 2020", and the Programme on Investment Attraction, Special Economic Zone Development and Export Promotion in the Republic of Kazakhstan for 2010-2014. In this regard, "financial stimulation for improving exports of Kazakhstan's mechanical engineering products" described a general target that had to be followed, but it did not prescribe a precise subsidy mechanism. Financial stimulation, in this case, meant that producers of machinery products in Kazakhstan would receive subsidies that would allow producers to enlarge their production and improve the quality of their products so they could sell their products not only on the domestic market, but could also export these products. Specific subsidy schemes for mechanical engineering products were envisaged under the Programme "Productivity - 2020", the Programme "Business Road Map - 2020", as well as preferences within special economic zones (SEZs) and the free warehouse customs regimes. She stressed that these programmes did not provide for prohibited export subsidies.

572. The Programme "Business Road Map - 2020", approved by Government Resolution No. 301 of 13 April 2010, provided a set of measures aimed at the development of new processing industries and the modernization of existing ones. The Programme envisaged Government support in the form of partial guarantees for and subsidization of interest rates on commercial loans, development of industrial infrastructure, and service support of businesses. The Programme "Productivity - 2020", approved by Government Resolution No. 254 of 14 March 2011, was aimed at increasing the competitiveness of industrial enterprises in priority sectors of the economy through increasing labour productivity. The main mechanisms envisaged in this programme included innovation grants, financial leasing, grants for introduction of modern administrative and industrial technologies, grants for financing the development and expertise of comprehensive investment project plans. Business entities and entrepreneurs that had been implementing or planned to implement investment projects in non-extractive and priority sectors of the economy were eligible to receive preferences under these programmes.

573. To implement these programmes, Kazakhstan had established special development institutions and funds, including the Kazakhstan Investment Fund; the National Innovation Fund; and the "Damu" Entrepreneurship Development Fund. The representative of Kazakhstan added that Kazakhstan had made available to the Working Party the information on all of its subsidies under Article 25 of the WTO SCM Agreement in the form of notifications.

574. A Member stated that, according to the Programme "Productivity-2020", it appeared that participants of the Programme could be enterprises operating in a priority sector of the economy and performing activities aimed *inter alia* at being "export oriented". To the extent that incentives under this Programme were export contingent, they would appear to be prohibited, as provided under Article 3 of the WTO SCM Agreement.

575. In response, the representative of Kazakhstan stated that entrepreneurs that met the following criteria could be eligible to receive subsidies under the Programme "Productivity - 2020":

- implementing and/or planning to implement investment projects in priority sectors of the economy listed in Annex 1 to the Programme;
- implementing and/or planning to implement production of goods listed in Annex 2 to the Programme, excluding entrepreneurs implementing investment projects in the sphere of rendering services on maintenance and installation of machines and equipment;
- being financially stable (having no overdue debt on all kinds of obligations to the bank(s) or bank affiliate(s) and absence of tax debts, etc.);

- presenting a comprehensive project implementation plan containing the following information:
1. financial return on the investment project;
 2. increase in productivity; and,
 3. competitiveness of the product.

576. The representative of Kazakhstan added that eligibility criteria under the Programme "Productivity-2020" did not include local content or export performance requirements. Thus, the subsidies provided under this Programme did not fall under the category of prohibited subsidies.

577. A Member asked Kazakhstan to provide more information on the programmes aimed at export promotion, including trade financing and insurance, and service support of exports. This Member also enquired whether the terms of trade financing and insurance for export were coordinated with international norms for this kind of support.

578. The representative of Kazakhstan responded that Government Resolution No. 1017 "On Approval of Rules of Partial Reimbursement of Costs to Entities of Industrial and Innovative Activity on Promotion of Domestically Processed Goods, Services to External Markets, List of Domestically Processed Goods and Services Subject to Partial Reimbursement of External Markets Promotion Costs, and the Repeal of Some Resolutions of the Government of the Republic of Kazakhstan" of 2 August 2012 (hereinafter: Government Resolution No. 1017) provided for partial reimbursement (50%) of expenses borne by companies engaged in industrial and innovative activities for promoting their goods and services abroad. The following expenses could be partially compensated: marketing research, advertising costs, participation in foreign exhibitions, maintenance of overseas representatives, training of specialists, and registration of products and trademarks abroad. The aim of the subsidy was to promote Kazakhstan's products in global markets. At the same time, there was no requirement for these companies to export a certain amount of their products. Thus, the conditions for receiving the subsidy were not contingent upon export performance and, correspondingly, the subsidy did not fall under the category of prohibited export subsidies in accordance with Article 3 of the WTO SCM Agreement.

579. Regarding the service support for exporters, the representative of Kazakhstan explained that it included a number of services aimed at supporting medium and small businesses in their ongoing and potential foreign trade activities. The services included *inter alia* marketing and analytical assistance, provision of information on demand in foreign markets, organization of launch events for promoting trademarks of Kazakhstan's producers. In her view, the service support could not be considered as a prohibited subsidy because the scheme did not involve a financial contribution by the Government to specific enterprises or industries that was contingent upon export performance.

580. The representative of Kazakhstan added that state support for financing export operations was provided through JSC Export-Credit Insurance Corporation KazExpoGarant and included the following instruments: (i) export credit insurance against commercial and political risks arising during implementation of export contracts with foreign importers; and, (ii) provision of post-export financing (export credits). These financing instruments were provided based on international practices, including the OECD Arrangement on Officially Supported Export Credits. Thus, in her view, they were compliant with the rules and norms of the WTO SCM Agreement.

581. A Member asked Kazakhstan to provide more information on the Programme on Investment Attraction, Special Economic Zone Development and Export Promotion in the Republic of Kazakhstan for 2010-2014, including information on the eligibility criteria for companies to receive incentives under this Programme, focusing on export promotion programmes. The Member also expressed concern that the Programme listed as one of its tasks the "financial backing of exporters" and two of its target indicators set to be reached by 2015 were: (i) ensuring the export of at least 50% of the increased output of the SEZs; and (ii) increasing non-primary exports by at least 40%. The Member sought specific assurances that none of the financial backing of exporters in this or Kazakhstan's other development programmes was intended to ensure or support the attainment of specific export performance targets of the recipient firms.

582. The representative of Kazakhstan replied that most of the measures aimed at promoting investments and exports envisaged in the Programme on Investment Attraction, Special Economic Zone Development and Export Promotion in the Republic of Kazakhstan for 2010-2014, approved by Government Resolution No. 1145 of 30 October 2010, did not represent a subsidy in accordance with the definition provided in the WTO SCM Agreement. These measures included: (i) activities to assess the effectiveness of measures undertaken by the Government to improve the business climate; (ii) improvement of customs and border service activities; (iii) improvement of conditions of stay of foreign labour on the territory of Kazakhstan; (iv) monitoring the relevant government authorities' work with investors; (v) development of legal acts; (vi) service support for exporters; (vii) organization of trade missions and fairs abroad; and, (viii) publishing brochures and books on Kazakhstan's producers and their products. She further explained that "financial backing of exporters" in the Programme referred to the state support of financing export operations through JSC Export Credit Insurance Corporation "KazExpoGarant" described in paragraph 580. The target indicators: "to ensure the export of at least 50% of the increased output of the SEZs" and "to increase non-primary exports by at least 40%", set to be reached by 2015, did not involve export subsidies. These were general targets for implementation of the Programme, and as such, they were not used as a condition for a particular subsidy measure. She added that the main purpose for establishing SEZs was the diversification of the economy through facilitating production of high value-added goods. Therefore, State support measures provided within SEZs included tax and customs duty preferences aimed at attracting investments and stimulating production that were not contingent upon export performance. Detailed description of preferences applied in SEZs was provided in Chapter IV "Policies Affecting Trade in Goods", Section (C) "Internal Policies Affecting Foreign Trade in Goods", Sub-section "Free Zones, Special Economic Areas" of this Report. The representative of Kazakhstan further confirmed that preferences stipulated in Kazakhstan's development programmes, including the Programme on Investment Attraction, Special Economic Zone Development and Export Promotion in the Republic of Kazakhstan for 2010-2014, were not contingent upon export performance, therefore, in her view, they did not represent prohibited export subsidies.

583. A Member expressed concern with regard to Kazakhstan's two subsidy programmes: "Business Road Map 2020" and Government Resolution No. 1017. In his view, certain aspects of these programmes appeared to constitute prohibited export subsidies in accordance with the WTO SCM Agreement. This Member sought Kazakhstan's review of this legislation and amendment prior to conclusion of the negotiations to eliminate the possibility of prohibited subsidization. In response, the representative of Kazakhstan explained that in order to bring its subsidy programmes into compliance with the WTO SCM Agreement, the Government of Kazakhstan was working on introduction of amendments to these two legislative acts. In particular, the target indicators in relation to export promotion and other references to export performance would be excluded from the Programme "Business Road Map 2020". Government Resolution No. 1017 would be abolished. These amendments would be enacted by the date of Kazakhstan's accession to the WTO.

584. A Member asked Kazakhstan to confirm that it would eliminate all prohibited subsidies within the meaning of Article 3 of the WTO SCM Agreement and Article XVI of the GATT 1994, at all levels of the Government, which were contingent upon export performance or the use of domestic over imported goods as of the date of accession. Kazakhstan was also asked to confirm that it would administer any subsidy programmes in place or established after accession at all levels of the Government in conformity with the WTO SCM Agreement. This Member requested Kazakhstan to provide a draft of its subsidies notification under Article 25 of the WTO SCM Agreement to the Working Party for review, noting that it would be difficult to conclude discussions on this Sub-section: "Industrial Policy, including Subsidies", without it.

585. The representative of Kazakhstan confirmed that, except as otherwise provided in the Working Party Report, upon accession, Kazakhstan would eliminate all subsidies programmes, including provisions contained in its development programmes, administered within its territory falling within the scope of Article 3.1 of the WTO Agreement on Subsidies and Countervailing Measures or modify these programmes so that any subsidy provided would not be contingent, *de jure* or *de facto*, upon export performance, or on the use of domestic over imported goods. She also confirmed that any subsidy programme in place or established after accession within the territory of Kazakhstan would be administered in conformity with the WTO Agreement on Subsidies and Countervailing Measures. In addition, the Republic of Kazakhstan would provide a subsidies notification prepared in accordance with Article 25 of the WTO Agreement on Subsidies and

Countervailing Measures to the WTO Committee on Subsidies and Countervailing Measures as provided for in Table 4 of this Report. She also confirmed that Kazakhstan would not invoke any of the provisions of Articles 27 and 28 of the WTO Agreement on Subsidies and Countervailing Measures. The Working Party took note of these commitments.

- **Technical Barriers to Trade, Standards and Certification**

(a) **Legal Framework**

586. The representative of Kazakhstan said that her country's legal framework for technical regulations, standards and conformity assessment systems had been governed by the national legislation of Kazakhstan until 1 January 2010. At that time, international agreements of the Customs Union (CU) and other CU legal instruments also had become relevant. As of 1 January 2015, the CU legal instruments were incorporated into the EAEU legal framework, including technical regulations of the CU which became technical regulations of the EAEU. This legal framework required certain products circulating in the territories of the EAEU member States to meet established technical regulations, as well as sanitary and phytosanitary (SPS) requirements established as technical regulations. In particular, trade (including both importation and circulation in the domestic market) in products on the territory of Kazakhstan could be restricted or banned if the products in question did not meet these requirements. The EAEU member States had agreed to harmonize their policies and regulatory systems in the area of technical regulation and to intensify their cooperation in this area within the framework of the EAEU. The goal of this harmonization was to ensure uniform requirements for the circulation of goods within the territories of the EAEU member States in the area of technical regulation, through common technical regulations of the EAEU. These technical regulations were applied directly in the territory of Kazakhstan, and no separate national legislation was necessary. The provisions of the EAEU Treaty and other EAEU legal instruments were based on the WTO Agreement on Technical Barriers to Trade (hereinafter: TBT Agreement), and technical regulations were applied with the purpose of protecting human life and/or health, property, environment, animal and plant life and/or health, and preventing actions that might mislead consumers, as well as for the purpose of ensuring energy efficiency and saving resources. The representative of Kazakhstan emphasized that technical regulations adopted and applied within the EAEU were not adopted for any other purposes.

587. The representative of Kazakhstan stated that the legal basis for the common policy was Section X "Technical Regulation" and Annexes Nos. 9-11 of the EAEU Treaty. These provisions replaced the CU Agreement on Uniform Principles and Rules of Technical Regulation in the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation of 18 November 2010; and the CU Agreement on the Circulation of Goods Subject to Mandatory Conformity Assessment on the Customs Territory of Customs Union of 11 December 2009, which were terminated when the EAEU Treaty came into effect on 1 January 2015. The Regulation on Development, Adoption, Amendment and Cancellation of Technical Regulations of the Customs Union adopted by EEC Council Decision No. 48 of 20 June 2012 (hereinafter: EEC Council Decision No. 48) remained in force. From 1 January 2015 these provisions of the EAEU Treaty and EEC Council Decision No. 48 established the main instruments of the common policy applied in Kazakhstan in the following areas:

- harmonization of national legislation in the area of technical regulation;
- development and adoption of technical regulations of the EAEU stipulating mandatory and binding requirements for the goods subject to technical regulation;
- implementation of common procedure on development of technical regulations in the territory of each EAEU member State;
- harmonization of standards and the implementation of relevant international standards as a basis for the elaboration of technical regulations;
- implementation of common forms and rules for conformity assessment;
- conducting conformity assessment (confirmation of compliance) of products or product-related production processes, installation, setup, operation (use), storage, carrying (transportation), sale and disposal, including testing and certification;
- accreditation of certification (confirmation of compliance) bodies and test laboratories (centres) participating in the process of mandatory confirmation of conformity; and,
- coherent policies in the area of traceability.

588. She added that paragraph 7 of Annex No. 9 "Protocol on Technical Regulation within the Eurasian Economic Union" to the EAEU Treaty provided for the development of a unified list of goods subject to mandatory conformity assessment within the EAEU for which it was possible to issue a certificate and to register a declaration of conformity assessment using a common form during the transition period, until the adoption of technical regulations of the EAEU. The unified list had been established by CU Commission Decision No. 319 "On Technical Regulation in the Customs Union" of 18 June 2010 (hereinafter: CU Commission Decision No. 319) and later replaced by CU Commission Decision No. 620 "On the New Version of the Unified List with Regard to Products Subject to Mandatory Conformity Assessment (Confirmation of Compliance) within the Framework of the Customs Union with Issuance of Single Documents, approved by CU Commission Decision No. 319 of 18 June 2010" of 7 April 2011 (hereinafter: Unified List approved by CU Commission Decision No. 620). The Unified List included products for which the EAEU member States: (i) established similar mandatory requirements; (ii) used similar conformity assessment schemes; and, (iii) used similar or comparable testing and measurement methods. Initially, in accordance with paragraph 2 of Explanatory Note 1 to the Unified List approved by CU Commission Decision No. 620, a declaration of conformity based on the EAEU common form could not be used for goods produced by foreign manufacturers located outside the territory of the EAEU. However, CU Commission Decision No. 620 still provided for the possibility of using a certificate of conformity for such goods based on the EAEU common form. In Kazakhstan, a declaration of conformity for goods manufactured outside of Kazakhstan could be done under Law No. 603-II "On Technical Regulation" of 9 November 2004 (hereafter: Law "On Technical Regulation").

589. Some Members expressed concern that under CU Commission Decision No. 620 foreign manufacturers not located on the territory of the EAEU, in contrast to manufacturers located within the territory of the EAEU, did not have the option to use declarations of conformity based on the EAEU common form. For these Members, this constituted discrimination in breach of the WTO TBT Agreement. These Members sought a commitment that Kazakhstan, by the date of its accession, would eliminate this discriminatory treatment.

590. The representative of Kazakhstan confirmed that in order to comply with the WTO TBT Agreement, and in particular Article 2.1 thereof, discriminatory treatment had been eliminated through the amendment of CU Commission Decision No. 620 "On the New Version of the Unified List of Products Subject to Mandatory Conformity Assessment (Confirmation of Compliance) within the Framework of the CU with Issuance of Single Documents, approved by CU Commission Decision No. 319 of 18 June 2010" of 7 April 2011, to ensure that foreign manufacturers not located within the territory of the EAEU would be able to demonstrate the conformity of the products imported into the territory of the EAEU through use of declarations of conformity using the EAEU common form. The Working Party took note of this commitment.

591. The representative of Kazakhstan clarified that the amendments to CU Commission Decision No. 620, which provided for a possibility for foreign manufacturers located outside the EAEU territory to demonstrate the conformity of products imported into the EAEU territory through the use of declaration of conformity of the EAEU common form, did not affect the possibility for foreign manufacturers to issue declaration of conformity in accordance with national legislation of the EAEU member States (i.e., in Kazakhstan - in accordance with Law "On Technical Regulation"). Currently, in accordance with CU Commission Decision No. 620, depending on where the product was going to be circulated – in Kazakhstan or the EAEU, at the applicant's choice, conformity of goods produced by foreign manufacturers located outside the EAEU territory could be demonstrated either through the use of declaration of conformity of the EAEU common form, or declaration of conformity in accordance with the national legislation of the EAEU member State.

592. The representative of Kazakhstan further explained that CU Commission Decision No. 319 also determined the criteria for inclusion of conformity assessment bodies and testing laboratories in the Unified Register of Certification Bodies and Testing Laboratories of the CU (hereinafter: Unified Register) and established the rules for development and maintenance of the Unified List approved by CU Commission Decision No. 620 and the Unified Register by national authorized bodies. CU Commission Decision No. 319 also established the regulations for importation of products listed in the Unified List approved by CU Commission Decision No. 620. Currently, the new "Regulation on the Procedures for Importation to the Customs Union Territory of Goods (Products) in Respect of which Mandatory Requirements are Established within the Customs Union" had been adopted by EEC Collegium Decision No. 294 of 25 December 2012 (hereinafter:

Regulation on Procedures for Importation of Goods). Annex No. 11 "Protocol on Acceptance of the Results of Works on Accreditation of the Conformity Assessment Bodies" to the EAEU Treaty, which replaced the Agreement on Mutual Recognition of Accreditation of Certification (Assessment (Confirmation of Compliance)) Bodies and Test Laboratories (Centres) that Perform Work on the Assessment (Confirmation of Compliance) of 11 December 2009, stipulated the principles for a common EAEU system of mutual recognition of accreditation, the responsibilities of the accreditation bodies of the EAEU member States, and general principles of accreditation, pending gradual replacement of this mutual recognition system by adoption and application of common technical regulations of the EAEU by the EAEU member States.

593. A Member asked Kazakhstan to provide more information on the provisions of the new regulation governing importation of products to the EAEU territory. In response, the representative of Kazakhstan said that the Regulation on Procedures for Importation of Goods established unified procedures for importation of products, included in: (i) the Unified List of Products, in Respect of Which Mandatory Requirements are Established within the Framework of the Customs Union, approved by CU Commission Decision No. 526 of 28 January 2011 (hereinafter: Unified List of Products approved by CU Commission Decision No. 526); (ii) the Unified List approved by CU Commission Decision No. 620; and, (iii) the lists of products for which a customs declaration had to be submitted to customs authority along with a document confirming compliance with mandatory requirements. The Regulation on Procedures for Importation of Goods elaborated in detail the provisions of the currently applied regulation, adopted by CU Commission Decision No. 319. The Regulation on Procedures for Importation of Goods stipulated the list of customs procedures, under which customs authorities required submission of documents confirming compliance of products (goods) with mandatory requirements or information about such documents (production for domestic consumption, temporary importation, free customs zone, free warehouse, re-import). Moreover, the Regulation on Procedures for Importation of Goods specified categories of products (goods), for which submission of documents confirming the compliance of products (goods) with mandatory requirements or information concerning such documents was not required. These categories, for example, included used goods, and goods imported in limited quantities for personal use or for scientific research purposes.

594. A Member asked Kazakhstan to clarify the difference between the Unified List approved by CU Commission Decision No. 620 and the Unified List approved by CU Commission Decision No. 526. The representative of Kazakhstan replied that the Unified List approved by CU Commission Decision No. 620 was provisionally applied in order to ensure free movement of goods on the EAEU territory until adoption of relevant technical regulations of the EAEU. It included products for which EAEU member States:

- established similar mandatory requirements;
- used similar conformity assessment schemes; and,
- used similar or comparable testing and measurement methods.

595. In accordance with the Explanatory Notes to the Unified List approved by CU Commission Decision No. 620, for products included in the list, at the applicant's choice, certificates of conformity or declarations of conformity of the EAEU common form, or certificates of conformity or declarations of conformity issued according to the national legislation of the EAEU member States, could be used. Products included in the Unified List approved by CU Commission Decision No. 620 could move freely within the entire EAEU territory if they had undergone conformity assessment procedures in one of the EAEU member States and the following conditions were met:

- certificates of conformity or declarations of conformity of the EAEU common form were issued;
- the certifying body was included in the Unified Register of Certification Bodies and Testing Laboratories of the EAEU; and,
- the testing laboratory was included in the Unified Register of Certification Bodies and Testing Laboratories of the EAEU.

She further clarified that in accordance with CU Commission Decision No. 620, as amended by EEC Collegium Decision No. 69 of 13 May 2014, applicants had an opportunity to choose between the conformity confirmation documents of the EAEU common form or conformity confirmation documents issued in accordance with the legislation of the EAEU member States. However, the form of conformity assessment that could be used for a particular product, i.e., whether it had to

be declaration of conformity or certification, was established in the Unified List approved by CU Commission Decision No. 620 and it was not per applicant's choice. In particular, in the Unified List for each product there was reference indicating what form of the conformity assessment procedures had to be used: (i) certification; (ii) declaration of conformity based on evidence acquired with the third party participation; and (iii) declaration of conformity based on applicant's own evidence. Conformity assessment form for each product was established based on the level of risk that a particular product posed to human life and health.

596. Products not included in the Unified List approved by CU Commission Decision No. 620 were subject to mandatory conformity assessment (confirmation of conformity) according to the national legislation of the EAEU member States. Products for which technical regulations of the EAEU were adopted had to be excluded from the Unified List approved by CU Commission Decision No. 620. She further explained that the Unified List approved by CU Commission Decision No. 526 included product groups for which technical regulations of the EAEU had to be developed. For products included in the Unified List approved by CU Commission Decision No. 526, for which no relevant technical regulations of the EAEU had been yet enforced, EAEU member States applied national technical regulations. However, the EAEU member States could not apply national technical regulations to products not included in the Unified List approved by CU Commission Decision No. 526.

597. The representative of Kazakhstan further noted that in accordance with paragraph 1 of Article 52 of the EAEU Treaty, technical regulations of the EAEU could only be developed for goods included into the Unified List approved by CU Commission Decision No. 526. The list included 61 product groups, including: (i) machinery and equipment; (ii) low-voltage equipment, (iii) high-voltage equipment; (iv) devices operating on gaseous fuels; (v) equipment operating under excess pressure; (vi) agricultural machinery; (vii) products of light industry; (viii) toys; (ix) tobacco products; (x) furniture; (xi) packaging; (xii) animal feedstuff; (xiii) personal protection equipment; (xiv) detergents; (xv) food products; (xvi) coal and its products, etc. The list could be expanded by decisions of the Commission if new risks were identified. Thus, the Unified List approved by the CU Commission Decision No. 526, had been amended by EEC Council Decision No. 102 of 23 November 2012. In particular, six product groups had been added to the Unified List approved by CU Commission Decision No. 526: (i) liquefied petroleum gas used as fuel; (ii) materials contacting human skin; (iii) products intended for civil defence and protection of natural and man-made disasters; (iv) oil, prepared for transportation and use; (v) combustible natural gas, prepared for transportation and use; and, (vi) mainline pipelines for transportation of liquid and gaseous hydrocarbons. One product group – alternative fuels – had been excluded from the Unified List approved by CU Commission Decision No. 526. Thus, at present, the Unified List included 66 product groups. She further explained that for products included into the Unified List approved by CU Commission Decision No. 526, for which no relevant technical regulations of the EAEU had been enforced, national technical regulations were applied. The EAEU member States could not at the national level maintain mandatory requirement to products not included in the Unified List approved by CU Commission Decision No. 526. The Unified List approved by CU Commission Decision No. 526 is provided in Annex 18 of this Report. Of these initial 61 products included in the list, 47 had been identified as priority products for development and adoption of technical regulations of the EAEU. The schedule for development of priority technical regulations of the EAEU was provided in CU Commission Decision No. 492 "On Schedule of Development of Priority Technical Regulations of the Customs Union" of 8 December 2010 (hereinafter: CU Commission Decision No. 492). By the end of 2012, of 47 technical regulations of the EAEU stipulated in CU Commission Decision No. 492, 31 technical regulations had been adopted. Sixteen technical regulations of the EAEU (out of 47 technical regulations) that had not been developed by that time were included in the new "Schedule of Development of Technical Regulations of the Customs Union for 2012-2013" adopted by EEC Council Decision No. 103 of 23 November 2012 (hereinafter: EEC Council Decision No. 103). The new schedule envisaged the development of 29 technical regulations. Kazakhstan was responsible for the development of seven draft technical regulations. As of May 2014, 34 technical regulations of the EAEU had been adopted and 26 technical regulations had entered into force. The remaining eight technical regulations would enter into force no later than 15 February 2015.

598. A Member enquired about the criteria that were used to place 61 products on the Unified List approved by CU Commission Decision No. 526. The representative of Kazakhstan replied that the Unified List of Products for which Mandatory Requirements were Established within the Framework of the EAEU was formed on the basis of proposals from EAEU member States, including

stakeholders and the business community, as well as proposals of the Commission. Initially, national lists of products subject to mandatory conformity assessment of the EAEU member States were used as a basis for development of the Unified List of Products for which Mandatory Requirements were Established within the Framework of the EAEU. For determining products to be included in the List, the EAEU member States assessed the risk (potential hazard) that these products posed to human life and/or health, environment, animal and plant life and/or health. New products could be added to the List if new risks were identified. In forming the Unified List, the EAEU member States mainly focused on mutually traded products. A draft consolidated List of Goods for which Mandatory Requirements were Established within the Framework of the EAEU, prepared by the Department of Technical Regulation and Accreditation of the EEC on the basis of proposals from the EAEU member States, was circulated to the member States for review. When approved by the EAEU member States, the draft list was considered by the Consultative Committee on Technical Regulation, Application of Sanitary, Veterinary and Phytosanitary Measures. Upon endorsement of the Committee, the draft list had to be submitted to the EEC Collegium and then to the EEC Council for approval. Similar procedures were used to introduce amendments into the Unified List approved by CU Commission Decision No. 620 (inclusion and exclusion of products in/from the Unified List).

599. Once technical regulations of the EAEU came into effect, they applied with direct effect, and relevant national requirements, established by laws of the EAEU member States, could no longer be applied on the territories of those member States. In order to implement this provision, national technical regulations for products towards which relevant technical regulations were adopted, were repealed by a resolution of the Government of the Republic of Kazakhstan. The EAEU member States ensured release of products that conformed to EAEU technical regulations into circulation without laying out additional requirements other than those contained in the technical regulations of the EAEU and without carrying out additional conformity assessment procedures. In order to ensure the comparability of conformity assessment results with technical regulations of the EAEU, the EAEU member States carried out coordinated policy aimed at ensuring measurements uniformity. As of May 2014, the Commission had adopted 34 priority technical regulations which would enter into force no later than 15 February 2015, after a transitional period which allowed producers, importers and exporters to become acquainted with the new technical regulations prior to their application. By that date, all other national mandatory technical requirements applied on the territories of the EAEU member States would be replaced by technical regulations of the EAEU or would no longer be applied.

600. The domestic legislative framework for technical regulation, standardization, certification and accreditation in Kazakhstan was based on Law "On Technical Regulation", which had replaced Laws No. 433-I "On Standardization" of 16 July 1999 and No. 434-I "On Certification" of 16 July 1999. In her view, the Law took into account the main principles of the WTO TBT Agreement, including, *inter alia*, national treatment, transparency, and priority consideration given to international standards in drawing up domestic technical regulations and standards. Law "On Technical Regulation" was the basis for the development of technical regulations, standards, procedures for recognition of conformity assessment and accreditation; it was aimed at setting a balance between the degree of government intervention and the goal of protecting the public. The two main objectives of the Law were: (i) to ensure safety of products through application of mandatory technical regulations; and (ii) to enhance product competitiveness through application of voluntary standards. The Law also ensured that ratified international agreements had priority over the national legislation. Existing legislation in the area was being brought into conformity with Law "On Technical Regulation" and provisions of the WTO TBT Agreement. To this end, Law No. 209-III "On Amendments and Addenda into Certain Legislative Acts of the Republic of Kazakhstan on Issues of Technical Regulation" of 29 December 2006 had introduced amendments to 33 laws. In addition, four laws had been adopted: Law No. 306-III "On Safety of Toys" of 21 July 2007, Law No. 302-III "On Safety of Chemical Products" of 21 July 2007, Law No. 305-III "On Safety of Machinery and Equipment" of 21 July 2007 and Law No. 301-III "On Food Safety" 21 July 2007. In the area of accreditation, two laws had been adopted: Law No. 61-IV "On Accreditation in the Field of Conformity Assessment" of 5 July 2008 and Law No. 62-IV "On Amendments and Addenda into Certain Legislative Acts of the Republic of Kazakhstan on Issues of Accreditation" of 5 July 2008. These Laws were aimed at building the legal framework for accreditation and harmonizing accreditation requirements with international standards, including those of the International Accreditation Forum (IAF) and the International Laboratory Accreditation Cooperation (ILAC). In addition, new regulatory acts on technical regulation were

being developed and existing ones were being revised. She held the view that the provisions of the national legislation in this area could not constitute a barrier to trade.

601. The representative of Kazakhstan noted that with the establishment of the CU regime on 1 January 2010, and the entry into force of the EAEU Treaty on 1 January 2015, EAEU legal instruments implementing the EAEU policy on technical regulation substantially had replaced Law "On Technical Regulation" as the overall legal framework for technical regulations, standards, and conformity assessment systems in Kazakhstan. However, certain provisions of Law "On Technical Regulation" remained in effect to the extent they did not conflict with the relevant EAEU legal instruments, including Commission Decisions. Development and application of standards, conformity assessment, State control and supervision, metrological control, and liability issues in Kazakhstan would continue to be administered at the national level under the EAEU regime, with regard to the following issues:

- national standards within the meaning of the WTO TBT Agreement (development, adoption) and standards of organizations;
- State control and supervision (inspection) to ensure compliance with the requirements of technical regulations;
- assurance of uniformity of measurements;
- violations of technical regulations and withdrawal of products from the domestic market;
- operation of the national aspects of developing and maintaining the system of certificates of conformity assessment and declarations of conformity, including national part of the Unified Register of certificates and declarations;
- operation of the national aspects of developing and maintaining the system of certification bodies and testing laboratories (centres) of the EAEU, including accreditation and national part of the Unified Register of certification bodies and testing laboratories;
- voluntary conformity assessment;
- rights and obligations of applicants in the field of mandatory conformity assessment;
- coordination of activities, positions and procedures of the Government in the field of technical regulation;
- procedures for determination of liability in the case of violation of technical regulations and sanctions until the decision to transfer these issues to the EAEU was made;
- providing required transparency; and,
- financing in the field of technical regulation.

602. Asked to elaborate on the status of Kazakhstan's other legislation after 1 January 2010, the representative of Kazakhstan noted that the national legislation in the field of the technical regulation had been brought into compliance with the CU, and after 1 January 2015, with the EAEU legislation. In particular, Law No. 31-IV "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Technical Regulation and Metrology" had been adopted on 10 July 2012. This Law had introduced amendments and addenda to eight codes and 22 laws of the Republic of Kazakhstan. Law No. 31-IV had excluded the Government's competence to adopt technical regulations due to the development of common technical regulations of the EAEU and transfer of the authority to adopt technical regulations of the EAEU to the Commission. The Government of the Republic of Kazakhstan only reviewed and approved draft technical regulations of the EAEU prior to their adoption by the Commission. The Law had also provided for harmonization of terms in the field of technical regulation with the EAEU legislation. In particular, the terms 'state system of technical regulation', 'register of state system of technical regulation', 'compulsory certification', 'uniform state fund', 'normative technical documents', 'documents in the field of conformity confirmation', 'standard', 'testing laboratory', 'standard of the organization' were introduced or modified. Moreover, the Law had introduced new provisions to Law "On Technical Regulation" that reflected Kazakhstan's commitments undertaken in the course of WTO accession process and were aimed at bringing the national legislation in line with international practice. In particular, the new article on the Information Centre reflected Kazakhstan's commitment under the WTO TBT Agreement to establish an enquiry and notification point. Article 24 of the amended Law provided for an application of international and regional standards, recommendations and guidelines, and normative documents of foreign countries. Moreover, the new article on Uniform State Fund of Normative Technical Documents that contained information on all adopted standards, classifiers of technical and economic information and normative technical documents had been introduced by Law No. 31-IV into Law "On Technical Regulation". On 1 January 2015, the CU authorities in the sphere of technical regulation were transferred to the EAEU.

(b) Institutions

603. Section X and Annexes Nos. 9-11 to the EAEU Treaty provided for the transfer of a substantial share of competences in the field of technical regulation from the national level to the EAEU level. In particular, each EAEU member State delegated the authority to establish mandatory State requirements for products to the Commission, i.e., sovereign rule-making in this area was excluded. None of the member States was eligible to establish additional mandatory requirements at the national level other than those established in the technical regulations of the EAEU.

604. As of 2 February 2012, when the Treaty on the Eurasian Economic Commission of 18 November 2011 had been enacted, the competences of the CU Commission had been transferred to the EEC. According to the Treaty, the competences in the field of technical regulation were divided between the EEC Council, responsible for the overall regulation of integration processes, and the EEC Collegium, the executive body of the EEC that made proposals for further integration. The EEC Council exercised the following functions:

- approval of the Unified List of Products for which Mandatory Requirements were Established within the Framework of the EAEU , and of the procedure for its maintenance;
- approval of plans for development of technical regulations of the EAEU;
- adoption, amendment and cancellation of technical regulations of the EAEU;
- approval of the common forms of conformity assessment (confirmation) documents (declaration of conformity with the technical regulations of the EAEU, certificate of conformity with the technical regulations of the EAEU);
- establishment of the procedure for development, adoption, amendment and cancellation of technical regulations of the EAEU;
- approval of the Common Mark of Circulation of Products on the Markets of the member States of the EAEU; and,
- approval of the regulation on the Common Mark of Circulation of Products on the Markets of the member States of the EAEU and the procedure for its use.

The EEC Council adopted its decisions by consensus. The EEC Collegium approved, by a qualified majority:

- the list of international and regional standards, and in case of their absence, national (State) standards, application of which, on a voluntary basis, ensured compliance with the technical regulations of the EAEU;
- procedures for development of the list of international and regional standards, and in case of their absence, national (State) standards, the application of which, on a voluntary basis, ensured compliance with the technical regulations of the EAEU;
- standard schemes of conformity assessment (confirmation); and,
- approval of the regulation on procedure of importation into the customs territory of the EAEU of products for which mandatory requirements were established within the framework of the EAEU.

605. The EEC Collegium was responsible for implementation of the EEC Council Decisions. In the field of technical regulation its work was conducted by the Department on Technical Regulation and Accreditation. In addition, EEC Collegium Decision No. 11 of 7 March 2012 had established the Consultative Committee on Technical Regulation, Application of Sanitary and Phytosanitary Measures (hereinafter: Consultative Committee). The Consultative Committee was an advisory body that developed proposals for the EEC Collegium on technical regulations and application of sanitary, veterinary and phytosanitary measures on the basis of agreed positions of the authorized bodies of the EAEU member States. Sub-committees were established under the Consultative Committee, including the Sub-committee on Standardization and Uniformity of Measurements.

606. In response to a specific question from a Member, the representative of Kazakhstan explained that the change of the CU Commission to the EEC on 1 July 2012 did not lead to changes in Kazakhstan's legal basis in the field of technical regulations. The creation of the EEC involved only changes in the structure of the Commission and its decision-making process.

607. The representative of Kazakhstan added that draft technical regulations were developed in member States using internal procedures before being proposed by the authorized national bodies in the field of technical regulation to the designated EAEU bodies for harmonization, further review, and adoption as provided for in the relevant international agreements or decisions. In the EAEU framework, the coordination and transparency functions were fulfilled by the Consultative Committee, which received draft technical regulations from the authorized bodies of the EAEU member States, coordinated the development of draft texts and resolved disputes concerning them among the EAEU member States' authorities. The Consultative Committee, with the assistance of the Commission, circulated the draft technical regulations for public review and comments, and prepared analysis and recommendations on the draft technical regulations before forwarding the proposals for adoption by the Commission.

608. At the national level, the Committee on Technical Regulation and Metrology of the Ministry of Investments and Development of the Republic of Kazakhstan (hereinafter: Committee on Technical Regulation) was the competent authority in the field of technical regulation. Its competences were stipulated in Article 7 of Law "On Technical Regulation", and included, among others: (i) participation in development of the State system of technical regulation; (ii) implementation of the State policy in the field of technical regulation; (iii) cross-sectoral coordination of activities of public authorities, natural and juridical persons in the field of technical regulation; (iv) representation of the Republic of Kazakhstan in international and regional organizations for standardization, conformity assessment and accreditation; (v) organization and coordination of work on State control over compliance with requirements established by technical regulations; (vi) establishment of procedures for the development, registration, approval, verification, amendment, termination and enactment of national standards; and, (vii) establishment of national forms of certificates of conformity and declarations of conformity. The Committee on Technical Regulation had three subordinate organizations: the Institute of Metrology, the Institute for Standardization and Certification and the National Center for Accreditation. The Institute of Metrology was a national institution with the primary task of improving the technical (etalon) base and harmonization of normative documents in the field of metrology to ensure uniformity of measurements with international requirements. The Institute for Standardization and Certification was created for development and enhancement of the legal and normative basis in the field of technical regulation in order to ensure safety and quality of products, works and services, and its harmonization with international requirements. The National Center for Accreditation was a national accreditation body that carried out its activities under Law No. 61-IV "On Accreditation in the Field of Conformity Assessment" of 5 July 2008.

(c) Technical Regulations, International and National Standards, and Conformity Assessment Procedures

- (i) Technical Regulations

609. The technical regulations of the EAEU were adopted only with the purpose of protecting human, animal and plant life or health, property, and the environment; ensuring energy efficiency and resource saving; and preventing practices that might mislead consumers (paragraph 1 of Article 52 of the EAEU Treaty). The EAEU member States were not allowed to adopt technical regulations of the EAEU for any other purposes. Technical regulations of the EAEU established requirements for products and product-related processes of design, production, installation, maintenance, operation, storage, transportation, realization and utilization, as well as identification rules and conformity assessment forms and schemes, and could also contain requirements for terminology, packaging, labelling and sanitary requirements and procedures, as well as veterinary-sanitary and quarantine phytosanitary requirements of a general nature. Technical regulations of the EAEU had to be developed in accordance with recommendations on a model structure laid down in Decision of the Interstate Council of the Eurasian Economic Community (EurAsEC) No. 321 of 27 October 2006, which was still used even though technical regulations were not developed through the EurAsEC institutions, because no recommendation on the model structure of the technical regulations had been adopted within the EAEU. The representative of Kazakhstan affirmed that paragraph 3 of Annex No. 9 to the EAEU Treaty established that the relevant international standards and other documents (i.e., rules, directives and recommendations or any other documents accepted by international standardizing organizations) would be used as the basis for elaboration of technical regulations of the EAEU, except in cases where such documents were absent, or did not conform to the purposes of the technical regulations of the EAEU, in particular, due to climatic and geographical factors or technological and other particularities.

CU Commission Decision No. 527 "On Normative Acts of the Commission of the Customs Union in the Field of Technical Regulation" of 28 January 2011, which stipulated regulations for development, adoption, amendment and cancellation of technical regulations on the territories of the member States, had been replaced by a new regulation adopted by EEC Council Decision No. 48. The new Regulation stipulated in more detailed way provisions on development of draft technical regulations, including public consultation procedures, preparation of draft technical regulations with due account of comments and proposals provided during public consultations. She further noted that currently the EurAsEC did not play any role in technical regulation for the EAEU. Development of EurAsEC technical regulations had been suspended by Decision of the EurAsEC Interstate Council No. 575 "On Elimination of Technical Barriers in Mutual Trade between EurAsEC Member States on the Basis of the System of Technical Regulation of the Customs Union" of 19 October 2011. Currently, only technical regulations of the EAEU were being developed.

610. The representative of Kazakhstan explained that in accordance with EEC Council Decision No. 48, technical regulations of the EAEU were developed in accordance with the plan on development of technical regulations. The plan was prepared on the basis of proposals from the EAEU member States or the EEC, agreed by the member States and approved by the EEC Council. The member State (or the Commission) responsible for the development of a draft technical regulation was designated in the plan. The member State responsible for the development of the draft technical regulation designated a state body responsible for the development of the draft technical regulation (hereinafter: Developer of the draft technical regulation). All EAEU member States determined the State bodies participating in the development of the draft technical regulations. The State body was selected taking into account the relevant competence of the State body in the sphere where the technical regulation was planned to be developed. In Kazakhstan, the Committee on Technical Regulation had developed a draft document "On Designation of State Bodies Responsible for Development of Technical Regulations of the EAEU". The draft document was sent to State bodies for approval and was adopted by the Commission on the Issues of Technical Regulation and Metrology established by Government Resolution No. 558 of 12 June 2010. To date, Kazakhstan had developed nine technical regulations of the EAEU with the following State bodies designated as the Developers of the draft technical regulation:

- On Safety of Grain - the Ministry of Agriculture;
- On Safety of Meat and Meat Products – the Ministry of Agriculture;
- On Safety of Elevators - the Ministry of Internal Affairs;
- On Safety of Explosives and Products thereof - the Ministry of Internal Affairs;
- On Safety of Equipment Working under Excess Pressure – the Ministry of Internal Affairs;
- On Requirements to Automotive and Aviation Petrol, Diesel Fuel, Fuel for Jet Engines and Fuel Oil – the Ministry of Energy;
- On Safety of Products of Light Industry – the Ministry of Investments and Development;
- On Safety of Products of Dietary, Special and Medicinal and Prophylactic Nutrition – the Ministry of Public Health and Social Development; and,
- On Safety of Food Additives, Flavourings and Processing Aids – the Ministry of Public Health and Social Development.

611. The Developer of the draft technical regulation prepared the first draft and, based on proposals from the competent authorities of the EAEU member States, formed a working group for the development of the draft technical regulation. The working group included representatives of standardization bodies, industry and business representatives. The Developer of the draft technical regulation informed the EEC and EAEU member States about the creation and composition of the working group.

612. In reply to a specific question, the representative of Kazakhstan explained that under official EAEU procedures, natural and juridical persons of EAEU member States could propose draft technical regulations and submit supporting materials for their development, but they could not act as an official Developer of the draft technical regulation of the EAEU. In accordance with Article 25 of Law "On Technical Regulation", natural and juridical persons could participate in the working groups and could submit proposals on draft technical regulations, as well as their own draft technical regulations, to the national body responsible for development of the draft technical regulation. Moreover, natural and juridical persons could also submit proposals on development, amendment, cancellation of technical regulations and standards, and draft normative acts in the field of technical regulation to the Committee on Technical Regulation. Upon their review, the

Committee on Technical Regulation would submit the consolidated proposal from Kazakhstan to the EEC.

613. Upon completion of the first draft technical regulation, the Developer of the draft technical regulation sent the draft, an explanatory note, and the notification on development of the technical regulation to the EEC (electronic and hard copies). The explanatory note to the draft technical regulation had to include:

- the purpose of the technical regulation;
- structure and general characteristics of the object of the technical regulation;
- main groups of business or other activities, other interested persons whose interests would be affected by the technical regulation;
- a list of international, regional and national (State) standards, requirements of other documents (regulations, directives and recommendations and other documents adopted by international organizations), and in case of their absence, regional documents (regulations, directives, decisions, and other documents), and/or national technical regulations, on the basis of which the draft technical regulation was developed;
- requirements that differed from provisions of international, regional standards or mandatory requirements in force on the territory of the member States with a brief rationale for their introduction;
- information on the compliance of the draft technical regulation with the requirements ensuring the uniformity of measurements; and,
- the expected date of implementation of the requirements established by the technical regulation.

Notification on the development of the draft technical regulation had to be made in accordance with the prescribed form and include the following information:

- the member State responsible for the development of the draft;
- the authorized body of the member State that was responsible for the development of the draft (the Developer of the draft technical regulation);
- draft title of the technical regulation;
- object of the technical regulation;
- purpose of the development of the technical regulation;
- reason for the development of the technical regulation;
- mailing address, telephone number, fax number, e-mail address for comments and proposals (reviews) on the draft; and,
- expected date of completion of public consultations (final date for providing comments and proposals (reviews) on the draft).

The EEC sent these documents to the member States within five working days from the date of receipt of the mentioned materials.

614. The EEC ensured the consideration of the first version of the draft technical regulation and set of related documents at the meeting of the Consultative Committee. Following the consideration by the Consultative Committee, the decision on possibility, starting date and period of public consultations on the draft technical regulation was made, which was formalized by a Protocol. If necessary, the Developer of the draft technical regulation within the period established by the Consultative Committee revised the draft technical regulation and set of related documents.

615. The notification on the draft technical regulation was published on the official websites of the Commission (<http://www.eurasiancommission.org/en/act/texnreg/deptexreg/tr/Pages/projectsPublic.aspx>), the Committee for Technical Regulation (<http://www.memst.kz/en/discussion/discTRTS/index.php>), the Enquiry Point on TBT and SPS (<http://wto.memst.kz/en/information/distrts/index.php>), as well as in the official publication "Bulletin of the Enquiry Point on TBT and SPS". The Enquiry Point would notify the WTO of a draft technical regulation that would affect international trade approximately at the same time when it was published for public consultations. This would allow the synchronization of the receipt of comments through both mechanisms. The representative of Kazakhstan also clarified that in cases when the deadline established in the notification to the WTO exceeded the public consultation period, the EAEU member States would still continue to consider comments received from WTO Members.

616. The period of public consultations of the draft technical regulation (from the moment of publication of notification on the development up to the moment of publication of notification on the completion of public consultations) had to be no less than 60 calendar days. The public consultation period was closed by publishing a notification on the closure of public consultations on the draft technical regulation on the official website of the EEC. The EEC processed comments and proposals received from interested parties during public consultations and sent them to the Developer of the draft technical regulation.

617. The Developer of the draft technical regulation within 30 working days from the date it received consolidated comments from the EEC, revised the draft technical regulation and related documents taking into account comments and proposals received during the public consultations. The revised draft technical regulation, the protocol of the meetings of the working group, and the consolidated comments were sent to the EEC. The EEC sent the draft technical regulation and related documents to the member States for their internal approval and published them on the official website of the Commission. Upon completion of the internal approval of the draft technical regulation by the member States, the draft technical regulation was sent to the Consultative Committee that submitted it to the EEC Collegium for approval. The draft technical regulation and related documents, and disagreements that could not be solved during the negotiations were considered by the EEC Collegium. After the consideration, the EEC Collegium submitted the draft technical regulation and related documents either to the EEC Council for approval, or to the Developer of the draft technical regulation for revision. The EEC Council adopted the final draft technical regulation at its meeting.

618. The decision of the EEC Council on adoption of the technical regulation, decision of the EEC Collegium on approval of the draft technical regulation and decision of the EEC Collegium on the order of entering into force of the technical regulation were published at the official website of the EEC. The EEC maintained the Register of technical regulations. Kazakhstan's Enquiry Point on TBT and SPS would send a copy of the final technical regulation to the WTO Members upon request, as it was provided in Article 10 of the WTO TBT Agreement.

619. In response to the request of a Member to explain the full role that Law "On Technical Regulation" played in laying out the responsibilities of the Developer of the draft technical regulation, the representative of Kazakhstan explained that Law "On Technical Regulation" contained general provisions on the development of technical regulations. In accordance with the Law, State bodies authorized to establish mandatory rules and norms had to prepare proposals on development, amendment or cancellation of technical regulations taking into account proposals of interested parties, and had to submit them to the Committee on Technical Regulation. The Law stipulated the following obligations of the Developer of the draft technical regulation:

- to publish notifications on the development of draft technical regulations, amendments and/or addenda, or cancellation of technical regulations, in the official publications and public information system no later than a month after the beginning of development of draft technical regulations, amendments and/or addenda, or cancellation of technical regulations;
- to organize public consultations on draft technical regulations;
- to revise draft technical regulations taking into account received comments;
- to publish technical regulations in the official publication of the authorized body and public information system; and,
- to provide answers to comments received during the public consultations to the interested parties at their request.

620. The representative of Kazakhstan further explained that the EAEU member States could not establish additional mandatory requirements at the national level other than those established in the technical regulations of the EAEU. Thus, no national technical regulations were developed in Kazakhstan at the moment. Provisions of Law "On Technical Regulation" were applied to the extent that they did not contradict the provisions of the EAEU Treaty and Commission Decisions. The Law envisaged mandatory requirements for (i) products aimed at ensuring the protection of human life and health, environment, national security, as well as the prevention of deceptive practices; and, (ii) related processes aimed at ensuring product safety. Technical regulations set forth mandatory requirements for products and processes, contained an exhaustive list of such requirements, and had the status of direct application. These requirements were applied in an equal and uniform manner regardless of the products' country or place of origin. Development of

technical regulations was based on international and regional standards. Technical regulations were also aimed at eliminating technical barriers to trade and increasing product competitiveness.

621. In response to the enquiry of a Member whether any of Kazakhstan's laws referred to "sets of rules" as a form of mandatory requirement, the representative of Kazakhstan stated that there was no reference to "sets of rules" in the national legislation of Kazakhstan.

622. In response to a specific question, the representative of Kazakhstan explained that in Kazakhstan, technical requirements in the fields of telecommunication and nuclear energy were subject to Law "On Technical Regulation". The mandatory requirements to products and/or processes of their life cycle were established in the following national technical regulations:

- in the field of nuclear energy: "Nuclear and Radiation Safety of Nuclear Power Plants", approved by Government Resolution No. 683 of 1 July 2010; "Nuclear and Radiation Safety of Nuclear Research Facilities", approved by Government Resolution of No. 684 of 1 July 2010; and "Nuclear and Radiation Safety", approved by Government Resolution No. 768 of 30 July 2010; and,
 - in the field of telecommunications: "General Requirements for Safety, Functional and Technical Requirements for Telecommunication Equipment During Search Operations", approved by Government Resolution No. 805 of 6 August 2010.
- **(ii) Technical Requirements Not Subject to Law No. 603-II "On Technical Regulation" of 9 November 2004**

623. A Member asked Kazakhstan to provide more information on mandatory technical requirements that were not regulated under Law "On Technical Regulation", and how the requirements of the WTO TBT Agreement were applied in these areas. In response, the representative of Kazakhstan explained that safety requirements in the field of civil aviation were not regulated by Law "On Technical Regulation" and were regulated by national legislation in the field of civil aviation. Kazakhstan was a party to the Convention on International Civil Aviation (hereinafter: CICA) since 1992 and the CIS Intergovernmental Agreement on Civil Aviation and Use of Airspace (hereinafter: IAC). In this regard, Kazakhstan based its civil aircraft certification requirements, including airworthiness requirements and certification procedures, on international requirements of the CICA and IAC. In accordance with international standards of the CICA, Kazakhstan developed its Law No. 339-IV "On Use of Air Space of the Republic of Kazakhstan" of 15 July 2012. Article 16 and Chapter 5 of the Law stipulated the main objectives and requirements for certification in the field of civil aircraft. Certification in the field of civil aircraft included confirmation of conformity of aircrafts (certification of airworthiness, certification of type of civil aircraft, certification of specimen of civil aircraft), aerodromes and aviation services to the requirements established by the legislation of the Republic of Kazakhstan in the field of use of airspace and aviation activities. The certification was carried out by the competent authority in the field of civil aviation – the Civil Aviation Committee under the Ministry of Investments and Development of the Republic of Kazakhstan.

624. Civil aircrafts had to be airworthy and were allowed for operation with a valid certificate of airworthiness, which ensured compliance with the requirements approved by the Resolution of the Government of the Republic of Kazakhstan No. 859 "On Approval of Requirements of Airworthiness of Civil Aircraft of the Republic of Kazakhstan" of 26 July 2011. Certificates of airworthiness of civil aircrafts issued by foreign countries were recognised in accordance with the "Rules on Recognition of Certificates of Airworthiness of Civil Aircrafts, Issued by Foreign States" approved by Order of the Acting Minister of Transport and Communication of the Republic of Kazakhstan No. 112 of 3 March 2011.

625. The representative of Kazakhstan confirmed that all technical requirements applied to goods on the territory of Kazakhstan, including those applied as technical regulations as provided for in Law No. 603-II "On Technical Regulation" of 9 November 2004 (as last amended on 3 December 2013) and other national legislation, the relevant CU Agreements and other CU Acts, the EAEU Treaty, the relevant Commission Decisions and other EAEU legal instruments, to the extent that they corresponded to the definition of a "technical regulation" under the WTO Agreement on Technical Barriers to Trade, would comply with the principles of the WTO Agreement on Technical Barriers to Trade, relating in particular to transparency, predictability, and

avoiding the creation of unnecessary obstacles to trade. The Working Party took note of these commitments.

- **(iii) Voluntary National and International Standards**

626. With regard to standards, she said that pursuant to Law "On Technical Regulation", standards were applied on a voluntary basis and equally, regardless of the origin of the product or service. Whereas the application of a variety of standards (including international, regional and national) had been foreseen, the application of international standards would prevail. International or foreign countries' standards and regulations were used in drawing up national standards, except when such standards were inefficient or inadequate for achieving the desired objectives. National standards were developed, reviewed and terminated in accordance with the National Standard of the Republic of Kazakhstan ST RK 1.2-2008 "Procedure for the Development of National (State) Standards and Standards of Organizations" (hereinafter: National Standard ST RK 1.2-2008) and the "Rules for Harmonization, Recording, Approval, Amendment, Cancellation and Entering into Force of National (State) Standards, Classifiers of Technical and Economic Information" approved by Order of the Deputy Minister of Industry and New Technologies of the Republic of Kazakhstan No. 40 of 23 April 2010. She added that the Committee on Technical Regulation was the only authorized State body in charge of administering work and issuing standards in the field of technical regulation, metrology and certification.

627. According to National Standard ST RK 1.2-2008, requirements established in national standards had to be based on: (i) the results of research and development works; (ii) patent research; (iii) provisions of international, regional or national standards and regulations of foreign countries; and/or, (iv) other official information on the latest achievements of domestic and foreign science, engineering and technology. National standards were developed on objects that addressed tasks of national importance to provide safety of products and related processes (works), quality of services, protection of consumers from deceptive practice and production of competitive products. National standards could be developed by natural and juridical persons of the Republic of Kazakhstan, including technical committees on standardization, in accordance with the plans of State standardization approved by the competent authority in the field of technical regulation and plans of the authorities whose competence covered objects of standardization. National standards could also be developed off-plan. In this case, in order to avoid duplication, information on development of national standards had to be forwarded to the competent authority in the field of technical regulation.

628. National standards could be developed at the request of State authorities, producers and consumers of products, non-governmental organizations and other interested parties. The competent authority concluded a contract on development of the national standard with the developer of a national standard. Information on national standards that were under development had to be published on the official website of the competent authority in the field of technical regulation. The developer of a national standard established a working group which prepared the first draft of the national standard. The draft national standard and explanatory note were published at the official website of the competent authority in the field of technical regulation and sent to interested parties for review and comments. The time-frame for review by interested parties was 60 calendar days. The developer prepared the final draft of the national standard taking into account comments and proposals received from interested parties. The developer approved the draft standard and sent it for approval to the competent authority in the field of technical regulation.

- **(iv) Disposition of Mandatory National Standards of Kazakhstan**

629. Some Members requested information on the elimination of WTO-inconsistent mandatory national standards. In particular, these Members enquired whether there were any explicit plans to address such standards.

630. The representative of Kazakhstan replied that, in accordance with Law "On Technical Regulation", in cases where a technical regulation for a particular product had not been enacted, for the purpose of confirmation of conformity the manufacturers could apply international, regional (interstate) or national (State) standards that met the technical regulation objectives. In such cases, compliance with the standard chosen by the manufacturer was mandatory for that

manufacturer. As soon as the relevant technical regulation was adopted, the chosen standard could be applied on a voluntary basis. Standards that contained conflicting provisions could not be used for confirming the conformity with the technical regulation and became void.

631. In response to a request from some Members for Kazakhstan to bring its standards and technical regulations system into compliance with WTO requirements prior to WTO accession, the representative of Kazakhstan confirmed that upon accession to the WTO, relevant international standards or relevant parts thereof would be used for development of technical regulations, unless they were ineffective or inappropriate means for the fulfillment of legitimate objectives pursued, as stipulated in the WTO Agreement on Technical Barriers to Trade. The Working Party took note of this commitment.

632. A Member welcomed the commitment and expressed the view that it should explicitly include a commitment to amend or rescind any existing standard, technical regulation or conformity assessment procedure that was not compliant with the WTO TBT Agreement. This Member requested further information on how Kazakhstan intended to implement this commitment if all WTO-inconsistent mandatory standards had not been phased-out and whether these mandatory standards would become voluntary.

633. In reply, the representative of Kazakhstan said that Kazakhstan, jointly with other EAEU member States, was actively working on development of technical regulations which would replace WTO-inconsistent mandatory standards. Thus, standards containing mandatory requirements, which were currently in force, would be replaced by technical regulations of the EAEU as part of the EAEU technical regulation harmonization process, based on the work plan and timetable for adoption of priority technical regulations contained in CU Commission Decision No. 492 and EEC Council Decision No. 103. Pending their replacement by technical regulations of the EAEU, standards containing mandatory requirements were in force only to the extent that they ensured: protection of human life or health; protection of the environment and of animal and plant life or health; provision of national security; prevention of deceptive practices; and energy efficiency (all of which were set out in Law "On Technical Regulation"). Further, such national standards were considered by her Government to be "technical regulations" as that term was defined in Annex 1 to the WTO TBT Agreement. She also added that national standards contradicting the WTO requirements were being reviewed with the purpose to harmonize them with international standards. To date, the total number of national (State) standards of Kazakhstan amounted to 4,627, of which 3,323 were harmonized with international standards. Thus, 72% of national standards were harmonized with international standards. In addition, sub-paragraph 5 of Article 4 of Law "On Technical Regulation" prioritized the use of international standards.

634. The representative of Kazakhstan confirmed that all standards currently in force in the Republic of Kazakhstan containing mandatory requirements would be applied in compliance with the WTO Agreement on Technical Barriers to Trade from the date of accession. In case of their inconsistency with the provisions of the WTO Agreement on Technical Barriers to Trade, such standards would be modified in accordance with the procedures set-out in EEC Council Decision No. 48 "Regulation on Development, Adoption, Amendment and Cancellation of Technical Regulations of the Customs Union" of 20 June 2012, and the national legislation. Any concerns of interested parties and Members regarding compatibility of such mandatory requirements with the WTO Agreement on Technical Barriers to Trade would be duly and effectively addressed in the framework of mechanisms and procedures provided for in the legislation of the Republic of Kazakhstan and in technical regulations of the EAEU. She added that information about the opportunities offered by these procedures would be made available to interested parties and Members, *inter alia*, through the Enquiry Point on TBT and SPS. She confirmed that the Republic of Kazakhstan would fulfil all requirements of the WTO Agreement on Technical Barriers to Trade, including those on notifications, as of the date of accession. The Working Party took note of these commitments.

- (v) **Conformity Assessment Procedures including the Accreditation of Conformity Assessment Bodies**

635. Accreditation enabled a conformity assessment body included in the Unified Register of Accredited Certification Bodies and Testing Laboratories of the EAEU (hereinafter: Unified Register), to issue documents on conformity assessment within the area of its accreditation that

would be accepted within the territory of Kazakhstan, as well as the rest of the EAEU. Paragraph 4 of Annex No. 11 to the EAEU Treaty established the responsibility of the EAEU member States' accreditation bodies to: (i) carry out the formation and maintenance of the register of accredited conformity assessment bodies, register of experts on accreditation, register of technical experts, and the national part of the Unified Register; (ii) provide information from the register of accredited conformity assessment bodies, register of accreditation experts and register of technical experts, as well as other information and documents related to accreditation, as provided for by the EAEU Treaty, to the integrated information system of the EAEU; (iii) provide an opportunity for representatives of accreditation bodies to carry out mutual comparative assessments in order to achieve equivalence of procedures applied in the member States; (iv) consider and decide on the appeals filed by conformity assessment bodies to revise the decisions taken by the accreditation body in respect of these conformity assessment bodies; and, (v) consider and adopt decisions on complaints from natural or juridical persons of the member States on the activities of accreditation bodies, as well as on the activities of accredited conformity assessment bodies. Apart from the Unified Register, the EEC also adopted common forms for the certification and declaration of conformity; and the Unified Registry of Certificates of Conformity and Declarations of Conformity. Paragraph 3 of Annex No. 11 to the EAEU Treaty provided for application of international standards for the development of accreditation rules.

636. Products subject to technical regulations of the EAEU could be released for circulation within the EAEU customs territory provided they had undergone all necessary conformity assessment procedures established by the relevant technical regulations of the EAEU. The EAEU member States conducted conformity assessment in accordance with the EAEU technical regulations. Conformity assessment had to be carried out in the form of registration, testing, expertise and conformity verification. As set out in paragraph 5 of Annex No. 9 to the EAEU Treaty, mandatory assessment (confirmation) of conformity (compliance) of products with requirements of technical regulations of the EAEU was confirmed by a declaration of compliance or a certificate that was issued by a certification body listed in the Unified Register based on tests performed by accredited laboratories and testing centres. For registration of declaration of conformity, the following persons could act as applicants: a juridical person or a natural person registered as an individual entrepreneur in accordance with national legislation of the EAEU member States or a person acting as a producer/seller or performing the duties of a foreign producer on the basis of a contract, concluded with the producer, which stipulated that supplied products met the requirements of technical regulations of the EAEU and established liability for non-compliance of supplied products with the requirements of technical regulations of the EAEU. CU Commission Decision No. 621 "On the Regulation on the Application of Model Schemes of Conformity Assessment (Confirmation) in the Technical Regulations of the Customs Union" of 7 April 2011 (hereinafter: CU Commission Decision No. 621), established common forms and regulations on the application of model conformity assessment schemes to ensure compliance with the requirements of technical regulations of the EAEU.

637. Pursuant to paragraph 5 of Annex No. 9 to the EAEU Treaty, activities related to conformity assessment had to be carried out by the accredited certification bodies and testing laboratories included into the Unified Register. The Unified Register was formed and maintained in an order adopted by the Commission. Recognition of results issued by accredited certification bodies and testing laboratories had to be carried out in accordance with Annex No. 11 to the EAEU Treaty. Results of conformity assessment of products for which no technical regulations of the EAEU had come into force, were recognized in accordance with paragraph 7 of Annex No. 9 to the EAEU Treaty.

638. For the purpose of conformity assessment, the EAEU member States, in accordance with paragraph 4 of Annex No. 9 to the EAEU Treaty, could apply international and regional standards and in the absence thereof, national standards. Application of these standards on a voluntary basis ensured the compliance with requirements of technical regulations of the EAEU. The EEC adopted a list of such standards (hereinafter: List of Standards). The national standards contained rules for testing and measurement techniques, including rules for sampling, required for application and implementation of technical regulation requirements and conducting conformity assessment. Application of international, regional and/or national standards included in the List of Standards on a voluntary basis was a sufficient condition to prove compliance with requirements of technical regulations of the EAEU. However, non-compliance with the standards included in the List of Standards did not mean non-compliance with the technical regulations of the EAEU.

639. Pursuant to paragraph 5 of Article 53 of the EAEU Treaty, the liability for non-compliance with requirements of technical regulations, as well as for violation of conformity assessment procedures, was established by legislation of each member State. Each EAEU member State had the right to take all appropriate measures whenever it ascertained that products did not conform to the requirements of technical regulations of the EAEU. Such measures included actions aimed at prohibiting their placement on the market, withdrawing the products from the market in accordance with the national legislation of the EAEU member States and informing other member States thereof. Furthermore, the EAEU member States had the right to take emergency measures to prevent entry of hazardous products into the EAEU market. Any EAEU member State seeking to apply such measures had to notify the other EAEU member States.

640. With respect to conformity assessment, the representative of Kazakhstan stated that at the national level Law "On Technical Regulation" provided for (i) "conformity recognition" – a procedure that resulted in a documentary certification (in the form of declaration of conformity or conformity certificate) of conformity of an object (product or process) to the requirements established in technical regulations or standards; and (ii) "accreditation" – an official recognition by an accreditation body of the competence of juridical persons to perform conformity recognition works. Conformity recognitions could be mandatory – in the form of certification by an accredited conformity assessment body or a producer's declaration of conformity (for products subject to technical regulation requirements); and voluntary – in the form of certification or a conformity declaration of a producer/seller indicating that the requirements of standards, other documents or special requirements were met (for products not subject to mandatory conformity recognition).

641. The representative of Kazakhstan explained that Kazakhstan would, from the date of accession, ensure that State bodies use existing (or soon-to-be-completed) relevant guides or recommendations, or the relevant parts of them, issued by international standardization bodies as a basis for their conformity assessment procedures, except where, as provided for in Article 5.4 of the WTO Agreement on Technical Barriers to Trade, such guides or recommendations or relevant parts of them were inappropriate for Kazakhstan. In addition, she confirmed that in accordance with Article 5.1.2 of the WTO Agreement on Technical Barriers to Trade, in respect of products subject to mandatory certification, the conformity assessment procedure provided for in the EAEU Treaty and other EAEU legal instruments would not be more strict or be applied more strictly than was necessary to give Kazakhstan adequate confidence that products conformed to the applicable technical regulations or standards. She confirmed that the products subject to mandatory certification set out in CU Commission Decision No. 620 "On the New Version of the Unified List of Products Subject to Mandatory Conformity Assessment (Confirmation of Compliance) within the Framework of the CU with Issuance of Single Documents, approved by CU Commission Decision No. 319 of 18 June 2010" of 7 April 2011 would be defined in accordance with the provisions of the WTO Agreement on Technical Barriers to Trade, including the provisions of Article 5.1.2 thereof. The Working Party took note of these commitments.

642. In response to a Member enquiring how a manufacturer could obtain a certificate, the representative of Kazakhstan said that according to the procedure for issuing conformity certificates established in the Technical Regulation "Procedures of Conformity Certification" adopted by Government Resolution No. 90 of 4 February 2008:

- the applicant submitted an application for carrying out certification to a conformity certification body;
- the conformity certification body reviewed the application and informed the applicant of its decision within three days upon receipt of the application;
- the decision for carrying out the certification procedures had to contain all basic certification conditions based on the established certification procedures for the type of product being certified, as well as proposed certification scheme, list of the necessary technical documents, list of the parameters, inspection conditions and title of an accredited laboratory/centre which carried out the testing;
- if the applicant agreed to the conditions of the certification procedures, they concluded a contract for carrying out the works;
- tests were carried out on the samples, design, structure and production technology of which had to be the same as that of the product supplied to consumers;
- the conformity assessment body or an accredited laboratory/centre, upon request of the conformity assessment body or a commission consisting of auditors appointed by the applicant, carried out sampling. Quantity of samples, procedure for their selection, as well

- as storage rules, were established in accordance with the regulatory and methodical documents on certification and testing methods of a specific product;
- the applicant had to submit technical documentation for the samples, the structure and content of which were established in the normative documents of a specific product as well as the technical documents to be submitted in accordance with the basic certification conditions, mentioned above;
- accredited laboratories carried out testing on the samples provided to the conformity assessment body;
- certification tests had to be carried out in accordance with the methods and within the terms stipulated in the regulatory documents designed for a specific product but no longer than 30 calendar days; and,
- after analysis of the test results, and other documents on product conformity, the conformity assessment body conducted conformity assessment.

643. The conformity certificate was issued by the conformity assessment body on the basis of an expert's conclusion. In case of negative testing results, the conformity assessment body had to issue the decision indicating the reasons for refusal.

644. The representative of Kazakhstan further described that Government Resolution No. 367 "On Mandatory Conformity Assessment of Products in the Republic of Kazakhstan" of 20 April 2005 established two lists of products subject to mandatory conformity assessment in Kazakhstan: (i) List of Products and Services Subject to Mandatory Certification; and (ii) List of Goods Conformity of which could be Verified by Declaration of Conformity. To circulate as well as enter into Kazakhstan's market, the listed products had to undergo conformity assessment for the purposes of mandatory requirements and had to be accompanied with a conformity certificate or a declaration of conformity. With respect to the relationship of the two lists with the Unified List approved by CU Commission Decision No. 620, the representative of Kazakhstan noted that products that passed mandatory conformity assessment in Kazakhstan, would still need to receive conformity certificate or declaration of conformity in an EAEU member State, when being exported to the EAEU member State, if the products were not included in the Unified List approved by CU Commission Decision No. 620. She recalled that the EAEU and national lists were subject to revision upon adoption of a relevant technical regulation of the EAEU for a product included in the above-mentioned lists.

645. Referring to a previous statement of Kazakhstan on revisiting and subsequent elimination of the list of products subject to mandatory certification upon adoption of related technical regulations, a Member commented that some categories of products would always require mandatory certification. Asked to confirm whether Kazakhstan was considering that products like pharmaceuticals and medical devices be subject to mandatory conformity certification, the representative of Kazakhstan replied that Kazakhstan currently did not foresee to cancel mandatory conformity assessment requirements for all products. In general, a conformity assessment scheme for a specific product would be established in a relevant technical regulation of the EAEU.

646. The representative of Kazakhstan further stated that in order to access Kazakhstan's market, pharmaceuticals and medical devices were subject to State registration conducted by the Ministry of Public Health and Social Development. Within the EAEU framework, pharmaceuticals were not included in the Unified List approved by CU Commission Decision No. 526. Therefore, the development of a technical regulation of the EAEU for pharmaceuticals was not planned. Medical devices were included in the Unified List approved by CU Commission Decision No. 526. In accordance with EEC Council Decision No. 103, the decision on the development of the EAEU Technical Regulation "On Safety of Medical Devices" would be made after the adoption of the Agreement on Conducting Uniform Policy in the Field of Registration and Monitoring of Circulation of Medical Devices (Medical Devices and Medical Equipment) in the Territory of the Customs Union and Single Economic Space (hereinafter: Agreement on Circulation of Medical Devices). The draft Agreement on Circulation of Medical Devices and the draft Agreement on Cooperation of CU member States in the Field of Circulation of Pharmaceuticals were developed in order to regulate the placement of medical devices and pharmaceuticals on the territory of the EAEU. The draft Agreements provided for a phased implementation of the uniform policy in the sphere of registration and monitoring of circulation of medical devices and pharmaceuticals through harmonization in the first phase and the subsequent unification in the second phase of requirements for medical devices and pharmaceuticals. This would provide a basis for mutual

recognition of the results of work on State registration of medical devices and pharmaceuticals with the application of uniform permit documents.

647. A declaration of conformity could be prepared on the basis of evidence collected by the applicant alone or on the basis of evidence obtained with the participation of a conformity assessment organization. The declaration of conformity had to be registered by the relevant accredited conformity assessment organization and was valid, similarly to a conformity certificate, on the entire territory of Kazakhstan.

648. Recognizing the need for keeping track of manufacturer's declarations of conformity, a Member expressed concern that instituting an official register / requiring official registration could be disproportionate and unnecessarily trade-restrictive, especially concerning imports, since it would be certainly more burdensome in practice for non-domestic suppliers to apply for this registration. This Member required the manufacturer to keep a full technical file with the specifications of the product including the supplier declaration of conformity. This file had to be made available to public authorities (mainly in the framework of market surveillance) under their simple request. In this regard, this Member requested information on: (i) the formalities to accomplish in order to have a supplier declaration of conformity registered; (ii) if any, costs to be borne by the manufacturer/importer/legal representative; (iii) the length of registration procedure; and, (iv) grounds of refusal. In addition, this Member enquired whether Kazakhstan considered less trade-restrictive modalities to process supplier's declaration of conformity, such as allowing the manufacturer/importer/legal representative to keep a full technical file (including the declaration) at the disposal of the authorities under their simple request. This Member also enquired how Kazakhstan intended to avoid that this provision put foreign manufacturers in a less favourable position compared to domestic ones.

649. The representative of Kazakhstan replied that currently the EAEU legal framework did not stipulate uniform procedures in the sphere of declaration of conformity. Therefore, requirements and procedures related to declaration of conformity were applied in accordance with the national legislation. Chapter 4 of the Technical Regulation "Conformity Confirmation Procedures", approved by Resolution of the Government of the Republic of Kazakhstan No. 90 of 4 February 2008, established procedure for declaration by market participants. The manufacturer (performer) undertook a declaration based on the documents confirming the conformity of products to the specified requirements. The following documents could be used as a basis for declaration by the manufacturer (performer): (i) protocols of approval and other control testing conducted by the manufacturer (performer) and/or accredited testing laboratories; (ii) previously obtained certificates in force, or testing protocols for primary products, materials, components; (iii) statement of State control, confirming the product compliance with the requirements of the legislation of the Republic of Kazakhstan; (iv) documents confirming the conformity of products to the specified requirements (deliveries of primary products, production process, assembling, finished products, package and marking); and, (v) quality management system certificates. In this regard, consideration and registration of the declaration of conformity by a conformity assessment body had to be paid by the manufacturer (performer) on a contractual basis. Declaration could be undertaken for specific products or a group of homogeneous products in relation to which the common requirements were established. Declaration could be taken for the period determined by the manufacturer (performer) of products based on the planned period of production of such products or the sales period of a products lot, but no longer than for one year. Declaration accepted by the manufacturer (performer) had to be registered in an accredited conformity assessment body. Within a period not exceeding three days, the conformity assessment body had to consider and check the following: (i) presence of this kind of products in the list of the products conformity of which could be verified by the declaration; (ii) eligibility of the manufacturer (performer) to undertake the declaration; (iii) completeness and accuracy of the indication of the regulatory standardization documents provided for the confirmation of these products conformity; (iv) presence of all documents provided by the legislation of the Republic of Kazakhstan for manufacturing of these products; and, (v) accuracy of information filled in the declaration. After review of submitted documents, the conformity assessment body registered the declaration in a special section of the registered declarations record. The registered declaration had to be kept by the manufacturer (performer) along with the documents on the basis of which the declaration had been filed, within the period no less than three years after its expiry date. Within the same period, the conformity assessment body should keep a copy of the registered declaration and supporting documents. If the requirements of regulatory documents indicated in the declaration had changed or the juridical person had been reorganized, the manufacturer

(performer) had to issue a new declaration and submit it for registration to the conformity assessment body. With respect to costs involved, she stated that the amount of payments for the works on review and registration of the declarations had to be determined on a contractual basis between conformity assessment bodies and manufacturers (performers). As for the reasons for refusal of registration of conformity declaration, the representative of Kazakhstan said that the registration could be refused only for the following reasons: (i) a product's conformity could be verified only in the form of certification; (ii) the presented documents were not sufficient to verify the conformity of a product with safety requirements provided for in the relevant technical regulation; or, (iii) when the technical regulation had not been developed, provided for in the relevant regulatory legal act. In conclusion, the representative of Kazakhstan stated that the registration requirements equally applied to and were the same for both domestic and foreign suppliers. Therefore, there was no provision in the legislation that put foreign manufacturers in a less favourable position compared to domestic manufacturers. The representative of Kazakhstan added that the EAEU was in the process of simplifying the procedure of registration of declarations of conformity by introducing electronic registration. Electronic registration would allow the manufacturer to register its declaration of conformity in the electronic Unified Register by filling out an electronic application form, submitting the declaration of conformity signed with an electronic signature, and the relevant evidence.

650. The representative of Kazakhstan confirmed that, depending on the technical regulation at issue, documents establishing compliance with the requirements of the technical regulation could include a supplier's own evidence, such as declaration of conformity with the relevant technical regulation, test reports, and other documents as relevant, in accordance with the legislation of Kazakhstan, the EAEU Treaty and other EAEU legal instruments, or the results of conformity assessment procedures that Kazakhstan may accept pursuant to Article 6.1 of the WTO Agreement on Technical Barriers to Trade. The Working Party took note of these commitments.

651. The representative of Kazakhstan further explained that the cost of mandatory conformity assessment would be paid by an applicant. Moreover, the cost of mandatory conformity assessment was to be determined regardless of the country and/or place of their origin or of the persons acting as applicants. She confirmed that the cost incurred by a conformity assessment body formed the basis for determining the cost to the applicant. The elements that would typically be considered by a conformity assessment body in the territory of Kazakhstan in determining fees included the costs of labour, any necessary materials or equipment, and tests, as well as other usual costs and profits typical to commercial practices in this sphere. She also noted that the provisions of Law No. 603-II "On Technical Regulation" of 9 November 2004 as a whole reflected the principle of uniform application of requirements and conformity assessment procedures to domestic and imported products. The Working Party took note of these commitments.

652. Some Members noted that there did not appear to be a commitment to ensure that regulatory authorities allow a reasonable period of time between the final publication of a conformity assessment procedure and its entry into force so that suppliers could adapt. The representative of Kazakhstan replied that technical regulations of the EAEU entered into force after a certain transitional period after their official publication (normally around 18 months). She clarified that the rules of conformity to a technical regulation normally would be contained within the regulation itself. It meant that the conformity assessment procedures also entered into force after a sufficient transitional period after their official publication.

653. The representative of Kazakhstan further stated that, in cases where a positive assurance of conformity with technical regulations was required and technical rules and methods for ensuring compliance with technical regulations (i.e., elements of conformity assessment procedures, defining the methods of research, tests, measurements, or selection of samples that could be used to comply with the technical regulations) were not included in a technical regulation, such rules and methods would be developed in accordance with EEC Collegium Decision No. 306 "Regulation on Procedures for Development and Approval of Lists of International and Regional Standards, and, in their Absence, National (State) Standards of Customs Union Member States, that Ensure Compliance with Technical Regulations of the Customs Union and Necessary for Conducting Conformity Assessment (Confirmation)" of 25 December 2012. She confirmed that Decision of the Council of the Eurasian Economic Commission No. 48 "Regulation on Development, Adoption, Amendment and Cancellation of Technical Regulations of the Customs Union" of 20 June 2012 provided for their approval by the EEC Collegium no later than six months before the entry into

force of the relevant technical regulation and that EEC Collegium Decision No. 306 provided for the placement of such rules and methods on the official website of the EEC upon their adoption. She added that these rules were to be based on relevant guides or recommendations issued by international standardizing bodies, in accordance with Article 5.4 of the WTO Agreement on Technical Barriers to Trade, and would define the methods of research, tests, measurements, or selection of samples that may be used to comply with the technical regulations. The rules must, where possible, list a choice of compliance methods and, in order to ensure compliance with Article 5.1.2 and other provisions of the WTO Agreement on Technical Barriers to Trade, conformity assessment procedures would not be more strict or be applied more strictly than necessary to give adequate confidence that products conform with the applicable technical regulations, taking account of the risks non-conformity would create. She confirmed that the above-mentioned rules would not create a bigger impediment to business activity than was necessary to fulfil the goals that were specified in paragraph 1 of Article 52 of the EAEU Treaty. The Working Party took note of these commitments.

654. Asked specifically about the existence of an appeal process, she said that an applicant could appeal decisions on conformity recognition to the Board of Appeals of the conformity recognition organization concerned, then to the Board of Appeals of the Committee on Technical Regulation; and the decisions of the latter could be appealed in court. Pursuant to National Standard ST RK 3.10-2007 "The Order of the Examination of Appeals", an appeal had to be filed in writing, enclosing all relevant documents, within one month of the contested decision of the accredited certification body. Each Board had to take a decision within 15 days and the applicant was notified in the following 10 days.

655. She added that any domestic or foreign organization could act as a conformity certification body or a test laboratory as long as it had received accreditation in accordance with legislation of Kazakhstan. Certification bodies or laboratories were not allowed to operate (e.g., issue conformity assessments) outside their scope of accreditation. Test results issued by foreign authorized bodies could be recognized through accreditation of these foreign bodies in Kazakhstan's national accreditation system. At present, there were no foreign bodies accredited as conformity assessment organizations in Kazakhstan.

656. The representative of Kazakhstan further explained that pursuant to Article 33 of Law "On Technical Regulation", certificates of conformity of foreign countries, testing results and conformity marks were recognized in accordance with international (bilateral or multilateral) agreements signed by Kazakhstan. Recognition procedures were determined by the "Rules of Recognition of Certificates of Conformity of Foreign Countries, Test Protocols, Conformity Marks and Other Documents Issued in Foreign Systems of Conformity Assessment" approved by Order of the Chairman of the Committee on Technical Regulation and Metrology No. 119 of 22 April 2005. Paragraph 5 of the Rules confirmed that foreign conformity certificates, testing protocols, conformity marks and other documents had to be recognized if there was an international (either bilateral or multilateral) agreement with a country issuing the document, i.e., agreement on recognition of conformity assessment results. She added that at the EAEU level, CU Commission Decision No. 621 established Scheme No. 9 which addressed the issue of recognition of certificates of conformity issued by third-country conformity assessment bodies.

657. Asked whether Kazakhstan considered the WTO Agreement on Technical Barriers to Trade as an international agreement or treaty within the meaning of Article 33 of Law No. 603-II "On Technical Regulation" of 9 November 2004, the representative of Kazakhstan confirmed that her country considered the WTO Agreement on Technical Barriers to Trade as an international agreement within the meaning of Article 33 of the Law. Thus, it was possible under Law No. 603-II "On Technical Regulation" of 9 November 2004 for Kazakhstan to accept the results of conformity assessment procedures done in WTO Members on the basis of, and in compliance with, Article 6.1 of the WTO Agreement on Technical Barriers to Trade, without requiring the conclusion of a mutual recognition or other agreement. The acceptance of such results throughout the EAEU was established by the Treaty on the Functioning of the Customs Union in the Framework of the Multilateral Trading System of 19 May 2011. Therefore, from the date of its accession to the WTO, Kazakhstan would ensure, whenever possible, that results of conformity assessment procedures of conformity assessment bodies located in other WTO Members were accepted, provided that Kazakhstan was satisfied, as provided in Article 6.1 of the WTO Agreement on Technical Barriers to Trade, that those procedures offered an assurance of conformity with applicable technical regulations or standards equivalent to the own procedures of Kazakhstan. The representative of

Kazakhstan also confirmed that as provided in Article 6 of the WTO Agreement on Technical Barriers to Trade, such acceptance also could, for example, be achieved through the membership of Kazakhstan's national accreditation body in the International Laboratory Accreditation Cooperation (ILAC) and the International Accreditation Forum (IAF) and signing of the ILAC Arrangement, which would build confidence in the adequacy and technical competence of the conformity assessment bodies of third countries accredited by other ILAC and IAF members, including acceptance of the results of such conformity assessment bodies, conclusion of a mutual recognition agreement and other appropriate means. The Working Party took note of these commitments.

658. Asked to provide information on international conformity assessment bodies which issued certificates that were recognized in Kazakhstan, the representative of Kazakhstan said that conformity certificates were mutually recognized in accordance with signed international agreements. At present, such mutual recognition agreements existed only with CIS countries: (i) the Agreement on the Coordinated Policy on Standardization, Metrology and Certification of 13 March 1992, which had established the Interstate Council for Standardization, Metrology and Certification (EASC) to carry out work on harmonizing standardization and conformity assessment legislation; and, (ii) the Agreement on Principles of Mutual Recognition of Certification Activities with the CIS Countries of 4 June 1992, in the context of which Kazakhstan had agreed to recognize conformity certificates issued by CIS countries and to apply inter-governmental standards (GOST) alongside national standards (ST RK). Moreover, Kazakhstan planned to sign the Agreement on Mutual Recognition of Results of Accreditation of Test Laboratories (Centers) Conducting Conformity Assessment (Confirmation) Works of the CIS countries.

659. In addition, in 2010 the National Center of Accreditation (NCA) had become full member of ILAC and had signed the Multilateral Agreement on Recognition of Testing Results (ILAC MRA). In continuation of the work in this direction, on 3 February 2011 the NCA had signed an agreement with ILAC on the use of ILAC MRA Mark. The NCA concluded the licence agreements on use of ILAC MRA Laboratory Mark, on the basis of which the contracts on the use of a combined MRA Laboratory Mark were concluded. This MRA Mark signified that a laboratory issuing a testing report, a certificate of calibration/verification or other documents, was accredited by the NCA, which was signatory of the ILAC MRA. To date, 62 contracts with laboratories had been concluded. The NCA was also a full member of the Pacific Accreditation Cooperation (PAC) organization, which was a regional organization of the IAF, and a signatory to the PAC Multilateral Agreement on Products. Membership in these organizations provided the basis for acceptance of test, inspection and calibration data issued by laboratories accredited by other ILAC and PAC members. Moreover, necessary procedures to join the IAF as a full member and join IAF Multilateral Agreement (MLA) had been completed. The application was sent to the IAF Secretariat in 2012 and it had been considered in October 2013 at the IAF General Assembly, and approved. In the future, the NCA planned to continue its activities on joining multilateral agreements of the above-mentioned organizations in other areas.

660. Some Members of the Working Party noted the existence of bilateral agreements on standards with China and Turkey and asked whether the provisions of these bilateral agreements would be applied on a MFN basis. In response, the representative of Kazakhstan said that the Intergovernmental Agreement on Cooperation with the People's Republic of China on Quality Assurance and Mutual Inspection of Exported and Imported Products of 5 July 1996 provided for information exchange on legislation, conformity recognition and product supervision procedures applicable to both sides. To implement the provisions of this Agreement, the two parties had signed a Memorandum on Mutual Understanding on 17 November 2006. Also a Memorandum of Understanding between the Committee of Technical Regulation of the Republic of Kazakhstan and the State Department of Standardization of China had been signed on 1 September 2011 providing for development of cooperation in the sphere of standardization on the basis of internationally accepted principles. Kazakhstan had also concluded intergovernmental bilateral agreements on cooperation in the area of standardization, metrology and certification with Armenia, Azerbaijan, Bulgaria, Israel, Qatar, Lithuania and Turkmenistan, as well as inter-departmental agreements between the Ministry of Industry and New Technologies (now the Ministry of Investments and Development) and its counterparts in the Czech Republic, Germany, Moldova, Singapore and the Slovak Republic. These bilateral agreements were aimed at removing technical barriers in mutual trade as well as cooperating in the sphere of research and technology by means of mutual recognition of standardization, metrology and certification systems, including conformity certificates. She said that Kazakhstan stood ready to negotiate a bilateral agreement on standards

with any WTO Member. She confirmed that upon WTO accession, Kazakhstan would provide WTO Members with MFN treatment in relation to the application of technical barriers to trade.

661. A Member expressed concerns regarding application of Kazakhstan's conformity assessment procedure in practice, notably in the case of veterinary drugs, noting that the resulting process seriously distorted trade, as it was time-consuming and costly, and as such was incompatible with the WTO TBT Agreement. Some Members sought information on the requirement to receive separate permissions from the chief veterinarian to transport imports of veterinary drugs within Kazakhstan, even after obtaining a valid certificate of conformity. In response, the representative of Kazakhstan explained that currently veterinary drugs were not included into the Unified List approved by CU Commission Decision No. 526 and, thus, were not subject to mandatory conformity assessment. Veterinary drugs imported to Kazakhstan for the first time were subject to registration by the Ministry of Agriculture. She also added that in order to import veterinary drugs to Kazakhstan, permission from the chief veterinarian was required. However, permission from the chief veterinarian was not required to transport imported pharmaceuticals within the country.

662. A Member requested more information on the implementation of the provisions of Law "On Technical Regulation", enquiring specifically about the application of mandatory requirements in the area of telecommunications within the framework of the legislation. In reply, the representative of Kazakhstan said that the telecommunications sector, like all other sectors, fell within the coverage of Law "On Technical Regulation". Accordingly, Law No. 567-II "On Communications" of 5 July 2004 had been amended, in particular Article 7 (stipulating the authority of the Government to approve technical regulations) and Article 16 (conformity assessment in the area of telecommunications).

(d) Transparency

663. With regard to the transparency and publication requirements of the WTO TBT Agreement, the representative of Kazakhstan said that, for administrative reasons, the EAEU member States established their own national enquiry points on technical regulations and sanitary and phytosanitary measures. In case of Kazakhstan, the combined Enquiry Point on TBT and SPS (Information Centre) had been established by Government Resolution No. 718 "On the Rules on Creation and Functioning of the Enquiry Point on TBT and SPS" of 11 July 2005 (hereinafter: Rules on the Enquiry Point) under Kazakhstan's Institute for Standardization and Certification, which was a subordinate body of the Committee on Technical Regulation. Any interested party could approach the Enquiry Point for information. She also added that units responsible for providing information on SPS measures to the Enquiry Point had been appointed at the Ministry of Agriculture and the Ministry of Public Health and Social Development. According to paragraph 12 of the Rules on the Enquiry Point, government agencies submitted appropriate information on adoption and application of TBT and SPS measures to the Enquiry Point. The main functions of the Enquiry Point for TBT and SPS were: (i) interaction with the WTO Secretariat, WTO Members and international organizations to provide interested parties and foreign States with the following information and documents upon their request: (a) copies of documents and information on adopted or proposed technical regulations, standards, sanitary and phytosanitary measures, amendments made to them, (b) conformity assessment procedures, (c) membership or participation of the Republic of Kazakhstan in international organizations and international treaties on standardization, SPS measures, conformity assessment, bilateral and multilateral accreditation, and (d) sources of publications of drafts, technical regulations, SPS measures and standards; and (ii) publication of notifications in the Enquiry Point's Journal. The representative of Kazakhstan further noted that to date there were no plans to divide the Enquiry Point on TBT and SPS into two separate enquiry points. The Enquiry Point could be contacted at:

Address: Orynbor st. 11,
Astana 010000,
Republic of Kazakhstan

Telephone: +7 (7172) 22 66 63
Fax: +7 (7172) 20 64 81
E-mail: enquirypoint@mail.ru
Website: <http://wto.memst.kz/en>

664. Adopted and draft regulations on TBT and SPS, including technical regulations of the EAEU, were regularly published on the websites of the Enquiry Point on TBT and SPS, the Committee on Technical Regulation, the Ministry of Public Health and Social Development and the Ministry of Agriculture, local executive bodies and accredited public associations. These regulations were also published in the journal "Bulletin of the Enquiry Point on TBT and SPS".

665. Draft technical regulations were developed and examined by working groups, which were composed of representatives of State bodies, technical committees on standardization and other interested parties (including public organizations, scientific unions, businesses and entrepreneurial associations).

666. In response to a Member's question on notification procedures in the EAEU, the representative of Kazakhstan explained that taking into account that EAEU member States acceded to the WTO separately, each of them had separate obligations on notification. Thus, Kazakhstan and the EAEU member States that were also WTO Members, in accordance with their commitments, would have to notify all draft technical regulations of the EAEU. The notified drafts would be identical and subject to the same deadlines for comments. All comments received from third countries would be sent by the EAEU member States to the EEC. The EEC was responsible for processing all the comments, publishing them on the official website of the EEC and forwarding them to the Developer of the draft technical regulation (relevant competent authority of the EAEU member State). Thus, the process established within the EAEU ensured that there was no duplication in considering the comments received on draft documents.

667. The representative of Kazakhstan explained that, in accordance with EEC Council Decision No. 48, the period for public consultations for draft technical regulations had to be no less than 60 days from the day of the placement of the draft technical regulation on the official website of the EEC. Neither Law "On Technical Regulation" nor the EAEU Treaty and acts on standardization or technical regulation defined or limited the number or character of interested persons who could submit comments and/or suggestions to drafts of technical regulation. EEC Council Decision No. 48 explicitly provided for participation of all interested persons in public consultations. She also noted that the relevant international agreements and other legal acts did not provide for any restrictions on foreign persons to participate in the public consultations of draft technical regulations as interested parties. In accordance with EEC Council Decision No. 48, interested persons, including persons from third countries, could submit their proposals and comments on draft technical regulations of the EAEU to the EEC. According to paragraph 9 of EEC Council Decision No. 48, all proposals and comments received from interested parties of the EAEU and third countries, had to be published by the EEC on the official website of the EEC upon their receipt. The EEC sent all comments and suggestions to the Developer of the draft technical regulation (relevant competent authority of the EAEU member State) upon completion of the public consultations. The Developer of the draft technical regulation revised the draft technical regulation and related documents taking into account the comments and proposals. For each comment and proposal, the Developer of the draft technical regulation specified information on its acceptance or justification for its rejection. The EEC ensured subsequent publication of the summary of comments on the draft technical regulation, including decisions on each of them and reasons for such decisions, on the official website of the EEC.

668. A Member asked how Kazakhstan envisaged coping with its forthcoming obligations resulting from the WTO TBT Agreement, for example, notification of draft technical regulations, taking into account ongoing transfer of competences in the field of technical regulation to the EAEU. In response, the representative of Kazakhstan explained that Kazakhstan was actively involved in all works undertaken at the EAEU level and could fulfil its commitments as a WTO Member, including the commitment to forward notification of draft technical regulations of the EAEU. From the date of accession of Kazakhstan to the WTO, the Enquiry Point on TBT and SPS would fulfil all obligations on notifications specified by the WTO Agreements on TBT and SPS, including notifications on the proposed technical regulations of the EAEU to the WTO Secretariat and would provide WTO Members with copies of proposed technical regulations upon request. In response to a Member's request, the representative of Kazakhstan noted that Kazakhstan would confirm receipt of comments whenever comments were received from WTO Members on notified legislation. Moreover, in accordance with the Regulation on Development, Adoption, Amendment and Cancellation of Technical Regulations of the Customs Union, approved by EEC Council Decision No. 48, during public consultations draft technical regulations of the EAEU and notifications about the commencement and completion of public consultations on draft technical regulation of the

EAEU were published on the official website of the EEC. The same information was also published on the official website and bulletin of the Committee on Technical Regulation as well as the website of the Enquiry Point on TBT and SPS of the Republic of Kazakhstan. Upon development of the first draft of a technical regulation or upon completion of public consultations, the Developer of the draft technical regulation (a designated State body of Kazakhstan) prepared and sent the relevant notification to the Enquiry Point on TBT and SPS of the Republic of Kazakhstan.

669. As for standards, these were developed by technical committees on standardization, which included Government representatives and interested parties including public organizations, scientific unions, businesses and entrepreneurial associations. Comments were taken into account in the process of finalizing draft standards, and the agreement of all interested parties was sought. All interested parties could request copies of draft standards, as well as copies of the comments received on a draft. Following review and approval at the inter-agency committee level, the draft would be submitted to the Government for approval. Once adopted, the standard would be published in the "Code of Normative Acts of the President of the Republic of Kazakhstan and Government of Kazakhstan", the republican level newspaper, the official publication of the authorized body ("Technical Regulation Bulletin"), and on the website of the Committee on Technical Regulation (<http://www.memst.kz/tr/National%20standards.pdf>). A draft plan on the development of standards was published in the monthly "Informational Catalog (Register) of Standards" (ICS), by the Committee on Technical Regulation to enable interested parties to submit comments on drafts. Drafts were published in the official publication of the Committee. In addition, two subordinate State enterprises of the Committee, Kazakhstan's Institute of Standardization and Certification, and Kazakhstan's Institute of Metrology issued periodic publications ("Gosstandard News", "Metrology" and "Monthly Informational Index of Standards"). Electronic versions of the plans for development of technical regulations and standards were put on the website of the Enquiry Point on TBT and SPS (<http://wto.memst.kz/en/information/plans/plans.php>). The EEC website (<http://www.eurasiancommission.org/en/act/txnreg/Pages/acts.aspx>), was the point of publication for documents related to the development, adoption, and application of technical regulations of the EAEU.

670. The representative of Kazakhstan confirmed that from the date of accession, Kazakhstan would ensure that all laws, regulations, and other measures within the scope of the WTO Agreement on Technical Barriers to Trade, such as technical regulations, standards, and conformity assessment procedures, applied in Kazakhstan complied with the provisions of the WTO Agreement on Technical Barriers to Trade. The Working Party took note of this commitment.

- Sanitary and Phytosanitary Measures

(a) Legislative Framework

671. The representative of Kazakhstan stated that the legislative basis for the regulation of the Sanitary and Phytosanitary (SPS) regime in Kazakhstan was established by the following: the Treaty of the Eurasian Economic Union of 29 May 2014 (hereinafter: EAEU Treaty); CU Commission Decision No. 625 "On Ensuring of Harmonization of Legal Acts of the Customs Union in the Sphere of Sanitary, Veterinary and Phytosanitary Measures with International Standards" of 7 April 2011 (as amended by CU Commission Decision No. 722 of 22 June 2011 and EEC Collegium Decision No. 11 of 7 March 2012); CU Commission Decision No. 721 "On Application of International Standards, Recommendations and Guidelines" of 22 June 2011; EEC Collegium Decision No. 212 "On Regulation on the Uniform Procedure of Carrying out Examination of Legal Acts in the Sphere of Implementation of Sanitary, Veterinary and Phytosanitary Measures" of 6 November 2012, which had replaced CU Commission Decision No. 801 of 23 September 2011; CU Commission Decision No. 835 "On Equivalence of Sanitary, Veterinary and Phytosanitary Measures and Carrying out Risk Assessment" of 18 October 2011 (as amended by EEC Collegium Decision No. 17 of 11 February 2014); EEC Collegium Decision No. 161 "On Consultative Committee on Technical Regulation, Application of Sanitary, Veterinary and Phytosanitary Measures" of 18 September 2012 (as last amended by EEC Collegium Decision No. 141 of 19 August 2014); and, EEC Collegium Decision No. 31 "On Ensuring Transparency in the Process of Adoption of Acts of the Eurasian Economic Commission in the Sphere of Application of Sanitary, Quarantine Phytosanitary and Veterinary-Sanitary Measures" of 5 March 2013 (as amended by EEC Collegium Decision No. 161 of 13 August 2013).

672. The legal basis for the sanitary policy within the EAEU was provided in Section XI (Articles 56 and 57) and Annex No. 12 of the EAEU Treaty. These provisions replaced CU Agreement on Sanitary Measures of 11 December 2009 (as amended by Decision of the Interstate Council of the EurAsEC No. 39 of 21 May 2010, CU Commission Decision No. 887 of 9 December 2011), which was terminated when the EAEU Treaty came into effect on 1 January 2015. The legal basis for the sanitary policy was also provided in Decision of the Interstate Council of the EurAsEC No. 83 "On Entering into Force of Protocols of 21 May 2010 in the Sphere of Implementation of Sanitary, Veterinary-Sanitary and Phytosanitary Measures" of 19 May 2011 and CU Commission Decision No. 299 "On the Application of Sanitary Measures in the Customs Union" of 28 May 2010, as amended by CU Commission Decisions No. 341 of 17 August 2010, No. 456 of 18 November 2010, No. 571 of 2 March 2011, No. 622 of 7 April 2011, Nos. 828 and 829 of 18 October 2011, Nos. 888 and 889 of 9 December 2011; Decisions of the EEC Council Nos. 36 and 37 of 15 June 2012, No. 64 of 20 July 2012, Nos. 114 and 115 of 17 December 2012; Decisions of the EEC Collegium Nos. 32, 33 and 34 of 19 April 2012, No. 89 of 13 June 2012, No. 111 of 12 July 2012, No. 117 of 19 July 2012, No. 141 of 23 August 2012, Nos. 206 and 208 of 6 November 2012, and No. 6 of 15 January 2013 (hereinafter: CU Commission Decision No. 299). A consolidated version of CU Commission Decision No. 299, as amended, was available at the following EEC webpage: <http://www.eurasiancommission.org/en/act/texnreg/Pages/acts.aspx>, which was regularly updated.

673. The legal basis for the veterinary policy within the EAEU was provided in Section XI (Articles 56 and 58) and Annex No. 12 of the EAEU Treaty. These provisions replaced the CU Agreement on Veterinary-Sanitary Measures of 11 December 2009 (as last amended by the EurAsEC Interstate Council Decision No. 39 of 21 May 2010), which was terminated when the EAEU Treaty came into effect on 1 January 2015. The legal basis for the veterinary policy was also provided in CU Commission Decision No. 317 "On the Application of Veterinary-Sanitary Measures in the Customs Union" of 18 June 2010, as amended by CU Commission Decisions No. 342 of 17 August 2010, No. 455 of 18 November 2010, Nos. 569 and 570 of 2 March 2011, No. 623 of 7 April 2011, No. 724 of 22 June 2011, No. 726 of 15 July 2011, No. 810 of 23 September 2011, Nos. 830, 831 and 834 of 18 October 2011, and No. 893 of 9 December 2011; EEC Council Decisions No. 85 of 12 October 2012 and No. 95 of 9 October 2014; EEC Collegium Decisions No. 254 of 4 December 2012, No. 274 of 12 December 2012, No. 307 of 25 December 2012, No. 192 of 10 September 2013, No. 244 of 29 October 2013, No. 294 of 10 December 2013, No. 18 of 11 February 2014 and No. 178 of 30 September 2014 and EEC Council Decision No. 95 of 9 October 2014 (hereinafter: CU Commission Decision No. 317); CU Commission Decision No. 607 "On Common Forms of Veterinary Certificates on Goods Subject to Veterinary Control Imported into the Customs Union Territory from Third Countries" of 7 April 2011 (as amended by CU Commission Decisions No. 832 of 18 October 2011 and No. 892 of 9 December 2011; EEC Collegium Decisions No. 262 of 4 December 2012, No. 308 of 25 December 2012, No. 245 of 29 October 2013, and No. 19 of 11 February 2014; and EEC Council Decision No. 95 of 9 October 2014); CU Commission Decision No. 624 "On Regulation on the Procedure of Development and Maintenance of the Register of Companies and Persons which Carry out Production, Processing and/or Storage of Products Subject to Veterinary Control (Surveillance) Imported into the Territory of the Customs Union" of 7 April 2011; CU Commission Decision No. 726 "On Veterinary Measures" of 15 July 2011; CU Commission Decision No. 833 "On Equivalence of Systems of Inspection of Objects of Veterinary Control (Surveillance)" of 18 October 2011; EEC Council Decision No. 33 "On Amendments to the Exemption in Application of Veterinary Measures in Respect of the Goods Included in the Common List of Goods Subject to Veterinary Control (Surveillance)" of 16 May 2013; and, EEC Council Decision No. 94 of 9 October 2014 (hereinafter: EEC Council Decision No. 94) which had replaced CU Commission Decision No. 834 "On Regulation on Common System of Joint Inspections of Objects and Sampling Goods (Products), Subject to Veterinary Control (Surveillance)" of 18 October 2011 (hereinafter: CU Commission Decision No. 834). A consolidated version of CU Commission Decision No. 317, as amended, was available at the following EEC webpage: <http://www.eurasiancommission.org/en/act/texnreg/Pages/acts.aspx> which was regularly updated.

674. The legal basis for the phytosanitary policy within the EAEU was provided in Section XI (Articles 56 and 59) and Annex No. 12 of the EAEU Treaty. These provisions replaced the CU Agreement on Plant Quarantine of 11 December 2009 (as last amended by the Decision of the Interstate Council of the EurAsEC No. 83 of 19 May 2011), which was terminated when the EAEU Treaty came into effect on 1 January 2015. The legal basis for the phytosanitary policy was also provided in CU Commission Decision No. 318 "On Ensurance of Plant Quarantine in the Customs

Union" of 18 June 2010, as amended by CU Commission Decisions No. 528 of 28 January 2011, No. 894 of 9 December 2011; EEC Council Decisions No. 50 of 16 August 2013, No. 25 of 24 April 2014 and No. 93 of 9 October 2014 (hereinafter: CU Commission Decision No. 318) and Decision of the Interstate Council of the EurAsEC No. 76 "On the Organization of the Transfer of Control from the Russian-Kazakh Border to the External Border of the Customs Union" of 15 March 2011. A consolidated version of CU Commission Decision No. 318, as amended, was available at the following EEC webpage: <http://www.eurasiancommission.org/en/act/txnreg/Pages/acts.aspx>, which was regularly updated.

675. In addition, the following nine EAEU technical regulations had been adopted, which set food quality and safety requirements: (i) "On Food Safety", adopted by CU Commission Decision No. 880 of 9 December 2011 (as amended by EEC Collegium Decisions No. 129 of 11 June 2013, No. 147 of 25 June 2013 and No. 91 of 10 June 2014); (ii) "On Labelling of Food Products", adopted by CU Commission Decision No. 881 of 9 December 2011; (iii) "On Juice Products Made of Fruits and Vegetables", adopted by CU Commission Decision No. 882 of 9 December 2011; (iv) "On Fat-and-Oil Products", adopted by CU Commission Decision No. 883 of 9 December 2011; (v) "On Safety of Grain", adopted by CU Commission Decision No. 874 of 9 December 2011; (vi) "On Safety of Certain Types of Specialized Products, Including Dietetic Medicinal and Dietetic Prophylactic Meals", adopted by EEC Council Decision No. 34 of 15 June 2012; (vii) "On Safety of Food Additives, Flavours and Processing Aids", adopted by EEC Council Decision No. 58 of 20 July 2012; (viii) "On Safety of Milk and Milk Products", adopted by EEC Council Decision No. 67 of 9 October 2013; and, (ix) "On Safety of Meat and Meat Products", adopted by EEC Council Decision No. 68 of 9 October 2013. The list of adopted EAEU technical regulations was available at the following EEC webpage: <http://www.eurasiancommission.org/en/act/txnreg/deptexreg/tr/Pages/tecnicareglament.aspx>. The section of the Technical Regulation "On Food Safety" pertaining to fish and fish products currently was not applied and would become applicable upon entry into force of the corresponding sectoral technical regulation.

676. The representative of Kazakhstan further stated that national legislation remained in effect to the extent that it did not contradict the EAEU Treaty, CU Commission Decisions and EEC Council and Collegium Decisions. She further explained that issues not specified by the above-mentioned Treaty and Decisions were dealt with by the national legislation, in particular: Law No. 339-II "On Veterinary" of 10 July 2002 (hereinafter: Law "On Veterinary"); Government Resolution No. 407 "On Approval of Regulatory Legal Acts in the Sphere of Veterinary" of 28 April 2003, by which the following had been approved: (i) Regulation on the State Veterinary and Sanitary Control, (ii) Rules for Compulsory Seizure and Destruction of Animals, Products and Raw Materials of Animal Origin, which Constitute High Danger to Animal and Human Health, or Mandatory Decontamination (Disinfection) and Processing Without Withdrawal Thereof, (iii) Rules and Conditions of Compensation to Juridical and Natural Persons of the Value of Removed and Destroyed Infected Animals, Products and Raw Materials of Animal Origin, which Constitute High Danger to Animal and Human Health, (iv) List of Highly Contagious Animal Diseases, when Compulsory Seizure and Destruction of Animals, Products and Raw Materials of Animal Origin, which Constitute High Danger to Animal and Human Health are to be Held, (v) List of Highly Contagious Animal Diseases, Prevention, Diagnosis and Eradication of which are Implemented at the Cost of the Budget, (vi) Rules of State Veterinary and Sanitary Control During Movement of Objects Across the State Border of the Republic of Kazakhstan, and, (vii) Rules of Organization of Veterinary Control Posts at the State Border and Customs Checkpoints; Government Resolution No. 1754 "On Approval of Organization of Slaughtering of Agricultural Animals Intended for Subsequent Sale" of 4 November 2009; Government Resolution No. 2331 "On Approval of the Rules on the Identification of Agricultural Animals" of 31 December 2009; Order of the Minister of Agriculture No. 16-04/647 "On Approval of Rules of Issuance of Permits for Exportation, Importation and Transit of Objects with Regard to Evaluation of Epizootic Situation in the Territory" of 9 December 2014 (hereinafter: Order of the Minister of Agriculture No. 16-04/647) which had replaced Government Resolution No. 132 "On Approval of Rules of Issuance of Permits for Exportation, Importation and Transit of Objects with Regard to Evaluation of Epizootic Situation in the Territory" of 19 January 2012 (hereinafter: Government Resolution No. 132); Government Resolution No. 149 "On Approval of the Rules of Transportation (Movement) of Objects on the Territory of the Republic of Kazakhstan" of 21 January 2012; Government Resolution No. 165 "On the Approval of the Rules for Entry (Importation) of Food Products Subject to State Registration" of 19 February 2008; Law No. 301-III "On Food Safety" of 21 July 2007; Code of the Republic of Kazakhstan No. 193-IV "On Public Health and Healthcare System" of 18 September 2009; Government Resolution No. 125 "On Approval of the Rules for Assignment of

Registration Numbers to Entities Producing Food Products" of 11 February 2008; Government Resolution No. 2267 "On Approval of the Rules for Refusal for Entry, as well as for Production, Use and Sale of Products Intended for Human Consumption, on the Territory of the Republic of Kazakhstan, as well as for Use in Business and/or Other Activities" of 30 December 2009; Law No. 344-I "On Plant Quarantine" of 11 February 1999 (hereinafter: Law "On Plant Quarantine"), Law No. 331-II "On Plant Protection" of 3 July 2002; Government Resolution No. 1295 "On Approval of the List of Quarantine Facilities, Alien Species and Extremely Dangerous Pests" of 10 December 2002, as last amended by Government Resolution No. 1351 of 11 September 2009; Government Resolution No. 1730 "On Approval of the Rules for Protection of the Territory of the Republic of Kazakhstan from Plant Quarantine Objects and Alien Species" of 30 October 2009; Government Resolution No. 1287 "On Approval of the Rules on Withdrawal and Destruction of Quarantine Products, Infected by Quarantine Objects, Not Subject to Decontamination or Processing" of 3 November 2011; Government Resolution No. 1674 "On Approval of Phytosanitary Requirements to Imported Quarantine Products" of 30 December 2011; and Government Resolution No. 1396 "On Approval of the Rules for Procedure of Registration and Production Tests and State Registration of Pesticides (Chemical Insecticides)" of 30 November 2011.

(b) Competent Authorities for the Regulation of Trade in Agricultural Products

- (i) EAEU Authorities and Responsibilities

677. The representative of Kazakhstan explained that Eurasian Economic Commission (hereinafter: EEC or Commission) became the successor of the CU Commission as of January 2012. Within the EAEU institutional framework for regulating in the sphere of SPS measures, the role of the Commission was to coordinate the development and implementation of SPS measures by the EAEU member States, which involved their respective sanitary, veterinary, and phytosanitary authorities. The Commission laid out common general principles and adopted common safety requirements for goods marketed within the territory of the EAEU. These safety requirements covered sanitary and epidemiological, veterinary, and phytosanitary regulations that governed production and trade of the EAEU.

678. The EEC was established as a single permanent regulatory body of the EAEU by Article 18 of the EAEU Treaty. The EEC consisted of a Council and a Collegium. The competences of the Council and Collegium were stipulated in Annex No. 1 to the EAEU Treaty and "Regulation of the Work of the Eurasian Economic Commission", approved by the Decision of the Supreme Eurasian Economic Council No. 1 of 18 November 2011. The Council had the right to veto the decisions adopted by the Collegium. The Council had the following competences with respect to SPS measures:

- adoption, introduction of amendments and addenda into the Common Lists of Goods subject to Sanitary-Epidemiological Surveillance, Veterinary and Quarantine Phytosanitary Control; and,
- adoption and introduction of amendments and addenda into the Regulation of Sanitary and Epidemiological Control, Regulation on Common Procedure for Conduct of Veterinary Control, Regulation on Common System of Joint Inspections of Objects and Sampling Goods (Products), Subject to Veterinary Control (Surveillance), and the Regulation on Common Procedure for Conduct of Quarantine Phytosanitary Control.

The Collegium had responsibility for the rest of the issues, including the adoption and introduction of amendments and addenda into the Common Veterinary Requirements and Common Forms of Veterinary Certificates, the Common Sanitary Requirements, and the Common Quarantine Phytosanitary Requirements.

679. Developing SPS measures at the EAEU level involved specific technical and administrative expertise via working groups, which reported to the Consultative Committee on Technical Regulation, Application of Sanitary, Veterinary and Phytosanitary Measures (hereinafter: Consultative Committee). Functions and interactions of the working groups and the Consultative Committee were defined by specific regulations: the "Regulation of Working and Expert Groups on SPS and TBT", approved by the Decision of the Minister on Technical Regulation – Member of the EEC Collegium of 3 October 2013, and the "Regulation on the Consultative Committee on Technical

Regulation, Application of Sanitary, Veterinary and Phytosanitary Measures", approved by EEC Collegium Decision No. 161 of 18 September 2012. The current practice for development of draft EAEU legal acts on SPS measures was as follows:

- an EAEU member State or the EEC initiated the development of a draft EAEU legal act;
- an EAEU member State responsible for developing the draft was appointed, or the EEC acted as a developer;
- a working group, including representatives of the EAEU member States' competent authorities was established to review the draft;
- a draft document that was discussed and approved at a working group meeting, was then submitted to the Consultative Committee for publishing on the EAEU official website for public consultations. The EAEU draft SPS texts were published at the following web-page: <http://www.eurasiancommission.org/en/act/texnreg/depsanmer/publ/Pages/default.aspx>. The period for public consultation was two months. The comments were collected by the Department of the Sanitary, Phytosanitary and Veterinary Measures of the EEC;
- after the process of public consultation, all comments and questions were discussed within the working group. In accordance with EEC Collegium Decision No. 31 "On Ensuring Transparency in the Process of Adoption of Acts of the Eurasian Economic Commission in the Sphere of Application of Sanitary, Quarantine Phytosanitary, and Veterinary and Sanitary Measures" of 5 March 2013, as amended by EEC Collegium Decision No. 161 of 13 August 2013, the Department of the Sanitary, Phytosanitary and Veterinary Measures, within 30 working days after expiration of the public consultation period, compiled a summary table of comments and answers, based on the discussion that took place in the EAEU working group to examine those comments, and published the summary table of comments and answers on the official EAEU website. This table of comments and answers took into account comments received in the framework of WTO SPS notifications of the EAEU member States. A final revision of the draft document was discussed and approved by the working group and submitted to the Consultative Committee;
- the draft document was reviewed at the meeting of the Consultative Committee. In case the draft was approved, it was submitted to the EEC Collegium for approval; and
- the EEC Collegium either adopted the EAEU documents which were under its competence or in other cases approved the drafts before submitting them to the EEC Council for adoption.

In reply to a specific question from a WTO Member, the representative of Kazakhstan explained that currently the fixed time-frame – not less than 60 days – was established only for public consultations on SPS measures. The length of the other stages of the process of development and approval of SPS legal acts depended on the time required for reaching a consensus by all EAEU member States.

- **(ii) National Authorities**

680. Kazakhstan's veterinary service consisted of the Department of Veterinary and Food Safety at the Ministry of Agriculture, and the Committee of Veterinary Control and Surveillance under the Ministry of Agriculture. The Department of Veterinary and Food Safety was in charge of strategic planning in the sphere of veterinary safety and developing rules and regulations in this area. The Committee of Veterinary Control and Surveillance was in charge of budgeting and conducting veterinary control and surveillance of the objects of veterinary and sanitary control and surveillance, including on the State border, epizootic welfare, as well as the veterinary surveillance of establishments. In addition, the veterinary control framework included: (i) veterinary control posts; (ii) the oblast, city and rayon territorial branches of the Committee of Veterinary Control and Surveillance; and (iii) subordinated State veterinary organizations (National Reference Center for Veterinary, Republican Anti-Epizootic Entity, and Republican Veterinary Laboratory. Executive functions in the sphere of veterinary were transferred to local executive bodies of the respective administrative-territorial units (oblast, city, rayon, etc.), which included veterinary branches, as well as State veterinary organizations to conduct veterinary measures.

681. In February 2014, the Committee of Consumer Rights Protection of the Ministry of National Economy of the Republic of Kazakhstan (hereinafter: Committee of Consumer Rights Protection) replaced the Committee of State Sanitary and Epidemiological Surveillance of the Ministry of Health. The Committee of Consumer Rights Protection was the authorized body responsible for issues related to sanitary and epidemiological welfare. Functions of the Committee of Consumer

Rights Protection were specified by Code of the Republic of Kazakhstan No. 193-IV "On Public Health and Healthcare System" of 18 September 2009. The representative of Kazakhstan said that the Department of Phytosanitary Safety of the Ministry of Agriculture was in charge of strategic planning in the sphere of phytosanitary safety and development of rules and regulations in this area. The Committee of State Inspection in the Agro-Industrial Complex of the Ministry of Agriculture of the Republic of Kazakhstan was in charge of budgeting and conducting phytosanitary control including border control, measures on protection of plants from pests, monitoring of agricultural lands against plant pests and diseases.

682. With regard to participation in international organizations in this sphere, she said that as a member of the World Organisation for Animal Health (hereinafter: OIE) since 1993, Kazakhstan intended to follow the provisions of the Terrestrial and Aquatic Animal Health Codes and Manuals. For the purpose of application of OIE Code, Kazakhstan had ratified the International Agreement on Establishment the OIE (Law of the Republic of Kazakhstan No. 109-IV of 24 December 2008). In addition, Kazakhstan had ratified the Convention for the Establishment of the European and Mediterranean Plant Protection Organization, in March 2004, and the International Plant Protection Convention (hereinafter: IPPC), in April 2010. She further explained that Kazakhstan was a member of Codex Alimentarius Commission since 2005. Hence, the international standards, recommendations and guidelines of the OIE, IPPC, and the Codex Alimentarius (hereinafter: Codex) would be applied in Kazakhstan.

(c) Development of Technical Regulations/Mandatory Requirements on SPS

683. The representative of Kazakhstan explained that EAEU member States also elaborated mandatory requirements for products within technical regulations. These could be adopted by the EEC, pursuant to:

- Article 52 and Annex No. 9 of the EAEU Treaty; and,
- Decision of the EEC Council No. 48 "On the Regulation on Development, Approval, Amending and Cancellation of Technical Regulations of the Customs Union" of 20 June 2012 (hereinafter: EEC Council Decision No. 48).

684. The representative of Kazakhstan explained that the aim of the ongoing legislative and implementation work in the EAEU and Kazakhstan was to ensure harmonization with the standards, guidelines, and recommendations of the World Organisation for Animal Health (OIE), the International Plant Protection Convention (IPPC), and the Codex Alimentarius (Codex). This work, in her view, would ensure full compliance of the SPS regime of Kazakhstan, whether measures were adopted in the context of the EEC or domestically, with the requirements of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (hereinafter: WTO SPS Agreement) from the date of accession of Kazakhstan to the WTO.

685. She added that the approaches towards harmonization of the EAEU measures and the Kazakh domestic regulation of sanitary and phytosanitary issues with the standards, guidelines, and recommendations of these international organizations were defined in the framework of the EAEU Treaty, Commission decisions and participation of Kazakhstan in the activities of the relevant international organizations. She explained that CU Commission Decision No. 721 "On Application of International Standards, Recommendations and Guidelines" of 22 June 2011, provided that: in cases in which the Commission or the national authorities had not established mandatory requirements in the veterinary, or phytosanitary, or sanitary epidemiological and hygienic sphere, the EAEU member States would apply standards, recommendations and guidelines of the OIE, IPPC, and the Codex Alimentarius (Codex) respectively. Similarly, if EAEU veterinary, phytosanitary and sanitary-epidemiological and hygienic mandatory requirements in effect in the territory of the EAEU were more stringent than relevant international standards, guidelines and recommendations, in the absence of scientific justification of risk to human, animal, or plant life or health, relevant international standards, guidelines, and recommendations, or parts thereof, would be applied.

686. Some Members asked Kazakhstan to provide details on the EurAsEC and EEC processes for elaborating SPS Technical Regulations and whether EurAsEC requirements would supersede or replace EEC, EAEU and national requirements.

687. The representative of Kazakhstan stated that draft technical regulations, including those related to SPS, were developed in the participating countries using internal procedures before being proposed by the authorised national bodies. For Kazakhstan, the Ministry of Agriculture or the Committee of Consumer Rights Protection, as assigned by the Government of Kazakhstan, proposed SPS technical regulations to the designated EEC bodies for harmonization, further review, and adoption as provided for in the relevant international agreements or EAEU decisions. Development of the technical regulations of the EurAsEC had been suspended at the EurAsEC level based on EurAsEC Interstate Council Decision No. 575 "On Elimination of Technical Barriers in Mutual Trade of EurAsEC Member States on the Basis of the System of Technical Regulation of the Customs Union" of 19 October 2011 (hereinafter: Decision of the EurAsEC Interstate Council No. 575). The procedures of the development of technical regulations of the EAEU were laid down in EEC Council Decision No. 48. In the EAEU framework, the Consultative Committee fulfilled coordination and transparency role in the process of development of EAEU technical regulations. In particular, it received draft technical regulations from the authorized bodies of the EAEU member States, prepared analysis and recommendations on draft technical regulations, and coordinated the development of draft text and resolved disputes concerning it among the authorities of the EAEU member States.

688. The representative of Kazakhstan also explained that, under the EAEU, any domestic or foreign natural or juridical person or governmental or non-governmental body could develop a draft technical regulation provided that the development of a technical regulation was included into respective schedule outlining the development of priority technical regulations of the EAEU and it was approved by the authorized body for such works. Third-country interested parties, including foreign governments, could provide comments on draft technical regulations proposed by any of the EAEU member States, as established in paragraph 8 of the EEC Council Decision No. 48.

689. Responding to a question on how draft technical regulations not based on international standards, recommendations or guidelines could be revised prior to their application, she stated that the applicable laws and EAEU acts specified the priority use of international standards, recommendations and guidelines, as the basis for technical regulations and that the technical regulation developer (relevant EAEU member State's authorized body or the EEC) was required to provide his assessment on how the draft was consistent with international standards in his notification of the draft for public comment. The technical regulation developer was also required to identify the standards, recommendations and guidelines, used in developing the draft technical regulation. When Kazakhstan was responsible for developing technical regulations, it designated a state body responsible for development of the draft technical regulation (hereinafter: Developer of the draft technical regulation). The Developer of the draft technical regulation prepared the first draft of the technical regulation and based on proposals from the competent authorities of the EAEU member States, formed an EAEU working group that included experts representing government bodies, academia and business/consumers associations and other interested parties. The draft technical regulation was discussed at the EAEU working group meetings. The EAEU working group would take into account the requirement to use international standards, recommendations and guidelines, and, if necessary, propose appropriate changes. Upon completion of the first draft of the technical regulation, the Developer of the draft technical regulation sent the draft, an explanatory note, and a notification on development of the technical regulation to the EEC. The EEC ensured consideration of the first version of the draft technical regulation and related set of documents at the meeting of the Consultative Committee. Following the consideration by the Consultative Committee, the decision on starting date and period of public consultations on the draft technical regulation was made, which was formalized by a Protocol. In cases when Consultative Committee decided that further revisions were necessary, the Developer of the draft technical regulation within the period established by the Consultative Committee revised the draft technical regulation and the set of related documents.

690. The public consultation began when the EEC placed the draft technical regulation, the notification on its development, and an explanatory note on its official website. This information was also published at the official websites of the authorized bodies for technical regulation of the EAEU member States. Interested domestic and foreign juridical and natural persons (including those from non-members of the EAEU), including foreign governments, could submit their comments and proposals on the draft technical regulations to the EEC. The period for comments was at least 60 days following the publication of the notification on development of the draft technical regulation by the EEC. Kazakhstan intended to notify the SPS-related draft technical regulations to the WTO SPS Committee in parallel to the public consultation. In case of significant changes in the draft technical regulation, there would be a new round of public consultations and

new WTO notification would be sent to the WTO Secretariat. The EEC processed comments and proposals received from interested parties during public consultations and WTO notification procedure and sent them to the Developer of the draft technical regulation. The Developer of the draft technical regulation within 20 working days from the date of receiving comments and proposals from the EEC ensured the discussion of the comments and proposals by the working group and prepared a summary of comments, which included information on their acceptance or justification for their rejection, and sent it to the EEC. In accordance with EEC Council Decision No. 48, the EEC published on its website the table of comments and answers. The Developer of the draft technical regulation within 30 working days from the date of sending the summary of comments to the EEC revised the draft technical regulation and the related documents taking into account comments and proposals received during the public consultations, specifically those comments that were based on international standards, guidelines and recommendations. The EEC sent the draft technical regulation and related documents to the member States for their internal approval and published them on the official website. Upon completion of the internal approval of the draft technical regulation by the member States, the draft technical regulation was sent to the Consultative Committee that submitted it to the EEC Collegium for approval. The draft technical regulation and related documents, and disagreements that could not be solved during the negotiations were considered by the EEC Collegium. After the consideration, the EEC Collegium submitted the draft technical regulation and related documents either to the EEC Council for approval, or to the Developer for revision. The EEC Council adopted the final draft technical regulation at its meeting. The representative of Kazakhstan noted that any amendments to a technical regulation were adopted by the same procedure.

691. The representative of Kazakhstan explained that a schedule outlining the development of priority technical regulations of the CU had been adopted by CU Commission Decision No. 492 of 8 December 2010, which had been replaced by EEC Council Decision No. 103 of 23 November 2012, by which the "Schedule of Development of Technical Regulations of the Customs Union for 2012-2013" had been approved, and EEC Council Decision No. 79 of 1 October 2014, by which the "Schedule of Development of Technical Regulations of the Customs Union and Introduction of Amendments into Technical Regulations of the Customs Union" (hereinafter in this Section: Schedule on Development of CU Technical Regulations) had been approved. Under these schedules, as of November 2014, SPS technical regulations governing food safety, labelling of food products, grain, juice products, oil-and-fat products had been adopted by CU Commission Decisions in December 2011; SPS technical regulations governing specialized products, including dietetic meals and food additives had been adopted by the EEC Council Decision in June and July 2012, respectively; SPS technical regulations governing milk and milk products, meat and meat products had been adopted by the EEC Council Decisions in October 2013; SPS technical regulation governing safety of feed stuffs and feed additives had completed public consultation procedures, while technical regulations on safety of fish and fish products, alcoholic beverages and tobacco products had completed both public consultations and internal approval procedures as of May 2014. Public consultations of the draft Technical Regulation "On Safety of Bottled Potable Water" had been completed in October 2014. Additionally, the Schedule on Development of CU Technical Regulations provided for the development of the following SPS Technical Regulations: On Safety of Poultry and its Products and On Safety of Products in Contact with Food, which were currently under development.

692. She further explained that a schedule outlining the development of EurAsEC priority technical regulations had been adopted by Decision of the EurAsEC Interstate Council No. 521 of 19 November 2010. Included in this schedule were SPS technical regulations on grain, food safety, labelling of food products, tobacco products, juice products, oil-and-fat products, milk and milk products, honey and products of bee-farming, and on the safety of bottled water. However, currently the development of EurAsEC technical regulations had been suspended by the Decision of the EurAsEC Interstate Council No. 575 of 19 October 2011. Members of the Working Party asked for clarification as regards the overlap between the EAEU priority technical regulations and the EurAsEC priority technical regulations. The representative of Kazakhstan explained that a choice had been made to focus on the adoption of EAEU technical regulations, since the EAEU procedure for adoption of technical regulations was faster. The representative of Kazakhstan further stated that pursuant to Decision of the Interstate Council of the EurAsEC No. 652 "On Termination of the Activity of the Eurasian Economic Community" of 10 October 2014, the activity of the Eurasian Economic Community, including the development of technical regulations, had been terminated as of 1 January 2015.

693. The representative of Kazakhstan explained that the Commission had adopted 35 out of 60 planned EAEU technical regulations, including those related to SPS matters, by November 2014, and that all of these technical regulations would enter into force, after a transitional period to allow producers, importers, and exporters to become aware of and comply with the new technical regulations. A minimum period of six months between the date of publication of a technical regulation and the date of its entry into force was established in the Decisions adopting the technical regulations in order to allow entities to be able to comply with the provisions of a new technical regulation or amendments to a technical regulation. Currently, amendments to EEC Council Decision No. 48 were being considered in order to envisage this rule in the EAEU legislation, which had been adopted on 28 May 2015. Notification of when EAEU Technical Regulations entered into force and superseded national technical regulations would be posted on the EEC website. In response to a question from a Member of the Working Party, the representative of Kazakhstan confirmed that no new national technical regulations were being developed.

694. The representative of Kazakhstan explained that the EAEU Treaty, once it entered into force, was the international treaty of Kazakhstan, and, with the exception of the Constitution of the Republic of Kazakhstan and Constitutional Laws of Kazakhstan, would prevail, in the event of a conflict, over the provisions of laws and other normative legal acts in Kazakhstan (whether adopted before or after the EAEU Treaty). With regard to Commission Decisions, she explained that such decisions had the legal status in the Kazakh domestic legal system corresponding to that which the decision would have had if adopted by the Government or Executive body which had been competent to regulate the subject matter at the moment when the Commission was delegated the relevant authority. She explained that Kazakhstan did not repeal a national law when EAEU acts applied, but these were amended to refer to the EAEU act. Pending this alignment, domestic SPS measures continued to apply in so far as they did not conflict with the EAEU act.

695. Some Members expressed concern about the overlap between EAEU Technical Regulations and other EAEU Decisions in the veterinary and sanitary fields. For example, Members noted overlaps and contradictions between CU Commission Decision No. 299 and CU Technical Regulations, such as the Technical Regulation "On Food Safety". Members also noted overlaps and contradictions between CU Commission Decision No. 317, in particular, the CU common veterinary requirements, and Annex 5 to the Technical Regulation "On Food Safety", which appeared to contain veterinary requirements. Members sought clarity on what requirements were applicable for imported goods. In addition, those Members identified overlaps between different Technical Regulations, i.e. between the Technical Regulation "On Food Safety" and the vertical Technical Regulations such as the Technical Regulations for grain, meat, dairy, etc. A Member noted discrepancies in tetracyclines levels in the technical regulation for meat on the one hand, and in CU Commission Decision No. 299 and Technical Regulation "On Food Safety" on the other hand, and asked to confirm that the levels indicated in paragraph 43(1) of Annex 5 of the Technical Regulation "On Safety of Meat and Meat Products" were given priority. They asked if exporters could find all applicable requirements in the vertical Technical Regulations.

696. The representative of Kazakhstan with respect to sanitary measures noted that in accordance with paragraph 2 of Article 57 of the EAEU Treaty, the Common Sanitary Requirements, adopted by CU Commission Decision No. 299 and applied to products to which technical regulations were to be developed, had to be included into the relevant technical regulations. In other words, CU Commission Decision No. 299 remained as "reference document", codifying all sanitary requirements to products. However, only the technical regulations, once in force, were directly applicable to the controlled goods. Sanitary requirements contained in EAEU technical regulations had to be identical to the requirements of the CU Commission Decision No. 299. When a sanitary requirement was changed, public consultation of amendments into Common Sanitary Requirements and the relevant EAEU technical regulation would be held simultaneously. With regard to veterinary requirements, she further clarified that in accordance with paragraph 3 of Annex No. 9 of the EAEU Treaty, EAEU technical regulations could contain veterinary-sanitary and quarantine phytosanitary requirements only of general nature, for example the requirement to accompany a product with a veterinary certificate. In addition, Kazakhstan had raised the issue of duplication and inconsistencies in the technical regulations and EAEU decisions at the EAEU level. At present, there were two draft amendments to the EAEU Technical Regulation "On Food Safety". The first draft had gone through public consultations in July 2013 and was under review for approval by the Consultative Committee. The second draft had gone through

public consultations in July 2014 and was under discussion by the working group on sanitary measures before review by the Consultative Committee. Pursuant to the Schedule on Development of CU Technical Regulations, the two drafts were planned for adoption prior to Kazakhstan's accession to the WTO. These amendments, among other things, were aimed at elimination of discrepancies in the EAEU documents.

697. Regarding the discrepancy between horizontal and vertical technical regulations it should be mentioned that with regard to veterinary measures there were no discrepancies. Moreover, according to paragraph 3 of Article 1 of the EAEU Technical Regulation "On Food Safety", the technical regulation shall be applied taking into account the requirements of the EAEU technical regulations that established mandatory requirements for certain types of food products and related requirements to the processes of production (manufacturing), storage, transportation, marketing and utilization, complementing and/or specifying the requirements thereof. In addition, the requirements for certain types of food products and related requirements to the processes of production (manufacturing), storage, transportation, marketing and utilization established in other technical regulations of the EAEU could not change the requirements of the horizontal Technical Regulation "On Food Safety". Horizontal technical regulation of the EAEU "On Food Safety" established requirements that were common to all types of food products, in particular:

- (i) general safety requirements (including sanitary and epidemiological, sanitary and veterinary) to food products, and to production (manufacturing) processes, storage, transportation, marketing and utilization;
- (ii) general rules of identification of objects of technical regulation;
- (iii) forms and procedures for assessment (confirmation) of conformity of objects of technical regulation with the requirements of the technical regulation.

Vertical technical regulations of the EAEU "On Safety of Meat and Meat Products" and "On Safety of Milk and Milk Products" established specific requirement to the relevant products, in particular:

- (i) terminology;
- (ii) specific safety requirements for meat and meat products, milk and milk products, as well as the processes of production (manufacturing), storage, transportation, marketing and utilization, which complement requirements of the Technical Regulation "On Food Safety";
- (iii) specific rules for identification of meat and meat products, milk and milk products;
- (iv) specific requirements for labelling of meat and milk products;
- (v) conformity assessment schemes.

698. Some Members expressed concern about the overlap of EAEU and national SPS measures and the continued adoption of SPS measures at the national level in the EAEU member States. These Members noted that these amendments were not necessarily with a view to harmonize national requirements with EAEU requirements. In their view, this resulted in uncertainty regarding application and compliance with SPS measures and placed a significant burden on trade, possibly in violation of the WTO SPS Agreement. Moreover, continued development and application of domestic measures in each of the EAEU member States could result in a lack of harmonization of requirements and increased burden on trade within the territory of the EAEU. These Members requested information from Kazakhstan regarding precisely which SPS measures would apply in Kazakhstan and throughout the territory of the EAEU. These Members also requested information on when domestic authorities would cease developing and applying domestic SPS measures. The representative of Kazakhstan confirmed that national SPS measures, when in conflict with EAEU SPS acts, would not apply to the extent of the conflict. She specified that as regards matters covered by EAEU acts, Kazakhstan had ceased adopting amendments of national SPS measures, for purposes other than alignment of national measures with EAEU acts, since 1 January 2012. Until that date, a transitional period allowed the adoption of national measures when preparatory technical work had started before 1 July 2010. These national measures were applicable only in so far as they did not contradict EAEU acts. Some Members asked if alignment of national measures with EAEU acts had to occur within a specified time period, and if so, what period applied. In response, she explained that there was no specified time period for such alignment.

699. Some Members asked Kazakhstan to describe the exact delineation of competences between the EAEU/EEC and the national authorities. The representative of Kazakhstan responded that the EEC had responsibility for establishing specific product requirements, except in the area of

phytosanitary requirements. This meant that for veterinary and sanitary control, the Commission (EEC, as of January 2012), had established a list of goods that could be subject to veterinary control (surveillance), and a common list of goods subject to sanitary surveillance (control). There was one unified process for control of movement of these products between the EAEU member States, i.e., within the territory of the EAEU, and control at the external EAEU border. The EEC had also established *inter alia* unified procedures for inspection of facilities for inclusion in the register of authorised facilities (by EEC Council Decision No. 94 of 9 October 2014 which had replaced CU Commission Decision No. 834). Furthermore, guidelines for conducting inspections of establishments, which clarified the requirements applicable to these facilities superseded relevant domestic normative legal acts. With regard to phytosanitary measures, the Commission established the list of products subject to phytosanitary control and developed a draft unified list of quarantine organisms which was under discussion between the EAEU member States after public consultation procedure. The EAEU member States also were in the process of developing of EAEU common phytosanitary requirements for regulated products. Thus, the competence for phytosanitary requirements would be transferred from national authorities to the EEC Collegium. However, until the common list of quarantine organisms and phytosanitary requirements were adopted, competence remained with the national authorities of each EAEU member State at the national level.

700. With regard to other issues, where the national bodies retained authority to regulate, the representative of Kazakhstan explained that national bodies established requirements in respect of processes for manufacturing products domestically and penalties in the respective administrative code for violation of SPS requirements. National authorities also developed strategies for managing animal diseases; adopted temporary SPS measures, i.e., emergency measures, in the cases of receipt of justified information about danger of imported goods; established sanitary requirements for organization of work activity of companies in the sphere of food catering services; aligned national sanitary-epidemiological and hygiene requirements with EAEU requirements; and agreed on sanitary-safety zones (i.e., norms related to water safety and applicable only domestically). With regard to phytosanitary issues, national authorities were responsible for surveillance and eradication of quarantine organisms, domestic quarantine zones and internal phytosanitary posts.

701. She further explained that this division of competence between the EEC and national authorities could evolve with the harmonization of requirements at the EAEU level and how the EAEU member States addressed these issues. Competence would be delegated to the EAEU as part of this process. The representative of Kazakhstan referred, as an example, to EAEU member States' intention to harmonize quarantine and phytosanitary measures of the EAEU member States. Thus, competence would be transferred from national authorities to the EAEU bodies as harmonization of requirements at the EAEU level occurred.

702. The representative of Kazakhstan explained that the process of harmonization of national laws with EAEU acts on SPS matters was taking place at the same time and in a parallel process to the adoption of Commission/EEC decisions on SPS matters. She clarified that only sanitary safety limits set at the EAEU level could be applied on the territory of the EAEU member States. That is, the EAEU member States could not adopt specific MRLs or other sanitary requirements at the national level in the absence of those at the EAEU level. She further clarified that at the national level, Kazakhstan had introduced amendments into the national legislation in order to align them with the EAEU legal framework. In particular, Law "On Veterinary" had been amended on 30 June 2010 (the amendments entered into force on 1 July 2011) and 12 January 2012 in order to remove veterinary control on the border with EAEU member States and retain such control only on the state border concurring within the EAEU customs territory and to abolish registration of feed stuff, except for feed additives, respectively. The Order of the Minister of Agriculture No. 16-04/647 of 9 December 2014, which had replaced Government Resolution No. 132, governing issuance of import permits had also been developed in compliance with the provisions of the EAEU Common Veterinary Requirements. Law "On Plant Quarantine" had been amended in July 2012 in order to remove the requirement of import permits.

703. Some Members noted that several documents called GOST or MUK appeared to contain SPS requirements; however, these documents did not appear to be legal requirements. These Members asked Kazakhstan to confirm that those documents could only be considered as guidelines and could not be used to impose restrictive measures on trade if the requirements set-out in these documents were not met. In particular, these Members asked Kazakhstan to

confirm that there were no legal requirements that set a compulsory frequency of self-checks or official checks at the level of the producing establishments for residues or microbiological levels in food.

704. In response, the representative of Kazakhstan explained that GOST were non-binding recommendations. She stated that compliance with MUKs were internal guidelines and compliance with these guidelines was mandatory only for State control bodies and those bodies within Kazakhstan conducting State sanitary-epidemiological control and other types of State control. She noted that GOST and MUK documents were being updated on a regular basis taking into account current amendments in legislation and the technical base (capabilities for testing). She confirmed that there were no binding requirements on how often the producing establishment had to test for residues or microbiological levels in its product or how often official checks for residues and microbiological checks should be carried out. She noted that an inspector could ask for documents regarding such testing for informational purposes to establish that there was a plan of control of these issues. Some Members expressed concerns that an establishment could be considered as non-compliant on the basis of a non-binding guideline and asked whether Kazakhstan would implement the Codex Guidelines "For the Design and Implementation of National Regulatory Food Safety Assurance Programme Associated with the Use of Veterinary Drugs in Food Producing Animals" CAC/GL/71-2009, which recognized the monitoring done at a national level, and by a food producing establishment. The representative of Kazakhstan confirmed that it would implement these Codex Guidelines as of the date of its accession to the WTO. The Working Party took note of this commitment.

705. Some Members also noted that the technical regulations and secondary normative acts containing limitative standards did not take into account the corresponding standards, recommendations and guidelines of international organizations or the methodology recommended by such organizations to set such standards. In response, the representative of Kazakhstan stated that these technical regulations and secondary normative acts related to sanitary and veterinary issues would be based on the corresponding standards, recommendations and guidelines of international organizations.

(d) Trade in Goods Subject to Veterinary Control

706. The representative of Kazakhstan stated that, as noted above, the Commission had issued several decisions which provided the legal framework for protection of animal and human health. CU Commission Decision No. 317 "On the Application of Veterinary-Sanitary Measures in the Customs Union" of 18 June 2010 (hereinafter: CU Commission Decision No. 317), as last amended by EEC Council Decision No. 95 of 9 October 2014, established the legal basis for veterinary measures in the EAEU and entered into force on 1 July 2010. CU Commission Decision No. 317 established a list of goods that could be subject to veterinary control, and adopted provisions on: (i) the common procedure for carrying out of veterinary inspection at the customs border of the EAEU and in the customs territory of the EAEU; (ii) the common procedure for carrying out of joint inspections of facilities and sampling of goods (products) subject to veterinary control (surveillance) which had been replaced by CU Commission Decision No. 834 of 18 October 2011; (iii) the common veterinary (veterinary and sanitary) requirements for goods subject to veterinary control (surveillance); (iv) the common forms of veterinary certificates (for movement within the EAEU); and (v) the common List of goods subject to veterinary control (surveillance). The representative of Kazakhstan noted that EEC Council Decision No. 94 "On Regulation on Common System of Joint Inspections of Objects and Sampling Goods (Products), Subject to Veterinary Control (Surveillance)" of 9 October 2014 (hereinafter: EEC Council Decision No. 94) had approved a new procedure for conduct of inspections, including specific inspection guidelines, and repealed the previous regulation on inspections adopted by the CU Commission Decision No. 834 of 18 October 2011. The Common Sanitary-Epidemiological and Hygiene Requirements to Goods Subject to Sanitary-Epidemiological Control (Surveillance) as contained in CU Commission Decision No. 299 "On the Application of Sanitary Measures in the Customs Union" of 28 May 2010, as last amended by EEC Collegium Decision No. 6 of 15 January 2013 (hereinafter: CU Commission Decision No. 299), established maximum residue levels for controlled goods.

707. The representative of Kazakhstan further clarified that as stated in the Article "General Provisions" of the EAEU Common Veterinary Requirements, the goods subject to veterinary control imported to the customs territory of the Customs Union were subject to regulatory measures indicated in the Annex to these Requirements. As for goods moving from the territory of one

EAEU member State to the territory of another EAEU member State, in accordance with the Article "General Provisions" they: (i) had to be accompanied by a veterinary certificate of a EAEU common form issued by the competent authority of the exporting EAEU member State; (ii) had to be sourced from the establishments included into the Register of Establishments and Persons that Produce, Process and/or Store Goods Moving from the Territory of one EAEU member State to the Territory of another EAEU member State; and (iii) did not require permits issued by the competent authorities of the EAEU member States.

708. The following basic national regulatory legal acts constituted the legal framework to protect human and animal life and health: Law No. 339-II "On Veterinary" of 20 July 2002 (as last amended on 29 September 2014), Law No. 301-III "On Food Safety" of 27 July 2007 (as last amended on 29 September 2014), as well as subordinate legal acts in the sphere of veterinary, which had been approved for the purpose of implementation of these Laws: Government Resolution No. 407 of 28 April 2003, by which the following had been approved: (i) Regulation on the State Veterinary and Sanitary Control and Surveillance; (ii) Rules for Compulsory Seizure and Destruction of Animals, Products and Raw Materials of Animal Origin, which Constitute High Danger to Animal and Human Health, or Mandatory Decontamination (Disinfection) and Processing Without Withdrawal Thereof; (iii) Rules and Conditions of Compensation to Legal and Natural Persons of the Value of Removed and Destroyed Infected Animals, Products and Raw Materials of Animal Origin, which Constitute High Danger to Animal and Human Health; (iv) List of Highly Contagious Animal Diseases, when Compulsory Seizure and Destruction of Animals, Products and Raw Materials of Animal Origin, which Constitute High Danger to Animal and Human Health are to be Held; (v) List of Highly Contagious Animal Diseases, Prevention, Diagnosis and Eradication of which are Implemented at the Cost of the Budget; (vi) Rules of State Veterinary and Sanitary Control During Movement of Objects Across the State Border of the Republic of Kazakhstan; and (vii) Rules of Organization of Veterinary Control Posts at the State Border and Customs Checkpoints; Government Resolution No. 1754 "On Approval of Organization of Slaughtering of Agricultural Animals Intended for Subsequent Sale" of 4 November 2009; Government Resolution No. 2331 "On Approval of the Rules on the Identification of Agricultural Animals" of 31 December 2009; Government Resolution No. 132 "On Approval of Rules of Issuance of Permits for Exportation, Importation and Transit of Objects with Regard to Evaluation of Epizootic Situation in the Territory" of 19 January 2012; Government Resolution No. 149 "On Approval of Rules of Transportation (Movement) of Objects on the Territory of the Republic of Kazakhstan" of 21 January 2012; Government Resolution No. 1230 "On Approval of Rules for Issuing Veterinary Documents for Objects Subject to Veterinary-Sanitary Control and Surveillance" of 22 September 2012.

- (i) **Veterinary Certificates**

709. Members requested information on EAEU requirements related to the development and implementation of veterinary certificates. Members sought to ensure that such certificates would be consistent with international standards, recommendations, and guidelines. Members also requested information on the continued validity of current bilateral certificates agreed with Kazakhstan. In their view, these bilateral certificates should remain valid until a replacement was agreed with the EAEU member States.

710. With respect to veterinary certificates, the representative of Kazakhstan stated that 42 EAEU common forms of veterinary certificates for import into the EAEU territory from any third country had been adopted by CU Commission Decision No. 607 "On Common Forms of Veterinary Certificates on Regulated Goods Imported into the Customs Territory of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation from Third Countries" of 7 April 2011, for each of the categories of goods subject to veterinary control as established in CU Commission Decision No. 317. These certificates were subsequently updated pursuant to CU Commission Decisions No. 832 of 18 October 2011 and No. 892 of 9 December 2011, EEC Collegium Decisions No. 262 of 4 December 2012, No. 308 of 25 December 2012, No. 193 of 10 September 2013, No. 245 of 29 October 2013 and No. 19 of 11 February 2014. She confirmed that in accordance with CU Commission Decision No. 726 "On Veterinary Measures" of 15 July 2011 (hereinafter: CU Commission Decision No. 726), veterinary certificates between exporting countries and Kazakhstan finalized prior to 1 July 2010 would be valid for import into the territory of the EAEU at least until 1 January 2013.

711. Furthermore, CU Commission Decision No. 726 "On Veterinary Measures" of 15 July 2011 provided that the competent authorities of the EAEU member States could negotiate and agree to veterinary certificates with requirements that differed from the EAEU common form and specific EAEU Common Veterinary Requirements, if an exporting country made a substantiated request prior to 1 January 2013 to negotiate such veterinary export certificate. The decision also provided that bilateral veterinary export certificates, in case an authorized body of an EAEU member State received request to negotiate a veterinary certificate before 1 January 2013, initialled by one of the EAEU member States before 1 July 2010, as well as any subsequent amendments to such certificates agreed with the authorized body of such EAEU member State, would remain valid for exports from the relevant country into the customs territory of the EAEU until an export certificate was agreed with an EAEU member State based on the agreed positions of the other EAEU member States. Bilateral veterinary export certificates initialled by one of the EAEU member States between 1 July 2010 and 1 December 2010 would remain valid for import and circulation of relevant goods, only in the territory of the EAEU member State that initialled the certificate, in case an authorized body of exporting country submitted its request to an authorized body of an EAEU member State before 1 January 2013 until a bilateral veterinary export certificate was agreed with an EAEU member State based on the agreed positions of the other EAEU member States. While a bilateral veterinary export certificate could contain requirements that differed from the EAEU Common Form and Common Requirements, such certificates had to ensure the appropriate level of protection as determined by the EAEU member States. These new certificates were also required to include terms, including provisions on the relevant product, that were no less favourable than those in an international treaty that was concluded prior to 1 July 2010 between an EAEU member State and the third country. The Working Party took note of these commitments.

712. In response to a specific question of a Member, the representative of Kazakhstan confirmed that, in addition, at the request of a Member, Kazakhstan would negotiate and mutually agree on bilateral veterinary certificates with a third country for the goods subject to veterinary control imported into the territory of Kazakhstan until EAEU veterinary certificates with the third country for such goods entered into force. The circulation within the EAEU of such goods imported into the territory of Kazakhstan on the basis of such bilateral certificates agreed by Kazakhstan may be limited to the territory of Kazakhstan. The Working Party took note of this commitment.

713. Asked to provide more information on the use of veterinary certificates, she said that the EAEU legal framework allowed for negotiating veterinary certificates differing from 42 EAEU common forms of veterinary certificates and specific EAEU Common Requirements with a competent body of exporting country. If a third country sought to export to an EAEU member State a commodity for which veterinary certification was required according to the EAEU Common List of Goods Subject to Veterinary Control and the EAEU Common Veterinary Requirements, but for which no EAEU common form of certificate and no EAEU common requirements existed, a bilateral certificate with the interested country could be developed based on a coordinated position of the EAEU member States, and such a bilateral certificate would be based on relevant international standards, guidelines and recommendations as provided for in CU Commission Decision No. 721 "On Application of International Standards, Recommendations and Guidelines" of 22 June 2011. If, according to the EAEU Common List of Goods Subject to Veterinary Control and EAEU Common Veterinary Requirements, no veterinary certification was required for a commodity, or if the commodity was not included in the said EAEU Common List, Kazakhstan would not require a veterinary certificate. The representative of Kazakhstan also added that the EAEU member State that received a request from a third country to initiate the negotiation on veterinary certificates, or the EEC, if the third country had sent its request to it, was responsible for coordinating the certificate negotiations and EAEU member States' negotiating positions, as well as preparation and provision of feedback on third countries' proposals and requests regarding veterinary certificates.

714. A Member requested information on the latest amendments to the common veterinary requirements, noting that certain provisions of these requirements did not appear to be in accordance with OIE recommendations. This Member asked whether the intent of these amendments was to align these requirements with the OIE.

715. Some Members expressed concern that the Commission had adopted 40 common forms of veterinary certificates and 38 chapters of common veterinary requirements that did not conform to international standards, recommendations and guidelines, in particular OIE standards, recommendations and requirements. These Members also raised concerns that contrary to the

requirements of the WTO SPS Agreement, interested parties, including Members had not been accorded an opportunity to provide comments on these measures before they were adopted. The representative of Kazakhstan responded that paragraph 16 of the Regulation on Consultative Committee on Technical Regulation, Application of Sanitary, Veterinary and Phytosanitary Measures, approved by the EEC Collegium Decision No. 161 of 18 September 2012, which had replaced the "Regulation on Coordination Committee on Technical Regulation, Application of Sanitary, Veterinary and Phytosanitary Measures", approved by CU Commission Decision No. 319 of 18 June 2010, as last amended by EEC Collegium Decision No. 77 of 9 April 2013, now provided an EAEU process for receiving comments from the public on proposed SPS measures. She further clarified that paragraphs 2-4 of CU Commission Decision No. 625 "On Ensuring of Harmonization of Legal Acts of the Customs Union in the Sphere of Application of Sanitary, Veterinary and Phytosanitary Measures with International Standards" of 7 April 2011 (hereinafter: CU Commission Decision No. 625) that provided a process for reviewing measures for their conformity with international standards and amending those measures that were found not to be in conformity with international standards remained applicable.

716. The representative of Kazakhstan confirmed that amendments of the common veterinary requirements and to the common forms of certificates were being prepared in parallel so as to ensure compatibility with international standards, recommendations and guidelines in particular OIE standards. She confirmed that the amendments to the common veterinary requirements and to the common forms of certificates would enter into force simultaneously no later than the date of the accession of Kazakhstan to the WTO. The Working Party took note of these commitments.

717. Some Members noted that Kazakhstan had drafted proposed amendments to a few of the EAEU Common Veterinary Requirements. These Members expressed concerns that these proposed amendments were extremely limited, failed to take into account Members' comments, were not based on scientific principles, could result in arbitrary or unjustifiable discrimination, and, most importantly, failed to bring the EAEU Common Veterinary Requirements into conformity with international standards, recommendations and guidelines, e.g., by requiring conditions for animal diseases which were not listed in the OIE Code or by requiring freedom of the territory of origin when less trade restrictive conditions for trade were provided in the OIE Code for the concerned commodity. Members noted Kazakhstan's commitments in paragraph 716 regarding the EAEU common veterinary requirements and common forms and expressed concerns that Kazakhstan had not adopted all of the necessary amendments to achieve compatibility with international standards, guidelines and recommendations, in particular OIE standards, by the date of the accession of the first EAEU member State to the WTO or that these amendments would not enter into force as provided in paragraph 716. These Members urged Kazakhstan to engage in serious efforts, including through consultations with WTO Members, with a view to ensure the timely implementation of the commitments in paragraph 716.

718. The representative of Kazakhstan explained that harmonization of the EAEU Common Veterinary Requirements was carried out in 2012 as part of Russia's accession to the WTO. In particular, the timeframes of the absence of animal diseases by type of controlled goods were reduced taking into account the regionalization principle. As part of the harmonization process, amendments were introduced to more than 20 chapters of the EAEU Common Veterinary Requirements as a result of consultations with some of the WTO Members. In addition, with the aim of further harmonization with OIE recommendations, amendments were introduced to some of the chapters of the Common Veterinary Requirements. The representative of Kazakhstan further explained that harmonization of the EAEU veterinary requirements was an ongoing process. She asserted that the requirements for animal diseases established in the EAEU Common Veterinary Requirements were consistent with the OIE recommendations. She noted that in accordance with Article 5.1.1 of the OIE Terrestrial Animal Health Code (hereinafter: OIE Code), there were different options (recommendations) for imports of goods depending on the status of animal health in the country. Moreover, the OIE Code offered various options because of differences between countries in their animal health situations. As provided in the OIE Code: "The animal health situation in the exporting country, in the transit country/countries and in the importing country should be considered before determining the requirements for trade. To maximise harmonisation of the sanitary aspects of international trade, Veterinary Authorities of Member Countries should base their import requirements on the standards of the OIE." She stated that EAEU member States had chosen one of the options provided by the OIE Code with regard to certain diseases taking into account level of protection that EAEU countries deemed to be appropriate. The representative of Kazakhstan further clarified that the CU Commission Decision

No. 726 "On Veterinary Measures" of 15 July 2011 (hereinafter: CU Commission Decision No. 726) allowed for negotiating bilateral veterinary certificates between the EAEU and the exporting countries that could contain requirements different from the Common Veterinary Requirements in order to reflect the different animal health status in the exporting countries with the aim to promote trade.

719. Some Members noted that they had begun to negotiate specific certificates with the EAEU member States consistent with CU Commission Decision No. 726. Members stated that the EAEU member States continued to request attestations that went beyond the OIE recommendations without providing scientific justification and that the EAEU member States seemed reluctant to negotiate attestations that differed from the EAEU common requirements. Members also noted that the process for negotiating the certificates was time intensive and that it was difficult to ensure that the representatives from Kazakhstan participated in negotiations and there was consistency in the positions taken by the EAEU member States participating in each negotiating session. Furthermore, these Members requested information on the basis for an EAEU member State, which did not participate in negotiations of specific certificates, to oppose the conclusion and adoption of the certificates when the certificate contained provisions aligned with the international standards. Members noted ongoing concerns with the lack of efficiency in negotiating specific certificates. The representative of Kazakhstan replied that during negotiations the EAEU member States would propose attestations that followed OIE recommendations except when justified by risk assessment as provided for by the WTO SPS Agreement. The representative noted that Kazakhstan participated in negotiations as time and resources permitted, and had recently participated in negotiations and initialled a number of bilateral veterinary certificates.

720. The representative of Kazakhstan confirmed that, if an exporting Member believed that the SPS requirements of the EAEU or Kazakhstan resulted in a higher level of protection than would be achieved by measures based on the relevant international standards, guidelines or recommendations, Kazakhstan was prepared to consult with the exporting Member on such SPS requirements and, if necessary, would, as a result of such consultations, modify requirements included in the relevant certificate to bring them into compliance with international standards, guidelines, or recommendations consistent with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. The Working Party took note of this commitment.

721. A Member of the Working Party expressed concern that bovine spongiform encephalopathy (BSE) requirements set-out in existing bilateral certificates as well as in the EAEU common veterinary certificate for live cattle, did not conform to OIE standards, since they respectively foresaw testing of animals for BSE and required the absence of a genetic link with animals affected by BSE. The representative of Kazakhstan clarified that in respect to BSE, as of the date of accession of Kazakhstan to the WTO, bilateral certificates as well as the EAEU common certificates would, as provided for in the WTO Agreement, be in conformity with OIE standards. The Working Party took note of this commitment.

722. Some Members stated that a veterinary certificate should not require certification of provisions that were not mandatory requirements under EAEU acts or in the absence of EAEU mandatory requirements, under international standards, recommendations, and guidelines, e.g., to certify for a disease which was not the object of an EAEU act or was not subject to the same level of surveillance within the EAEU or Kazakhstan's territory as required in the certificate. If Kazakhstan or the EAEU sought to have stricter animal health requirements than those set-out in the OIE, Kazakhstan or the EAEU must demonstrate that, based on risk assessment, as well as active and passive surveillance in Kazakhstan or the EAEU territory for animal diseases that could be present on the territory of Kazakhstan or the EAEU, the animal health status of Kazakhstan or the EAEU for the disease concerned was such that it justified such stricter requirements. The representative of Kazakhstan confirmed that veterinary certificates would not include provisions for diseases that were not transmitted by/relevant to the concerned product, and would not require certification of provisions that were not justified based on mandatory requirements applicable and surveillance carried out within the territory of Kazakhstan or the whole EAEU. The Working Party took note of this commitment.

723. Some Members expressed concern as regards the overlap of measures required by Kazakhstan to confirm the conformity of goods with EAEU and national food safety measures: through veterinary export certificates, declarations of conformity, certificates of conformity, listing of establishments authorized to export to the EAEU, import permits, and State Registration.

These Members questioned the utility of such repeated, multiple and overlapping requirements to verify conformity with requirements. In their view, it was burdensome, unnecessary and trade restrictive to maintain together a declaration of conformity or other forms of conformity assessment and export certificate or additional requirements. Members requested that Kazakhstan eliminate this redundancy.

724. The representative of Kazakhstan explained that the Committee of Veterinary Control and Supervision exercised authority in relation to veterinary and sanitary issues when goods were imported into Kazakhstan so as to avoid duplication of efforts. She noted that veterinary certificates included both veterinary and sanitary requirements and that only one veterinary-sanitary document was required to cross the border. She further explained that State Registration of controlled goods applied both to domestically produced and imported goods and applied only to a limited number of products. With regard to goods for which the EAEU currently required both a veterinary certificate and a declaration of conformity, she confirmed that the EAEU member States, pursuant to EAEU technical regulations, currently under development, would require only one document, as specified in each technical regulation, to confirm the conformity of products with EAEU requirements. For example, Technical Regulation "On Milk and Milk Products", adopted by EEC Council Decision No. 67 of 9 October 2013, and Technical Regulation "On Meat and Meat Products", adopted by EEC Council Decision No. 68 of 9 October 2013 provided that only veterinary certificates would be required for non-processed and processed milk and meat products. The Working Party took note of this commitment.

725. Several Members requested that Kazakhstan confirm that the EAEU member States accepted replacement veterinary certificates in accordance with the OIE Code, Article 5.2.3, point 9), and asked which legal basis provided for this.

726. The representative of Kazakhstan replied that Kazakhstan had initiated amendments to CU Commission Decision No. 317 in order to include provision on acceptance of replacement veterinary certificates in accordance with the OIE Code, Article 5.2.3, point 9). These amendments were adopted by EEC Council Decision No. 95 "On Introduction of Amendments into Regulation on Common Procedure for Carrying Out Veterinary Control at the Customs Border of the Customs Union and Customs Territory of the Customs Union" of 9 October 2014.

- **(ii) Establishment Approval, Register and Inspections**

727. The representative of Kazakhstan explained that according to CU Commission Decision No. 317, many of the goods included in the list of goods subject to veterinary control were subject to three requirements: (i) the exporting establishment had to be included in the Register of Entities and Persons Producing, Processing and/or Storing of Goods Subject to Veterinary Control Imported into the Customs Territory of the Customs Union (hereinafter: the Register); (ii) the good had to be accompanied by a veterinary certificate; and (iii) an import permit had to be issued for importation of goods from an establishment in the Register. However, the representative noted that pursuant to CU Commission Decision No. 830 of 18 October 2011, as amended by EEC Collegium Decision No. 294 "On Introduction of Amendments to Certain Decisions of the Customs Union Commission" of 10 December 2013 (hereinafter: EEC Collegium Decision No. 294), the EAEU had agreed to remove certain veterinary control measures for specific goods in order to minimize the overlapping of control mechanisms. In addition, CU Commission Decision No. 831 of 18 October 2011 had removed some goods from veterinary control completely.

728. The representative of Kazakhstan emphasised that according to EEC Collegium Decision No. 294, producers of certain imported goods were exempted from the registry requirements, for instance, such as producers of live animals, except for live fish for direct consumption as food, feed grain, natural honey, oil-seed flour for feed, animal fat and oil, unprocessed grain straw, extracts and juices from meat, pasta stuffed with fish and invertebrates and processed meat. The Register was published on the web-page indicated in paragraph 739.

729. A Member requested the scientific basis for maintaining some specific products in the list of goods subject to veterinary control. Specifically, the Member requested information on the inclusion of products of plant origin. In addition, the Member requested information on the requirement for including the names of establishments exporting processed dairy products in the

Register when destined to Kazakhstan. This Member requested that Kazakhstan eliminate any requirements that did not have a scientific justification and a risk assessment.

730. The representative of Kazakhstan replied that Kazakhstan excluded products of plant origin from the list of goods subject to veterinary control in accordance with EEC Council Decision No. 33 "On Introduction of Amendments to Decision of the Customs Union Commission No. 810 of 23 September 2011" of 16 May 2013 (hereinafter: EEC Council Decision No. 33), which would become effective on the date of Kazakhstan's accession to the WTO. In addition, as of the date of accession of Kazakhstan to the WTO, pursuant to the EEC Collegium Decision No. 294, inclusion to the Register of establishments exporting low risk products, including processed dairy products, intestine and gelatin to Kazakhstan was not required. She further noted that in accordance with the Common Veterinary Requirements, for several products of animal origin with low risk, an import permit and veterinary certificate was required to indicate the name and/or number of the establishment assigned by the official veterinary authority of the exporting country. This requirement was consistent the OIE Code.

731. In response to a request from a Member for further information on the requirements and procedures for an establishment to be included in the list of establishments authorized to export a product to Kazakhstan and the EAEU, the representative of Kazakhstan explained that, prior to 1 July 2010, Kazakhstan did not maintain a registry requirement for establishments of exporting countries. The representative of Kazakhstan explained that, as of 1 July 2010, imports of some of the products subject to veterinary control, as established in CU Commission Decision No. 317, were required to come from establishments approved by the EAEU member States and included in the Register.

732. In response to some concerns of Members related to the maintained requirement to provide lists for live animals and certain products' establishments whereas the EAEU framework had eliminated this form of veterinary controls, the representative of Kazakhstan explained that the EEC Collegium Decision No. 294 amended the CU Commission Decision No. 317 to specify, for each type of good included in the list of goods subject to veterinary control, which veterinary measures (import permits, veterinary certificates and/or listing of establishments) applied to that particular good. In some cases, the form of veterinary control had been modified or eliminated. For example, for some products the requirement for veterinary certificates and/or import permits had been eliminated. Similarly, the requirement for an establishment to be included in a Register had been eliminated or amended to require only the provision of the name and/or number of the final establishment dealing with the goods prior to export to the territory of the EAEU, which was included in the import permit and/or veterinary certificate. Trade would then be possible for these commodities without listing upon favourable audit results.

733. Some Members expressed concerns at the significant trade barriers imposed by this interpretation of CU Commission Decisions No. 830 and No. 834, whereby the EAEU member States attempted to maintain the requirement for establishment lists arbitrarily for some products in contradiction with the provisions in CU Commission Decision No. 830. Specifically, some Members were concerned that in the implementation of these decisions the EAEU member States were requesting a successful audit as a precondition for removing the listing requirement for certain products as established in CU Commission Decision No. 830 and EEC Collegium Decision No. 294. Further these Members were highly concerned by the refusal of EAEU member States to add any new establishments to the list of establishments approved to export to the EAEU.

734. The representative of Kazakhstan replied that according to paragraph 6 of EEC Council Decision No. 94, an audit of foreign official control systems was the basic principle used by the EAEU member States to ensure safety of products subject to veterinary control. In her view, audit of foreign official systems of control was based on international standards and was in line with international practice. She noted that many developed countries applied audit (approval of exporting countries) as the main condition for importing products of animal origin to their territories. She further explained that products of animal origin from countries that had not been audited could also be imported to the EAEU based on inclusion into the Register. If the results of audit were unfavourable or audit was not conducted, listing of establishments from third countries, when required, would still be possible with the use of the other two options: (i) joint inspection of establishments by the EAEU member States; and (ii) guarantees from competent authorities of third countries.

735. Some Members expressed concerns that an EAEU member State had informed its trading partners, including WTO Members, that products, for which listing of establishments was not required in accordance with EEC Collegium Decision No. 294, could be imported to the EAEU only after favourable audit results. Taking into account that audit was a complex and lengthy process, in order not to stop trade in these products, the EAEU member States had agreed to apply provisional scheme that would be applied until all EAEU trade partners undergo audit. Under these scheme products, for which listing was not required under EEC Collegium Decision No. 294, before audit was carried out, could be imported to the EAEU based on the listing of establishments. Listing of establishments could be done based on the guarantee of third countries' competent authorities or joint inspections. The listing of establishments for such products would be carried out until audit was completed and the official system of a respective third country was recognised as equivalent. These Members sought assurances from Kazakhstan that no such scheme was in effect in Kazakhstan.

736. The representative of Kazakhstan confirmed that in implementation of CU Commission Decision No. 317 "On the Application of Veterinary-Sanitary Measures in the Customs Union" of 18 June 2010, as amended by the Decision of the Collegium of the EEC No. 294 "On Introduction of Amendments into Certain Decisions of the Customs Union Commission" of 10 December 2013, Kazakhstan would not require an establishment to be included in the Register as set out in Annex 19 of this Report for importation into the territory of Kazakhstan. The representative of Kazakhstan confirmed that in implementation of CU Commission Decision No. 317 "On the Application of Veterinary-Sanitary Measures in the Customs Union" of 18 June 2010, as amended by the Decision of the Collegium of the EEC No. 294 "On Introduction of Amendments into Certain Decisions of the Customs Union Commission" of 10 December 2013, Kazakhstan would not require a successful audit as a pre-condition for importation into the territory of Kazakhstan of goods listed in Annex 19 of this Report. The circulation within the EAEU of such goods imported into the territory of Kazakhstan listed in Annex 19 of this Report may be limited to the territory of Kazakhstan. The representative of Kazakhstan further confirmed that these measures would be implemented prior to accession of Kazakhstan to the WTO. The Working Party took note of these commitments.

737. The representative of Kazakhstan confirmed that pursuant to EEC Council Decision No. 33, products of plant origin were excluded from the List of Goods subject to Veterinary Control, and, pursuant to EEC Collegium Decision No. 317, as amended by the EEC Collegium Decision No. 294 of 10 December 2013, the requirement of inclusion of third country producers exporting dairy products to Kazakhstan into the Register was replaced by the requirement to indicate the number and name of the producer in the import permit and veterinary certificate.

738. With regard to the list of goods as set-out in Annex 20 of this Report, the representative of Kazakhstan confirmed that categories of goods would be added to the list of goods subject to veterinary control or the form of veterinary control applied to categories of goods on the list would be modified only if such action was in compliance with the provisions of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. The Working Party took note of this commitment.

739. The representative of Kazakhstan further explained that since 1 July 2010 and before completing work on creating a common web-interface of the Commission's website, the three national parts of the Register of establishments from which imports were authorized were valid for imports into the entire EAEU territory (unless specified otherwise for specific establishments on the lists). Currently the references to these lists of establishments were available in the following website: <http://www.eurasiancommission.org/en/act/texnreg/depsanmer/vetsanmeri/Pages/Reestrorg.aspx>. Kazakhstan's national part of the Register could be found at the following web-link: <http://mgov.kz/napravleniya-razvitiya/information-for-third-countries> under section "Veterinary and Sanitary Measures of the Customs Union". The addition of an establishment from any country to the national part of the Register could only occur after all three EAEU member States agreed on the inclusion of the establishment. As a result of this decision, products from such an establishment could freely circulate within the territory of the EAEU, unless specifically provided otherwise in this decision. The representative of Kazakhstan explained that the EAEU member States intended to develop a common web-interface of the EAEU Register of establishments and a common information system so as to have a unique list of establishments that would consolidate their national lists, but exact timing for the development of this database could not be specified.

740. Members noted that Kazakhstan had never maintained a listing requirement prior to the establishment of the EAEU and that many of these requirements were not based on scientific evidence or proportionate to the risk and would represent an unjustified burden on trade and, were in their view, inconsistent with the WTO SPS Agreement. In response, the representative of Kazakhstan explained that, in her view, the listing requirement itself could not be a burden on trade. The burden on trade could result from the application of the wrong mechanism for including an establishment on the Register, for example, if the required actions that had to be done by the competent authority of an exporting country and/or establishment were not based on a risk analysis or were more trade restrictive than necessary. EEC Council Decision No. 94, allowed the use of different mechanisms for listing establishments that provided the possibility of minimizing the application of a more burdensome process than necessary for including an enterprise on the list by basing actions on the results of a risk analysis. The representative of Kazakhstan also explained that the requirement to be in the Register approved to export particular controlled products was a means to ensure compliance with EAEU veterinary requirements.

741. In response to a question from a Member, the representative of Kazakhstan explained that in accordance with a transitional period provided under CU Commission Decision No. 317, trade could continue from establishments not on a "list" in the Register - when there was no requirement for such a "list" prior to 1 July 2010. Such trade could take place on the basis of an import permit. She further explained that according to point 11.3 of the Regulation on Common Procedure for Carrying Out Veterinary Control at the Customs Border of the Customs Union and Customs Territory of the Customs Union (hereinafter: Regulation on Veterinary Control), approved by the CU Commission Decision No. 317 (as amended by CU Commission Decisions No. 342 and No. 724, and EEC Council Decision No. 95), a transitional period for listing establishments had been established, for the following products: animals; genetic material; apicultural products; raw material of animal origin (skins, fur, feather, etc.); feed additives of animal origin; feed of plant origin, gelatin and composite products etc., to permit trade to continue until common or unified lists were established. In reply to the request for clarification on the transitional period and the question on the deadline for the transitional period for new establishments, the representative of Kazakhstan said the transitional period was provided for continuation of trade with third countries on these goods until inclusion of the establishments producing such goods in the Register. The CU Commission Decision No. 830, as amended by EEC Collegium Decision No. 294, removed the registry requirements for certain products, including live animals, except for live fish for direct consumption as food; genetic material; apicultural products; raw material of animal origin (skins, fur, feather, etc.); feed additives of animal origin; feed of plant origin, composite products which were referenced in paragraph 11.3 of the Regulation on Veterinary Control. Therefore, the transitional period for these products had lapsed as of 22 August 2012, i.e. the date of entry into force of CU Commission Decision No. 830. For gelatin, the transitional period provided in paragraph 11.3 of the Regulation on Veterinary Control was still applicable, pending the entry into force of Table No. 2 of the EEC Collegium Decision No. 294 of 10 December 2013.

742. The representative of Kazakhstan further explained that since 1 July 2010, in case listing of establishment was part of the applicable veterinary requirements, establishments could be added to the list of establishments authorized to export to the EAEU (the Register) following the system audit, or following an on-site joint inspection conducted by the three EAEU member States or the delivery of guarantees as regards conformity with the EAEU requirements by the exporting country, if the three EAEU member States commonly agreed to rely on such guarantees. She explained that if a third country had never exported products of animal origin to any of the EAEU member States before, and wanted to export to the EAEU for the first time, exporting establishments proposed by this third country would have to be inspected by the EAEU member States before being added to the Register, in order to confirm the reliability of the veterinary control system of this country.

743. The representative of Kazakhstan informed Members that EEC Council Decision No. 94 had replaced CU Commission Decision No. 834 "On Regulation on Common System of Joint Inspections of Objects and Sampling Goods (Products), Subject to Veterinary Control (Surveillance)" of 18 October 2011 and notably clarified procedures for accepting guarantees from competent authorities of third countries, described in paragraphs 46-59 of EEC Council Decision No. 94. In particular, EEC Council Decision No. 94 clarified that the competent authority of a third country could send its request to accept its guarantee on compliance of the goods subject to veterinary control produced by specific establishment (establishments), including the information in accordance with paragraph 46 of EEC Council Decision No. 94 that the competent authority of

the third country considered to be necessary to assess the request and its list of establishments, to the authorized body of any EAEU member State. The authorized body of the EAEU member State that received the request was responsible for coordinating the process of consideration of the request for providing the guarantee and for agreeing its decision with the authorised bodies of the other EAEU member States. The authorized body of the member State that received the request evaluated the request based on the criteria provided in paragraph 48 of EEC Council Decision No. 94 within reasonable time period, but no longer than two months unless additional information was requested, which could extend the term of review by 15 working days from the date of receipt of the additional information. Upon favourable evaluation, the authorized body of the EAEU member State prepared the decision within 10 working days and sent it to the authorized bodies of other EAEU member States for approval. The time-frame for the approval by the EAEU member States was 10 working days after receipt. In the absence of the written reply during the established time-frame, the decision was deemed to be approved. In case of disagreement with the decision, the EAEU member States had to send their reply indicating the reasons for not approving the decision to the EAEU member State that received the request within the established time-frame. In case the decision was approved by the EAEU member States, the authorized body of the member State that received the request prepared the final decision within 10 working days. The authorized body of the member State that received the request sent written notification to the competent authority of the third country on accepting the guarantee. In addition, the authorized body included the establishments into the Register within 10 working days from the date of the final decision on accepting the guarantee. In case of a negative decision on accepting the guarantee, the authorized body of the member State that received the request sent notification to the competent authority of the third country indicating the reasons for refusal. The reasons for refusal had to be based on the criteria included in paragraph 48 of EEC Council Decision No. 94 and had to explicitly specify which element was not met in those criteria. Such decision could be revised after submission by the competent authority of the third country of additional information. The competent authority of the third country whose guarantee had been accepted in a prescribed manner could further send to the authorized body of an EAEU member State a request on amending the Register, including the inclusion of new establishment(s). The authorized body of the member State evaluated the provided list of establishments within 10 working days. Upon favourable decision, the authorized body of the member State included the establishment(s) into the Register within 10 working days and published them on the website. In case of refusal to include the establishment(s) into the Register the authorized body of the member State notified the competent authority of the third country indicating the reasons for refusal.

744. Some Members asked on which basis EAEU member States could decide to rely on the guarantees of the exporting country for the inclusion into the Register. Another Member sought clarification as to the processes available to exporting countries to have facilities added to the Register. In this Member's view, it was unclear whether all options were available to all Members. A Member expressed concern that, in practice, the listing of new establishments was no longer accepted on the basis of written guarantees of the exporting country since the entry into force of the EAEU. In this Member's view, Kazakhstan and the other EAEU member States did not have the resources to carry out inspections for any new establishment requesting to be listed by an exporting party and some establishments, even already exporting, could not be listed due to this lack of resources. In this Member's view, this represented an unjustified barrier to trade.

745. In response, the representative of Kazakhstan stated that the authorized bodies of the EAEU member States had to have confidence that the competent authorities of the exporting country would effectively ensure that exporting establishments in that country met EAEU requirements. She added that more detailed criteria on foreign guarantees were included in EEC Council Decision No. 94. EEC Council Decision No. 94 authorized and provided criteria for accepting guarantees from the competent authorities of third countries on the compliance of goods produced by an establishment located on its territory. These criteria were the following:

- Level of development of the competent authority of the third country;
- Compliance to the guarantees earlier provided by the competent authority of the third country;
- Risk of entry into and spread of pathogens of infectious animal diseases in the third country, including those common to humans and animals;
- Epizootic situation in the third country;
- Results of monitoring tests of goods subject to veterinary control imported into the EAEU territory from the third country, conducted by EAEU member States (if available);

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- Data from monitoring of relevant goods done by the competent authority of the third country (if available). Absence of such data could not be a reason for refusal of accepting of the guarantee;
 - Confirmation of the fact that the competent authority of the third country checked (inspected) the establishment requested for inclusion into the Register and acknowledged them as compliant to the requirements of the EAEU as provided for in Annex 3 of the EEC Council Decision No. 94;
 - Results of inspections by the competent authority of an EAEU member State or member States of establishments located on the territory of the third country (if available);
 - Experience of trade with the third country (if available); and,
 - List of establishments requested for inclusion into the Register with indication of the types of products.

746. Regarding the availability of the three options (audit, guarantees, inspection) for all third countries for adding establishments into the Register, when required, the representative of Kazakhstan confirmed that pursuant to paragraph 162 of the EEC Council Decision No. 94 establishments of third countries could be included to the Register based on the results of:

- successful completion of audit procedures of official system of surveillance, conducted by the request of the competent authorities of third countries;
- a positive decision on granting the right to provide the guarantee by the competent authority of the third country;
- a positive decision of the authorized body of the EAEU member State based on results of joint inspection.

In addition, the representative of Kazakhstan noted that all three options for adding establishments of the third countries into the Register were equally available for third countries.

747. The representative of Kazakhstan confirmed that Kazakhstan would provide three possibilities for exporting countries' establishments to become eligible to export to the territory of Kazakhstan, as contained in EEC Council Decision No. 94 "On Regulation on Common System of Joint Inspections of Objects and Sampling Goods (Products), Subject to Veterinary Control (Surveillance)" of 9 October 2014, and added to the Register where required pursuant to Annex 20 of this Report including through a system audit, or a joint inspection or alternatively, based on guarantees of competent authorities of third countries. The Working Party took note of this commitment.

748. Some Members expressed continuing concerns that EAEU member States could require inspection of each facility as a precondition for accepting guarantees for inclusion in the Register, even in the case where Kazakhstan or another EAEU member State had previously accepted guarantees from a Member's competent authority. In these Members' view, requiring inspections was contrary to the concept of accepting guarantees, which were based on confidence in the third country's competent authority. Members requested Kazakhstan to eliminate the requirement for inspection of a facility as a precondition for acceptance of a Member's guarantee for that facility. Besides, when requested, the inspection was often declined or would not be carried out in a reasonable time-frame.

749. The representative of Kazakhstan replied that according to EEC Council Decision No. 94, there was no requirement to inspect each facility as a precondition for accepting guarantees for inclusion in the Register. At the same time, pursuant to paragraphs 58 and sub-paragraph 2 of paragraph 60 of EEC Council Decision No. 94, for the purposes of verification of the accepted guarantees, EAEU member States could subsequently inspect establishments, included into the Register under guarantees, by the method of random selection.

750. The representative of Kazakhstan explained that EEC Council Decision No. 94 had allowed for joint inspections by the three EAEU member States of establishments in third countries that sought to be permitted to export goods to the EAEU that are subject to veterinary control in the EAEU. Inspections must be carried out on the basis of a request by the competent authority of the exporting country. She further explained that it was possible that the representatives of the other EAEU member States could delegate their authority to another EAEU member State to carry out an inspection.

751. Some Members expressed concern about the process of approving an establishment by each of the EAEU member States as set-out in CU Commission Decision No. 834. For example, one member of the EAEU could approve the addition of an establishment to the Registry, but the establishment would not be added to the Registry due to a lack of response from the other EAEU member States, hence resulting in excessive delays for obtaining a final inclusion in the Register. Further these Members expressed concern that approval, to be added to the Register, was by consensus and rejection was subjective and did not appear to be based on any criteria. These Members requested information on what would constitute a valid reason for refusal to be added to the Register, by EAEU member States and for other (non-auditing) EAEU member States to refuse to list an establishment or any time-frames for such a decision. In some Members' view, these decisions could be arbitrary and discriminate against Members where the same conditions prevailed. The requirement for consensus between the three member States on the different steps of the process was creating significant delays and in many cases making it impossible to add any new establishments to the Register, therefore denying market access to those establishments in compliance with the EAEU requirements as defined in CU Commission Decision No. 834 that met the conditions to export. Meanwhile, an EAEU member State individually could decide to suspend exports from establishments present on the Register. The representative of Kazakhstan replied that the Members' concern regarding lack of response from EAEU member States was addressed by implementation of EEC Council Decision No. 94, which contained detailed steps of review by EAEU member States of the request for acceptance of guarantees as stated in paragraph 743 of this Report. In particular, the absence of reply from the authorized body of the EAEU member State within the specified time-frame meant consent to the proposed decision. In addition, in accordance with paragraphs 51 and 55 of EEC Council Decision No. 94, if a negative decision on the acceptance of guarantees of the competent authorities of the third countries had been made, the reasons for refusal had to be based on the criteria listed in paragraph 48 of the EEC Council Decision No. 94, and had to reflect the specific element that had not matched these criteria, taking into account the principle of proportionality of risk.

752. Members of the Working Party also expressed concerns that the implementation of CU Commission Decision No. 834 was not in line with Codex Guidelines for the design, operation, assessment and accreditation of food import and export inspection and certification systems (CAC/GL 26-1997), which recommended that: assessment activities by the importing country in the exporting country "should concentrate primarily on evaluating the effectiveness of the official inspection and certification systems rather than on specific commodities or establishments in order to determine the ability of the exporting country's competent authority(s) to have and maintain control and deliver the required assurances to the importing country". Members requested that Kazakhstan conform to international standards, guidelines and recommendations.

753. In response, the representative of Kazakhstan explained that, at the request of the competent authorities of the third country, the EAEU member States would conduct a system audit to determine if the official system of supervision of that third country was capable of providing a level of protection at least equivalent to that provided by EAEU requirements. If this audit of the official system of supervision was successful, the EAEU member States would include establishments of the audited country on the Register in accordance with a list of establishments that the competent authority of the third country provided to the EAEU member States. If an audit of a third country's official system of supervision was not carried out or was not completed or if, as a result of such audit, the third country's official system of supervision was not recognized as being capable to provide a level of protection at least equivalent to that provided by the EAEU requirements, the EAEU member States could agree to include establishments of that country to the Register on the basis of joint inspections or guarantees provided by the competent authority of the third country if listing was required for such products. If listing of establishments for a type of product as set out in Annex 19 to this Report was not required in accordance with CU Commission Decision No. 317 "On the Application of Veterinary-Sanitary Measures in the Customs Union" of 18 June 2010, as amended by EEC Collegium Decision No. 294 "On Introduction of Amendments into Certain Decisions of the Customs Union Commission" of 10 December 2013, the absence of the establishment on a list would not be a ground for rejection of the import of such product into the territory of Kazakhstan. The circulation within the EAEU of such product imported into the territory of Kazakhstan listed in Annex 19 of this Report may be limited to the territory of Kazakhstan. The Working Party took note of these commitments.

754. She further explained that EEC Council Decision No. 94, in order to facilitate the inclusion of the establishments proposed by the competent authority into the Register, also established

procedures, including time-frames for organising and taking decisions on systems audits, on-site visits, and including establishments in the Register in each of the cases described in paragraph 742 above. The EAEU member State that received the request for audits or for joint inspections of establishments notified the competent authorities of other EAEU member States of the request and invited them to participate. If an EAEU member State declined to participate or did not respond within the prescribed time, that EAEU member State authorized the participating EAEU member State or member States to act on its behalf and accepted the decision of the participating EAEU member State or member States on the relevant matter. In connection with a systems audit, the purpose of the visit was to ensure that, within the framework of the third country's regulatory system, related to production, processing, transporting and storage of the relevant goods, all of the country's laws, regulations and other requirements on inspection and certification, which the EAEU member State(s) recognized as capable to provide a level of protection, at least equivalent to that provided by EAEU requirements at the stage of analysis of documentation, were properly implemented. If the EAEU provided a third country the authority to list establishments located on its territory in the Registry, based on guarantees, the EAEU member States could conduct joint inspections of a representative percentage of establishments to check and confirm the operation of the third country's official system of supervision that was the basis for the guarantees. Establishments could also be included on the Register based on a joint inspection of the establishment.

755. The representative of Kazakhstan also noted that audit was conducted pursuant to paragraphs 13-45 of EEC Council Decision No. 94 upon request of the competent authority of a third country to the authorized body of the EAEU member State with indication of the scope of the audit, including a group of controlled goods (products) and types of activities of controlled objects. Thus, documentary analysis was conducted at the first place. Based on the results of documentary analysis, the authorized bodies of the EAEU member States made a decision on whether a foreign official system of surveillance with regard to relevant goods (products) was equivalent to the EAEU requirements. If the decision was positive, the authorized bodies of the EAEU member States could plan inspections to verify the proper implementation of the relevant legislation of the third country. For this purpose, the authorized body of the EAEU member State that planned the audit, no later than two months prior to the planned visit to a third country, which had requested the audit, informed the authorized bodies of other EAEU member States. The authorized bodies of other EAEU member States, no later than two weeks after receiving the information on the upcoming visit, sent a response that contained rejection or a consent to participate in the visit. The absence of response meant the refusal to participate in the visit. The authorized bodies of the EAEU member States that had not participated in the audit, considered the decision, based on the results received by the visiting authorized body. After completion of the documentary analysis and on-site inspections, the authorized body of the EAEU member State prepared a preliminary report on the audit taking into account the provisions of Annex C of the WTO SPS Agreement and sent it to other authorized bodies of the EAEU member States. The authorized bodies of the EAEU member States (including those not participating in the audit) could submit additional information and clarifications on the information and conclusions contained in the preliminary report within two months after receipt of the preliminary report. The authorized body of the EAEU member State evaluated additional information and clarifications and, if necessary, made changes to the preliminary report. Then, the authorized body of the EAEU member State prepared the additional preliminary report and sent it to the competent authority of the third country. The competent authority of the third country alongside with other interested parties of this third country could submit additional information and clarification on the information and conclusions contained in the preliminary report within two months after receipt of the preliminary report. The authorized body of the EAEU member State evaluated the received information, prepared, published and sent to the Commission the final report within two months after receipt of comments to the preliminary report from the competent authority of the third country. The Commission published the final report on its official website. The final report prepared by the authorized body (authorized bodies) of the EAEU member State(s), which participated in the audit, had to contain the conclusion whether the foreign official system of surveillance provided the level of protection at least equivalent to that in accordance with the EAEU requirements. The authorized body of the EAEU member State published information on this on its official website. After the publication of information, the competent authority of the third country sent to the authorized body of the EAEU member State, which organized the audit, a letter with the list of establishments planning to export the controlled goods to the EAEU *inter alia* for inclusion into the Register. The authorized body of the EAEU member State updated the Register and published the updated Register within ten working days.

756. The representative of Kazakhstan further explained that joint inspections of establishments of third countries were conducted pursuant to paragraphs 60-90 of EEC Council Decision No. 94 upon request of a competent authority of a third country or upon request of the authorized body of an EAEU member State. Time-frame of joint inspection of an establishment could not exceed the time-frame agreed with the competent authority of the third country and could not exceed five working days. The authorized body of EAEU member State planning the joint inspection (hereinafter: the Initiator) not later than three months in advance had to send to the competent authority of the third country the list of regulatory legal acts containing relevant norms and requirements as well as the list of documents to be submitted by the competent authority of the third country and/or by inspected establishment during inspection, in Russian or any other language agreed. The Initiator informed the authorized bodies of other EAEU member States about the planned joint inspection not later than two months in advance. The authorized bodies of the EAEU member States not later than two weeks after receipt of the information on the planned inspection, could send their reply, which contained refusal or consent to participate in the joint inspection. Absence of the reply meant refusal to participate in the inspection. The Initiator, not later than two months in advance of the inspection, sent to the competent authority of the third country the following information: purpose of the joint inspection; the list of establishments to be inspected, as well as list of other establishments involved in production and/or control of relevant controlled goods (products) produced by establishments subject to inspection; list of documents, which the competent authority of the third country or establishments subject to inspection had to submit during inspection, in Russian or in any other agreed language. Upon arrival to the establishment, the inspectors analysed documents, then visited facilities and other infrastructural objects, analysed compliance to the EAEU requirements taking into account equivalency principle; checked the methods and equipment used in State and production control. Not later than two months after completion of the inspection, the Initiator prepared a preliminary report and sent it to the authorized bodies of EAEU member States, which participated in the inspection. The preliminary report had to contain concise legal basis of the inconsistencies revealed in the course of inspection as well as include recommendations on corrective actions for the competent authority and the concerned establishment. Authorized bodies of EAEU member States sent to the Initiator their replies not later than two weeks upon receipt of the preliminary report. Absence of the reply meant consent to the preliminary report. The Initiator, taking into account replies of other member States, which had participated in the inspection, within three months after completion of the inspection sent the preliminary report on joint inspection to the competent authority of the third country. The competent authority of the third country, within two months, could send its reply containing comments, additional information, including information on measures undertaken to correct incompliance, as well as clarifications for the Initiator. Absence of the reply meant consent to the preliminary report. After receipt of the reply from the competent authority or upon expiration of the established time-frame if the reply was not received, the Initiator, not later one month, prepared and sent the draft final report to the authorized bodies of EAEU member States, which participated in the inspection. The authorized bodies of EAEU member States not later than two weeks after receipt of the draft final report sent their replies to the Initiator. Absence of the reply meant consent to the draft final report. The initiator, taking into account the replies of the EAEU member States, which participated in the inspection, within two weeks after receipt of the replies from the authorized bodies, sent the final report on joint inspection to the competent authority of the third country. Final report had to contain conclusions on each inspected establishment, included or not included in the Register, and recommendations on corrective measures, which had to be taken by the establishments in order to be included in the Register. The Initiator published the final report on its official website and sent it to the competent authority of the third country within five working days after completion of the final report. The Initiator updated the Register within ten working days after completion of the final report and notified the competent authority of the third country about the update.

757. The representative of Kazakhstan explained that with respect to request for authorization to provide guarantees, the EAEU member State that received such request from a third country had to coordinate its decision with the other EAEU member States. Criteria for accepting guarantees were established in paragraph 48 of EEC Council Decision No. 94. Non-conformity with these criteria could serve as a basis for refusal to accept the guarantee from third country's competent authority. In general, the requirement to reach consensus between all EAEU member States with respect to approval of exporting establishments was necessary due to the absence of customs borders between territories of the EAEU member States and given the fact that the competence of establishment approval remained under the national competence. The representative of Kazakhstan further clarified that a decision on suspension of exports from

establishments was made based on obvious facts of inconsistencies with EAEU requirements that posed substantial risk to life and health of humans and/or animals. Thus, such decision could be made individually by an EAEU member State. Moreover, suspension of exports was a provisional measure and exports could be resumed as soon as the corrective measures were undertaken by the establishment. At the same time, the decision on inclusion of establishments under the guarantee required a more complex evaluation process and, thus, had to be agreed by all EAEU member States.

758. Some Members expressed concerns that the procedure for listing establishments based on guarantees was more cumbersome than that for suspending an establishment, since the former required the consent of all EAEU member States while the latter required a decision by only one EAEU member State. Members viewed such disparity of treatment as unjustified and contrary to the spirit of the WTO Agreements. Furthermore, Members expressed concerns regarding the lack of effectiveness and predictability of the mechanism of listing based on guarantees, the lack of a clear time-frame for being granted the authority to provide guarantees, the lack of justification of refusals to accept guarantees, and the absence of definition of the scope of these guarantees. Those Members also had concerns over statements by the representatives of Kazakhstan as well as over draft EAEU amendments to CU Commission Decision No. 834. These amendments indicated that a suspension of trade from an establishment or for a type of product, while decided by one EAEU member State, was applied to the whole EAEU territory. These Members had experienced that suspensions and temporary restrictions taken for an establishment were not connected to an identified risk or not proportionate to the risk identified. They asked for confirmation that a suspension could not be decided before a risk assessment justifying the measure was carried out and that this risk assessment will be provided to a trade partner concerned upon request.

759. The representative of Kazakhstan explained that according to EEC Council Decision No. 94, which had replaced the CU Commission Decision No. 834, the mechanism for inclusion of third country's establishments in the Register on the basis of guarantees included deadlines and reasons for refusal to accept guarantees, as well as the timing and scope of such guarantees. She further noted that prior to the creation of the EAEU there was no register of third country establishments in Kazakhstan. In order not to restrict trade with other countries the vast majority of third country establishments was included in the Register on the basis of guarantees provided by the competent authorities of third countries. Inclusion of establishments in the Register was carried out by EAEU member States in a coordinated manner because goods exported from these establishments could freely move within the EAEU and had access to the territory of all EAEU member States. She further stated that temporary suspensions of imports from an establishment were not imposed automatically. They could be imposed only at the request of the third country or in case of repeated identification of non-compliance, which was notified to the competent authority of the exporting country and which posed significant risk to human and animal life and health. Kazakhstan would provide a risk assessment justifying the measure, upon request from a concerned trade partner. In other instances, consistent measures, such as increased laboratory monitoring, warning, special requirements, such as application of additional or replacement measures, were applied in order not to stop exports from such establishments. Such decisions were made by an EAEU member State based on the repeated violations of the EAEU requirements and they could not contradict the principles and the spirit of the WTO SPS Agreement. She further noted that taking into account comments from interested parties, the provisions in accordance with which restriction of imports from an establishment imposed by one EAEU member State applied to the entire EAEU territory were not present in the newly adopted EEC Council Decision No. 94.

760. Some Members requested more information on how Kazakhstan and the EAEU intended to implement the three mechanisms for including establishments in the Register. The representative of Kazakhstan replied that currently, all guarantees, received from third countries by an authorized body of any EAEU member State, were subject to approval by the authorized bodies of other EAEU member States. In response to Members' further questions, the representative of Kazakhstan explained that EEC Council Decision No. 94 provided that one basic principle for ensuring veterinary safety of controlled goods when inclusion in the Register was required, was conducting an audit of foreign official system of veterinary control (systems audit) as recommended by Codex Alimentarius. As such, EEC Council Decision No. 94 provided three ways for a country to have establishments located on its territory included in the Register of establishments authorized to export as described in paragraph 742 above.

761. The representative of Kazakhstan explained that, in Chapter II, point 5 of EEC Council Decision No. 94, EAEU requirements were defined as follows: "international standards, guidelines and recommendations within the meaning of CU Commission Decision No. 721 "On Application of International Standards, Recommendations and Guidelines" of 22 June 2011, related to veterinary and sanitary requirements for controlled goods, EAEU Technical Regulations, EAEU Common Veterinary Requirements, and/or the different requirements that EAEU member States have agreed with the third country in veterinary export certificates, as provided in CU Commission Decision No. 726 "On Veterinary Measures" of 15 July 2011, and mandatory national requirements for goods".

762. The representative of Kazakhstan confirmed that EEC Council Decision No. 94 "On Regulation on Common System of Joint Inspections of Objects and Sampling Goods (Products), Subject to Veterinary Control (Surveillance)" of 9 October 2014 provided for removal of an establishment from the Registry (delisting) in only two cases: at the request of the relevant establishment, and at the request of the competent authority of the third country. Instead of delisting an establishment, the EAEU could, in line with international standards or based on risk assessment, temporarily suspend imports from the establishment and/or subject imports from that establishment to intensified monitoring. Except in emergency situations, understood in the sense provided for in the OIE, a temporary suspension of imports from an establishment could be applied only:

- upon the request of the establishment or the competent authority of the third country; or
- based on repeated non-compliances with EAEU requirements either detected during on-site inspection and/or re-inspection of the establishment by the competent authority of an EAEU member State, or as a result of monitoring and enhanced laboratory testing of the establishment's goods, which have been notified to the competent authority of the third country, if such non-compliances represented a significant threat to human or animal life and health.

The Working Party took note of these commitments.

763. In response to a question from a Member, the representative of Kazakhstan confirmed that, currently, the Committee of Veterinary Control and Surveillance was not entitled to delist an establishment on the basis of minor non-compliances with EAEU requirements or requirements included in the certificate not affecting the safety of the products, observed during on-site inspection or laboratory analysis at the border or based on issues which fall outside of the Committee's field of competence (e.g. controls on potable water).

764. The representative of Kazakhstan confirmed that, except in case of serious risks of animal or human health, its competent authority would not suspend imports from establishments based on the results of on-site inspection before it had given the exporting country the opportunity to propose corrective measures. As required under EEC Council Decision No. 94 "On Regulation on Common System of Joint Inspections of Objects and Sampling Goods (Products), Subject to Veterinary Control (Surveillance)" of 9 October 2014, the preliminary report would be sent to the competent authority of the exporting country for comments before the report was finalized. She noted again that the EAEU member States had developed criteria and reasons for a decision to suspend imports from an establishment. Minor errors would not be valid grounds for suspending imports from an establishment and she reminded Members that there would be an administrative procedure for appealing such decisions as well as recourse to the courts. The Working Party took note of this commitment.

765. Regarding emergency situations, the representative of Kazakhstan confirmed that the decisions and procedures for the suspension of establishments would be in accordance with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. The Working Party took note of this commitment.

766. The representative of Kazakhstan further explained that in extraordinary cases, the Commission could take a decision to suspend a group of establishments or all establishments of a third country as the result of the detection of a serious systemic failure of the official system of control, as specified in EEC Council Decision No. 94 "On Regulation on Common System of Joint Inspections of Objects and Sampling Goods (Products), Subject to Veterinary Control

(Surveillance)" of 9 October 2014. The representative of Kazakhstan confirmed that, upon taking such a decision, the Commission would have to provide the Competent Authority of the third country with the technical information and scientific justification on the risk detected. The third country would be requested to take corrective measures within a specified timeframe for their adoption. Any suspension would not be implemented before the expiration of the specified timeframe. Once the corrective measures were taken, the Competent Authority of the third country would send a report on the corrective measures to the Commission. The Commission would evaluate the report and it would decide if the corrective measures were effective and sufficient. The suspension, if implemented, would be lifted within five working days after the decision. In case corrective measures were not taken or were considered ineffective by the Commission, the decision on a temporary suspension of imports from a group of establishments or all establishments of a third country could be implemented. The representative of Kazakhstan confirmed that such temporary suspensions would be proportionate to the risk to human health or life and not more restrictive to trade than necessary, as provided in the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. The Working Party took note of these commitments.

767. Members expressed concerns about a draft amendment to EAEU veterinary requirements that introduced a new listing obligation for establishments supplying raw materials to establishments that exported animal products to the EAEU. Members were concerned that this draft amendment mandated that raw materials used in the production of animal products for the EAEU must only come from establishments approved for export to the EAEU. Members noted that this could have far reaching ramifications and would be administratively difficult to implement and seemed to be lacking proportionality to any associated risk.

768. In reply the representative of Kazakhstan noted that the draft amendment to EAEU veterinary requirements that introduced the requirement for third country establishments, which produced products containing components of animal origin for export to the EAEU, to use raw materials of animal origin produced by establishments approved to supply products to the EAEU territory, was suspended and sent for further elaboration and risk assessment. This requirement would not be considered further without risk assessment presented by one of the EAEU member States that would justify the measure.

769. Members of the Working Party expressed concern that the draft inspection guidelines for meat, poultry, fish, and dairy were stricter than international standards, guidelines and recommendations, in particular they were overly prescriptive and in many cases would be difficult to respect in other cases than the EAEU context. Requiring establishments to meet these overly prescriptive structural and functional requirements would, in practice, preclude most non-EAEU establishments from passing inspection. Furthermore, Members highlighted that these draft guidelines did not take into account the possibility for exporting countries to conclude specific certificates with EAEU member States, as provided for in CU Commission Decision No. 726, and thus to be subjected to specific requirements. Members asked how equivalence could be recognized when the specific standards set in these inspection guidelines could not be met.

770. In reply, the representative of Kazakhstan explained that Kazakhstan and EAEU member States had developed Guidelines for Inspectors on Determining the Equivalency of Veterinary Measures Applied by Third Countries when Conducting Inspections of Establishments Subject to Veterinary Control and Audit of Official Systems of Control of Third Countries; Guidelines for Inspection of Facilities and Vessels for Harvesting and Processing Aquatic Animals, Including Fish; Guidelines for Inspecting Dairy Industry Establishments; and Guidelines for Inspecting Animal Slaughter Facilities and Meat Industry Establishments, adopted by EEC Council Decision No. 94, as Annex 2 and Annex 3, that included inspection guidelines for meat, poultry, fish, and dairy. She further explained that, prior to the adoption of the guidelines, the national legislation of an EAEU member State that received the request for inspection had been applied. The representative of Kazakhstan confirmed that the adopted guidelines had been developed in accordance with the Codex Alimentarius standards.

771. She further explained that EEC Council Decision No. 94 recognized the principle of equivalence. Specifically, inspectors were instructed to evaluate whether establishments were complying with relevant EAEU requirements or the relevant international standards, guidelines, and recommendations, and in such cases, the establishment would be considered in compliance with EAEU requirements based on the principle of equivalence. She further explained that if there

were cases where an EAEU act or mandatory national requirement was more stringent than the international standard, the inspector would evaluate compliance with international standards, guidelines, and recommendations, unless a scientific justification for the more stringent measure, as provided for in the WTO SPS Agreement, had been presented to the competent authority of the third country. The competent authority could then propose an equivalent measure. If an establishment was included in the Register based on guarantees from the competent authority of the exporting country, inspectors were bound to check and evaluate whether the guarantees in the export certification applicable were met.

772. The representative of Kazakhstan confirmed that as of the date of accession of Kazakhstan to the WTO, specific guidelines on inspection that would reflect the principles of equivalence and reliance on international standards, guidelines and recommendations, as such principles were described in paragraph 771 above, would be adopted and applied to ensure the implementation of EEC Council Decision No. 94 "On Regulation on Common System of Joint Inspections of Objects and Sampling Goods (Products), Subject to Veterinary Control (Surveillance)" of 9 October 2014 by EAEU inspectors, in accordance with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. Under these guidelines, referred to in paragraph 770 above, inspectors were instructed in particular to verify the compliance of establishments with relevant Codex Alimentarius recommended codes of practices such as CAC/RCP 1-1969, recommended International Code of Practice General Principles of Food Hygiene, the CAC/RCP 58-2005 Code of Hygienic Practice for Meat, the CAC/RCP 57-2004 Code of Hygienic Practice for Milk and Milk Products, the CAC/RCP 52-2003 Code of Practice for Fish and Fishery Products and other Relevant International Standards, Recommendations and Related Texts. The guidelines replaced previously existing national legislation of Kazakhstan concerning inspection of establishments, and would constitute the reference used by EAEU inspectors to assess compliance of exporting establishments with EAEU requirements. Moreover, inspectors would be provided information and training on the application of the principle of equivalence as provided in the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, in the context of EEC Council Decision No. 94 "On Regulation on Common System of Joint Inspections of Objects and Sampling Goods (Products), Subject to Veterinary Control (Surveillance)" of 9 October 2014 and the guidelines. The Working Party took note of these commitments.

773. Some Members expressed concern that CU Commission Decision No. 834 set-up a detailed and prescriptive system for auditing third-country systems for supervision of products subject to veterinary control, while it appeared that the requirements for EAEU member States and their respective establishments appeared to be less detailed and stringent in some respects. These Members asked whether and how it would be ensured, for example, that the frequency and requirements related to on-site visits as applied to third countries and their establishments and to EAEU member States and their establishments for purposes of determination and maintenance of equivalence, would be no less favourable to third countries and their establishments, and not discriminate against such countries or establishments.

774. In response, the representative of Kazakhstan stated that, in her view, EEC Council Decision No. 94, which had replaced CU Commission Decision No. 834, and the procedures and requirements for the conduct of audits and inspections applied in respect of Members, their products or establishments were in compliance with the WTO rules and requirements. In addition, the representative of Kazakhstan noted that Chapter VII of the EEC Council Decision No. 94 provided the procedure of joint inspection of establishments of the EAEU for inclusion into the Register of Establishments of the EAEU, which is similar to the procedure of joint inspection of establishments of third countries for inclusion in the Register (of establishments of third countries). In accordance with paragraph 107 of the EEC Council Decision No. 94 in a case where a system of establishment inspections of one of the EAEU member States were recognized as equivalent, establishments located in the territory of that EAEU member State had to be included into the Register of Establishments of the EAEU without conducting a joint inspection, which is similar to the procedure of audit of official system of surveillance of a third country. In other words, measures applied to establishments of the EAEU were similar to measures applied to establishments of third countries.

775. Some Members requested more information on the timing of the audits once the audit request was sent to an EAEU member State. These Members expressed concerns that the implementation of the audit system seemed lengthy and burdensome.

776. The representative of Kazakhstan replied that to date, Kazakhstan had not received any requests from third countries to carry out an audit. On the basis of the requests sent to other EAEU member States, a Schedule of Audits and Inspections for first half of 2014 had been prepared by the EAEU member States. Publication of the Schedule currently was not provided in the EAEU legislation, however the EAEU member States were planning to amend the relevant legislation in order to publish the Schedule. She further added that timing of audits depended on the number of requests received from third countries and the availability of financial and human resources for conducting such audits. In addition, the EEC Council Decision No. 94 contained procedures of audit, with specific timeframes, as specified in paragraph 755.

777. The representative of Kazakhstan confirmed that, by the date that Kazakhstan became a Member of the WTO, EEC Council Decision No. 94 "On Regulation on Common System of Joint Inspections of Objects and Sampling Goods (Products), Subject to Veterinary Control (Surveillance)" of 9 October 2014, as described in the Working Party Report, would be applied in compliance with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, including Article 2.3 thereof, and the WTO General Agreement on Tariffs and Trade 1994. In particular, she confirmed that EEC Council Decision No. 94 "On Regulation on Common System of Joint Inspections of Objects and Sampling Goods (Products), Subject to Veterinary Control (Surveillance)" of 9 October 2014 would not arbitrarily or unjustifiably discriminate between Members, where identical or similar conditions prevail, including between EAEU member States which were Members and other Members, with regards to requirements for on-site inspections, including for purposes of determination and maintenance of equivalence of the systems of control of products; and that EEC Council Decision No. 94 "On Regulation on Common System of Joint Inspections of Objects and Sampling Goods (Products), Subject to Veterinary Control (Surveillance)" of 9 October 2014 would not be applied in a manner which would constitute a disguised restriction on international trade. The Working Party took note of this commitment.

- **(iii) Import Permits**

778. As for import permits, the representative of Kazakhstan explained that since July 2010, the legal framework for the import permit regime of the EAEU was set-out in Section VI of the Regulation on Veterinary Control, adopted by CU Commission Decision No. 317. This Regulation set-out the following principles:

- Imports into the EAEU of certain goods subject to veterinary controls must have an import permit issued by the competent authority of the EAEU member State which was the point of destination for the imports; and
- The permit was valid for a calendar year, for quantities which were specified in the permit.

The permit was issued taking into account the epizootic situation of the place of production and, where the legislation required a registry of enterprises authorized to export the relevant goods to the territory of the EAEU, whether the enterprise was on that list of enterprises. Furthermore, "Rules of Issuing of Permits for Importation, Exportation and Transit of Goods Taking into Account Epizootic Situation of the Corresponding Territory" had been set at the national level by Government Resolution No. 132 of 19 January 2012, which had been replaced by Order of the Minister of Agriculture No. 16-04/647 of 9 December 2014 (hereinafter: Order No. 16-04/647).

779. She further explained that an import permit could be requested for any amount of goods and that the amount requested could not be the basis for refusing to issue the permit. Import permits had three functions: first, to ensure that the importer was in a position to handle the imported goods in a safe manner that complied with domestic, e.g., quarantine requirements; second, to take into account the epizootic situation of the exporting country; and third, to ensure that specific conditions, adapted to the epizootic situation of the exporting country, were met at the time of importation. The first function, in her view, was not discriminatory since the conditions required to be met by the operator were also checked in case of internal trade within the EAEU territory. The second function was that of a legal instrument to block or restrict imports in case of dangerous animal disease outbreaks in the exporting country. The third function could be used, for example, to require that certain imported animal products from countries with a specific epizootic situation be processed in designated facilities. In this case, import permits would be granted only to those importers who were able to channel the consignments to such facilities. Import permits also optimised logistics for importers and provided a means to coordinate activities of regulatory agencies.

780. As established in Order No. 16-04/647, import permits were issued by the authorized body in the sphere of veterinary (the Committee of Veterinary Control and Surveillance under the Ministry of Agriculture) upon request of its territorial branches. The Chief State Veterinary Inspector of a particular region was in charge of the epizootic and veterinary-sanitary safety of that region. Therefore, to obtain an import permit, traders applied in writing to the relevant region (rayon/city) branch of the authorized body where the imported goods were being shipped. This was done for the convenience of importers. Applications had to contain a description of the goods' characteristics, country and place (establishment) of origin, purpose, transport type, route, the border entry point(s) of Kazakhstan, place of destination in Kazakhstan with indication of the name and registration number of production or storage facility. In addition, Order No. 16-04/647 added requirements, including the location of the establishment, quarantine, processing and storage conditions, and the establishment's registration number, where required, and/or name of the establishment in the country of exportation. Region branches verified the compliance of transportation and storage facilities with veterinary rules, while the central authorized body verified: (i) whether the exporting country was subject to a temporary ban due to an outbreak of an infectious disease, (ii) whether non-compliance with the EAEU veterinary and sanitary requirements had occurred, and (iii) presence of exporting establishment in the Register, where such a requirement applied. In cases where the requirements for obtaining import permit were not met, the exporter could re-apply after fulfilling the requirements. The authorized body issued the import permit within ten working days, but could also refuse a permit by written justification.

781. Some Members expressed concern at the general nature of the reasons for refusing the import permit and the lack of elements such as necessity or proportionality to the seriousness of the risk for health involved by such non-compliance. They sought clarification on whether the planned amendment to this Resolution would introduce these elements, which would be necessary in their view to ensure compliance with the corresponding WTO principles. The representative of Kazakhstan informed Members that Kazakhstan adopted Order No. 16-04/647 that included such elements as necessity and/or proportionality to the seriousness of the risk for health involved by non-compliance as part of reasons for refusing the import permits.

782. A Member of the Working Party asked Kazakhstan to clarify what constituted a non-compliance and whether the permit would be denied if the information provided by the trader would not comply with import permit requirements, e.g., storage. The representative of Kazakhstan replied that pursuant to Order No. 16-04/647, import permits could be refused only for the following reasons: (i) in accordance with OIE guidelines, recommendations and standards and the WTO SPS Agreement, introduction of restrictions with respect to certain countries (regions) with unfavourable epizootic situation in the exporting country, which was verified, including through contacts with the competent authorities of third countries; (ii) unacceptable level of sanitary and veterinary risk arising from non-compliance with EAEU veterinary-sanitary requirements of the EAEU as defined in the EAEU legal framework, including EEC Council Decision No. 94, national legislation of the Republic of Kazakhstan or sanitary and veterinary attestations agreed in bilateral certificates, as applicable; (iii), absence of an exporting establishment in the Register of Exporting Third Countries, where such a requirement applied; (iv) introduction of temporary restriction with respect to the exporting establishment indicated in the application; or (v) introduction of restrictive measures on the part of the territory of Kazakhstan, to which the goods were destined or through which the goods would be transited. In this case, import permit was rejected only if the imported good was capable of transmitting the disease in question. Kazakhstan being an EAEU member State followed "Common Veterinary (Veterinary and Sanitary) Requirements, to Goods Subject to Veterinary Control (Surveillance)", approved by CU Commission Decision No. 317, as amended.

783. Some Members requested that when Kazakhstan's authorities denied an application for an import permit, they informed each applicant of the detailed reasons for the rejection and the exporting country if new conditions existed in that country would be the reason for refusing the import permit. The representative of Kazakhstan explained that the authorized body reviewed applications within ten working days. Within this period, the authorized body either issued an import permit or provided the applicant a written explanation of denial.

784. The representative of Kazakhstan confirmed that it had made available to importers, as well as to third-country exporters through the website of the Ministry of Agriculture <http://mgov.kz/napravleniya-razvitiya/information-for-third-countries> full detailed conditions for import of specific products. Furthermore, information on EAEU veterinary requirements was

available on the EAEU website at the following address: <http://www.eurasiancommission.org/en/act/texnreg/Pages/acts.aspx>. The representative of Kazakhstan further confirmed that to this end, it would publish a list on the website of the National Enquiry Point in English of the products which were permitted to be imported into its territory; the countries and establishments authorised to export to Kazakhstan; and the conditions for import. Where an application for an import permit was denied, the Committee of Veterinary Control and Surveillance of the Ministry of Agriculture of Kazakhstan would inform the applicant of the reasons for this rejection within ten working days of the decision. The Working Party took note of these commitments.

785. Some Members asked Kazakhstan to confirm that its import permit system would comply with OIE rules, i.e., permits would not be refused on grounds not recognized by the OIE for the animal diseases concerned. Further, with regard to the discovery of unauthorized substances in cargos, Kazakhstan would comply with the principle of applying an SPS measure only to the extent necessary to protect human or animal life and health. In the view of these Members, a refusal to issue import permit after single findings of non-compliances with no immediate risk for the consumer would not comply with this principle. The representative of Kazakhstan confirmed that its procedures for considering applications for import permits would comply with these two principles. The Working Party took note of this commitment.

786. A Member of the Working Party expressed concerns regarding the import permit process for products under veterinary control. In light of other veterinary and sanitary import requirements (e.g., an agreed veterinary certificate), the Member considered the import permit process as an unnecessary requirement that could result in a barrier to trade in violation of the WTO SPS Agreement. This Member of the Working Party noted that when developing SPS measures to protect human, animal or plant life or health within a country, the WTO SPS Agreement required that Members take into account the objective of minimizing negative trade effects and that such measures were not more trade-restrictive than required to achieve an appropriate level of SPS protection. The Member of the Working Party questioned compliance of Kazakhstan's measures with the WTO SPS Agreement obligations.

787. The representative of Kazakhstan replied that use of import permit system in veterinary import control was not prohibited by the WTO SPS Agreement. Further, the representative of Kazakhstan emphasized that import permit was important element of ensuring safety of the imported goods *en route* since veterinary authorities of exporting countries could ensure safety of exported goods only within the territory under its control. She noted that import permits contained information outside of the competence of veterinary authority of exporting country, such as: purpose, transport type, route, the border entry point(s) of Kazakhstan, place of destination in Kazakhstan with indication of the name and registration number of production or storage facility, where required, and in the case of importing goods falling under CITES - the relevant import permitting number. This information was not present in veterinary certificates.

788. In response to a question from a Member, the representative of Kazakhstan confirmed that minor documentation errors, which did not alter the basic data contained in the document, were not a basis for refusing an import permit. The legal circumstance that served as grounds for starting this administrative procedure for revocation of an import permit was the discovery of systematic (e.g., liable to administrative or criminal prosecution) violations, by the importer of the regulated cargo, of EAEU Decisions and other EAEU Acts and the laws of Kazakhstan in the field of veterinary medicine (including the presentation of forged veterinary documents or the discovery of inconsistency between the presented documents and the regulated cargo). Furthermore, she confirmed that the reasons for suspension, cancellation, or refusal of an import permit would be consistent with international standards, recommendations, and guidelines and the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. The Working Party took note of this commitment.

789. Further, the representative of Kazakhstan confirmed that from the date of accession of Kazakhstan to the WTO, the import permit regime applicable to goods subject to veterinary and quarantine control would be operated under EAEU Decisions, other EAEU Acts, and provisions of the Law of Kazakhstan that were published and available to the public and that these measures would be developed and applied in compliance with the WTO Agreement. The representative of Kazakhstan also confirmed that information requirements for the purposes of applying for an import permit would be limited to what was necessary for appropriate approval and control procedures and that any requirements for control, inspection and approval of individual specimens

of a product were limited to what is reasonable and necessary as provided for in Annex C of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. Moreover, she confirmed that her Government would maintain and notify the public of a clearly defined procedure under which an applicant for an import permit could appeal the suspension, cancellation, or refusal of an application, have that appeal adjudicated, and receive a written response explaining the reasons for the final decision and any further action required to obtain a permit. The Working Party took note of these commitments.

790. Pursuant to CU Commission Decision No. 317, at the border, a veterinary inspector conducted (i) a documentary check and (ii) a physical inspection of the goods being imported. Samples at the border were taken only in case a veterinary inspector detected visible organoleptic changes. The veterinary inspector informed the relevant oblast branch of the authorized body (at the border) about the results of the inspection of the product subject to veterinary control and about the final destination of the product. Imported goods were then transported to their final destination where they were subjected to a visual inspection of the consignment. After passing the inspection, the veterinary certificate issued by the competent body of the foreign country was replaced with the veterinary certificate of the EAEU. The accompanying documents were stamped with the sign "Release permitted" or "Release forbidden". Thus, the imported goods that passed the veterinary control were considered as EAEU goods and subsequently were subject to the same treatment as domestically produced goods. She added that, pursuant to paragraph 2 of Article 17 of Law No. 339-II "On Veterinary" of 10 July 2002, if a cargo owner was not satisfied with the results of veterinary control, he or she could appeal the actions (or failure to act) of veterinary inspectors to higher State veterinary officials or local executive bodies, and/or in court.

791. In response to Members' questions, the representative of Kazakhstan clarified that the legislation of Kazakhstan and of the EAEU did not contain rules obliging exporting countries to carry out veterinary and sanitary checks at the external borders of exporting parties.

792. A Working Party Member requested that Kazakhstan guarantee that there would not be such procedures in place, which caused undue delays and ensure treatment in no less favourable manner for imported products than for like domestic products. The Member stated that the control system seemed to be a duplication of checking - first at the border and then under customs control. In this respect, this Member asked the representative of Kazakhstan to confirm further that there would be no undue delays with this system in place. This Member of the Working Party expressed the view that additional testing appeared excessive given that a shipment had to be accompanied by a veterinary certificate and import permit and come from an approved facility and had been inspected prior to exportation. This Member further noted that Kazakhstan's requirements for inspection at the border and then a full re-inspection for all shipments when clearing customs appeared to be unjustified for SPS reasons, a burden on trade, and inconsistent with national treatment. Another Member of the Working Party enquired if and how Kazakhstan was planning to introduce the mechanism of random inspections instead of samples of each specific shipment (the current system).

793. In reply, the representative of Kazakhstan stated that pursuant to paragraph 6.5 of the Regulation on Veterinary Control, adopted by CU Commission Decision No. 317, after documentary checks, physical inspections were carried out on a random basis as follows: not more often than one consignment per ten consignments of meat or fish and one consignment per twenty consignments of other controlled goods originating from a specific country, except for live animals, where each consignment was subject to physical inspection. Physical inspection on the border could be conducted by checking of accessible part of the consignment. Laboratory tests were conducted only in cases of revealing visible organoleptic changes during physical checks (paragraph 3.14.3). Kazakhstan had removed the requirement of laboratory checks of each imported consignment and replaced it with the system of keeping a register of exporting facilities of third countries. In her view, such a practice was widely used in the most advanced WTO Members and was not contradictory to the WTO SPS Agreement.

- **(iv) Transit Permits**

794. With respect to transit, the representative of Kazakhstan stated that since 1 July 2010, the legal framework for the issuance of transit permits was set in CU Commission Decision No. 317, in Chapter VII of the "Regulation on the Single System of Veterinary Control at the Customs Border

of the Customs Union" as amended by CU Commission Decision No. 724 of 22 June 2011. The principles set at the EAEU level were the following:

- A transit permit was required only for transit of live animals and raw materials of animal origin. The transit permit was issued by the EAEU member State whose territory was the first entry point;
- Veterinary control of controlled goods at entry points was carried out after the submission of a waybill and/or veterinary certificate;
- After completion of documentary control, veterinary inspection of animals was carried out, including: identification numbers of animals were compared (tattoos, chips, ear tags, stamps, etc.) with numbers indicated in veterinary certificates, conditions of carriage were verified, and the condition of animals and possibility of their further transportation were examined;
- Examination during transit of controlled goods (except for animals) was performed only by State regulatory authorities at a checkpoint or in the presence of information about non-conformity of controlled goods to the declared goods;
- According to the results of monitoring, the Border Control Inspection Post Officer made a decision and put a stamp on the shipping documents and on the veterinary certificate, in accordance with the form of Annex No. 3: "Transit enabled" or "Transit prohibited", and at the point of exit from the customs territory of the EAEU, a stamp "Transit Completed", then assured it by the seal and signature, indicating such Officer's name and initials;
- All necessary data was entered in the register of transit in the form in accordance with Annex No. 9 of the Regulation and entered into the system of electronic records; and
- The owner of the controlled goods, who received the permit of transit of controlled goods through the territory of the EAEU, had to comply with the veterinary legislation of the EAEU.

795. According to Order No. 16-04/647, transit permits were issued within 30 working days upon written application with indication of the following information:

- for juridical persons carrying transited goods: name, address and registration number of the production facility, for natural persons carrying transited goods: family name, given name, patronymic (if any), address and registration number of the production facility;
- name of the transited goods;
- quantity of the transited goods and its measurement unit;
- exporting or importing country and country of origin;
- type of transport;
- list of border checkpoints of Kazakhstan through which the goods will be transited; and,
- transit route, places of stopping, loading-unloading, places of animal feeding, conditions of animal or goods transfer coordinated with a chief veterinary inspector of territorial administrative unit, or his deputy, through which the goods will be transited.

In accordance with Order No. 16-04/647, a transit permit could be refused only for the following reasons: (i) absence of any of the above information; (ii) unfavourable epizootic situation in the country or region of origin and transited places in accordance with the OIE guidelines, recommendations and standards; and (iii) importing country did not permit such imports.

796. Some Members expressed concerns regarding the requirement that controlled goods in transit, which had been inspected and were conveyed under seal, had to comply with EAEU veterinary requirements. From these Members' perspective, this requirement could not be justified as a safety measure and restricted trade with third countries.

797. The representative of Kazakhstan noted concerns from Members regarding the requirement for controlled goods in transit to comply with EAEU veterinary requirements and confirmed that CU Commission Decision No. 317 "On the Application of Veterinary-Sanitary Measures in the Customs Union" of 18 June 2010 had been amended by CU Commission Decision No. 724 of 22 June 2011 to eliminate this requirement, so that, controlled goods transiting through the territory of the EAEU under customs seal would not be subject to EAEU veterinary requirements. In addition, the representative of Kazakhstan confirmed that the relevant provisions of CU Commission Decision No. 317 "On the Application of Veterinary-Sanitary Measures in the Customs Union" of 18 June 2010, and any administrative regulations and other measures relating to the transit of goods subject to veterinary control through the territory of

Kazakhstan would be applied in compliance with the OIE Code and the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. The Working Party took note of these commitments.

(e) Trade in Goods Subject to Phytosanitary Control

798. The representative of Kazakhstan stated that Section XI (Articles 56, 59) and Annex No. 12 of the EAEU Treaty provided the legal framework for plant quarantine in Kazakhstan. These provisions stipulated that regulations must take into account the international and regional standards, guidelines and/or recommendations, except for the cases when, based on appropriate scientific justification, phytosanitary quarantine measures that ensure a higher level of phytosanitary quarantine protection than measures based on relevant international and regional standards, guidelines and/or recommendations were applied. EAEU plant quarantine measures were further established in CU Commission Decision No. 318 "On Providing Plant Quarantine in the Customs Union" of 18 June 2010 (as last amended by EEC Council Decision No. 93 of 9 October 2014). CU Commission Decision No. 318 included the following documents:

- The list of products under quarantine (regulated goods, regulated articles of regulated products), i.e., which are subject to quarantine phytosanitary control (surveillance) at the customs border of the Customs Union/EAEU and in the customs territory of the Customs Union/EAEU;
- Regulations on the implementation of quarantine phytosanitary control (surveillance) at the customs border of the Customs Union/EAEU; and
- Regulation on the implementation of quarantine phytosanitary control (surveillance) at the customs territory of the Customs Union/EAEU.

799. The representative of Kazakhstan further clarified that the EAEU did not have common phytosanitary requirements and that these were developed and implemented at the national level. The representative explained that further harmonization among the EAEU member States was ongoing. For example, the EAEU member States were in the process of reviewing and conducting pest risk assessments in order to harmonize the quarantine pest and disease list, with subsequent introduction of common phytosanitary requirements to regulated products by December 2015. The draft common list of quarantine pests and diseases had been developed and undergone public consultations in July 2012. At the moment, the draft was under discussion by the EAEU member States. Until the EAEU member States had harmonized their quarantine pest and disease list and introduced common phytosanitary requirements, the national quarantine pest and disease lists and phytosanitary requirements for regulated products would remain valid.

800. A Member of the Working Party asked Kazakhstan to clarify whether Kazakhstan's legislation was based on international standards developed by the IPPC. In reply the representative of Kazakhstan stated that legislation of the Republic of Kazakhstan on plant quarantine to a large extent was based on the provisions and principles stipulated by the WTO SPS Agreement, the International Plant Protection Convention and the Convention for the Establishment of the European and Mediterranean Plant Protection Organization. For instance, Article 13 of Law No. 344-I "On Plant Quarantine" of 11 February 1999 (hereinafter: Law "On Plant Quarantine") and the Government Resolution No. 1730 "On Approval of the Rules for Protection of the Territory of the Republic of Kazakhstan from Plant Quarantine Objects and Alien Species" of 30 October 2009, which provided for the procedures of issuing documents, inspections and control complied with IPPC standards such as No. 12 "Guideline on phytosanitary certificates", No. 23 "Guideline on inspections" and No. 7 "Certification system for exports". Kazakhstan accepted phytosanitary certificates that complied with the requirements of IPPC Standard No. 12 and relied on guarantees of the NPPO of the exporting country. She also added that the time-frames of laboratory expertise on pests and weeds were reduced to up to three working days, and plant diseases – to ten working days. In addition, within the framework of the EAEU, quarantine import permits on import of quarantine products were abolished.

801. Trade in regulated products on the territory of the Republic of Kazakhstan in addition to EAEU regulations was regulated by the following national legislation: Government Resolution No. 1295 "On Approval of the List of Quarantine Facilities, Alien Species and Extremely Dangerous Pests" of 10 December 2002, Government Resolution No. 1287 "On Approval of the Rules on Withdrawal and Destruction of Quarantine Products, Infected by Quarantine Objects, Not Subject to Decontamination or Processing" of 3 November 2011, Government Resolution No. 1730

"On Approval of the Rules for Protection of the Territory of the Republic of Kazakhstan from Plant Quarantine Objects and Alien Species" of 30 October 2009, Government Resolution No. 1674 "On Approval of Phytosanitary Requirements to Imported Quarantine Products" of 30 December 2011, and Government Resolution No. 1396 "On Approval of the Rules on Registration Tests and State Registration of Pesticides (Chemical Insecticides) in the Republic of Kazakhstan" of 30 November 2011.

802. The representative of Kazakhstan said that the Department of Phytosanitary Safety was in charge of strategic planning in the sphere of phytosanitary safety and developing rules and regulations in this area. The Committee of State Inspection in the Agro-Industrial Complex of the Ministry of Agriculture of the Republic of Kazakhstan was in charge of budgeting and conducting phytosanitary quarantine control (surveillance) on the territory of the Republic of Kazakhstan, including phytosanitary quarantine border control (surveillance), measures on protection of plants from pests, monitoring of agricultural lands against plant pests and diseases. In addition, the phytosanitary control framework included: (i) State quarantine institutions; (ii) the State enterprise "Phytosanitary"; (iii) State inspection branches of oblasts, Astana and Almaty; (iv) phytosanitary inspectors of territorial inspections of oblasts, rayons (or cities), Astana and Almaty; and (v) border checkpoints and internal posts of phytosanitary control. The State enterprise "Republican Center of Phytosanitary Diagnostics and Prognosis" conducted surveys of Kazakhstan's territory to determine the location of an outbreak. State enterprise "Republican Quarantine Laboratory" identified species composition of quarantine pests and diseases. State enterprise "Republican Plant Introduction Nursery of Fruit and Berry Crops" and "Republican Plant Introduction Nursery of Field Crops" were in charge of detection of latent infestation of plant products (seed and planting stock). State enterprise "Phytosanitary" conducted localisation and extermination of outbreaks of quarantine pests and diseases. In reply to additional question, the representative of Kazakhstan clarified that state inspection branches of inspections of rayons (or cities), oblasts, Astana and Almaty were in charge of: (i) control over phytosanitary conditions of the territory and measures on plant quarantine; (ii) surveillance of land plots, agricultural lands, grain storage and other facilities; (iii) control over organization of fumigation measures; (iv) quarantine inspection, sampling for laboratory testing, issuing phytosanitary certificates; (v) control over compliance of entities to phytosanitary rules; and (vi) taking administrative action against natural and juridical persons liable for violation of phytosanitary rules. Inspectors at the border checkpoints and internal posts of phytosanitary control were in charge of: (i) phytosanitary control, inspection, including documentary checks, of imported and exported good subject to phytosanitary control as well as goods moving within the territory of Kazakhstan, respectively; (ii) issuing orders to cargo owners on conducting necessary plant quarantine measures in accordance with legislation in the sphere of plant quarantine; and (iii) taking administrative action against natural and juridical persons liable for violation of phytosanitary rules.

803. In response to a question from a Member, the representative of Kazakhstan explained that the appropriate level of sanitary or phytosanitary protection was defined as the required level of protection established by a technical regulation for products and phytosanitary requirements to regulated products, produced on the territory of Kazakhstan aimed at prevention of factual scientifically grounded risks. The representative of Kazakhstan confirmed that the EAEU Treaty, EAEU acts, and Kazakhstan's legislation did not and would not in future establish additional SPS requirements for imported products that exceeded the requirements established for the EAEU or domestic products. The Working Party took note of this commitment.

804. The existing list of products under quarantine (regulated goods) that were subject to quarantine phytosanitary control at the customs border of the EAEU and the territory of the EAEU was divided into two groups: (i) quarantine products of high pest risk; and (ii) quarantine products of low pest risk. Classification of quarantine products to high and low pest risks in the list of quarantine products approved by CU Commission Decision No. 318 was based on risk assessment of possible contamination and infestation by quarantine pests, biology and hazard posed by quarantine pests, which can spread in certain quarantine products, conducted by at least one of the EAEU member States taking into account International Standards for Phytosanitary Measures (ISPM) No. 32. The representative of Kazakhstan explained that imports of quarantine products of high pest risk would need to be accompanied by a phytosanitary certificate. No phytosanitary certificate was required for imports of regulated products of low pest risk. The list of quarantine products with their HS codes was included in CU Commission Decision No. 318. She further explained that a number of products were now excluded from the high pest risk list, such as raw cane sugar, sugar from sugarbeets, natural sands of all kinds, gravel, sand, fish meal, meat meal

or meat by-products, protein concentrates, protein-vitamin concentrates and protein pre-mixes. The representative of Kazakhstan confirmed that pest risk analysis was conducted to determine appropriate level of control for these products. The up-to-date list of goods subject to quarantine phytosanitary control was available to the public on the EEC website at <http://www.eurasiancommission.org/en/act/texnreg/Pages/acts.aspx>. The representative of Kazakhstan confirmed that products not included in the list of goods subject to phytosanitary controls were allowed to enter the EAEU territory without phytosanitary restrictions.

805. In line with international practice, when products subject to phytosanitary control were imported from countries with registered cases of quarantine spread of quarantine organism in certain areas, imports of products under plant quarantine control were allowed if the products came from pest-free areas, or pest-free places of production or pest-free production sites, determined in accordance with ISPMs Nos. 4 and 10 if norms and principles of ISPM No. 20 have been applied or if the country of export guaranteed that appropriate measures provided for in the Kazakhstan/EAEU legislation to ensure the absence of the quarantine organisms in the exported commodity, were carried out. In cases during phytosanitary control it was detected that regulated products subject to phytosanitary control were infected by quarantine organisms, these products could undergo disinfection (decontamination) at the destination points or at the border. In case, if regulated products did not undergo decontamination, they would be destroyed or returned to the exporting country. In cases when the imported regulated products were in some way inconsistent with existing phytosanitary rules and regulations or such products were prohibited for importation into the Republic of Kazakhstan they would be destroyed or returned to the exporting country. At the same time, in case quarantine organisms were detected in imported products and the exporting country did not take the appropriate measures, Kazakhstan, in accordance with paragraph 6 of Article 7 of the IPPC, reserved the right to apply emergency (extraordinary) phytosanitary measures in order to restrict or ban importation of such products. Kazakhstan would notify the relevant Member of application of such measures in accordance with ISPM No. 13. Any natural or juridical person could appeal the actions (or inactions) of Government officials regarding this issue.

806. A Member asked Kazakhstan to confirm that Kazakhstan would accept replacement certificates as foreseen by international guidelines ISPM No. 12:2011. In reply, the representative of Kazakhstan stated that Kazakhstan would recognize phytosanitary certificates issued as replacement for legitimate phytosanitary certificates provided the national body on quarantine and plant protection (hereinafter: the NBQPP) of the exporting country in accordance with ISPM No. 12 ensured and confirmed the following: (i) phytosanitary safety of quarantine products; (ii) that prior to exporting quarantine products, the NBQPP of the exporting country had carried out sampling, inspection and treatment of quarantine products necessary to comply with the phytosanitary requirements of the Republic of Kazakhstan; and (iii) integrity of quarantine products from the moment of shipment until importation of quarantine products. She further noted that EEC Council Decision No. 50 of 16 August 2013 approved amendments to paragraph 4.1.6 of the "Regulation on the Procedure for Quarantine Phytosanitary Control (Surveillance) on the Customs Border of the EAEU" approved by CU Commission Decision No. 318 of 18 June 2010 that provided recognition of phytosanitary certificates issued as replacement.

807. In reply to a question, the representative of Kazakhstan clarified that the "appropriate information" meant information, presented in the section "Additional declaration" of the phytosanitary certificate, confirming that controlled goods were cultivated in the zones and/or produced in places free from harmful quarantine organisms as well as information on compliance with other phytosanitary requirements of Kazakhstan.

808. A Member of the Working Party asked whether, Kazakhstan accepted imports of regulated goods from areas affected by certain quarantine pests, provided that certain mitigation measures were applied, as provided in relevant IPPC recommendations, and, if this was the case, whether Kazakhstan had defined which mitigation measures it accepted for each combination of pest and commodity. The representative of Kazakhstan replied that mitigation measures were acceptable. However currently, normative legal acts of Kazakhstan did not define which mitigation measures could be applied in each case. Kazakhstan confirmed that it was ready to assess mitigation measures proposed by exporting countries within a reasonable period of time, as set-out in international standards, guidelines and recommendations.

809. In urgent situations (outbreak) the authorized body, depending on the phytosanitary conditions of the exporting country, could introduce provisional restrictions or ban importation of products subject to phytosanitary control. In such circumstances, the authorized body would provide all pertinent information about its actions to the relevant service of the exporting country. Where repeated supply of infected products subject to phytosanitary control had been registered, a ban on the importation of the relevant product could be imposed. She added that contentious issues were normally open for negotiation.

810. The representative of Kazakhstan noted that, in certain circumstances, the import requirements could include, in cooperation with the national plant protection body (hereinafter: NPPB) of the exporting country, an audit in the exporting country by the NPPB of the importing country of elements, such as: (i) production systems; (ii) treatments; (iii) inspection procedures; (iv) phytosanitary management; (v) accreditation procedures; (iv) testing procedures; and (vii) surveillance. She further stated that such measures were provided for in ISPM No. 20, paragraph 5.1.5.1 and thus, they were in line with the IPPC principles and norms. A Member asked Kazakhstan to confirm that audits as described in this paragraph of this Report would be carried out only in exceptional cases, and would aim to check the phytosanitary system of the exporting country, but would not result in a system of individual approval for export.

811. In reply, the representative of Kazakhstan stated that audit described in paragraph 810 was intended to reduce the risk of introduction of quarantine objects to the territory of the Republic of Kazakhstan. The audit would be conducted to the extent necessary to ensure that the risk of introduction of quarantine objects to the territory of Kazakhstan and the risk of non-compliance of regulated products with quarantine rules and regulations was acceptable for the Republic of Kazakhstan. In addition, goods subject to phytosanitary control could only be imported through border checkpoints equipped in accordance with Kazakhstan's plant quarantine rules and norms. Kazakhstan confirmed that audits as described in paragraph 810 would be carried out only in special cases, for example, when new trade relations were established or there was a problem, and in case of repeated inconsistencies or non-compliance with quarantine phytosanitary requirements.

812. The representative of Kazakhstan stated that when taking phytosanitary measures, Kazakhstan's authorities followed the relevant international practice and provisions established in the IPPC and the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, including conducting a risk assessment. She confirmed that, from the date of accession of Kazakhstan to the WTO, if the phytosanitary requirements of Kazakhstan resulted in a higher level of protection than would be achieved by measures based on relevant international standards, recommendations or guidelines, Kazakhstan would apply its phytosanitary requirements in accordance with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. She also confirmed that the authorities of Kazakhstan would consult with exporting Members on the measures in question, if requested. Furthermore, from the date of accession of Kazakhstan to the WTO, if phytosanitary requirements applied in Kazakhstan resulted in a higher level of protection than would be achieved by measures based on relevant international standards, recommendations or guidelines, Kazakhstan would provide explanations of the reasons for such phytosanitary measure, including the relevant risk assessment, on a bilateral basis following receipt of a request from an exporting Member pursuant to Article 5.8 of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. The Working Party took note of these commitments.

813. Pursuant to Law No. 331-II "On Plant Protection" of 3 July 2002, pesticides had to undergo registration and production trials, carried out by research and other organizations of Kazakhstan; subsequent registration followed in case of favourable trial results. The tests had to be carried out under the control of the territorial branches of the Committee of State Inspection in the Agro-Industrial Complex, in accordance with the Rules on Registration Tests and State Registration of Pesticides (Chemical Insecticides) in the Republic of Kazakhstan, approved by the Government Resolution No. 1396 of 30 November 2011. Registration trials were carried out to: (i) determine the biological effectiveness of pesticides; and (ii) detect recommended doses and methods of use for production purposes, which were intended for Kazakhstan's soil-climatic conditions and cultivated crops. Production trials represented field trials of the recommendations that had been elaborated during the registration trials. Registration and production tests took two to three years. The Ministry of Energy and the Committee of Consumer Rights Protection examined pesticides subject to registration for the purposes of protection of human health and the

environment. Pesticides included into the Register of Potentially Hazardous Chemical Substances Prohibited for Use in Kazakhstan could not be registered.

(f) Protection of Human Health

814. The representative of Kazakhstan explained that CU Commission Decision No. 299 established the "Common List of Goods Subject to Sanitary-and-Epidemiologic Surveillance (Control) at the Customs Border and on the Customs Territory of the Customs Union" (hereinafter: Common List) (Part I) as last amended by EEC Council Decision No. 36 of 15 June 2012 and established food safety requirements for corresponding goods. Products produced in, or imported into the customs territory of the EAEU for distribution to the population, use in industry, agriculture, civil construction development, transportation with direct human involvement, or for private and household use, had to conform to the CU Commission Decision No. 299 and relevant technical regulations. She further explained that the conformity to the safety requirements groups of goods was to be confirmed by a State Registration certificate, as provided for in relevant technical regulation, Commission decisions and domestic law. Goods for which State Registration Certificates must be supplied during customs clearance were indicated in relevant technical regulation or as provided for in the list of goods subject to the State Registration approved by the Commission.

815. The Committee of Consumer Rights Protection was the authorized body responsible for issues related to the sanitary and epidemiological welfare of the population. The sanitary and epidemiological service was a single system consisting of: (i) the authorized body and its border and territorial branches; and (ii) organizations of sanitary and epidemiological services (the Republican State Enterprise "Scientific and Practical Center of Sanitary and Epidemiological Expertise and Monitoring", State organizations for sanitary and epidemiological expertise). When developing and approving regulatory acts related to the production, importation, turnover, use, and destruction of substances/processes that could potentially affect human health, Government agencies sought the consent of the authorized body on the sanitary and epidemiological welfare of the population.

816. In addition to EAEU regulations, the national legislation in the sphere of sanitary-epidemiological safety of population was comprised of the following acts: Code of the Republic of Kazakhstan No. 193-IV "On Public Health and Healthcare System" of 18 September 2009, Law No. 301-III "On Food Safety" of 21 July 2007, Government Resolution No. 125 "On Approval of the Rules for Assignment of Registration Numbers to Entities Producing Food Products" of 11 February 2008, Government Resolution No. 2267 "On Approval of the Rules for Refusal for Entry, as well as for Production, Use and Sale of Products Intended for Human Consumption, on the Territory of the Republic of Kazakhstan, as well as for Use in Business and/or Other Activities" of 30 December 2009.

817. Members expressed concern that during joint inspections EAEU inspectors requested systematic testing results for each lot from all types of exported products, including raw or processed, from each visited establishment, prior to export to the EAEU. The representative of the Republic of Kazakhstan explained that the issue of recognition of monitoring, conducted at the national level and at the level of a food producing establishment, as an equivalent measure of the exporting country would be considered during an audit of the national control system of exporting countries. According to paragraph 48 of EEC Council Decision No. 94, national monitoring programs were taken into account in the assessment of third countries' guarantees. Furthermore, according to paragraph 66 of EEC Council Decision No. 94, national monitoring programs were taken into account in on-site inspections of exporting establishments. In reply to specific request of a Member, she explained that the EAEU and national regulations did not contain systematic testing requirements for each lot from all types of exported products. Paragraph 74 of EEC Council Decision No. 94 stipulated that upon arrival at the establishment of a third country, the inspector, *inter alia*, had to make analysis on existence of official control and application of production control, such as Hazard Analysis and Critical Control Points (HACCP), for the purposes of ensuring safety of products. In this case analysis on existence of official control meant that inspectors would check whether the establishment was subject to control by competent authorities of the exporting country, such as on-site inspections by the competent authority of the exporting country (risk based frequency of such inspections, inspection criteria, results and records of the inspections) or state registration of facilities. The representative of Kazakhstan confirmed that testing of products by food business operators' self-check were accepted. She further confirmed

that EAEU inspectors did not request testing in official laboratories for the conformity with EAEU requirements.

818. Some Members noted that under CU Commission Decisions, the State Registration procedure, applied only to certain groups of goods, included in Part II of the Common List approved by the CU Commission Decision No. 299. Members requested information on whether domestic provisions still applied, and, if so, what criteria were used for determining that a product was marketed for the first time in the territory of the EAEU or the territory of Kazakhstan.

819. In response, the representative of Kazakhstan explained that national legal acts were applied to the extent that they did not contradict CU Commission Decision No. 299 of 28 May 2010. Such provisions in national law related to the determination of the competent authority, the order of involvement of organizations and experts in the procedure of State Registration, the order of appellation of refusal of State Registration, and keeping of the national part of the Register of State Registration Certificates. Products subject to State Registration were specified in relevant technical regulation or in CU Commission Decision No. 299. Thus, only products specified in relevant technical regulation or listed in CU Commission Decision No. 299 were subject to State Registration. The representative of Kazakhstan explained that the State Registration procedure applied:

- if required by relevant technical regulation; or
- only to certain groups of goods, which were listed in points 1 to 11 of Part II of the Common List of Goods Subject to Sanitary and Epidemiological Control, set-out in CU Commission Decision No. 299 (these included: mineral water, bottled drinking water packaged in containers, tonic beverages, specialised foodstuffs, including food products for children, food products for pregnant and nursing women, dietary products; biologically active dietary supplements, raw materials for production of biologically active dietary supplements, organic products; foodstuffs derived from GMO; GMO; food additives, flavourings, technological aids including enzymes; and food contact material);
- only if the goods were covered by HS codes listed in the table of Part II to the Common List of Goods Subject to Sanitary Controls (CU Commission Decision No. 299); and
- if the goods were manufactured for the first time on the territory of the EAEU or imported for the first time into the EAEU territory, and no prior State Registration had occurred, or in cases where the introduction of EAEU requirements necessitated the issuance of a new State Registration Certificate.

820. The representative of Kazakhstan specified that these three cumulative criteria, to determine whether a State Registration Certificate was required, were specified in the relevant technical regulation or the last paragraph of point 11 in Part II of the Common List of Goods Subject to Sanitary and Epidemiological Control. The following goods were subject to state registration: goods if required by relevant technical regulation or specified in points 1 to 11 of Part II of the Common List indicated in HS codes, manufactured for the first time on the EAEU customs territory, as well as imported for the first time to the EAEU customs territory.

821. The State Registration Certificate was issued for a given type of product and was valid for exports from the relevant country without time limitation, provided there had been no violations of the regulations during the preceding period. If there were violations found during surveillance at the border, the State Registration Certificate could be temporarily revoked. Applications for evaluations were to be submitted to the Committee of Consumer Rights Protection or its territorial bodies. State Registration Certificates were valid throughout the entire territory of the EAEU. For domestically produced products, sanitary and epidemiological surveillance was conducted by the territorial authorities of the Committee of Consumer Rights Protection at the stage of distribution of products on Kazakhstan's domestic market. In response to questions from a Member of the Working Party, the representative of Kazakhstan stated that the State Registration Certificates for domestic products were also issued for a given type of product and were valid for an unlimited time period. In her view, the respective procedures and requirements did not discriminate between domestic and imported products. The process for issuing a State Registration Certificate could not exceed 30 days after an application was received. If the application was rejected, the Committee of Consumer Rights Protection sent a letter to the applicant explaining what needed to be changed. After corrections were made, the applicant could re-submit the application.

822. The representative of Kazakhstan explained that, since 1 July 2010, a State Registration Certificate was issued in accordance with the relevant technical regulations or the common EAEU form required for products specified in paragraph 819 and was valid throughout the customs territory of the EAEU. The certificate confirmed that the controlled goods conformed to EAEU Common sanitary and epidemiologic and hygienic requirements. The period of validity of the State Registration Certificate covered the whole period of manufacture or delivery of controlled goods to the territory of the EAEU. The representative of Kazakhstan further explained that the State Registration Certificate was harmonized among the EAEU member States and that each member State recognized the right of other member States to issue this certificate and that a State Registration Certificate would be valid throughout the territory of the EAEU.

823. In response to a specific question, the representative of Kazakhstan stated that the term "new products" meant products developed and industrially manufactured for the first time on the territory of Kazakhstan and also products imported into the territory of Kazakhstan for the first time, i.e., which had not been on sale in Kazakhstan before. The absence of a prior State Registration indicated that the product was new to the market of Kazakhstan and State Registration was required. She also explained that the producer, supplier, or importer could submit an application for State Registration of products.

824. Some Members noted that points 1 to 11 of Part II of the Common List of Goods Subject to Sanitary and Epidemiological Control included non-food products, such as disinfectants, cosmetics or hazardous chemical substances. The representative of Kazakhstan clarified that CU Commission Decision No. 299 covered the protection of human health in general from risks derived from both food and non-food products.

825. The representative of Kazakhstan explained that some commodities were also subject to mandatory confirmation of conformity to EAEU requirements. The list of such commodities, which also contained references to quality standards and quality requirements for these products, was approved by CU Commission Decision No. 620 of 7 April 2011 which had replaced the list in CU Commission Decision No. 319 of 18 June 2010, and included the following food and feedstuffs: (i) canned food products (fish, caviar, seafood); (ii) fat-free dry milk; and (iii) feeds for animals, including formula feeds, pre-mixes, protein feed additives, such as oilseeds meal and cake, fish meal, protein-vitamin additives, dry milk for feeding and dry milk replacements. Until 1 January 2011, confirmation of conformity for these food products had been carried out in accordance with national legislation of each EAEU member State. From 1 January 2011, the declaration of conformity was provided upon assessment by the certification bodies and testing laboratories (centres) included into the Single Register of Certification Bodies and Testing Laboratories (Centres) of the EAEU. With regard to feedstuffs, from 1 July 2010, self-declaration of conformity could be made on the basis of an assessment provided by the producer. Foreign manufacturers and/or suppliers, located outside the territory of the EAEU, could apply for a certificate/declaration of conformity that was issued in accordance with national legislation of an EAEU member State or for an EAEU certificate of conformity or declaration of conformity of a common EAEU form, as approved by CU Commission Decision No. 319 of 18 June 2010, as amended by EEC Collegium Decision No. 226 of 13 November 2012. The representative of Kazakhstan further explained that references to quality standards and quality requirements with regard to products on the List of Commodities Subject to Mandatory Confirmation of Conformity would be revised as the EAEU member States adopted EAEU technical regulations on specific products.

826. She further noted that pursuant to the Regulation of Conduct of State Sanitary-Epidemiological Control adopted by CU Commission Decision No. 299, food products included into Part II of the Common List and produced or imported in the EAEU territory had to be accompanied with a document confirming safety of the products, i.e. State Registration Certificate, issued upon results of testing conducted by the laboratories included into the Common List of Certification Bodies and Laboratories of the EAEU. Such testing had to be conducted by exporters for the purposes of compliance with the Common Sanitary Epidemiological Requirements. Food products included in Part I of the Common List but not included in Part II of the Common List, and produced or imported into the EAEU, had to be accompanied with a document of producer (or its authorized supplier) certifying the safety of products. The representative of Kazakhstan, however, noted that these requirements were applied as an interim system of safety control of food products which would gradually be replaced with the requirements of technical regulations for respective food products.

(g) Compliance of the SPS Regime with Specific Provisions of the WTO SPS Agreement

- (i) Harmonization with International Standards and Norms

827. Some Members sought assurances that, pursuant to CU Commission Decision No. 721, in cases where a WTO Member officially notified an EAEU member State that an SPS requirement in force on the EAEU territory was more stringent than the relevant international standard, this international standard was immediately applied unless and until such time that a risk assessment, done in accordance with international standards, was provided.

828. The representative of Kazakhstan informed Members of the Working Party that the CU Commission had adopted Decision No. 625 "On Ensuring of Harmonization of Legal Acts of the Customs Union in the Sphere of Sanitary, Veterinary and Phytosanitary Measures with International Standards" of 7 April 2011 (hereinafter: CU Commission Decision No. 625), as amended by CU Commission Decisions No. 722 of 22 June 2011 and No. 11 of 7 March 2012. According to the Decision, EAEU SPS measures that, after examination, were recognized as more stringent than international standards, without scientific justification for such restriction or risk to human, animal or plant life or health would be brought into conformity with international standards. She noted that foreign governments could bring measures to the attention of the EAEU member States and participate in the examination.

829. The representative of Kazakhstan further informed Members of the Working Party that in connection with implementation of CU Commission Decision No. 625, EEC Collegium Decision No. 212 of 6 November 2012 approved the "Regulation on the Uniform Procedure of Carrying Out Examination of Legal Acts of the Customs Union in the Sphere of Implementation of Sanitary, Veterinary and Phytosanitary Measures", which had replaced CU Commission Decision No. 801 of 23 September 2011. Some Members of the Working Party expressed concern that the implementation procedure was unnecessarily burdensome and lengthy.

830. The representative of Kazakhstan confirmed that the EAEU would apply MRLs on chlorothalonil, clofentezine, cyprodinil, kresoxim-methyl, iprodione, propamocarb, pirimicarb, thiabendazole, carbendazim, famoxadone, copper compounds, and lambda cyhalothrin that corresponded to international standards in conformity with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures no later than the date of the accession of Kazakhstan, and that these MRLs would be set out in EAEU acts. The Working Party took note of this commitment.

831. A Member of the Working Party noted that the harmonization process for MRLs of veterinary drugs should also include elimination of zero-tolerance or very low tolerance in food of veterinary substances when these substances are authorized for use in Kazakhstan/EAEU under similar conditions to those in place in exporting countries, notably similar length of withdrawal periods. The Member further asked to clarify how withdrawal periods had been set in Kazakhstan, how it was ensured that those withdrawal periods enabled achieving the very strict MRLs applicable for some antimicrobial substances and asked if these withdrawal periods allowing to reach the required EAEU MRL for preparations containing tetracyclines could be communicated to requesting Members. The Member sought confirmation that OIE recommendations for marketing authorization had been followed and that the MRL used in studies submitted at the time of granting the marketing authorization by Kazakh veterinary authorities was the same as the MRL recently set by EAEU norms.

832. The representative of Kazakhstan replied that zero-tolerance or very low tolerance of veterinary drug residues in food had been established based on a risk assessment. Authorization of use of such veterinary drugs in Kazakhstan did not mean that MRLs established for these veterinary substances could not be respected. Authorization of use of veterinary drugs in the territory of Kazakhstan was established taking into account the period of withdrawal of the substances from the animal. Moreover, accumulation of these drugs in specific organs and tissues, wherein the minimum residue levels were allowed, was also taken into account. The package of documents submitted by the applicant for registration of veterinary drugs and feed additives contained information about the period during which the drug was eliminated from the body completely, or reduced to a level corresponding to the MRLs established for these drugs by the EAEU legislation. This information was confirmed by scientific research. The period of withdrawal

of the drug from the body was checked during the approbation research conducted by the competent authority. The representative of Kazakhstan further noted that withdrawal periods allowing to reach the required EAEU MRL for preparations containing tetracycline ranged from 7 to 15 days. Kazakhstan had allowed the use of antibiotics in feed, but only in accordance with the instruction accompanying the particular veterinary drug. She further confirmed that Kazakhstan had been following OIE recommendations for marketing authorization.

833. The representative of Kazakhstan confirmed that certain standards for some veterinary drugs had been harmonized with international standards by the CU Commission Decision No. 889 of 9 December 2011. Currently, the results of the previous risk assessments were being revisited within the framework of the works on harmonization of MRLs for remaining veterinary drugs. The results of the risk assessment carried out by an EAEU member State were published on the official websites of the national competent bodies. The harmonization of remaining MRLs for veterinary drugs was currently in process and would be completed by the date of Kazakhstan's accession to the WTO, unless application of an MRL that was not based on an international standard was justified under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. The Working Party took note of this commitment.

834. As regards maximum levels for contaminants, the representative of Kazakhstan informed Members that maximum levels for nitrates in lettuce and cadmium in poppy seeds had been reviewed and revised in accordance with international recommendations and set-out in amendments to the Unified Sanitary and Epidemiological Requirements set out in CU Commission Decision No. 299.

835. Furthermore, the representative of Kazakhstan confirmed that as of the date of the accession of Kazakhstan to the WTO, the maximum levels of nitrates would be revised in accordance with international standards, recommendations, and guidelines. The Working Party took note of this commitment.

836. The representative of Kazakhstan stated that radio nuclide levels and microbiological standards were being revised in accordance with international recommendations. The proposals would be transmitted to the EEC in due course to avoid inconsistency with international standards by the date of accession of Kazakhstan to the WTO.

837. Some Members expressed concerns about EAEU MRLs for tetracyclines that were much more stringent than international standards and no justification for these stringent requirements in the form of a risk assessment and scientific justification consistent with international standards and recommendations had been provided. These Members requested that Kazakhstan and other EAEU member States apply the Codex standards for MRLs for tetracyclines. These Members noted that some form of risk assessment had been published at <http://fcrisk.ru/node/652>. They had expressed concern regarding the timing and procedures followed and had commented that this assessment was not conducted in accordance with international standards. Members of the Working Party noted that the harmonization process for MRLs of veterinary drugs should also include elimination of non-tolerance or very low tolerance in food of veterinary substances when these substances are authorized in use in the EAEU under similar conditions to those in place in exporting countries. Finally, these Members recalled CU Commission Decision No. 625 "On Ensuring of Harmonization of Legal Acts of the Customs Union in the Sphere of Sanitary, Veterinary and Phytosanitary Measures with International Standards" of 7 April 2011 and CU Commission Decision No. 721 of 22 June 2011 and requested that Kazakhstan fully implement these Decisions.

838. The representative of the Kazakhstan confirmed that Kazakhstan, before the date of its accession to the WTO, would provide to any interested Member scientific evidence and an assessment of the risk associated with tetracyclines antibiotics residues, developed in accordance with methods of scientific evaluation set by the Codex Alimentarius, sufficient to justify the application of MRLs more stringent than those provided for in the relevant Codex standards. If such a scientific justification and risk assessment for a more stringent MRL was not provided, the MRLs for tetracyclines would be revised to correspond to Codex standards in national and EAEU acts as of the date of the accession of Kazakhstan to the WTO consistent with the provisions of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. The Working Party took note of this commitment.

839. In response to a question from a Member, the representative of Kazakhstan replied that Kazakhstan had conducted a risk assessment for MRLs on tetracycline in accordance with international standards. The conclusion was published at http://www.npc-ses.kz/index.php?option=com_content&view=article&id=940%3Amaterials-for-human-health-risk-assessment-of-tetracycline-intake-with-food&catid=35%3A2010-11-19-10-11-22&lang=ru.

840. One Member requested Kazakhstan to confirm that, in application of Article 3.1 of the WTO SPS Agreement, Kazakhstan would review all of its existing sanitary and phytosanitary measures to ensure that, by the date of accession, they were based on international standards, guidelines and recommendations or, in the event that Kazakhstan or the EAEU considered that international standards did not meet its appropriate level of protection, they were scientifically justified in accordance with Article 3.3 of the WTO SPS Agreement. In cases where relevant scientific evidence was insufficient, this Member requested that Kazakhstan confirm that it would comply with Article 5.7 of the WTO SPS Agreement.

841. The representative of Kazakhstan confirmed that, as of the date of accession, in application of Article 3.1 of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, all sanitary and phytosanitary measures, whether adopted by Kazakhstan or the competent bodies of the EAEU, would be based on international standards, guidelines or recommendations as provided for in the WTO Agreement. The representative of Kazakhstan confirmed that, in cases in which no mandatory veterinary or phytosanitary, or sanitary epidemiological and hygienic requirements had been established at EAEU or Kazakhstan national level, Kazakhstan would apply the relevant standards, guidelines or recommendations, or parts thereof, of the OIE, IPPC and Codex respectively. Further, the representative of Kazakhstan confirmed that measures which were not based on international standards, guidelines and recommendations, where they exist, would not be applied in Kazakhstan without providing Members a scientifically based justification of the measures, in accordance with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, including Article 3.3. In cases where relevant scientific evidence was insufficient, she confirmed that any measure adopted, whether by Kazakhstan or the competent bodies of the EAEU would comply with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, in particular with Article 5.7 thereof. In the event that international standards were not considered to meet the appropriate level of protection, Kazakhstan would provide scientific justification for measures applied in Kazakhstan, in accordance with Article 5.8 of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. The representative of Kazakhstan confirmed that this obligation currently was included in the EAEU legal framework, and Kazakhstan further would ensure that these obligations continue to be a mandatory part of the EAEU legal framework in the future. The Working Party took note of these commitments.

- **(ii) Risk Assessment**

842. With regard to risk assessments, some Members emphasized the need, in conformity with the WTO SPS Agreement, to comply with international standards, recommendations and guidelines for conducting and reviewing risk assessments. They noted the relevance and applicability of Codex standards: CAC/GL-62-2007-Working Principles for Risk Analysis for Food Safety for Application by Governments and CAC/GL/30-1999-Principles and Guidelines for the Conduct of Microbiological Risk Assessments, and the FAO document; and WHO-EHC-240.5-Principles and Methods for the Risk Assessment of Chemicals In Food, Chapter 2 - Risk Assessment and its Role in Risk Analysis. In the view of these Members, a risk assessment should be limited to an examination of the measure already in place or favoured by the importing country. It should not be distorted by pre-conceived views on the nature and the content of the measure to be taken, nor should it develop into an exercise tailored to and carried out for the purpose of justifying decisions *ex post facto*.

843. In the view of these Members, the conduct of a risk assessment, whether for a biological, chemical, or physical food safety hazard, was one part of a broader effort to describe the relevance and understanding of scientific-based decisions. The analysis of risk allowed regulatory officials to focus finite resources on those hazards that posed the greatest risk to human health protection. Risk assessment provided a framework for evaluating food safety hazards relevant to the national context, predicting the likelihood of exposure to those hazards, and estimating the resulting public health impact associated with a wide variety of variables. Experts involved in risk assessment, including government officials and subject matter experts from outside government must be

objective in their scientific work and not be subject to any conflict of interest that may compromise the integrity of the assessment. These experts should be selected in a transparent manner on the basis of their expertise and their independence with regard to the interests involved, including disclosure of conflicts of interest in connection with risk assessment. Elements of an effective assessment and analysis of that assessment needed to include a public process for seeking input on the design of the risk assessment, documentation of those decisions, and then ensuring that the public has access to the documentation. A peer review process whereby subject matter experts provide critical analysis of the design features and the assumption made was recommended. Such contributions through the peer review and public process could improve transparency, increase the quality of the analysis, and facilitate risk communication by increasing the credibility and acceptance of the results. There needed to be a formal record of all decisions associated with the risk assessment and which would be made available to interested independent parties so that other risk assessors could repeat and critique the work. The formal record and summary should indicate any constraints, uncertainties, assumptions, and their impact on the risk assessment. Members expressed concerns that certain norms and certain SPS measures applied to imports into the EAEU territory and into the Republic of Kazakhstan were not in line with international standards, guidelines and recommendations, and were not based on a risk assessment carried out based on the internationally recognized principles and recommendations described above. These Members sought assurances from Kazakhstan that these internationally recognised principles and recommendations would be used in conducting risk assessments for SPS measures applicable to imports into the Republic of Kazakhstan.

844. The representative of Kazakhstan confirmed that principles and recommendation developed by the relevant international organizations described in paragraph 842 and 843 were used in conducting risk assessment for SPS measures applicable to imports in the Republic of Kazakhstan. The representative of Kazakhstan further explained that the CU Commission had adopted Decision No. 835 "On Equivalence of Sanitary, Veterinary, or Phytosanitary Measures and Conduct of Risk Assessment" of 18 October 2011 (hereinafter: Decision on Equivalence and Risk Assessment). Under this Decision, EAEU member States were required, consistent with Article 5 of the WTO SPS Agreement, to ensure that sanitary, veterinary, or phytosanitary measures were based on an assessment, as appropriate to the circumstances, of the risks to human, animal or plant life or health, taking into account risk assessment techniques developed by the relevant international organizations, including Codex, OIE, and the IPPC. She further explained that the EAEU requirements for conducting risk assessments corresponded to the provisions of Article 5 of the WTO SPS Agreement, including a requirement that, as provided in Article 5.3 of the WTO SPS Agreement, in assessing the risk to animal or plant life or health and determining the measure to be applied for achieving the appropriate level of sanitary, veterinary or phytosanitary protection from such risk, the EAEU member States would take into account as relevant economic factors: the potential damage in terms of loss of production or sales in the event of the entry, establishment or spread of a pest or disease, the costs of control or eradication in the territory of the member States, and the relative cost-effectiveness of alternative approaches to limiting risks.

845. Some Members of the Working Party noted the requirement that applied to certain goods on the Common List of Goods Subject to Veterinary Control that imports come from establishments on the Registry, as described in paragraph 732. These Members expressed concern that applying this requirement to certain of the products on the Common List of Goods Subject to Veterinary Control was not based on science or a risk assessment. In addition, there could also be a requirement for an establishment to be included in the Register prior to being permitted to export products to the territory of the EAEU where a veterinary certificate, import permit and State Registration which appeared to be more trade restrictive than required to achieve the appropriate level of protection of the EAEU. Moreover, these Members recalled their concerns about the absence of risk assessments and science to justify measures maintained by the EAEU and Kazakhstan that were more stringent than international standards, guidelines, and recommendations.

846. In response to the request of a Member to provide information on the risk assessment bodies involved in evaluation of risk, the representative of Kazakhstan listed the following institutions:

- 1) in the sphere of veterinary:
 - Kazakh Scientific Research Veterinary Institute;
 - Republican Veterinary Laboratory;
 - National Reference Center in Veterinary;
 - KazAgroInnovation; and
 - Scientific Research Institute for Biological Safety Problems.
- 2) in the sphere of phytosanitary:
 - Kazakh Scientific Institute of Plant Protection and Quarantine;
 - Republican Plant Quarantine Laboratory;
 - Republican Methodological Center of Phytosanitary Diagnostics and Prognosis; and
 - State Enterprise "Phytosanitary".
- 3) in the sphere of food safety:
 - National Scientific and Practical Centre of Sanitary and Epidemiological Expertise and Monitoring;
 - Kazakh Food Academy; and
 - Kazakh Scientific Center for Hygiene and Epidemiology.

847. A Member asked for confirmation that risk assessment is carried out prior to the introduction of a restriction on imports into the EAEU/Kazakhstan and that Kazakhstan/the EAEU will provide this risk assessment to the exporting country affected by the restrictions upon request. In reply, the representative of Kazakhstan said that pursuant to paragraph 1 of Article 56 of the EAEU Treaty, SPS measures were developed and applied on the basis of scientific justification and only to the extent necessary to protect human, animal and plant life and health. Pursuant to paragraph 2 of Article 26-1 of Law "On Veterinary", veterinary measures had to be based on scientific justification, objective risk assessment or international standards. The representative of Kazakhstan confirmed that risk assessment was conducted prior to implementation of introduction of restriction to imports and would provide the results of risk assessment upon request of exporting country, as provided for in the WTO Agreement.

848. The representative of Kazakhstan confirmed that, as of the date of accession of Kazakhstan, goods would be included on the Common List of Goods Subject to Veterinary Control only if application of veterinary measures was in compliance with international standards, guidelines and recommendations, or if science or risk assessment justified, consistent with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, subjecting a category of goods to veterinary measures. Similarly, the veterinary measures applied to each category of goods would also be in compliance with international standards, recommendations and guidelines or based on science or risk assessment. Furthermore, the representative of Kazakhstan confirmed that Kazakhstan would remove products from the List of Goods Subject to Veterinary Control by the date of its accession to the WTO, if the retention of goods on the list was not in compliance with international standards, guidelines and recommendations, or not justified by science or risk assessment, consistent with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. Moreover, the representative of Kazakhstan confirmed that consistent with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, that risk assessments would be conducted taking into account the risk assessment techniques developed by the relevant international organizations and their subsidiary bodies. The Working Party took note of these commitments.

849. The representative of Kazakhstan confirmed that, as of the date of its accession to the WTO, in accordance with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, EAEU and Kazakh SPS measures would be based on an assessment, as appropriate to the circumstances, of the risk to human, animal or plant life or health, taking into account risk assessment techniques developed by the relevant international organizations. She further confirmed that in accordance with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, these assessments would take into account the standards guidelines and recommendations of Codex, OIE and IPPC, in particular: Codex Guidelines on Working Principles for Risk Analysis for Food Safety for Application by Governments (CAC/GL 62-2007); chapter 2.1

on Import Risk Analysis of the OIE Terrestrial Animal Health Code; chapter 2.2 on Import Risk Analysis of the OIE Aquatic Animal Health Code; International Standards for Phytosanitary Measures (ISPM) No. 2 "Framework for Pest Risk Analysis", ISPMs Nos. 11, 21; and, the categories of commodities according to their pest risk established by ISPM No. 32. The Working Party took note of these commitments.

- **(iii) Regionalization**

850. The representative of Kazakhstan explained that Kazakh officials widely used the principle of regionalization, as defined in the WTO SPS Agreement, when deciding to take a measure. The Common Veterinary Requirements (each chapter) adopted by the CU Commission Decision No. 317 of 18 June 2010 stipulated that the regionalization principle was recognized. The procedures for carrying out regionalization in the sphere of applying veterinary measures were in accordance with the OIE Code (Chapter 4.3. OIE, 2011). Kazakh legislation in the plant quarantine sphere was based on IPPC provisions and international standards on phytosanitary measures. Accordingly, regionalization applied to all imported regulated products. Phytosanitary certificates were issued in the exporting country by agencies of the official National Plant Protection Organization. Regional characteristics were a factor for the purposes of devising phytosanitary measures for use in a particular region.

851. The representative of Kazakhstan added that procedures for carrying out regionalization in the sphere of applying veterinary measures were in accordance with the OIE Code. The compliance of veterinary measures with OIE standards was accomplished through the Common Veterinary Requirements and Law No. 339-II "On Veterinary" of 10 July 2002.

852. She further stated that the principle of regionalization was applied in full accordance with provisions of IPPC and ISPM Nos. 1, 4, 10, 14, and 29. This had to be respected, including in the formulation of veterinary and phytosanitary certificates.

- **(iv) Equivalence**

853. The representative of Kazakhstan explained that the appropriate level of protection was determined by the EAEU bodies with regard to sanitary and veterinary measures and by each EAEU member State on the national level with regard to phytosanitary measures, and were reflected in technical regulations for products produced on the territory of the EAEU and individual EAEU member States, respectively. Furthermore, the representative recalled that the CU Commission had adopted Decision No. 835 "On Equivalence and Risk Assessment" of 18 October 2011 (hereinafter: CU Commission Decision No. 835), which provided:

- for EAEU member States to recognize equivalence if an exporting country objectively demonstrated that its measures achieved the appropriate level of sanitary or veterinary protection of the EAEU or the appropriate level of phytosanitary protection of an individual EAEU member State;
- the procedure to follow as regards consultations with the exporting country(s) and relevant information to be provided by the exporting country(s);
- procedural and substantive requirements as regards the judgement on recognition of equivalence; and
- the possibility of inspection, testing or audit in the exporting country(s) upon a request by the EAEU member States.

854. In addition, under CU Commission Decision No. 835, EAEU member States committed to apply the same approach to requests for national recognition of equivalence in the phytosanitary field addressed to individual EAEU member States. She also noted that the CU Commission Decision No. 835 provided for the possibility for exporting countries to request equivalence recognition by the EAEU or its member States (depending on respective competences) of their control or inspection systems. She explained that CU Commission Decision No. 835, and procedures necessary to apply this Decision had been adopted by EEC Collegium Decision No. 17 of 11 February 2014. The representative of Kazakhstan stated that, the CU Commission Decision No. 835 foresaw the following procedure:

- submission of a request for equivalence recognition to a competent authority of an EAEU member State, including, *inter alia*, information on the type and scope of equivalence agreement requested, description of product(s), measure(s) or system(s) of control and inspections concerned, an evaluation of how the measure(s) or system(s) of the exporting country achieved the appropriate level of protection of the EAEU or an EAEU member State, and information on the feasibility and performance of the measure(s);
- interactions between the EAEU member State and the exporting country in the context of the determination of equivalence;
- prior to taking a decision on equivalence, the EAEU member State would, upon request, provide to the requesting exporting country an explanation of the EAEU's or its level of protection; and
- notification by the Commission or an EAEU member State to the exporting country of its judgement as regards recognition of equivalence in a timely manner and with appropriate explanation where it was found that the measure was not equivalent.

855. Furthermore, the representative of Kazakhstan specified that, in applying CU Commission Decision No. 835, the EAEU member States would follow international standards, guidelines and recommendations developed by the relevant international organizations, including the Codex Alimentarius Commission, the International Office of Epizootics and the relevant international and regional organizations operating within the framework of the International Plant Protection Convention. Members noted that, as set out in the Decision of the WTO SPS Committee (G/SPS/19/Rev.2), the importing Member had certain responsibilities: to provide an explanation of the objective and rationale of the sanitary or phytosanitary measure and identify clearly the risks that the relevant measure intended to address. Moreover, the importing Member should indicate the appropriate level of protection which its sanitary or phytosanitary measure was designed to achieve and should provide a copy of the risk assessment on which the sanitary or phytosanitary measure was based. As stated in the WTO SPS Committee Decision, an importing Member was to consider the relevant information and experience that the sanitary and phytosanitary services had on the measure(s) for which recognition of equivalence was requested. A key element for consideration was the historic knowledge and confidence that the competent authority of the importing Member had of the competent authority of the exporting Member.

856. The representative of Kazakhstan confirmed that Kazakhstan, from the date of its accession to the WTO, would ensure compliance with Article 4 of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. She further confirmed that, as provided for in Article 4 of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, sanitary, veterinary, and phytosanitary measures of other Members, even when they were different from measures of Kazakhstan or the EAEU, would be accepted as equivalent, if the exporting country objectively demonstrated that its measures achieved the appropriate level of SPS protection applied in Kazakhstan. The representative of Kazakhstan also confirmed that, as of the date of accession of Kazakhstan to the WTO, procedures for recognition and determination of equivalence, consistent with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, including Article 4 thereof, whether applied by Kazakhstan or competent bodies of the EAEU, would be based on relevant international standards, guidelines and recommendations, namely the Decision of the WTO Committee on Sanitary and Phytosanitary Measures (G/SPS/19/Rev.2), Codex Guidelines on the Judgment of Equivalence of Sanitary Measures Associated with Food Inspection and Certification Systems (CAC/GL 53-2003), Codex Guidelines for the Development of Equivalence Agreements Regarding Food Import and Export Inspection and Certification Systems (CAC/GL 34-1999); Chapter 5.3 of the OIE Terrestrial Animal Health Code "OIE Procedures Relevant to the Agreement on the Application of Sanitary and Phytosanitary Measures of the World Trade Organization" and International Standards for Phytosanitary Measures (ISPM) No. 24 "Guidelines for the Determination and Recognition of Equivalence of Phytosanitary Measures". The Working Party took note of these commitments.

- (v) **Non-discrimination**

857. Some Members also requested clarification of whether SPS measures applied in Kazakhstan established similar treatment for domestic and foreign like products. The representative of Kazakhstan stated that, in her view, non-discriminatory treatment was provided by the current legislation of Kazakhstan and EAEU Agreements, Commission Decisions, and other EAEU Acts. EAEU Agreements, Commission Decisions and other EAEU Acts did not set-out separate SPS measures for imported goods. Sanitary-epidemiological, veterinary and

phytosanitary rules, criteria, measures and requirements were applied uniformly and without discrimination to all foreign, EAEU, and domestic products and suppliers. She stated that SPS requirements were implemented with respect to goods originating from foreign countries in the same way, they were applied in respect of similar products of Kazakh origin. EAEU Agreements, Commission Decisions, and other EAEU Acts, as well as the current legislation of Kazakhstan in the veterinary/sanitary sphere (Article 23 of Law No. 339-II "On Veterinary" of 10 July 2002) were uniform and established identical requirements for both foreign, EAEU, and domestic goods and manufacturers, including requirements for putting products on the domestic market. Finally, phytosanitary requirements applied to regulated products originating from a foreign country in the same manner as they applied to the same regulated products of Kazakh origin.

858. The non-discrimination principle was ensured in paragraphs 127, 142 and 153 of EEC Council Decision No. 94 stipulating the same requirements to the laboratory testing of imported and domestic products.

859. The representative of Kazakhstan confirmed that all SPS measures developed and applied in Kazakhstan, whether by Kazakhstan or competent bodies of the EAEU, would comply with the non-discrimination provisions of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, including those relating to the principles of national and most-favoured-nation treatment. The Working Party took note of this commitment.

(h) Transparency, Notification and Enquiry Point Obligations

860. With regard to the transparency requirements of the SPS Agreement, the representative of Kazakhstan said that a single TBT/SPS enquiry point had been in operation since July 2005. The enquiry point notified WTO Members of SPS measures in effect, as well as on measures that were still in preparation. The enquiry point, upon receipt of notifications from the WTO Secretariat, EurAsEC member State, EAEU member States and other international organizations, published them quarterly in the official publication of the authorized body (Bulletin of the Enquiry Point) and monthly in the common information system (<http://www.memst.kz/en/services/tbtsfs.php> or <http://wto.memst.kz/en/tbtsfs/reg>). Notifications would be prepared in accordance with the "Rules and Procedures for Preparation of Notifications on Pending (Being Adopted) Technical Regulations and Standards". These rules had been developed in line with the notification provisions of the WTO SPS and TBT Agreements and ensured that notifications took place at an early stage when comments could be taken into account and prior to the adoption and enforcement of these proposed regulations. The enquiry point could be contacted at:

Address: Orynbor st., 11
010000 Astana
Republic of Kazakhstan

Telephone: +(771) 7222 6482
Tel/fax: +(771) 7220 5640
E-mail: enquirypoint@mail.ru
Website: <http://wto.memst.kz/en>

861. A Working Party Member asked the representative of Kazakhstan to clarify as to whether the phrase "get familiar with intention" in paragraph 2.3 of the Rules of Completion and Submission of WTO Notifications included the opportunity to comment. The representative of Kazakhstan replied that in general, the scope of the Rules is only the methodology of filing of SPS notifications. The possibility to comment was provided in Government Resolution No. 718 "On the Rules on Creation and Functioning of the Enquiry Point on TBT and SPS" of 11 July 2005, as last amended in September 2010. In particular, paragraph 11 of the Rules on the Enquiry Point provided that the Enquiry Point, upon request of the WTO Secretariat, EurAsEC members and other international organizations had to present information (clarifications), standards, conformity assessment procedures, and other SPS measures.

862. This Member, with regard to provision 2.8 and the Order included in the Annexes, noted that the Order was very similar to the notification format used for notifications under the WTO SPS and TBT Agreements; however, there were some differences. For instance, the Order did not

include a section for the comment deadline. In this regard, this Member enquired why Kazakhstan developed its own format instead of using the formats developed by the WTO SPS and TBT Committees. In reply, the representative of Kazakhstan said that the mentioned notification format was related to notifications on emergency measures in technical regulations, SPS measures, or amendments to them. The purpose of such notifications was to inform interested WTO Members about urgent measures, implemented in order to protect human and animal life and health, ensure plant and/or environment protection. She emphasised that emergency notification forms developed by the WTO SPS and TBT Committees do not have a section for comment deadline. The regular notification format – also included in Annex 1 of the Rules of Completion and Submission – contained the section for the comment deadline.

863. As regards emergency measures, the representative of Kazakhstan confirmed that Kazakhstan would comply with point 6 of Annex B to the WTO SPS Agreement.

864. This Member commented that with regards to the operation of the Enquiry Point, one of the issues discussed by WTO Members in the WTO SPS Committee was the importance of inter-agency coordination. The Enquiry Point for both SPS and TBT was established in the Committee on Technical Regulation and Metrology of the Ministry of Investments and Development. In this regard, this Working Party Member asked how the Committee on Technical Regulation and Metrology would coordinate with other agencies involved in developing SPS measures.

865. The representative of Kazakhstan stated that the SPS/TBT Enquiry Point had been established by Government Resolution No. 718 of 11 July 2005, which authorized the Enquiry Point to coordinate with the Ministry of Agriculture and the Committee of Consumer Rights Protection on the issues of SPS notifications, including responding comments from WTO Members. Pursuant to this Resolution, Government agencies (including the Ministry of Agriculture and the Committee of Consumer Rights Protection) provided appropriate information to the enquiry point within two days after the adoption and application of TBT and SPS measures in order to send such information to the WTO Secretariat, EurAsEC member States, EAEU member States and other international organizations.

866. A Member asked Kazakhstan to describe in details the steps that would take place for SPS notification of draft EEC texts, both for the notification and for the consideration of the comments received. In reply, the representative of Kazakhstan explained that Kazakhstan would notify WTO Members on EEC SPS measures once the first draft of the SPS document was approved by the working group and then by the Consultative Committee for public consultation. Thus, Kazakhstan's SPS/TBT Enquiry Point would send notification to the WTO approximately at the same time when the draft SPS document would be published for public consultation by the EEC. This would allow EAEU member States to synchronize the process of receiving comments through both mechanisms. Moreover, after Kazakhstan's accession to the WTO, its enquiry point would coordinate the notification process with the Russian Federation's notification authority in order to ensure that similar dates for comments were established for the notifications of the same draft document. She clarified that the 60 days comment period through WTO notification would be provided even if the EEC public comment period was closed. The contact point for sending feedback to the notified EEC document would be indicated in the notification and it could be either the SPS/TBT enquiry point, or the EEC, or both. The SPS/TBT Enquiry Point would forward comments and proposals received from WTO Members to the relevant authorized body of Kazakhstan, which, in turn, would forward them to the EEC. She further explained that the received comments and proposals would be considered at the EEC working group meeting. In accordance with EEC Collegium Decision No. 31 "On Ensuring Transparency in the Process of Adoption of Acts of the Eurasian Economic Commission in the Sphere of Application of Sanitary, Quarantine Phytosanitary and Veterinary-Sanitary Measures" of 5 March 2013, the Department of the Sanitary, Phytosanitary and Veterinary Measures of the Commission, within 30 days after expiration of the public consultation period, had to compile a summary table of comments received under the public consultation and under the WTO SPS notification channels, and compile the answers to these comments, and publish the summary table on the official EEC website. In addition, the enquiry point would provide answers to WTO Member's comments provided in the context of the SPS notifications.

867. She added that, pursuant to Government Resolution No. 1627 of 30 October 2000, the Ministry of Agriculture had established an Information Marketing System to enhance transparency through regular exchange of analytical marketing information between agricultural producers,

public bodies, and other participants on the agricultural market; and through enhanced interaction with international organizations. All relevant drafts, amended and final SPS and (agriculture-related) TBT regulations and rules were available from the Ministry's website, <http://mgov.kz/napravleniya-razvitiya/information-for-third-countries> as well as from <http://www.memst.kz/en/pb>. All interested parties could send questions and comments to the Ministry at office@minagri.gov.kz. The enquiry point also published a quarterly bulletin of all draft amended and final SPS measures. The Ministry of Agriculture issued an analytical bulletin "Agroinform", which contained all legal acts, approved by the Ministry of Agriculture, including legislation on veterinary, quarantine and plant protection. In addition, the State sanitary and epidemiological control system maintained a regularly updated database on the incidence of infectious diseases and on the results of random laboratory tests of drinking water and food products. This information was available to all interested parties.

868. In response to a question from a Member regarding the existence of a process for public participation in the development of rules and regulations, she said that Law No. 124-III "On Private Entrepreneurship" of 31 January 2006 provided for the participation of the private sector in the development of regulatory acts that would affect the interests of private entrepreneurs. In her view, the provisions of this Law ensured that the public could put forward proposals for the consideration of the relevant authorized body. Besides, in accordance with the above-mentioned Law, a draft law had to be examined by accredited Business Associations. In response to specific questions, the representative of Kazakhstan replied that Kazakhstan's legislation contained no restrictions on foreign participation in the development of sanitary and phytosanitary standards (e.g., participation in technical committees meetings, providing comments). Proposals and comments should be submitted through the enquiry point. Furthermore, EEC Collegium Decision No. 161 of 18 September 2012, which had replaced CU Commission Decision No. 319 of 18 June 2010, as amended by CU Commission Decision No. 625 of 7 April 2011, provided for publication of EAEU draft SPS measures with a public comment period of at least 60 days. Within this period, any interested party could submit its comments on the drafts. The representative of Kazakhstan further explained that according to Article 8 of the Annex to EEC Council Decision No. 48 of 20 June 2012, which set out a procedure for the development, adoption, amendment and repealing of technical regulations of the EAEU, draft technical regulations must be published on the EEC website and should be available for public consultation for at least two months. Comments received from interested parties would then be taken into account to amend the draft technical regulations.

869. Members noted that many comments on draft technical regulations had been provided to the EAEU member States and institutions through the public consultation mechanism. Members were concerned that few of the submitted comments had resulted in modifications to the final adopted technical regulations, even in cases where the comments noted discrepancies with international standards or suggested alternative approaches more aligned with the international standards and facilitating trade. These Members therefore sought assurances that meaningful consideration would be given to comments and that the mechanisms provided by CU Commission Decision No. 625 for aligning with international standards would be fully implemented.

870. The representative of Kazakhstan said that EEC Council Decision No. 48 had approved a new Regulation on Development, Adoption, Amending and Cancellation of Technical Regulations of the Customs Union. Pursuant to the Decision, a table of comments and proposals resulting from public consultation with corresponding answers was published on the EAEU official website. EEC Collegium Decision No. 31 of 5 March 2013 provided for similar procedures for SPS measures, namely, the publication of a summary table of comments and answers on the EAEU official website. She further clarified that the mechanism of aligning EAEU SPS measures with international standards provided by CU Commission Decision No. 625, had been established in EEC Collegium Decision No. 212 "On Regulation on the Uniform Procedure of Carrying Out Examination of Legal Acts of the Customs Union in the Sphere of Implementation of Sanitary, Veterinary and Phytosanitary Measures" of 6 November 2012, which had replaced CU Commission Decision No. 801 of 23 September 2011.

871. In reply to a Members' question, Kazakhstan confirmed that it would follow the WTO SPS Committee's "Recommended Procedures for Implementing the Transparency Obligations of the SPS Agreement" (G/SPS/7/Rev.3).

872. The representative of Kazakhstan confirmed that Kazakhstan would ensure that draft SPS measures applicable to imports into Kazakhstan would be notified to the WTO Committee on Sanitary and Phytosanitary Measures, including EAEU SPS measures, in accordance with Annex B of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures and following the principles of the WTO SPS Committee's "Recommended Procedures for Implementing the Transparency Obligations of the SPS Agreement" (G/SPS/7/Rev.3). SPS measures, including those relating to inspection, were published in publications, such as those mentioned in paragraph 867. Information on all proposed SPS measures and those in effect, as foreseen in Annex B of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, could also be obtained from the SPS notification authority or from Kazakhstan's SPS enquiry point. The Working Party took note of these commitments.

(i) Proportionality, Necessity, and Reasonableness

873. Some Members of the Working Party expressed concern that SPS measures applied by Kazakhstan and other EAEU member States to exports to Kazakhstan were not always proportionate to the risk identified. These Members gave the following examples of measures that were disproportionate or otherwise inconsistent with international rules:

- the list of goods subject to veterinary control included goods that did not represent a veterinary or sanitary risk which would justify submitting these goods to requirements for listing establishments on the Common Register, State Registration, import permits, and veterinary certificate requirements;
- imposition of trade restrictive measures, such as suspension of establishments or mandatory pre-export testing, were not reviewed and eliminated after food safety standards had been harmonized with international standards or when steps had been taken to address food safety issues;
- inspectors requesting exporting establishments to show the results of monitoring of residues of veterinary medicinal products in processed products in addition to the monitoring carried out on the raw materials;
- EAEU member States not using residue monitoring plans as a tool to manage the risk of exposure, as foreseen in Codex guidelines, but requesting pre-export tests;
- EAEU member States requesting systematic inspections of plant nurseries before allowing export to Kazakhstan of plants for planting, in absence of a basis foreseen by the IPPC to have such preliminary inspection; and
- overly detailed and unnecessary requirements of inspectors during inspections.

These Members recalled that the principles of proportionality, necessity and reasonableness were enshrined in a number of Articles of the WTO SPS Agreement, such as Articles 2.1, 2.2, 5.3, 5.4, 5.6 and Annex C thereof, and that, in their view, Kazakhstan should also modify its practices to make them more proportionate to the risks and reasonable.

874. In response to these concerns, the representative of Kazakhstan confirmed that all SPS measures, whether adopted by Kazakhstan or the competent bodies of the EAEU, would be applied in conformity with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. In particular these SPS measures would be applied only to the extent necessary to protect human, animal or plant life or health and would be not more trade restrictive than required to achieve the appropriate level of sanitary or phytosanitary protection of the EAEU and Kazakhstan. Finally, when determining the appropriate level of sanitary, veterinary, or phytosanitary protection, Kazakhstan or the competent bodies of the EAEU, would take into account the objective to minimize negative trade effects in accordance with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. The Working Party took note of these commitments.

(j) Conclusion

875. The representative of Kazakhstan confirmed that, from the date of accession of Kazakhstan to the WTO, all SPS measures would be developed, whether by Kazakhstan or the competent bodies of the EAEU, and applied in Kazakhstan in accordance with the WTO Agreement and in particular, the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. In particular, SPS measures would be applied only to the extent necessary to protect human,

animal, or plant life or health; would be based on scientific principles and, where they exist, on international standards, guidelines, and recommendations; and, would not be more trade restrictive than required to achieve the appropriate level of protection applied in Kazakhstan. SPS measures would not arbitrarily or unjustifiably discriminate between Members where identical or similar conditions prevail, including between the territory of Kazakhstan and that of other Members. SPS measures would not be applied in a manner, which would constitute a disguised restriction on international trade, and would not be maintained without sufficient scientific evidence, except as provided for in Article 5.7 of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. The Working Party took note of these commitments.

- Trade-Related Investment Measures

876. The representative of Kazakhstan noted that Kazakhstan applied local content requirements, in the form of preferences for purchase of locally produced goods, with a view to diversifying the national economy. In addition to local content requirements described in Sections "State Ownership, State-Trading Entities and Privatization" and "Government Procurement" of this Report, pursuant to Kazakhstan's legislation, local content requirements were applied in procurement of goods and services¹⁶ by subsurface users within the framework of investment contracts in the oil and gas, and mining sectors and under investment agreements in the automotive sector. TRIMs described in this Section and the local content requirements in procurement by State-owned enterprises and by national managing holdings, national holdings, national companies, and joint stock companies (JSCs) or limited liability companies (LLPs) with 50% or more of State participation were the only local content requirements on goods enforced in law in Kazakhstan, except for those applied by the Government in its procurement for immediate or ultimate consumption in governmental use and not otherwise for resale or use in the production of goods for sale.

- TRIMs in the Oil and Gas and Mining Sectors

877. In the oil and gas and mining sectors, the requirement for local content was regulated by Law No. 291-IV "On Subsurface and Subsurface Use" of 24 June 2010 (hereinafter: Law "On Subsurface and Subsurface Use"), which had replaced Law No. 2828 "On Subsurface and Subsurface Use" of 27 January 1996. Pursuant to Article 69 of Law "On Subsurface and Subsurface Use", subsurface use contracts were concluded for a period determined in the project documentation for carrying out extraction works and contained provisions for the possibility to extend their term. These contracts were required by Law "On Subsurface and Subsurface Use" to contain commitments for subsurface users to use domestically produced goods provided that they met the requirements of project documentation and legislation of the Republic of Kazakhstan on technical regulation. Amendments to signed contracts were subject to negotiations between the authorized body and the subsurface user, and could be introduced on the basis of consensus between the parties.

878. In accordance with Article 77 of Law "On Subsurface and Subsurface Use", the purchase of goods for conducting subsurface operations could be carried out by one of the following methods: (i) open tender; (ii) price offer request; (iii) from a single source; (iv) through the electronic procurement system; or, (v) through commodity exchanges. Article 78 of Law "On Subsurface and Subsurface Use" stipulated a local content requirement and established that, when identifying an open tender winner, the tender organizer had to conditionally reduce by 20% the price of goods produced in Kazakhstan.

879. In implementation of Article 16 of Law "On Subsurface and Subsurface Use", Kazakhstan adopted the new "Rules for Procurement of Goods and Services in Performance of Subsurface Use Operations", approved by Government Resolution No. 134 of 14 February 2013 (hereinafter in this Section: Rules), which had replaced Government Resolution No. 1139 "On Approval of Rules of Procurement of Goods, Works and Services in Performance of Subsurface Use Operations" of 28 November 2007. The main changes introduced by the Rules were related to the procurement procedures in oil and gas sector, where subsurface users were required to conduct all purchases of goods and services in electronic format. According to the Rules, subsurface users placed tender

¹⁶ The term "services" includes both services and work as those terms are used in Law No. 291-IV "On Subsurface and Subsurface Use" of 24 June 2010.

documentation on the State information system – the Register of Goods and Services Used in Subsurface Operations and their Producers (hereinafter in this Section: Register). This provision allowed potential suppliers to receive the tender documentation on-line, free of charge, including technical specifications of goods and services. However, at this stage, subsurface users in the mining sector could use the Register only for purchases of goods and services via the currently applied electronic procurement method.

880. The Rules also introduced certain changes in the provisions related to the local content requirement. In order to fulfill contractual local content commitments in open tender (or price offer request), the Rules stipulated the right of subsurface users to include requirements on local content in goods and services into the tender documentation, expressed as a percentage (from 0 to 100) in each lot. Under the Rules, an open tender was held in two stages: (i) pre-qualification of potential suppliers; and, (ii) determination of the tender winner. At the first stage, a tender commission examined whether proposed goods and services complied with technical requirements of tender documentation, including examination as to whether potential suppliers fell under categories of "local producer of goods" or "local producer of services". At the second stage, the tender commission determined the winner of the tender on the basis of the lowest price bids. Local producers of goods and services were granted 20% conditional price discount. In addition, the Rules clarified provisions on procedure of determining winner of open tender in case price bids were equal. For example, in case price bids of (i) several local producers after application of 20% conditional price discount, or, (ii) several producers, who did not comply to the conditional price discount, were equal, the winner was determined on the basis of the highest percentage of local content in offered goods and services.

881. The Rules expanded the list of cases when procurement could be conducted from a single source. Procurement from a single source, as compared to open tenders which were more time consuming and lasted at least 30 days, required less time and allowed subsurface users to conduct procurement of goods and services without delay in subsurface use operations. In particular, in accordance with sub-paragraph 37 of paragraph 94 of the Rules, subsurface users in the mining sector could purchase goods and services directly from a local producer of goods and services who was the sole supplier registered in the database of local goods, services and suppliers thereof, maintained by the Ministry of Investments and Development. Under sub-paragraph 37 of paragraph 272 of the Rules, subsurface users in the oil and gas sector could apply this method for purchase of goods if the local content in goods being purchased constituted not less than 65%. In addition, procurement from a single source could be conducted in the following cases: (i) purchase of research and development (R&D) from local producers provided that the local content in those services was not less than 65%; and (ii) purchase of educational services by subsurface users in the oil and gas sector from local educational institutions in order to fulfill the contractual commitments on education of Kazakhstan's citizens employed in the course of performing subsurface use contracts.

882. The representative of Kazakhstan clarified that local content in goods was defined as a percentage value of domestic materials and inputs used in the value of finished goods produced on the territory of Kazakhstan¹⁷. The local origin of goods was verified with certificate "CT-KZ" issued by the Chamber of Commerce of Kazakhstan. For example, in 2012, the share of local content in the total value of goods procured by subsurface users within the framework of investment contracts was 12.6%¹⁸. Tender procedures had to take place in Kazakhstan. Both national and foreign investors were equally entitled to participate in the bidding process. In her view, such provisions were non-discriminatory and introduced an opportunity for imported goods. However, not all subsurface users were fully compliant with their contractual obligations on local content requirement, which could result in penalties or termination of contracts. In 2012, subsurface users in oil and gas sector were charged US\$500,000, of which they paid US\$8,000.

¹⁷ The goods of Kazakhstan's origin were determined according to Government Resolution No. 793 "On Approval of Rules of Determining the Country of Origin of Goods, Execution, Confirmation and Issuance of Certificate on Origin of Goods and Repeal of Certain Decisions of the Government of the Republic of Kazakhstan" of 16 July 2014.

¹⁸ In 2012, the total procurement of goods made by subsurface users was equal to 758.3 billion tenge, including goods of Kazakhstan's origin in the amount of 95.2 billion tenge.

883. In response to a question on the changes introduced by Law "On Subsurface and Subsurface Use", the representative of Kazakhstan said that this Law, *inter alia*, incorporated all the provisions on local content requirements contained in Law No. 2828 "On Subsurface and Subsurface Use" of 27 January 1996. She further added that Law "On Subsurface and Subsurface Use" provided clarification on the definitions of local content in goods, services and workforce. Particularly, two new terms had been introduced: (i) a Register of Goods and Services Used in Subsurface Operations and their Producers, which was the State information system established to control and monitor the purchase of goods and services used in subsurface operations and their producers, and, (ii) a uniform methodology for calculation of local content by organizations procuring goods and services, which was the procedure approved by the Government of Kazakhstan. According to Article 76 of Law "On Subsurface and Subsurface Use", a subsurface user was required to submit an annual procurement programme and report on goods and services purchased for implementation of the investment contract.

884. The representative of Kazakhstan noted that amendments made to Law "On Subsurface and Subsurface Use" in January 2012 further clarified the existing requirement for research and development (R&D) funding by a subsurface user with the purpose to develop knowledge-based industries producing high value-added goods and services. She further clarified that according to the amendments: (i) a subsurface user's annual funding of R&D would not be less than 1% of aggregate annual income within the contractual activity; and, (ii) funding would be channelled to Kazakhstan's producers of goods and services.

885. The representative of Kazakhstan stated that Kazakhstan's economy was dominated by the production of hydrocarbon and mineral resources, and the oil sector was the most attractive sector for both foreign and local investors. Forecasts showed that the volume of foreign investments in oil production was continuously increasing, while other sectors of the economy remained underdeveloped. Hence, her Government had introduced the local content requirement to encourage the use of domestically produced goods in order to: (i) ensure the rational restructuring of subsurface use; (ii) achieve sustainable economic development through economic diversification and reduction of the economy's high dependence on volatile world prices for exports of mineral resources; and, (iii) create an environment conducive to development of processing industries and production of high value-added goods. She emphasized the importance of the diversification programme for Kazakhstan's economy, and added that creating a favourable climate for development of processing industries was a priority for her Government.

886. She added that during the period of economic adversity in the early 1990s, in order to attract foreign direct investments and to develop Kazakhstan's unexplored oil fields, her Government had signed long-term (up to 40 years) investment contracts with major multinational oil companies, on terms which granted VAT and customs duty exemptions for imported goods used in oil operations. Since the terms of signed contracts could not be changed retroactively (i.e., pursuant to a contract stability clause), the representative of Kazakhstan stated that the provisions of Law "On Subsurface and Subsurface Use" were aimed at offsetting the discriminatory effects of those earlier investment contracts which created a disadvantage for domestically produced goods, which remained subject to the payment of VAT.

887. Upon request of a Member, the representative of Kazakhstan said that in accordance with Article 50 of Law "On Subsurface and Subsurface Use", the tender offers for obtaining rights to use subsurface for exploration, extraction, combined exploration and extraction, *inter alia*, had to contain the following proposals: (i) local content in purchasing goods and services required for implementation of the contract; (ii) obligations regarding local content in personnel, which had to increase to the extent of implementation of training thereof; and, (iii) obligations on education of Kazakhstani personnel. All these provisions had to be included into the subsurface use contracts.

888. The representative of Kazakhstan noted that, local content provisions were established individually in each subsurface use contract depending on the specifics of the goods required for its implementation. Currently, there were 565 contracts signed between the Government of Kazakhstan and subsurface users: 203 of which on crude hydrocarbons and 362 in the mining sector. Of 203 contracts on crude hydrocarbons, 94 would expire by 2020 and 109 in the period from 2021 to 2053. Of 362 contracts in the mining sector, 144 would expire by 2020 and 218 in the period from 2021 to 2060. She further added that, of 203 contracts on crude hydrocarbons, 193 contained numerical local content commitments set in percentage and 10 contained textual local content commitments. Of 362 contracts in the mining sector, 351 contained numerical

commitments set in percentage and 11 contained textual local content commitments. The typical textual commitment on local content in subsurface use contracts was the following: "To use equipment, materials and goods produced in the Republic of Kazakhstan provided that they meet the requirements of the project documentation and legislation of the Republic of Kazakhstan". The typical numerical commitment text on local content was the following: "Size of the local content under the contract each fiscal year shall not be less than (...) % with respect to goods, not less than (...) % with respect to works and not less than (...) % with respect to services in conducting operations on subsurface".

889. A Member asked Kazakhstan to explain how all WTO-inconsistent measures applied under investment contracts under the provisions of Law "On Subsurface and Subsurface Use" would cease to be enforced and whether the future amendment to Law "On Subsurface and Subsurface Use" would make only the WTO-inconsistent parts of measures of the contracts ineffective. The representative of Kazakhstan replied that Kazakhstan requested a transitional period starting from the date of Kazakhstan's accession to the WTO to phase-out WTO-inconsistent measures applied in existing subsurface use contracts under the provisions of Law "On Subsurface and Subsurface Use". These measures would cease to be enforced through: (i) introduction of the amendments to Law "On Subsurface and Subsurface Use" aimed at removing measures inconsistent with the WTO TRIMs Agreement with regard to procurement of goods in new contracts; and, (ii) signing supplementary agreements with subsurface users, which would remove from investment contracts WTO TRIMs Agreement-inconsistent measures with regard to procurement of goods and replace them with WTO TRIMs Agreement-consistent measures by the date of expiration of the transitional period starting from the date of Kazakhstan's accession to the WTO. Contracts that expired prior to the termination of the transitional period would not be renewed containing measures inconsistent with the WTO TRIMs Agreement.

- TRIMs in the Automotive Sector

890. Regarding the automotive sector, the representative of Kazakhstan stated that the legal basis for preferential tariffs or tariff exemptions for imports of parts and components used for assembling motor vehicles and parts and components thereof under "industrial assembly" regime was established by the Common External Tariff (CET), as approved by the Decision of the EurAsEC Inter-State Council No. 18 "On Common Customs Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation" of 27 November 2009 and put into effect through CU Commission Decision No. 130 "On Common Customs Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation of 27 November 2009 and in the relevant national legislation.

891. In Kazakhstan, industrial assembly agreements were concluded in accordance with the "Rules on Concluding the Agreement on Industrial Assembly of Motor Vehicles", approved by Order of the Deputy Prime Minister - Minister of Industry and New Technologies No. 113 of 11 June 2010 (hereinafter: Order No. 113). According to these rules, industrial assembly of motor vehicles meant a system of serial production based on technological processes providing for project production capacity under two-shift operation of no less than 25,000 pieces per year and featuring the following technical operations:

- welding, assembly and painting of the body;
- installation of cabin equipment;
- installation of a power train, steering mechanism and exhaust system;
- installation of electrical equipment and suspension components;
- installation of exterior elements; and
- conducting control tests of finished motor vehicles.

892. Juridical persons that signed an agreement on industrial assembly qualified for preferential tariffs (from 0% to 5%) on the import of parts and components used in the assembly of automobiles under tariff lines of the CET "For the Industrial Assembly of Motor Vehicles under Headings 8701-8705, their Components and Assemblies" provided they met the following conditions:

- (1) to have productive assets of at least 2 billion tenge as of the agreement signing date; and,

- (2) to have an obligation in a period not exceeding 84 months from the signing date of the agreement:
- to launch the industrial assembly of at least one model of the motor vehicles of HS heading 8703;
 - to import car parts originating from countries not party to the EAEU under the tariff lines of the CET "For the Industrial Assembly of Motor Vehicles under Headings 8701-8705, their Components and Assemblies" in volume of no more than 70% of the total value of the auto-components used in the production, taking into account the cost of the body, being classified in HS heading 8707.

893. The representative of Kazakhstan noted that, in the automotive sector in accordance with Order No. 113, to date, four companies had concluded agreements on industrial assembly with the Ministry of Investments and Development. These companies were: JSC "AgromashHolding", LLP "SaryarkaAvtoProm", JSC "AziaAvto" and JSC "AziaAvto Kazakhstan". The agreements with JSC "AgromashHolding", LLP "SaryarkaAvtoProm" and JSC "AziaAvto" had been signed in 2010 and with JSC "AziaAvto Kazakhstan" in 2012 for a term of 8 years with the possibility of further extension. In response to a Member's question, the representative of Kazakhstan explained that Order No. 113 provided only the assembly of automobiles under HS headings 8701-8705. In response to a specific question, the representative of Kazakhstan clarified that the industrial assemblies of Peugeot and Toyota automobiles had been launched under the existing industrial assembly agreements with JSC "AgromashHolding" and LLP "SaryarkaAvtoProm", respectively, which would expire on 1 July 2018.

894. Some Members considered that the requirement to use domestically produced products was inconsistent with the WTO TRIMs Agreement. These Members added that this requirement also appeared to constitute prohibited export subsidies under Article 3.1 of the WTO SCM Agreement. These Members asked Kazakhstan to explain how it intended to bring existing legislation and existing contracts into conformity with WTO requirements. These Members sought a commitment from Kazakhstan that, from the date of WTO accession, it would not maintain measures that would be in conflict with the WTO TRIMs Agreement nor enforce contract provisions that contained such measures.

895. The representative of Kazakhstan explained that in accordance with the EAEU Treaty, starting from 1 January 2015, Kazakhstan would not include local content requirements in procurement of goods in new contracts with subsurface users. Therefore, in parallel with the ratification of the EAEU Treaty, the Government planned to initiate the amendment to Law "On Subsurface and Subsurface Use" that would remove the local content provision with regard to procurement of goods in contracts on subsurface use signed from 1 January 2015. She further emphasized that taking into account the importance of the application of the local content requirements for diversification of the economy in investment contracts concluded prior to 1 January 2015 in accordance with Law "On Subsurface and Subsurface Use" and industrial assembly agreements concluded under the provisions of Order No. 113, a transitional period was required to phase-out these measures.

896. The representative of Kazakhstan confirmed that, from the date of its accession to the WTO, Kazakhstan would ensure that all laws, regulations and other measures applied in Kazakhstan that were within the scope of the WTO Agreement on Trade-Related Investment Measures, whether adopted by Kazakhstan or the competent bodies of the EAEU, would be consistent with the relevant provisions of the WTO Agreement, including the WTO Agreement on Trade-Related Investment Measures, except for measures applied under investment contracts concluded prior to 1 January 2015 in accordance with Law No. 291-IV "On Subsurface and Subsurface Use" of 24 June 2010, and industrial assembly agreements referred to in paragraph 893 under the provisions of Order of the Deputy Prime Minister – Minister of Industry and New Technologies No. 113 "On Certain Issues on Concluding, Conditions and Model Form of the Agreement on Industrial Assembly of Motor Vehicles with Legal Entities - Residents of the Republic of Kazakhstan" of 11 June 2010. The representative of Kazakhstan also confirmed that from 1 January 2015, Kazakhstan would not include in any new investment contracts or industrial assembly agreements concluded with investors in any sector, or include or maintain in the

renewal¹⁹ of any existing investment contracts or industrial assembly agreements, provisions that are inconsistent with the relevant provisions of the WTO Agreement, including the WTO Agreement on Trade-Related Investment Measures. The Working Party took note of these commitments.

897. The representative of Kazakhstan confirmed that all WTO-inconsistent measures applied under investment contracts concluded prior to 1 January 2015 in accordance with Law No. 291-IV "On Subsurface and Subsurface Use" of 24 June 2010 would cease to be enforced as of the date of expiration of the initial duration of the contracts or by 1 January 2021, whichever takes place sooner. She further confirmed that all WTO-inconsistent measures applied in accordance with industrial assembly agreements concluded under the provisions of Order of the Deputy Prime Minister – Minister of Industry and New Technologies No. 113 "On Certain Issues on Concluding, Conditions and Model Form of the Agreement on Industrial Assembly of Motor Vehicles with Legal Entities - Residents of the Republic of Kazakhstan" of 11 June 2010 referred to in paragraph 893 would be eliminated by 1 July 2018. The representative of Kazakhstan confirmed that with respect to the measures applied under the industrial assembly agreements pursuant to Order of the Deputy Prime Minister – Minister of Industry and New Technologies No. 113 "On Certain Issues on Concluding, Conditions and Model Form of the Agreement on Industrial Assembly of Motor Vehicles with Legal Entities - Residents of the Republic of Kazakhstan" of 11 June 2010 as listed in paragraph 893 and under the investment contracts pursuant to Law No. 291-IV "On Subsurface and Subsurface Use" of 24 June 2010 concluded prior to 1 January 2015, Kazakhstan would engage in consultations with interested WTO Members no later than 1 July 2016 and 1 January 2019, respectively, regarding WTO consistent measures that could be applied, and notify WTO Members of any measures planned to replace WTO-inconsistent measures at least six months prior to the adoption of any new measures. The Working Party took note of these commitments.

- Free Zones, Special Economic Areas

898. The representative of Kazakhstan stated that the establishment of Special Economic Zones (SEZs) was aimed primarily at attracting foreign direct investments; accelerating development of modern high technology industries, transport infrastructure, and tourism; increasing employment; and other purposes as defined in the legal documents establishing individual SEZs. In Kazakhstan, Law No. 469-IV "On Special Economic Zones in the Republic of Kazakhstan" of 21 July 2011 (hereinafter: 2011 Law "On SEZs") had replaced Law No. 274-III "On Special Economic Zones in the Republic of Kazakhstan" of 6 July 2007 (hereinafter: 2007 Law "On SEZs"). The 2011 Law "On SEZs" had invalidated the previous Law and now was the basic Law on SEZs. Additional relevant provisions were contained in Code No. 269-IV "On Customs Issues in the Republic of Kazakhstan" of 30 June 2010 (hereinafter: Customs Code of Kazakhstan) and Code of Kazakhstan No. 99-IV "On Taxes and Other Obligatory Payments to the Budget (Tax Code)" of 10 December 2008 (hereinafter: Tax Code). The representative of Kazakhstan further confirmed that, within the EAEU, SEZs were regulated by Article 27 "Establishment and Functioning of Free (Special) Economic Zones and Free Warehouses" of the EAEU Treaty, which came into effect on 1 January 2015, and the Agreement on Free (Special) Economic Zones on the Customs Territory of the Customs Union and the Customs Procedures of the Free Customs Zones of 18 June 2010 (hereinafter: CU Agreement on SEZs) which remained in force, as well as by the Treaty on the Customs Code of the Customs Union of 27 November 2009 (hereinafter: CU Customs Code) and other legal instruments. She continued that from 1 January 2015, these provisions of the EAEU Treaty and the CU Agreement on SEZs provided the general framework within the EAEU for rules on establishment and operation of new SEZs, and application of provisions of the Agreement to existing SEZs, including provisions on customs regime of the free customs zone on the territory of SEZs.

899. Working Party Members requested further information on the current rules of establishment and operation of the SEZs established and administered under Kazakhstan's new Law on SEZs, as well as information to help them assess whether the zones met WTO requirements. Members also sought information about the relationship between Kazakhstan's 2011 Law "On SEZs" and the provisions of the CU Agreement on SEZs which had entered into force on 1 July 2010. Information was also requested on current status of the six SEZs previously established under 2007 Law "On SEZs", and whether they were now operated

¹⁹ The term "renewal" refers to extension of the duration of existing contracts.

in accordance with the current legislation. Working Party Members also asked for details on how WTO obligations would be enforced in all the SEZs operating on the territory of Kazakhstan after accession, in particular whether Articles I and III of the GATT 1994 would be applied, and whether incentives granted to firms established in the SEZs would be based on export performance or local content requirements. Other issues raised by Members in this connection concerned the need to restore any tariffs or taxes from goods or inputs imported from non-EAEU member States used in the manufacturing process in the SEZs to goods eventually exported to the rest of Kazakhstan or the territory of other EAEU member States, even if imported inputs had been transformed sufficiently to meet the criteria as domestic goods. One Member stated that, in its view, there was no level of transformation sufficient to eliminate the need to restore exempted duties and taxes on inputs imported from non-EAEU member States into the SEZs duty- and tax-free, as rules of origin operated between countries, not parts of countries. Other Members sought information on what other benefits, if any, in terms of tax exemptions or otherwise, were available to firms that located in the SEZs.

- (a) EAEU Regulation of SEZs

900. The representative of Kazakhstan noted that, as previously stated, the SEZs established in Kazakhstan under the national 2011 Law "On SEZs" conformed to EAEU requirements for SEZs as well, including those set-out in the CU Agreement on SEZs and the CU Customs Code. This Agreement and the CU Customs Code provided the general framework within the EAEU for SEZs, but left specific regulations on their operation, establishment, management, extension, early termination, types of SEZs, and types of activities allowed in SEZs to be determined by the national legislation of the EAEU member States. In many cases, the EAEU and national regimes worked together to establish the specific elements of the EAEU regime for SEZs. For example, while national laws provided for the registration of residents of the SEZs and national authorities would maintain a national register of such residents, however, the CU Agreement provided that the EAEU member States were required to send the information on SEZ operations and their national registers of residents to the Commission, which in turn created and published a common EAEU register of residents. The Commission had the right to decide what economic activities and operations could be prohibited within SEZs in addition to those prohibited by each EAEU member State in its SEZs.

901. In response to Members' questions, the representative of Kazakhstan also explained that according to Article 1 of the CU Agreement on SEZs, a free (special) economic zone was defined as a part of the territory of the EAEU member State within the boundaries determined by the legislation of the EAEU member State, where a special (special legal) regime for entrepreneurial and other activities was in effect, and customs regime of free customs zone could be applied. The CU Agreement on SEZs also confirmed that the territories of SEZs were zones under customs control and that customs regime of free customs zone as defined by the CU Customs Code and the CU Agreement on SEZs was applied to goods placed in SEZs. She explained that the customs authorities of Kazakhstan were responsible for customs control in SEZs according to the national legislation.

902. Prior to the enactment of the CU Agreement on SEZs, foreign and Kazakhstani goods had entered the territory of SEZs without obtaining a permission from the customs authorities. Such goods were only subject to regular customs clearance procedures when entering the customs regime of the free customs zone. Currently, according to the CU Agreement on SEZs, goods could be imported into and exported from the SEZ territory only with the permission of customs authorities. In response to a Member's question about the legislation that described the procedures for issuing permits, the representative of Kazakhstan said that the Customs Control Committee of the Republic of Kazakhstan had developed a draft Resolution "On Some Issues of Application of the Customs Procedure of Free Customs Zone", which established procedures for issuing permits for the importation and exportation of goods into/from the territory of SEZ, as well as forms for these documents. According to the draft Resolution, for obtaining a permit for importation of goods into the SEZ territory, SEZ residents submitted to the customs authorities copies of commercial, transport (shipping) or customs documents in respect of imported goods that contained information required for customs control of goods and vehicles. Based on verification of the documents against the actual data, the customs authorities made a decision on the import of the goods and the means of transportation to the SEZ.

903. Pursuant to Article 10 of the CU Agreement on SEZs, a "free customs zone" regime was defined as the customs procedure within SEZ borders, under which foreign goods were placed and used within the territory of a SEZ or its part without paying customs duties and taxes and were not subject to non-tariff regulation; goods of the EAEU were placed and used within the territory of a SEZ or its part without application of bans and restrictions to them.

904. Article 10 of the CU Agreement on SEZs also provided that goods that incorporated imported inputs and were manufactured by SEZ residents registered prior to 1 January 2012, could be recognized as EAEU goods up until 1 January 2017, i.e., they could be sold into the rest of the customs territory of the EAEU without paying the exempted customs duties on imported inputs, provided such imported inputs had been substantially transformed, i.e., they met any of the following conditions listed in Article 19 of the CU Agreement on SEZs:

- (i) manufacturing had changed the HS classification code of the good at the level of any of the first four digits;
- (ii) its transformation was recognized as sufficiently implementing a pre-determined list of conditions, production and technological or manufacturing operations, necessary to be recognized as goods of the EAEU; and,
- (iii) the percentage share of the value added had reached a pre-determined share of the price of the final good (the rule of *ad valorem* share) or the percentage share of the cost of foreign goods did not exceed a pre-determined share.

905. The Commission had the right to decide by consensus: (i) the list of conditions and operations for goods manufactured in SEZs, incorporating imported goods that were, or were not, sufficient for these goods to be recognized as goods of the EAEU, and, (ii) the procedure for using the rule of *ad valorem* share as a criterion of sufficient processing for these goods to be recognized as goods of the EAEU. The rule of *ad valorem* share could not be applied to repairs of the goods of the EAEU done in the SEZs. Goods would not be recognized as EAEU goods, if the transforming operations applied, did not meet the criteria for sufficient processing established by the Commission. The national authority, as defined by national legislation, carried out the determination of the status of the goods in accordance with the rules of the CU Agreement on SEZs, issued the relevant legal findings and enforced them. In case of Kazakhstan, this national authority was the Ministry of Investments and Development.

906. In response to a Member's request to clarify what were the pre-determined shares used as a sufficient processing criterion, the representative of Kazakhstan replied that an *ad valorem* share rule was established by CU Commission Decision No. 515 "On the Order of Use of Ad Valorem Share Rule as Criterion of Sufficient Processing of Goods Produced (Obtained) with the Use of Foreign Goods Placed under Customs Procedure of Free Customs Zones or Customs Procedure of Free Warehouse" of 18 November 2010. According to this Decision, goods produced with the use of foreign goods placed under the customs procedure of free customs zone or a free warehouse customs procedure were considered as sufficiently processed if the percentage share of the cost of foreign goods used in the manufacture of the final product did not exceed 50% of the price of the final product. The cost of foreign goods placed under the customs procedure of free customs zone or free warehouse customs procedure, and used in the manufacturing of the final product, was determined as a the customs value of such goods, established on the date the customs authorities registered the customs declaration filed for placing goods under the customs procedure of free customs zone or free warehouse customs procedure. The price of the final product was determined on ex-works conditions. She further added that, currently, Kazakhstan applied national sufficient processing criteria established by Government Resolution No. 793 "On Approval of Rules of Determining the Country of Origin of Goods, Execution, Confirmation and Issuance of Certificate on Origin of Goods and Repeal of Certain Decisions of the Government of the Republic of Kazakhstan" of 16 July 2014.

907. She stated that Article 17 of the CU Agreement on SEZs established procedures for payment of customs duties and taxes applied to goods exported from the territories of SEZs. In particular, goods of the EAEU exported from SEZs into the rest of the EAEU customs territory were not subject to payment of customs duties, including export duties. Goods of the EAEU exported from SEZs to locations outside of the EAEU customs territory were subject to payment of export customs duties, if applicable. When calculating export duty, the duty rate itself, value of goods and/or the physical characteristics of in-kind (number, mass, volume or other characteristics), as well as the quantity of goods and the exchange rate, established in accordance

with the legislation of the EAEU member State, were determined on the day of registration by customs authorities of the customs declaration, submitted for placing goods under customs regime of export. As for foreign goods, they were subject to payment of import customs duties and VAT when exported from SEZs into the rest of the EAEU customs territory. When foreign goods were exported from SEZs to locations outside of the EAEU customs territory export duties and VAT were not levied. She further stated that goods produced (processed) in the SEZs by residents registered prior to 1 January 2012 incorporating imported components, but recognized as goods of the EAEU based on sufficient processing criteria, i.e., substantial transformation, were not subject to payment of customs duties when exported from SEZs into the rest of the EAEU customs territory. These latter provisions expired on 1 January 2017.

- **(b) Basic Law on SEZs**

908. The previous national law regulating special economic zones, the 2007 Law "On SEZs" had provided that SEZs could be established for a period of not more than 25 years and administered by the customs authorities as customs regimes of free customs zone within the SEZs' borders. Foreign and Kazakhstani goods placed and used in an SEZ were exempt from customs duties and taxes, except for excise tax applied to imports. Other than safety requirements, no non-tariff regulatory measures were applied. When goods were exported from the territory of SEZs to another country, neither taxes nor tariffs were charged. When goods incorporating foreign components were exported to the rest of Kazakhstan, import duties were not applied, provided they met the sufficient processing criteria. The SEZ origin of goods was confirmed by a certificate of origin. When such certificate of origin was not available, the goods were considered to be either Kazakhstani (when exported from Kazakhstan to third countries) or foreign (when imported into the rest of Kazakhstan).

909. The representative of Kazakhstan explained that the 2011 Law "On SEZs" which applied as of 2011, stipulated procedures for establishing and operating SEZs on the territory of Kazakhstan. SEZs were considered a part of the territory of Kazakhstan with defined boundaries within which the Government applied a special regime for conducting priority types of activities. Within an SEZ, a special customs and tax regime was established for foreign and domestic goods imported into the SEZ from: (i) the rest of the EAEU territory, and, (ii) third countries; and to goods exported from the SEZ to: (i) the rest of the EAEU territory, and, (ii) third countries. Kazakhstan's products and products of the EAEU member States were treated as domestic goods for the purpose of applying customs duties when placed under the customs regime of free customs zones, i.e., were not subject to customs duties. As for VAT in accordance with Section XVII of the EAEU Treaty (see Section on "Application of Internal Taxes on Imports" of this Report) imports from EAEU member States would be subject to VAT. However, Article 21 of the CU Agreement on SEZs, which superseded Kazakhstan's national legislation, indicated that goods from EAEU member States placed under the customs regime of free customs zone would be eligible for zero rate VAT provided that a copy of the customs declaration certified by customs authorities in accordance with which such goods were placed under the customs procedure of customs-free zone was submitted. The representative of Kazakhstan emphasized that only goods included into the list of goods that were required for a SEZ participant to carry out priority activities could be placed under the customs regime of free customs zone, i.e., be exempted from payment of import duties and VAT. These lists of goods were defined in a contract on conducting activity signed with each SEZ participant. The Ministry of Investments and Development was the relevant authorized body administering the establishment, operation and termination of SEZs on the territory of Kazakhstan.

910. The representative of Kazakhstan further explained that according to the 2011 Law "On SEZs", central or local executive bodies, and juridical persons of Kazakhstan could submit a proposal on establishment of an SEZ to the competent authority, which contained the information on the purpose of the SEZ, priority business activities, current economic situation in the region, where the SEZ would be located, and the forecasted impact on the economy. Upon approval of the proposal by the competent authority, the entity had to conduct a feasibility study for the proposed SEZ with the assessment of the effect on the environment. Upon approval of findings of the feasibility study by all relevant Government agencies, the competent authority submitted the proposal on establishment of an SEZ to the Government. A decision on establishment of an SEZ and on priority business activities that corresponded to the objectives of the SEZ was adopted by the President based on the proposal of the Government.

911. Pursuant to Article 8 of the 2011 Law "On SEZs", an SEZ could be established for a period of up to 25 years. The term of operation of each SEZ was determined in a Presidential Decree on creation of that particular SEZ. The land plots on which SEZs were established and used for conducting priority activities were leased to the prospective SEZ operators in accordance with the land legislation of Kazakhstan for the term for which a particular SEZ was established. Normally, an SEZ was liquidated upon expiration of its term. In case of failure to reach the target indicators of an SEZ by its residents, an SEZ could be terminated by the President of the Republic of Kazakhstan, based on the proposal of the Government. The representative of Kazakhstan stated that once a SEZ was established, investors could apply to become an SEZ resident, i.e., to be registered as a juridical person eligible for a special tax regime and other conditions more favourable than those available to juridical persons in the rest of the customs territory, and conclude agreements that specified terms of their activities within an SEZ. The list of documents that had to be submitted by an applicant was described in Article 10 of the 2011 Law "On SEZs". The representative of Kazakhstan emphasized that foreign invested firms, irrespective of the percentage of foreign participation, could be registered as SEZ residents, subject to fulfillment of respective requirements applied on a non-discriminatory basis to all applicants. An applicant had to have financial resources and other property in an amount specified in the feasibility study report and its business activity had to correspond to the objectives and legitimate activities in an SEZ.

912. The following entities could not apply to conduct an activity within the SEZs:

- (i) subsoil users;
- (ii) entities producing excisable goods, except for entities that produced and assembled excisable goods stipulated in sub-paragraph 6 of Article 279 of the Tax Code;
- (iii) entities using special tax regimes;
- (iv) entities that were granted investment tax preferences; and,
- (v) entities involved in gambling business.

913. The representative of Kazakhstan also noted that the 2011 Law "On SEZs" envisaged the creation of managing companies in the form of joint stock companies. The following entities could become founders of a managing company:

- (i) the Government of the Republic of Kazakhstan;
- (ii) local executive bodies of oblasts, the city of a Republican status, the capital city;
- (iii) non-State juridical persons; or,
- (iv) foreign juridical persons with an experience in managing SEZ in other countries or in Kazakhstan.

914. Pursuant to the 2011 Law "On SEZs", in the event an SEZ was established on the initiative of central or local executive bodies, the State retained ownership of at least 50% of the voting shares issued by the managing company, unless otherwise provided in the Presidential Decree on the establishment of the SEZ. If the SEZ was established on the initiative of a non-State juridical person, the State retained ownership of at least 26% of the voting shares issued by the managing company. The specified legal form of a managing company allowed investors to participate in the share capital of the managing company, and thus, to participate in the management of project implementation and to ensure transparency of procedures applied within the SEZ.

915. According to the 2011 Law "On SEZs", a "single window" had been introduced for the provision of public services within SEZs, which envisaged simplified procedures for preparation and submission of documents.

916. The six existing SEZs created under the 2007 Law "On SEZs" had adopted the operational and administrative provisions of the 2011 Law "On SEZs" when that Law had come into force (see Annex 21 of this Report for a list of the current SEZs and their purposes).

- (c) Customs and Tax Legislation of the Republic of Kazakhstan

917. The representative of Kazakhstan further noted that the Tax Code that had entered into force in January 2009 established a uniform approach to tax preferences granted for SEZ residents, including the residents of SEZs created under the 2007 Law "On SEZs". In addition to

customs duty exemptions, Article 151 of the Tax Code provided for reduction by 100% of the corporate income tax rate, zero coefficient to related rates in calculation of the land tax, and 0% rate to the average value of the property subject to taxation in calculation of the property tax. Moreover, in accordance with Article 244-2 of the Tax Code, sales to the territory of an SEZ of goods that were included in the list of goods determined by the Government and fully consumed in conducting business activities that met the purposes of the SEZ were to be taxed at zero rate of VAT. The latter provision was aimed at equalizing the treatment provided to goods imported to SEZs from the territory of Kazakhstan with the treatment provided to foreign goods described in paragraph 903 of this Section.

918. Pursuant to Article 150 of the Tax Code, to be eligible for tax preferences, SEZ residents had to comply with the following requirements: (i) be registered at the tax authorities within a SEZ territory; (ii) have no structural divisions outside of an SEZ territory; and (iii) of the total annual income from sales of goods of own production (works, services), derive at least 90% from the activities that complied with the objectives of an SEZ. Business activities that complied with the objectives of SEZs were identified in Article 150 of the Tax Code and included projects aimed at development of the IT industry; textile industry and production of leather goods; chemical industry; metallurgical industry; machinery building, including production of vehicles, trailer trucks and two-wheel trailers; production of railroad engines and rolling stock; production of electric equipment and household appliances; pharmaceutical industry; food production; paper and furniture production; aviation industry; petrochemical industry and related industries and technologies; and tourism services.

919. The representative of Kazakhstan noted that Kazakhstan's legislation provided uniform requirements both for domestic and foreign companies to be eligible for tax and customs preferences in SEZs.

920. A Member said that Kazakhstan's SEZs were authorized by legislation that contained provisions for granting special benefits contingent on export orientation and/or import substitution of enterprises. This Member held the view that, these provisions violated both the WTO Agreement on Subsidies and Countervailing Measures, as well as the WTO Agreement on Trade-Related Investment Measures, and, therefore, should be eliminated. This Member sought a commitment from Kazakhstan that, from the date of accession, Kazakhstan would ensure the enforcement of its WTO obligations in SEZs existing or established within its territory, including the prohibition of TRIMs or subsidies based on the use of domestic goods or export performance. Kazakhstan was also asked to confirm that the right of firms to establish and operate in these zones would not depend on export performance, trade balancing, or local content criteria. In addition, Kazakhstan needed to ensure that goods produced in the SEZs under tax and tariff provisions that exempted imports and imported inputs from tariffs and certain taxes would be subject to normal customs formalities when entering the rest of Kazakhstan, including the application of tariffs and taxes.

921. The representative of Kazakhstan replied that both criteria related to export performance and import substitution had been removed by Decree of the President of the Republic of Kazakhstan No. 657 "On Amendments to Decrees of the President of the Republic of Kazakhstan No. 853 of 26 April 2002 and No. 1166 of 18 August 2003" of 19 September 2008. According to Decree of the President No. 657, the term "export oriented production" used in legislation that regulated SEZs had been changed to the term "competitiveness", while the term "import substitution" had been removed from the texts of the Decrees. In addition, Resolution of the Government of Kazakhstan No. 1376 "On Approval of the Regulation on Establishment and Allocation of Finances of the Fund for Economic and Social Development of Special Economic Zones" of 26 September 1997 had been revoked. Furthermore, there were no provisions related to the right to establish an enterprise in an SEZ that were made contingent upon export performance and/or import substitution contained in the 2011 Law "On SEZs", the CU Agreement on SEZs, or any of the Presidential Decrees relating to SEZs.

922. The representative of Kazakhstan said that at the moment, ten SEZs were operational in Kazakhstan: "Astana-New City", "Seaport Aktau", "Innovation Technologies Park", "Ontustyk", "National Industrial Petrochemical Techno-Park", "Burabai", "Saryarka", "Pavlodar", "Horgos-East Gates" and "Chemical Park Taraz". The first six of these had been established under the 2007 Law "On SEZs". Their terms and periods of operation were now regulated by the 2011 Law "On

SEZs". The other four were established as SEZs under the 2011 Law "On SEZs" (see Annex 21 of this Report for more information on these zones).

- **(d) Free Warehouse Customs Regime**

923. The representative of Kazakhstan stated that establishment and operation of free warehouses on the territory of Kazakhstan were regulated by Article 27 "Establishment and Functioning of Free (Special) Economic Zones and Free Warehouses" of the EAEU Treaty and the CU Agreement on Free Warehouses and Free Warehouse Customs Procedure of 18 June 2010 (hereinafter: CU Agreement on Free Warehouses). According to this Agreement, a free warehouse was a construction (building), within which foreign goods and goods of the EAEU placed under the customs regime of a free warehouse, as well as other goods in accordance with the Agreement, could be placed and used. She added that according to Article 8 of the CU Agreement on Free Warehouses, a free warehouse customs regime was a customs regime under which foreign goods were placed and used without payment of customs duties and taxes, as well as without application of non-tariff regulatory measures; and goods of the EAEU were placed and used without application of bans and restrictions. Goods banned for importation into the EAEU territory or for exportation from the EAEU territory could not be placed under free warehouse customs regime.

924. She further explained that according to the CU Agreement on Free Warehouses, the owner of a free warehouse was a juridical person of the EAEU member State which was registered in accordance with the national legislation of the relevant EAEU member State and met the requirements established in Article 4 of the Agreement. The juridical person was recognized as an owner of a free warehouse upon inclusion of that person by customs authorities into the Register of free warehouse owners. The procedures for including and excluding owners of free warehouses into/from the Register were established in Resolution of the Government of the Republic of Kazakhstan No. 1086 "On Certain Issues of Regulation of Activities of Free Warehouses" of 22 September 2011.

925. Pursuant to Article 11 of the CU Agreement on Free Warehouses, the following operations could be performed at free warehouses:

- (i) storage (stockpiling, splitting) of the goods;
- (ii) loading (unloading) of goods and other cargo operations associated with storage;
- (iii) operations to ensure safety of goods, as well as simple operations on preparing goods for shipment and sale, including fragmentation of the consignments, formation of shipments, sorting, packaging, repackaging, labelling, and operations to improve product quality;
- (iv) processing operations as a result of which goods lost their individual characteristics, and/or manufacturing and production of goods (including assembly, dis-assembly, installation and adjustment), as well as repair operations; or,
- (v) operations involving transactions on transfer of ownership, use and/or disposal rights for these products.

926. The representative of Kazakhstan further stated that in accordance with Article 8 of the CU Agreement on Free Warehouses, foreign goods placed under the customs regime of a free warehouse retained the status of foreign goods, and goods of the EAEU placed under the customs regime of a free warehouse retained the status of the goods of the EAEU.

927. Article 14 of the CU Agreement on Free Warehouses established procedures for payment of customs duties and taxes applied to goods exported from the free warehouses. In particular, goods of the EAEU exported from free warehouses into the rest of the EAEU customs territory, were not subject to payment of customs duties, including export duties. Goods with the status of goods of the EAEU exported from free warehouses to locations outside of the EAEU customs territory were subject to payment of export customs duties, where applicable. When calculating export duty, the duty rate itself, value of goods and/or the physical characteristics of in-kind (number, mass, volume or other characteristics), as well as the quantity of goods and the exchange rate, established in accordance with the legislation of the EAEU member State, were determined on the day of registration by customs authorities of the customs declaration, submitted for placing goods under the customs regime of export. As for foreign goods, they were subject to

payment of import customs duties and VAT when exported from free warehouses into the rest of the EAEU customs territory. When foreign goods were exported from free warehouses outside of the EAEU customs territory, export duties and VAT were not levied. She further stated that goods produced (processed) in free warehouses whose owners were included into the Register of free warehouse owners prior to 1 January 2012, incorporating imported components and recognized as goods of the EAEU, were not subject to payment of customs duties when exported from free warehouses into the rest of the EAEU customs territory. The latter provision expired on 1 January 2017. Goods produced (processed) with the use of foreign goods could be recognized as EAEU goods if they met the following criteria of sufficient processing described in Article 16 of the CU Agreement on Free Warehouses:

- (i) manufacturing had changed the goods' HS code at the level of any first four digits;
- (ii) its transformation was recognized as sufficiently implementing a pre-determined list of conditions, production and technological or manufacturing operations, necessary to be recognized as goods of the EAEU; and,
- (iii) the percentage share of the value added had reached a pre-determined share of the price of the final good (the rule of *ad valorem* share); or the percentage share of the cost of foreign goods did not exceed a pre-determined share in the price of the final good.

928. The list of conditions and operations for goods manufactured in free warehouses incorporating imported goods that were, or were not, sufficient for these goods to be recognized as goods of the EAEU was adopted by the Commission by consensus. The Commission also approved the procedure for using the rule of *ad valorem* share as a criterion of sufficient processing for these goods to be recognized as goods of the EAEU.

929. The representative of Kazakhstan further explained that according to the national legislation of Kazakhstan, goods that were produced in free warehouses and sold from these areas to the rest of the territory of Kazakhstan were exempt from VAT if they met the sufficient processing criteria adopted by the Government of the Republic of Kazakhstan and were included into the list of products adopted by the Government of Kazakhstan. This preference was provided in accordance with Article 49 of Law of the Republic of Kazakhstan No. 100-IV "On Entering Into Force of the Code of the Republic of Kazakhstan 'On Taxes and Other Mandatory Payments to the Budget'" of 10 December 2008 and Resolution of the Government of Kazakhstan No. 133 "On the List of Goods Produced in the Territory of Free Warehouse and Sold by the Owner of a Free Warehouse in the Territory of the Republic of Kazakhstan, Sales Turnover of which are Exempted from VAT, and the List of Goods Produced in the Territory of Free Warehouse and Sold from this Territory to the Rest of the Territory of the Republic of Kazakhstan" of 19 January 2012. According to the Tax Code, the preference would expire on 1 January 2017.

930. According to Article 7 of Government Resolution No. 793 "On Approval of Rules of Determining the Country of Origin of Goods, Execution, Confirmation and Issuance of Certificate on Origin of Goods and Repeal of Certain Decisions of the Government of the Republic of Kazakhstan" of 16 July 2014, goods were considered as meeting sufficient processing criteria if one of the following conditions were fulfilled:

- processing of goods resulted in a change of the HS code at the level of any first four-digits;
- fulfillment of certain industrial and technological operations sufficient to recognize a country where these operations took place as a country of origin of these goods; or,
- changes in the cost of a good when the percentage share of the cost reached a fixed share of the price of the finished good (*ad valorem* percentage rule).

Government Resolution No. 793 described the terms, manufacturing and technological operations required for a good to acquire an origin status when goods imported from third countries were used in a production process.

931. The representative of Kazakhstan stated that currently 59 juridical persons were registered as free warehouse owners in Kazakhstan. Their operations were specialized primarily in the following activities: assembly of vehicles, assembly of agricultural machines and equipment, food production, and production of construction materials.

932. Members recalled that substantial transformation and local content level could not be applied to goods produced or processed in SEZs or free warehouse customs regimes with imported goods from non-EAEU member States for the purpose of exempting these goods from application of customs duties or taxes when sold into the rest of Kazakhstan. These imported inputs should re-acquire their tariffs or taxes when entering Kazakhstan or EAEU territory, whether or not they have been processed in SEZs or free warehouses and transformed into other products. In their view, to treat these imported inputs differently for tax or tariff purposes would not be consistent with Article I of the GATT 1994, and exempting these charges based on an assessment of local content (substantial transformation criteria) could constitute a prohibited subsidy. Members asked Kazakhstan to eliminate these provisions and to operate its SEZs and free warehouses in conformity with WTO provisions.

933. The representative of Kazakhstan confirmed that, subject to the exceptions that applied for the transition periods specified below in respect of the goods of juridical persons registered in SEZs and/or operating free warehouses prior to Kazakhstan's accession to the WTO, SEZs and free warehouses in Kazakhstan would be established, maintained and administered from the date of accession in conformity with the provisions of the WTO Agreement. She added that Kazakhstan would apply the provisions of the WTO Agreement in all of its SEZs and in the operation of free warehouses. The Working Party took note of these commitments.

934. With respect to local content requirements, sufficient processing, i.e., substantial transformation, and exemptions from tariffs and taxes, the goods of juridical persons which had been registered and active in SEZs and free warehouses prior to Kazakhstan's accession to the WTO, would continue to enjoy the treatment described in paragraphs 904, 907, 927, and 929 of this Report, during the transition period ending on 1 January 2017. Upon expiration of the transition period, firms registered in SEZs and operating these free warehouses would not be subject to export performance, trade balancing, or local content criteria requirements, in law or in practice, nor would any new firms registering in SEZs or operating a free warehouse be subject to such requirements. In addition, goods imported into free warehouses and SEZs under provisions that exempt imports from non-EAEU member States from customs duties and certain taxes, which were then released to the rest of the territory of Kazakhstan and the territory of the EAEU, would be subject to those duties and taxes as applicable and customs formalities when entering the rest of the territory of Kazakhstan and the territory of the EAEU. If those imported goods were reprocessed, i.e., substantially transformed, within the territory of an SEZ or in a free warehouse, the duties and taxes that would otherwise have been assessed for those goods were to be paid when the final products entered the rest of the territory of Kazakhstan and the territory of the EAEU. The Working Party took note of these commitments.

- **Government Procurement**

935. The representative of Kazakhstan stated that government procurement was governed by: Law No. 303-III "On Government Procurement" of 21 July 2007 (hereinafter: Law "On Government Procurement") as amended by Law No. 15-V of 27 April 2012; Government Resolution No. 1301 "On Approval of the Rules of Conducting Government Procurement" of 27 December 2007 (hereinafter: Government Resolution No. 1301); Government Resolution No. 623 "On Approval of the Rules of Conducting Electronic Government Procurement" of 15 May 2012 (hereinafter: Government Resolution No. 623); and, Government Resolution No. 470 "On the Determination of State Support for Domestic Categories of Potential Suppliers" of 11 May 2014. The above legislation had been developed taking into account the requirements of international law, specifically the Model Law on Public Procurement of the United Nations Commission on International Trade Law (UNCITRAL).

936. Kazakhstan's government procurement legislation was aimed at developing fair competition among potential suppliers, providing equal opportunities for potential suppliers to participate in government procurement, optimal and effective expenditure of cash assets used for the Government, and providing publicity and transparency of the government procurement process. The body responsible for development and implementation of State policy in the area of government procurement was the Ministry of Finance of the Republic of Kazakhstan.

937. The representative of Kazakhstan noted that pursuant to Law "On Government Procurement", government procurement was defined as purchases made by customers of goods and services²⁰ essential for their operation, performance of State functions or customer's statutory activities, conducted in accordance with Law "On Government Procurement" and civil legislation of the Republic of Kazakhstan, except for the services purchased from natural persons under employment contracts or from natural persons not involved in entrepreneurial activities, on the base of paid services contracts, in the framework of fulfilment of State tasks and contributions, including contributions to the capital stock of newly established juridical persons. Customers were State bodies, State agencies, as well as State enterprises²¹, juridical persons and any affiliates thereof, with 50% or more of voting shares held by the Government, except for national managing holdings, national holdings, national managing companies and national companies, and their affiliated entities, including the National Welfare Fund "Samruk-Kazyna", which was a national managing holding. The procurement regulations of national managing holdings, national holdings and national companies, and their affiliated entities, including the National Welfare Fund "Samruk-Kazyna", which was a national managing holding, are described in Section "State Ownership, State-Trading Entities and Privatization" of this Report.

938. The representative of Kazakhstan said that the process of government procurement included the following stages: (i) elaboration and approval of an annual government procurement plan; (ii) selection of a supplier and conclusion of a State procurement contract; and, (iii) fulfilment of the State procurement contract.

939. The representative of Kazakhstan added that government procurement could be conducted through the following methods: (i) tender; (ii) one source procurement; (iii) supplier selection on the basis of price quotation requests; (iv) auction; and, (v) commodity exchange. The method for conducting government procurement could be selected by the customer without coordination with the Ministry of Finance. Government procurement by auction and price quotation requests could be conducted only in electronic format. Government procurement by tender and one source methods could be conducted in both paper and electronic formats. From 1 July 2012, government procurement by tender was conducted only in electronic format. The lists of goods eligible for procurement through auction, one source and commodity exchange are contained in Annex 22(A), Annex 22(B) and Annex 22(C) of this Report.

940. The representative of Kazakhstan explained that the tender was the main method of government procurement and could be used in all cases. Government procurement by the one source method could be conducted in the following cases: (i) State enterprises and juridical persons and affiliates thereof, with 50% or more of voting shares held by the Government, needed to conduct other purchases from the same supplier for the purposes of unification, standardization or ensuring compatibility with already purchased goods, equipment, technology or services; (ii) government procurement by the tender method had been recognized as invalid; (iii) there was a necessity to conduct government procurement of goods and services of daily and/or weekly needs as an interim measure while the results of the ongoing government procurement by tender were concluded and entered into force; or (iv) measures provided by Law "On Government Procurement" that were undertaken by a customer did not result in conclusion of a government procurement contract by the method of price quotation requests. Government procurement by the price quotation request method had to be conducted in relation to like goods and services in cases where the volume of such goods and services did not exceed 4,000 MCI established for the relevant fiscal year on the basis of the law on the national budget. Moreover, the price was a determining factor in government procurement by the price quotation request method. Government procurement by the auction method had to be conducted through official web portal of government procurement in the real-time mode. Government procurement by auction had to be conducted by single operator in government procurement. The government procurement subject to auction were goods and services according to the list approved by the Government of the Republic of Kazakhstan, with an annual volume more than 4,000 MCI established for the relevant fiscal year by the law on the national budget. Government procurement of goods through

²⁰ The term "services" included both "services" and "works" as those terms were used in the legislation of the Republic of Kazakhstan.

²¹ State enterprises are defined in Section "State Ownership, State Trading Entities and Privatization" of this Report.

commodity exchanges had to be conducted based on the list of commodity exchange goods in accordance with the legislation of the Republic of Kazakhstan on commodity exchanges.

941. The representative of Kazakhstan noted that Law "On Government Procurement" contained provisions on transparency of the procedures for conducting government procurement. All the information on government procurement was provided on the official website (web portal) of the Ministry of Finance: www.goszakup.gov.kz. The information on the regulation of the Republic of Kazakhstan in the field of government procurement was provided at http://goszakup.gov.kz/wiki/index.php?title=Main_page. No later than three working days from the date of approval of the competitive bid documents, but not less than 30 calendar days, and, in case of electronic government procurement, not less than 20 calendar days, before the final date for submission of applications for participation in the competitive bidding by potential suppliers, the organizer of government procurement was obliged to: (i) place on the customer's website the text of the announcement on conducting the government procurement by tender, and the list of competitive bid documents; (ii) place on the official web portal of government procurement the text of the announcement on conducting the government procurement by tender; and, (iii) ensure in the chronological order registration on the customer's website the facts of presentation of competitive bid documents. Notices of invitation for participation in government procurement had to include the following information: full name; postal and electronic addresses of the organizer of government procurement; the subject of the contract; the required amount; the location and date of delivery of goods and services; the place and ways for obtaining a copy of the tender documentation; the place and deadline for submission of applications for participation in the tender; and the date, time and place of opening envelopes with applications for participation in the tender.

942. She noted that the winner of the tender was selected in accordance with the rules established in the national legislation, i.e., the laws and rules laid out in paragraph 935 of this Section. Within two working days after completion of the tender process, the protocol of the government procurement results was published on an official website of the entity and on the web portal on government procurement.

943. In response to questions about the local content requirements in Kazakhstan's government procurement laws, the representative of Kazakhstan stated that such requirements were set out by Law "On Government Procurement" and Government Resolutions No. 1301 and No. 623. When the Tender Commission evaluated and compared all submitted bids, it took into account the criteria stipulated in paragraph 4 of Article 17 of Law "On Government Procurement". These criteria had to be specified in the tender documentation and applied equally to all competitive bids. In accordance with paragraph 4 of Article 17 of Law "On Government Procurement", the competitive price quotations of participants were affected by the following criteria: (i) characteristics of a potential supplier as follows: (a) experience in the market of goods and services which was required for conducted government procurement; (b) a document confirming performance of voluntary certification of goods by domestic producers in accordance with Kazakhstan's legislation on technical regulation; (c) a certified system on management quality in accordance with State standards; and (d) a certified system on management of environmental control in accordance with the requirements of State standards and/or the confirmation of compliance with a standard of ecologically clean production in accordance with Kazakhstan's legislation on technical regulation; (ii) the functional, technical and qualitative characteristics of goods and services, and/or the costs of operation, maintenance and repair of the purchased goods; and, (iii) local content. In accordance with Law "On Government Procurement" and Government Resolutions No. 1301 and No. 623, the Tender Commission could reduce the conditional competitive price quotation for domestic producers of goods by up to 20% and for domestic suppliers of services (works) up to 15%.

944. The potential supplier had the right to appeal actions (omissions) of the customer, organizer of government procurement, commissions, expert and single operator involved in government procurement where their actions (omissions) infringed rights and legal interests of the potential supplier.

945. In response to the question of a Member on whether there would be a common EAEU procurement regime for state and/or municipal procurement, the representative of Kazakhstan stated that the legal basis for the common policy was Section XXII "Government (Municipal) Procurement" and Annex No.25 "Protocol on Regulation of Procurement" of the EAEU Treaty, which

came into effect on 1 January 2015. These provisions replaced the Single Economic Space Agreement on State (Municipal) Procurement which came into effect on 1 January 2012. Article 88 of Section XXII of the EAEU Treaty stipulated that member States granted national treatment for government procurement conducted by State bodies and State agencies to other EAEU member States on a reciprocity basis. The EAEU Treaty covered procurement conducted by State bodies, budget-funded organizations, including State agencies as well as other entities specified by the government procurement legislation of EAEU member States. The EAEU Treaty did not cover procurement of State enterprises performing activities of commercial character and enterprises with State participation as well as procurement of the National (Central) banks.

946. Members noted that the scope of "government procurement", as provided for in current Kazakhstan's legislation, covered more than "procurement", as defined in Articles III:8 and XVII:2 of the GATT 1994 and Article XIII:1 of the GATS, i.e., products and services purchased for governmental purposes and not with a view to commercial re-sale or, with a view, to use in the production of goods for commercial sale, or to use in the supply of services for commercial sale. "Procurement" also appeared to cover more than the goods and services typically subject to the WTO Agreement on Government Procurement. Laws, regulations and other measures relating to purchases that fell outside the scope of the definitions in Articles III:8 and XVII:2 of the GATT 1994, and Article XIII:1 of the GATS, would not be excluded from the coverage of the Agreements in Annex 1 of the Marrakesh Agreement Establishing the World Trade Organization. These Members noted that in Kazakhstan's legislation, "procurement" appeared to include, in addition to goods for governmental purposes, goods and services for direct consumption and support, i.e., products or services by firms that were sold commercially or used to produce goods and services for commercial sale. They sought confirmation that, in making purchases that would not be considered as government procurement within the meaning of Articles III:8 and XVII:2 of the GATT 1994 and Article XIII:1 of the GATS, and that national treatment and MFN requirements would apply. These Members also sought confirmation that Kazakhstan would ensure that goods and services procured under Kazakhstan's legislation on government procurement would not be re-sold in the commercial sphere or used in the production of goods or the supply of services for commercial sale.

947. The representative of Kazakhstan confirmed that, in respect of procurement of goods and services, including by State-owned and State-controlled enterprises, which were not purchased for governmental purposes, but with a view to commercial re-sale or with a view to use for production of goods and supply of services for commercial sale, from the date of accession, such purchases and sales would not be considered to be "government procurement" within the meaning of Articles III:8(a) of the WTO General Agreement on Tariffs and Trade 1994 and XIII:1 of the WTO Agreement on Trade in Services, and thus, the Republic of Kazakhstan and the competent bodies of the EAEU would comply with all applicable provisions of the WTO Agreement. The Working Party took note of this commitment.

948. Some Members of the Working Party sought a commitment from Kazakhstan that it would initiate negotiations for membership in the Agreement on Government Procurement by tabling an entity offer immediately after its accession to the WTO.

949. The representative of Kazakhstan confirmed the intention of Kazakhstan to join the WTO Agreement on Government Procurement and to notify the WTO Committee on Government Procurement to this effect at the time of accession of Kazakhstan to the WTO and to ensure that from the date of accession, its Government agencies would award contracts in a transparent manner according to published laws, regulations and guidelines. She also confirmed that Kazakhstan would request the status of an "observer" in the WTO Agreement on Government Procurement at the time of its accession to the WTO and would initiate negotiations for membership in the WTO Agreement on Government Procurement by tabling an Appendix 1 offer within four years after accession. She confirmed that, if the results of the negotiations were satisfactory to the interests of Kazakhstan and the other Members of the Agreement, Kazakhstan would accede to that Agreement. The Working Party took note of these commitments.

950. The representative of Kazakhstan informed that the Government of Kazakhstan was developing amendments to the legislation on government procurement with the purpose to exclude procurements made by state enterprises and enterprises with state participation, i.e., State-owned and State-controlled enterprises, procuring goods and services for the purpose of commercial sale (re-sale) from the coverage of Law "On Government Procurement". The relevant

amendments to the legislation of Kazakhstan regulating government procurement would be enacted by the date of Kazakhstan's accession to the WTO.

- **Transit**

951. The representative of Kazakhstan stated that Kazakhstan allowed free transit consistent with the provisions of Article V of the GATT 1994. She added that the basic principles that Kazakhstan had followed previously had not been affected by the participation of Kazakhstan either in the Customs Union or the Eurasian Economic Union. From 1 July 2010, customs control of goods in transit through the territory of Kazakhstan had been based on the provisions of Chapter 32 of the Treaty on the Customs Code of the Customs Union of 27 November 2009 (hereinafter: CU Customs Code). The provisions of the Code of the Republic of Kazakhstan No. 296-IV "On Customs Issues in the Republic of Kazakhstan" of 30 June 2010 (hereinafter: Customs Code of Kazakhstan) concerning transit control were applied to the extent that they did not conflict with the CU Customs Code.

952. Specifically, Article 215 of the CU Customs Code stated that customs transit was a customs procedure under which foreign goods (i.e., not Russian, Kazakhstani or Belarusian) were transported: (i) across the EAEU customs territory under customs custody between the points of their entry into and departure from the EAEU customs territory (i.e., if transit constituted a part of their itinerary which began and ended outside the boundaries of the EAEU customs territory); (ii) from the point of entry into the EAEU to an internal customs point; (iii) from an internal customs point to the point of departure from the EAEU customs territory; and, (iv) between two internal customs points within the EAEU customs territory. In addition, it provided that the customs procedure of customs transit was applied to goods transported by international mail, by pipelines and by power transmission lines. Goods in customs transit were exempted from any customs taxes and duties or application of any economic restrictions or prohibitions, except for: (i) prohibitions applied to the goods listed in Sub-Section 1 of the "Common List of Goods that are Subject to Bans and Restrictions on Importation and Exportation by Parties of the Customs Union of the Eurasian Economic Community in Trade with Third Countries", adopted by CU Commission Decision No.132 "On Common Non-Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation" of 27 November 2009, re-approved by Decision of the EEC Collegium No.134 "On Normative Legislative Acts in the Area of Non-Tariff Regulation" of 16 August 2012, and included in Annex 6 of this Report; (ii) SPS measures described in Section "Sanitary and Phytosanitary Measures" of this Report; and, (iii) prohibitions introduced by the Republic of Kazakhstan in regulations implementing UN Security Council Decisions.

953. Any foreign merchandise could be subject to international customs transit, except for goods whose transit was prohibited pursuant to laws, other statutes and legal norms of the EAEU and Kazakhstan and other international treaties to which Kazakhstan was a party. However, specific control procedures for goods in transit transported by railway on the territory of the EAEU were defined by a separate CU Agreement, i.e., the Agreement on the Specificity of Customs Transit of Goods, Transported by Railway on the Customs Territory of the Customs Union of 21 May 2010, in effect since 1 July 2010. Furthermore, as stipulated in Article 215 of the CU Customs Code, customs transit procedure was not applied to the goods transported by air transport, if the air vessel, in an international flight, performed an intermediate landing or a landing by necessity (technical landing) without a partial discharging (unloading) of goods. She added that customs transit could be applied to goods of EAEU member States if these goods were transported from a point of departure in the EAEU to the point of entry in the EAEU through a third country. Goods of EAEU member States originating from one EAEU member State, exported through the territory of another EAEU member State, were placed under the customs procedure of export and transported through the territory of the EAEU without being placed under customs procedure of transit, unless it had otherwise been decided by the Commission.

954. She further noted that, pursuant to Article 216 of the CU Customs Code, the placement of goods under the customs procedure of customs transit was allowed, if the following conditions were fulfilled: (i) the import of goods into the customs territory of the EAEU was not prohibited; (ii) the documents, confirming that requirements (if any) for the transportation of goods through the customs border of the EAEU had been fulfilled, were presented; (iii) if the goods were to be subject to such control at the place of arrival, the customs control and other forms of State control had been performed at their point of entry; (iv) the transit declaration had been presented (i.e.,

the goods had been declared); (v) the measures ensuring the customs transit in accordance with Article 217 of the CU Customs Code were fulfilled; (vi) the identification of goods in accordance with Article 109 of the CU Customs Code was ensured; (vii) the international transport vehicle was equipped in a due manner, if the goods were transported under the customs seals. According to Article 156 of the CU Customs Code, the requirement specified in point (vii) of the previous sentence did not apply to goods carried by sea or river vessels or aircrafts crossing the customs territory of the EAEU without stopping at a port or airport located in the customs territory of the EAEU, or to the goods transported via pipelines and electricity transmission lines.

955. As of 1 January 2009, transit fees for vehicles were regulated by Article 461 of Code of the Republic of Kazakhstan No. 99-IV "On Taxes and Other Obligatory Payments to the Budget (Tax Code)" of 10 December 2008. Pursuant to Article 461 of the Tax Code, transit fees for foreign vehicles transporting international cargoes by automobile roads were fixed at 10 Monthly Calculation Index (MCI). In 2014, the transit fee had been equal to KZT 18,520 (approximately US\$100). As for railway transit, the representative of Kazakhstan stated that Kazakhstan was a party to the Agreement on International Transit Tariffs (ITT) and the Agreement on the Single Transit Tariffs (STT). Thus, railway tariff rates for carrying goods in transit were established according to the principles of these international Agreements and calculated on a non-discriminatory basis. Basic ceiling tariffs were calculated on the principles provided for by these Agreements and the members established applied tariffs below the ceiling calculated annually. The transit tariff rates for same railways/destinations were unique and did not depend on the origin of goods. Generally, the transit tariff policy was mostly dependent on competitive capacity of international transit routes, crossing several countries, and the rates were established by such countries jointly (see Chapter II "Economic Policies", Section "Pricing Policies" of this Report for more information).

956. The representative of Kazakhstan said that as of 1 July 2010, pursuant to Article 217 of the CU Customs Code, measures of provision compliance with the customs transit included: (i) a guarantee for payment of customs duties and taxes in relation to foreign goods in accordance with Chapter 12 of the CU Customs Code; (ii) customs escort; and, (iii) establishment of routes for transportation of goods (applied only as an additional measure to the above-mentioned measures). Customs escort charges and related procedures were described in Chapter III "Policies Affecting Trade in Goods", Section (A) "Import Regulations", Sub-section "Fees and Charges for Services Rendered" of this Report.

957. Pursuant to Article 218 of the CU Customs Code, customs bodies had the right to put goods in transit under customs escort in the following cases:

- defined on the basis of the risk management system;
- upon non-presentation of guarantee of payment of customs duties and taxes;
- due to repeated non-fulfilment by the transport operator of the operators' obligations in transport of goods in accordance with the customs procedure of customs transit, which was established by the resolutions that had entered into effect on imposing administrative penalty for cases of customs law infringement, if at least one of the above-mentioned resolutions had not been fulfilled; and,
- due to non-fulfilment by the transport operator of the obligation to pay the customs duties and taxes in accordance with Article 227 of the CU Customs Code.

958. She confirmed that these were all of the circumstances in which customs escort could be required, but that this list of circumstances could be changed through amendment of the CU Customs Code or establishment of domestic legislation conforming to that Code. Customs escort of goods was to be carried out to ensure observance of applicable customs transit procedure. Expenses associated with customs escort had to be fully reimbursed in the form of customs fees levied, in accordance with the legislation of Kazakhstan on taxes and duties.

959. The representative of Kazakhstan explained that guarantees for customs transit were regulated by Articles 85 to 88 of the CU Customs Code. These provisions set out that guarantees could be required to secure the fulfilment of the customs taxes and duties payable, unless: (i) a procedure for transit escort was applied; (ii) transit was conducted by Kazakhstan's authorized customs transport operators or accredited economic operators; or (iii) customs transit was regulated by the obligations of Kazakhstan under international treaties, *inter alia*, the Customs Convention on International Transport of Goods under Cover of TIR Carnets, that provided

otherwise. Transit by power transmission lines, pipelines and railways was also exempt from customs guarantees. The payer had the right to choose the means of guarantees: (i) payment in cash; (ii) bank guarantee; (iii) surety; (iv) pledge of property; or (v) other means foreseen in the national legislation of an EAEU member. The representative of Kazakhstan informed Members that Article 88 of the CU Customs Code outlined the rules to assess the value of guarantees and noted that guarantees would be approximated to the value of the customs taxes and duties payable. She further explained that guarantees on customs transit were applied in a transparent and non-discriminatory manner and, in her view, were in line with the requirements of Article V of the GATT 1994 on freedom of transit.

960. Asked about the redemption of a guarantee, the representative of Kazakhstan replied that, as of 1 July 2010, pursuant to paragraph 6 of Article 85 of the CU Customs Code, a guarantee for payment of customs duties and taxes was refunded after the customs body determined that all commitments had been fulfilled or if there were no commitments.

961. In response to a question from a Member on the implementation of the CU Customs Code in the area of trade in transit in the national legislation of Kazakhstan, the representative of Kazakhstan said that Chapter 38 of the Customs Code of Kazakhstan included provisions of the CU Customs Code related to trade in transit. She noted that the Customs Code of Kazakhstan incorporated the provisions of the CU Customs Code and EAEU legal instruments concerning the customs issues, and additional provisions addressing the issues left by the CU Customs Code to the national competency of the EAEU member States. In particular, Article 319 of the Customs Code of Kazakhstan incorporated Article 215 of the CU Customs Code.

962. The representative of Kazakhstan confirmed that Kazakhstan would apply all its laws, regulations and other measures governing transit of goods (including energy), such as those governing charges for transportation of goods in transit by road, rail and air, as well as other charges and customs fees imposed in connection with transit in conformity with the provisions of Article V of the WTO General Agreement on Tariffs and Trade 1994 and other relevant provisions of the WTO Agreement. The representative of Kazakhstan further confirmed that, from the date of accession, all laws and regulations regarding the application and the level of charges and customs fees imposed in connection with transit would be published. Further, upon receipt of a written request of a concerned Member, Kazakhstan would provide to that Member information on the revenue collected from customs fees and customs charges and on the costs of providing the associated services. The Working Party took note of this commitment.

- **Government-mandated Counter-trade and Barter**

963. The representative of Kazakhstan said that barter trade was not regulated by the Government. Government approval was not required to engage in counter-trade and barter transactions. Moreover, where barter trade occurred, the products traded were subject to the same tariff and non-tariff measures and customs formalities as like products imported through normal channels. For example, Kazakhstan applied the same WTO-based customs valuation system for such transactions as was applied to goods imported through normal channels, i.e., if the transaction value of the imported merchandise could not be determined, then the goods were valued on the basis of one of the other valuation methods provided under the WTO Agreement on Implementation of Article VII of the GATT 1994, applied in sequential order. Any barter and counter-trade arrangements were only conducted on a company-to-company basis.

- **Agricultural Policies**

(a) Imports

964. The representative of Kazakhstan stated that in 2013, the volume of imports of agricultural products to the Republic of Kazakhstan was equal to 1,6 million tonnes, worth US\$1,3 billion, including: fruits, vegetables, poultry meat, live animals, dairy products and others. The Ministry of National Economy of the Republic of Kazakhstan was responsible for foreign trade policy.

965. The representative of Kazakhstan stated that imports of agricultural products were governed by the same general rules, disciplines and procedures applied to non-agricultural goods and that agricultural products were subject to ordinary customs duties at rates of the Common

External Tariff. Imports of plants, animals, and products thereof, were subject to sanitary and phytosanitary requirements in accordance with the EAEU Treaty, CU Commission and EAEU Decisions, other EAEU legal acts and national legislation (for more detailed information see Section "Sanitary and Phytosanitary Measures" of this Report). Bans or quantitative restrictions were no longer applied on any agricultural products.

966. Tariff Rate Quota was introduced by Kazakhstan in 2010 for imports into the customs territory of the EAEU of beef, pork and poultry originating in third countries (see Chapter IV "Policies Affecting Trade in Goods", Section (A) "Import Regulations", Sub-section "Tariff Rate Quotas" of this Report).

(b) Exports

967. The representative of Kazakhstan stated that in 2013, the volume of agricultural exports from the Republic of Kazakhstan was equal to 5,8 million tonnes, worth US\$1,6 billion, including wheat, oilseeds, barley, rice, corn, dried fruit, fish and others.

968. The representative of Kazakhstan stated that export of agricultural goods did not differ in any respect from export of non-agricultural goods. She added that livestock raw skin and wool were subject to export duty. Bans, quantitative restrictions, quotas, minimum export prices and licencing were not applied on any agricultural products (see Chapter IV "Policies Affecting Trade in Goods", Section (B) "Export Regulations").

969. Furthermore, the representative of Kazakhstan stated that Kazakhstan applied export subsidies for wheat due to its landlocked geographical location, the vastness of its territory, remoteness from major agricultural markets, insufficient transport and storage infrastructure and high transportation costs, which significantly affected the competitiveness of Kazakhstan's agricultural product. When delivering wheat to external markets, the wheat was shipped through the Russian Federation or to/through China via railways. On average, the transportation cost of wheat from the territory of Kazakhstan to the closest Russian port was about US\$130 per metric tonne with a distance of 1,200 km. The volume of wheat shipped to/through China was insignificant and constituted less than 3% of country's total volume of wheat exports.

970. She further added that Kazakhstan's request for export subsidies was based on the transportation costs related to wheat shipments transiting through the Russian Federation and that it was highly important for the Government of Kazakhstan to support agricultural producers through subsidizing part of high transportation costs to the global markets.

(c) Internal policies

971. The representative of Kazakhstan stated that her Government implemented agricultural policies in such a manner as to address challenges that occurred in the agricultural sector during the years of centrally planned economy, including structural imbalances between prices and revenues, low profitability, underdevelopment of production and social infrastructure, low levels of technological upgrading, small-scale agricultural production, lack of private investments, shortage of qualified personnel, etc. She furthermore stated that the following legal acts had been adopted to address these challenges:

- Law No. 66-III "On State Regulation of Agricultural and Industrial Complex and Rural Territories Development" of 8 July 2005; and,
- Government Resolution No. 151 "On Approval of Agriculture Development Programme for 2013-2020 'Agrobusiness 2020'" of 12 February 2013.

972. Law No. 66-III "On State Regulation of Agricultural and Industrial Complex and Rural Territories Development" of 8 July 2005 established the legal framework for State regulation of agriculture and development of rural areas. The Programme adopted by Government Resolution No. 151 "On Approval of Agriculture Development Programme for 2013-2020 'Agrobusiness 2020'" of 12 February 2013 stipulated key middle-term and long-term policy objectives of the Government aimed at sustainable and competitive development of agriculture.

973. The representative of Kazakhstan added that agriculture was a key sector and played a significant role in economic and social development as nearly 50% of the country's population resided in rural areas. Agriculture employed almost one third of the working population and was critical to addressing poverty and food security related challenges. One of the principal objectives of the Government was to increase productivity of the agricultural sector as part of strategy for economic diversification. The Government of Kazakhstan implemented support of the agricultural sector at both republican and local levels. Support falling under the "Green Box" covered many government service programmes, including pest and disease control and infrastructural services. Support under the "Amber Box" was mainly provided in the form of: (i) market price support, which is implemented through the allocation of funds from republican budget for procurement of agricultural products directly from producers under the following programmes: (a) procurement for the state reserve (wheat); and, (b) procurement to support agricultural producers (crops, livestock products); (ii) measures to reduce the cost of agricultural inputs, such as fuel and lubricants, water, combined fodder, pedigree livestock, elite seeds and agricultural chemicals (fertilizers and pesticides); and, (iii) soft loans with interest rates lower than market rates.

974. She furthermore stated that while the Government had started to implement market economy reforms in the agricultural sector after becoming a sovereign state, the development level of this sector still remained below the pre-reform stage, especially in the livestock production sector. For instance, the number of livestock population was 40% lower than that in 1991. This reduction was mostly caused due to the reason that over 80% of livestock was concentrated in small households, which used outdated breeding methods and low levels of breeding stock. As a result, average productivity of dairy cows in Kazakhstan was four times lower than that in the countries with the industrial type of production (in Kazakhstan - 2,000 litres per cow a year; in the developed countries - 7,000 litres per cow a year).

975. In regard to crops, the representative of Kazakhstan said that Kazakhstan was located in an area of risky farming where dry and sharp continental climate prevailed. As a result, over the past few years, dry lands had accounted for about 86% of the country's total area. Currently, the area of irrigated lands in Kazakhstan was 1.5 times lower than the levels of 1991. About 800 thousands hectares were not used due to the following reasons: (i) high concentration of salts in the soil; (ii) deterioration of the irrigation and drainage systems; (iii) shortage of water resources; and, (iv) lack of financial resources and modern equipment. Approximately 90% of agricultural producers were small farms and households and could not purchase high quality seeds, up-to-date agricultural equipment and other inputs needed for modern and intensive agricultural production. All these factors led to deterioration of the soil quality – currently, about 74% of cultivated lands were in poor condition. Apart from that, areas usable for agriculture were being destroyed by one of the major global environmental disasters – the Aral Sea. The disappearance of the Aral Sea resulted in rapid salinization, degradation and desertification of the neighbouring areas, where the major population was engaged in the agricultural sector.

976. The representative of Kazakhstan stated that during the WTO accession process, Kazakhstan provided information on domestic support and export subsidies in the agricultural sector starting from the period of 1996-1998 through the recent years from 2006 to 2012. Kazakhstan used the most recent and consecutive base period of 2010-2012 for calculation of its domestic support to agriculture and providing the data on export subsidies. She further explained that domestic support package was based on those levels of support that would allow Kazakhstan to undertake measures stipulated in the Government Programme "Agrobusiness 2020" designed to address current challenges in the agricultural sector.

977. A Member asked Kazakhstan whether it would contemplate targets for increases in "Green Box" spending. In response, the representative of Kazakhstan noted that in the course of implementation of the programme "Agrobusiness 2020", the share of "Green Box" support in the total financing of the agricultural sector was planned to be increased. The main emphasis would be placed on the policies supporting long-term competitiveness of the sector. The programme pursued the following specific objectives: (i) improvement of access to key inputs and services for agricultural producers in the following spheres: crop production, livestock development, grain storage facilities, water supply services, financial services, investments projects, educational services, agricultural research and consulting services; (ii) improvement of phytosanitary and veterinary safety systems; (iii) development of water supply systems; (iv) enhancement of the fertilizer and grading efficiency and improvement of information services; (v) development of organic farming; (vi) agriculture research; and, (vii) water supply systems. Due to drought risk,

land users and livestock producers heavily depended on artificial water systems. In order to address the existing problems, the programme envisaged construction of irrigation systems for distant livestock farming and development of the relevant regulatory framework.

978. In response to a request by some Members for more information on the customs union legislation on agriculture policies, the representative of Kazakhstan stated that the regulatory basis for such policy was Annex No. 29 "Protocol on Measures of State Support to Agriculture" to the EAEU Treaty of 29 May 2014. This Annex replaced the Single Economic Space (SES) Agreement on Common Rules for State Support of Agriculture adopted by CU Commission Decision No. 482 of 8 December 2010, which was terminated when the EAEU Treaty came into effect on 1 January 2015. From 1 January 2015, the EAEU Treaty established uniform rules for State support measures that affected mutual trade in agricultural products between the EAEU member States and incorporated key provisions of the WTO Agreement on Agriculture. In particular, the EAEU Treaty classified state support measures in three categories: (i) measures that did not distort agricultural trade between EAEU member States; (ii) measures that distorted trade substantially; and, (iii) trade-distorting measures. The EAEU Treaty also stipulated the requirements for application by the EAEU member States of the above-mentioned categories of State support. Measures falling under the first category were allowed to be applied by the EAEU member States. Those measures, which fell under the second category, were prohibited to apply in mutual trade. The amount of State support in the EAEU member States covered by the third category ("Amber Box" measures) should not exceed 10% of the gross value of production of agricultural products in the EAEU member States. The EAEU Treaty also stated that when EAEU member States joined the WTO, their commitments under the WTO Membership would prevail.

979. In response to a question on the relationship between measures recorded in Supporting Table DS:1 on the creation of public stockholding for food security purposes and DS:5 (market price support for procurement to the state reserve), the representative of Kazakhstan explained that the state grain reserve was annually renewed by the "Food Contract Corporation", which performed the function of the Government agent responsible for establishment, renewal and disposal of the state reserve for food security purposes. Budget outlays spent on storage of the state reserves and transporting grain from private elevators to elevators managed by the "Food Contract Corporation" were recorded in Supporting Table DS:1. The difference between the purchase price of wheat procured to the State reserve and external price of wheat was calculated in Supporting Table DS:5. Furthermore, the representative of Kazakhstan explained that Kazakhstan's national food security programme involving state procurement of grain and release of such grain at administered prices, did not meet the criteria stipulated in paragraph 3 of Annex 2 of the WTO Agreement on Agriculture. Therefore, the above-mentioned measure was included in the AMS calculations in Supporting Table DS:5. Budgetary outlays associated with accumulation of the State reserve and storage costs were reported in Supporting Table DS:1 for transparency purposes only.

980. In some Members' view, several measures reported in Supporting Table DS:9 should not be categorized as non-product specific support given that they seemed to be associated with specific products or do not benefit all agricultural products. These Members referred to the following measures: (i) mineral fertilizers, seed disinfectants and herbicides subsidies; (ii) fuel and lubricants subsidies; (iii) compound feed subsidies; (iv) pedigree livestock subsidies; and, (v) elite seed subsidies.

981. The representative of Kazakhstan explained that the above-mentioned programmes did not target a particular agricultural crop or animal product. Therefore, subsidies under those programmes could not be disaggregated by each type of crop or animal product. For example, subsidies related to mineral fertilizers, seed disinfectants and herbicides were used to partially compensate the cost of chemical products sold by suppliers of agricultural chemicals to agricultural producers at subsidized prices. Subsidies were paid within the reference limits established by the Ministry of Agriculture for each type of fertilizers, seed disinfectants and herbicides. The programme did not differentiate subsidies for agricultural crops by type of crops.

982. She further explained that the Government partially compensated the cost of compound feeds. Such subsidies were provided based on the actual volume of bovine meat, pork and poultry (carcass weight bases) sold by agricultural producers. The reference limits were established by the Ministry of Agriculture.

983. As for pedigree livestock subsidies, she explained that the Government partially compensated the following products sold to agricultural producers: pedigree livestock growing; breeding eggs; and semen doses. Subsidies were also granted to cover the full cost of the following measures: procurement and maintenance of breeding bulls; procurement, maintenance and utilization of embryos and semen from breeding bulls; procurement of young birds for breeding; procurement and maintenance of stud-rams in the breeding centres; procurement of compound feeds for birds in the poultry breeding farms; procurement of special laboratory equipment and special agricultural technology for the development of breeding business; and procurement, maintenance and training of breeding stallions.

984. Furthermore, the Government provided subsidies with the purpose to reduce the cost of production of seeds and seedlings of fruit trees. Such subsidies were also used to reduce the cost of elite seeds purchased by agricultural producers.

985. In response to further concerns raised by some Members with regard to classification of certain support programmes as non-product-specific programmes, the representative of Kazakhstan further explained that those programmes were administered at the republican and local levels and due to the reason that there was no unified system of data collection, Kazakhstan faced challenges with obtaining data disaggregated by types of agricultural products within those programmes from local authorities.

986. The representative of Kazakhstan confirmed that Kazakhstan would apply subsidies on agricultural products in a manner consistent with WTO rules, including the provisions of the WTO Agreement on Agriculture and Kazakhstan's commitments on domestic support and export subsidies contained in Kazakhstan's Schedule of Concessions and Commitments on Goods (CLXXII) annexed to Kazakhstan's Protocol of Accession to the WTO. The Working Party took note of this commitment.

987. The representative of Kazakhstan confirmed that, upon accession, Kazakhstan would bind its agricultural export subsidies at zero in its Schedule of Concessions and Commitments on Goods (CLXXII) and would not provide such subsidies in respect of agricultural products. The Working Party took note of this commitment.

988. In implementing Article 6.2 of the WTO Agreement on Agriculture, the representative of Kazakhstan confirmed that while Kazakhstan could provide support through government measures of the types described in Article 6.2, the amount of such support would be included as non-exempt in Kazakhstan's calculation of its Current Total Aggregate Measurement of Support. The representative of Kazakhstan further confirmed that Kazakhstan would have recourse to a *de minimis* exemption for product-specific support equivalent to 8.5 per cent of the total value of production of a basic agricultural product during the relevant year. The representative of Kazakhstan confirmed that Kazakhstan would have recourse to a *de minimis* exemption for non-product-specific support of 8.5 per cent of the value of Kazakhstan's total agricultural production during the relevant year. Accordingly, these percentages would constitute Kazakhstan's *de minimis* exemption under Article 6.4 of the WTO Agreement on Agriculture. She also noted that Kazakhstan's Total AMS Commitment Level was set forth in Part IV Section I of Kazakhstan's Schedule of Concessions and Commitments on Goods (CLXXII). The Working Party took note of this commitment.

989. The representative of Kazakhstan confirmed that Kazakhstan would participate fully in the Doha Development Agenda negotiating round and outcomes on agriculture, taking into account Kazakhstan's terms of accession to the WTO. The Working Party took note of this commitment.

- Trade in Civil Aircraft

990. Some Members asked Kazakhstan to commit to join the WTO Agreement on Trade in Civil Aircraft upon accession and to establish zero rates of tariff duty on imports of civil aircraft and parts. These Members also requested that all internal taxes would be applied to the sale or lease of civil aircraft in a non-discriminatory fashion between such imported and domestically produced goods and between such goods imported from third countries. Finally, they requested additional information on Kazakhstan's customs requirements for imported civil aircraft and parts, e.g.,

import licensing, leasing, and tariff duties, particularly with regard to how Kazakhstan's participation in the EAEU might affect market access in Kazakhstan for such imported goods.

991. In response, the representative of Kazakhstan said that Kazakhstan did not plan to join the WTO Agreement on Trade in Civil Aircraft prior to its accession to the WTO. Applied tariff duties and import licensing requirements corresponded to those laid out in the Common External Tariff (CET) of the EAEU and Annex No. 7 to the EAEU Treaty. Kazakhstan did not require licenses for imported civil aircraft and parts. She explained that under the CET, Kazakhstan as well as other EAEU member States, currently applied 0% rate of customs duty on imports of certain types of aircrafts, including small aircrafts (i.e., those with fewer than 50 seats and weighing between 2,000 kg and 20,000 kg), aircrafts with more than 300 seats, aircrafts with 50 seats to 300 seats and weight in the range of 90,000 kg to 120,000 kg, and large aircrafts (i.e., with weight exceeding 120,000 kg). For imports of all other types of civil aircrafts, Kazakhstan as well as other EAEU member States currently applied the CET of 20%. The VAT of 12% was normally collected on aircraft purchases, both on those of EAEU origin or imports, except as provided below.

992. In addition, CU Commission Decision No. 331 "On Approval of the List of Goods Temporarily Imported with Conditional Exemptions from Payments of Customs Duties, Taxes and on Conditions of Such Exemptions, Including Time-Frames" of 18 June 2010 (hereinafter: CU Commission Decision No. 331) allowed temporary imports of aircrafts under HS tariff lines 8802 40 003 2 and 8802 40 004 2 with 50 to 111 seats and 170 to 219 seats with conditional customs duty and tax (VAT) exemptions, provided that the following conditions were met: (i) the importers concluded foreign trade contracts (e.g., leasing contracts); and, (ii) an aircraft was placed under the customs procedure of temporary importation until 31 December 2013 for a period not exceeding five years from this date. CU Commission Decision No. 331 additionally allowed duty and tax-free importation of civil passenger aircrafts with no more than 19 passenger seats (HS tariff lines 8802 30 000 2 and 8802 40 001 1), owned by foreign persons and used for non-commercial flights within the EAEU customs territory.

993. The representative of Kazakhstan noted that EEC Council Decision No. 6 of 31 January 2014 introduced amendments to CU Commission Decision No. 331. Civil passenger aircrafts under HS tariff lines 8802 40 003 5, 8802 40 003 6 and 8802 40 004 6 with 50 to 110 seats were added into the list of goods subject to temporary importation with conditional customs duty and tax exemptions, provided that contracts were concluded and aircrafts were placed under the customs procedure of temporary importation (access) until 1 January 2017. The period for application of conditional customs duties and tax exemptions for these aircrafts was 5 years from the date of placing the aircrafts under the customs procedure of temporary importation (access). She further added that EEC Council Decision No. 20 of 4 March 2014 introduced amendments to CU Commission Decision No. 331 by adding civil freight aircrafts not equipped with loading ramp with maximum gross weight in the range of 60,000 kg to 80,000 kg (HS tariff line 8802 40 003 9) and more than 370,000 kg (HS tariff line 8802 40 009 6) placed under the customs procedure of temporary importation (access) until 31 December 2017, for the period of their temporary imports.

994. The representative of Kazakhstan added that in accordance with CU Commission Decision No. 130 "On Common Customs and Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation" of 27 November 2009 (as last amended by EEC Council Decision No. 55 of 25 September 2013), customs duty exemptions were granted for civil passenger aircrafts under HS tariff lines 8802 40 003 5 and 8802 40 003 6 imported for international and/or domestic flights on the territory of an EAEU member State, and/or flights on the territories of the EAEU member States: (i) with 50 to 300 passenger seats, which were imported to the Republic of Belarus and Republic of Kazakhstan until 1 July 2014; (ii) with 110 to 300 passenger seats, determined in accordance with a type certificate, which were imported to the territory of the Republic of Belarus and the Republic of Kazakhstan until 31 December 2016; (iii) with 110 to 300 passenger seats determined in accordance with the Layout of Passenger Accommodations (LOPA), which were imported to the territory of the Republic of Belarus and the Republic of Kazakhstan from 1 January 2017 till 30 June 2019. She further added that in accordance with EEC Council Decision No. 29 of 4 March 2014, customs duty exemptions were also granted for civil freight aircrafts under HS tariff line 8802 10 003 9 with maximum gross weight from 60,000 kg to 80,000 kg, imported to Kazakhstan until 31 December 2017.

V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME**- GENERAL****- Industrial Property Protection**

995. The representative of Kazakhstan said that Kazakhstan's policies in the area of intellectual property rights protection were aimed at: (i) bringing its legislation in line with international standards; (ii) developing relevant enforcement mechanisms; and, (iii) training experts in this area. The objective of these policies was to ensure the lawful use and protection of intellectual property rights in Kazakhstan, as set forth in the Concept of Protection of Intellectual Property Rights, approved by Government Resolution No. 1249 of 26 September 2001.

996. She added that legislation governing the protection of intellectual property rights included Civil Code (General Part) No. 269-XII of 27 December 1994 (hereinafter: Civil Code), Civil Code (Special Part) No. 409 of 1 July 1999 (hereinafter: Civil Code (Special Part)), Code of Civil Procedure No. 411-I of 13 July 1999 (hereinafter: Code of Civil Procedure), Criminal Code No. 167-I of 16 July 1997 (hereinafter: Criminal Code), Code No. 155-II "On Administrative Offences" of 30 January 2001 (hereinafter: Code of Administrative Offences), Code No. 296-IV "On Customs Issues in the Republic of Kazakhstan" of 30 June 2010 (hereinafter: Customs Code of Kazakhstan), Law No. 6-I "On Copyright and Related Rights" of 10 June 1996 (hereinafter: Copyright Law), Law No. 456-I "On Trademarks, Service Marks and Appellations of Origin of Goods" of 26 July 1999 (hereinafter: Trademark Law), Law No. 427-I "Patent Law of the Republic of Kazakhstan" of 16 July 1999 (hereinafter: Patent Law), Law No. 422-I "On Protection of Selection Achievements" of 13 July 1999, and Law No. 217-II "On Legal Protection of Layout Design of Integrated Microcircuits" of 29 June 2001. Law No. 586-II "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Intellectual Property" of 9 July 2004 had introduced changes to all principal legislation that regulated the protection of intellectual property rights in Kazakhstan. In addition, Law No. 90-III "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Intellectual Property" of 22 November 2005 had increased the administrative and criminal liability for violation of intellectual property rights and had improved and streamlined existing criminal procedures. She added that Kazakhstan would continue to amend existing legislation and implement programmes to improve legal practices. In an effort to improve inter-ministerial cooperation in this area, a number of joint orders had been adopted in September 2005. These orders addressed coordination and collaboration procedures between the public prosecutor's offices, the financial police, the internal affairs bodies, customs, as well as the taxation and judicial bodies.

997. With regard to efforts made to educate the public on intellectual property rights, the representative of Kazakhstan said that the Ministry of Justice regularly held regional and national workshops on protection of intellectual property rights in order to upgrade the qualifications of intellectual property rights protection experts, and to share experiences in this field. Officials of the justice and customs bodies, judges, owners of intellectual property rights, as well as users and the media took part in these workshops. She further noted that the Ministry of Justice conducted seminars jointly with international organizations, including the World Intellectual Property Organization (WIPO), the Coalition for Intellectual Property Rights (CIPR), the International Federation of Phonographic Industry (IFPI) and the United States Agency for International Development (USAID). In addition, officials of the Ministry of Justice actively participated in radio and television shows on protection of intellectual property rights in Kazakhstan. Twice a year, the Ministry of Justice held the national campaign "Intellect". This was the permanent large-scale campaign with the active participation of interested public bodies, international agencies, public associations, commercial organizations, educational institutions, the media, and the citizens of Kazakhstan. The campaign aimed at promoting the concept of intellectual property, increasing the public's awareness of the need to take action against piracy and distribution of counterfeit products, and strengthening the role of intellectual property and the status of authors, innovators and inventors.

998. In addition, she noted that the number of applications for registration of copyright and related rights, as well as of licence agreements for the use of copyright and related rights, had increased. In her opinion, these developments demonstrated that the number of authors and persons aware of copyright and related laws had increased.

- **Responsible Agencies for Policy Formulation and Implementation**

999. The representative of Kazakhstan said that the Ministry of Justice was authorized to perform specific executive, monitoring, and supervisory functions, as well as general administrative functions, in the area of intellectual property, including copyrights, patents, and trademarks. Earlier, these functions had been performed by the Committee on Intellectual Property Rights that had been abolished by Government Resolution No.933 "On Agencies of Central Bodies of the Republic of Kazakhstan" of 14 August 2014. She noted that the responsibility for evaluating, issuing, and promoting the commercialization of industrial property rights had been delegated to the Republican State Enterprise "National Institute on Intellectual Property (NIIP)" of the Ministry of Justice. The NIIP had been established by Government Resolution No. 756 "On the State Enterprise 'National Institute of Intellectual Property' of the Committee on Intellectual Property Rights of the Ministry of Justice of the Republic of Kazakhstan" of 11 July 2002. Its main task was to examine applications for intellectual property protection, including inventions, utility models, trademarks, appellations of origin (geographical indications), industrial designs and plant selection achievements. It also kept the State Register of intellectual property protection documents (patents for inventions and certificates for trademarks and copyrights) and prepared them for issuance. The NIIP also conducted scientific and research activities, and evaluated and promoted the commercialization of industrial property. Through its Training Centre, it conducted training seminars on intellectual property protection and re-trained intellectual property protection specialists working at the Ministry of Justice, the Ministry of Education and Science, and the private sector.

1000. A Member requested additional information on how collecting societies were regulated by the Government of Kazakhstan and whether collecting societies must be accredited by the Government in order to operate in Kazakhstan. This Member also asked whether collecting societies might represent/collect royalties for only a single exclusive right or for multiple exclusive rights and whether more than one collecting society might represent/collect for the same exclusive right. This Member also inquired whether a collecting society might represent/collect for rights holders with whom a collective management agreement had been concluded as well as for rights holders with whom a collective management agreement had not been concluded and how Kazakhstan ensured transparency and accountability in each collecting society's operations.

1001. The representative of Kazakhstan replied that Articles 43 through 47 of the Copyright Law addressed the collective management of intellectual property rights. As provided in paragraph 1 of Article 43, authors had the right to establish organizations that managed intellectual property rights on a collective basis. Under paragraph 3 of Article 43, authors could establish collecting societies that managed: various rights for various categories of rights holders; various rights for a single category of right holder; or one type of right for various categories of rights holders. Articles 46 and 47 contained several transparency and accountability requirements, including the requirements to: provide information on collection of royalties to rights holders; maintain a website containing information on collecting society and the rights that had been transferred to that organization; and provide such information to the relevant regulatory authority. In reply to a specific question, the representative of Kazakhstan clarified that collecting societies had to regularly report to all right holders they represented, whether directly or under reciprocal agreements, on any licenses granted, applicable tariffs and royalties collected and distributed. She further explained that the members collectively granted to such organizations their respective permission to use their works. She further explained that these organizations represented/collected for rights holders with whom a collective management agreement had been concluded as well as for rights holders with whom a collective management agreement had not been concluded. In response to a further question regarding representation of, or collection on behalf of right holders who did not have a collective management agreement, she explained that under paragraph 1 of Article 46-1, organizations had to obtain an accreditation certificate from the Government in order to represent/collect for rights holders with whom a collective management agreement had not been concluded. Each collective rights management organization was required to report on a yearly basis on aspects of its operation to the authorized body of the Government, including on auditing inspections, unclaimed royalties and other information specified in Article 47 of the Copyright Law. In addition, she clarified that this information could also include amendments made to the Charter and other documents of the collecting society; agreements concluded with foreign collecting societies; financial reports and names of the collecting society representatives. She explained that currently nine non-governmental organizations, including the Kazakhstani Collecting Society for Performers, the Association of Producers of Phonograms, the

Union of Producers and Performers "Demeu", the Performers of Kazakh Songs, the Kazakhstani Copyright Society, the Union of Songwriters, the Copyright Society "Abyroi", the non-commercial Organization on Protection of Copyright and Related Rights "Amanat", and the National Society on Reprographic Rights, acted as collecting societies and specialized in copyright protection for composers, poets, writers, artists, scientists, journalists and other right holders. She further noted that all rights holders, foreign and domestic, were covered equally by these provisions of the Copyright Law, and that several Kazakhstani collecting societies had reciprocal collecting arrangements with foreign collecting societies.

- **Participation in International Intellectual Property Agreements**

1002. The representative of Kazakhstan said that Kazakhstan was party to a number of international treaties, agreements, and conventions: notably, the Convention Establishing the World Intellectual Property Organization; the Paris Convention for the Protection of Industrial Property (hereinafter: Paris Convention); the Madrid Agreement Concerning the International Registration of Marks; the Madrid Protocol Concerning the International Registration of Marks; the Patent Cooperation Treaty (PCT); the Patent Law Treaty (PLT); the Berne Convention for the Protection of Literary and Artistic Works (hereinafter: Berne Convention); the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks; the Strasbourg Agreement Concerning the International Patent Classification; the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure; the Universal Copyright Convention; the Locarno Agreement Establishing an International Classification for Industrial Designs; the Trademark Law Treaty (TLT); the Eurasian Patent Convention; the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms; the Nairobi Treaty on the Protection of the Olympic Symbol; the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (hereinafter: Rome Convention); and the Singapore Treaty on the Law of Trademarks. In addition, Kazakhstan had acceded to the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty in April 2004.

1003. Asked specifically about Kazakhstan's participation in the Eurasian Patent Convention, she said that, by acceding to the Convention, Kazakhstan had not undertaken any obligations extending beyond the framework of the Paris Convention.

1004. She noted that Kazakhstan had bilateral cooperation agreements in the area of intellectual property with Azerbaijan, Georgia, the Kyrgyz Republic, the Russian Federation, the United States and Uzbekistan. The bilateral agreements with these countries and other CIS countries did not contain any specific obligations which would not be extended to other countries.

1005. The legal basis for the common principles of regulation in the sphere of protection of intellectual property rights within the EAEU was Section XXIII "Intellectual Property" and Annex No. 26 "Protocol on Protection and Enforcement of Intellectual Property Rights" of the EAEU Treaty. The EAEU Treaty fully reflected provisions of the Single Economic Space Agreement on Common Principles of Regulation in the Sphere of Protection of Intellectual Property Rights of 9 December 2010 and had replaced it. The main provisions of the EAEU Treaty were based on the norms that were common for the national legislation of the EAEU member States in the field of intellectual property rights. They included general provisions, provisions on copyright and related rights, trademarks, appellations of origin (geographical indications), patents, selection achievements, layout designs of integrated circuits and know-how, and enforcement. The EAEU Treaty provided for the principle of regional exhaustion of rights, under which the first sale of the goods marked with a protected trademark by its owner or with his/her consent exhausted any rights to the trademark for these given goods not only domestically, but within the whole region, and parallel imports within the region could no longer be opposed based on the rights to trademarks. By EEC Collegium Decision No. 172 of 25 September 2012, the Eurasian Economic Commission (hereinafter: EEC or Commission) had created the Consultative Committee on Intellectual Property. The main purposes of the Consultative Committee on Intellectual Property included elaboration of proposals for the EEC on the issues of protection and enforcement of intellectual property rights and organization of consultations with the representatives of the EAEU member States. Specifically, the Consultative Committee on Intellectual Property participated in analysis of international agreements and national legislation of the EAEU member States; prepared proposals on harmonization and improvement of the national legislation; and assisted in

information exchange between the EEC, the authorized bodies of the EAEU member States and international organizations. Meetings of the Consultative Committee on Intellectual Property were held as and when needed, but at least once in a half year period.

1006. A Member asked the question on the specific provisions of the EAEU Treaty that related to copyright protection and enforcement and how the copyright protection of the EAEU Treaty related to and interacted with Kazakhstan's national Copyright Law. In response, the representative of Kazakhstan clarified that Part II of Annex No. 26 to the EAEU Treaty contained provisions on copyright and related rights, which stipulated that the member States would secure protection of intellectual property based on the Berne Convention and the Rome Convention. Specific provisions could be found on copyrights; terms of protection; compound and derivative works; cinematographic works; related rights, including rights of performers and producers of phonograms; and, collective management organizations. Part XIII of Annex No. 26 to the EAEU Treaty contained reference to the international treaty that was planned to be concluded among the member States in order to ensure coordination of member States on enforcement of intellectual property rights. The EAEU Treaty was an international agreement that had a priority over the national legislation of Kazakhstan and could be directly applicable without adoption of national legislation on implementation of its provisions.

1007. In response to the question on the plans for intellectual property protection harmonization within the framework of the EAEU, the representative of Kazakhstan replied that the EAEU member States intended to conclude the following agreements on intellectual property rights: the Agreement on Trademarks, Service Marks and Appellations of Origin at the Territories of the members States; the Agreement on Uniform Procedure for Collective Management of Copyright and Related Rights; and the Treaty on Coordination of Enforcement of Intellectual Protection Rights. Upon their ratification in Kazakhstan and the other EAEU member States, these Agreements would have a priority over the national legislation.

- **Application of National and MFN Treatment to Foreign Nationals**

1008. Some Members noted that Articles 3 and 4 of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (hereinafter: WTO TRIPS Agreement) provided that Members would accord national treatment and most-favoured-nation treatment (MFN), respectively, to each other's nationals with regard to the protection of intellectual property. This protection included matters affecting the availability, acquisition, scope, maintenance and enforcement of intellectual property rights, as well as those matters specifically addressed in the WTO TRIPS Agreement. These Members asked what provisions Kazakhstan had introduced to comply with these WTO provisions. In response, the representative of Kazakhstan said that paragraph 4 of Article 12 of the Constitution of the Republic of Kazakhstan, paragraph 7 of Article 3 of the Civil Code, Article 5 of the Copyright Law, Article 48 of the Trademark Law, and Article 38 of the Patent Law, ensured that foreign natural and juridical persons were granted national treatment and most-favoured-nation treatment with respect to the protection of their intellectual property rights in Kazakhstan.

1009. In reply to a specific question, she confirmed that any foreign right holder had the ability to directly apply for appellations of origin of goods (geographical indications) protection, without the intercession of its Government.

- **Fees and Taxes**

1010. Some Members were concerned about nationals and non-nationals of Kazakhstan being charged different fees for the grant of certain industrial property rights and enquired how such differences could be justified considering that Kazakhstan's Constitution and Civil Code required that foreign natural and juridical persons be given national treatment. In addition, some Members noted that nationals of the Russian Federation, Azerbaijan, Georgia, the Kyrgyz Republic, and Uzbekistan could pay patent fees in Russian rubles or Kyrgyz soms, according to the schedule applicable to nationals of Kazakhstan, and did not require the services of Kazakhstan's patent attorney when filing applications with the Ministry of Justice. Kazakhstan was asked how it intended to bring its legislation into conformity with the most-favoured-nation principle.

1011. The representative of Kazakhstan replied that, pursuant to the Order of the Minister of Justice of the Republic of Kazakhstan No. 368 of 18 December 2014, the new list of fees charged by the Republican State Enterprise "National Institute of Intellectual Property" had been adopted to remove any element of discrimination *vis-à-vis* foreign right holders (provided in Annex 23 of this Report). As for the treatment of Russian Federation and Kyrgyz Republic nationals, she replied that they could pay for patent fees only in Kazakhstani currency - tenge - as provided by the national legislation of Kazakhstan. According to bilateral agreements concluded with the Russian Federation, Azerbaijan, Georgia, the Kyrgyz Republic, and Uzbekistan, their nationals were not required to use the services of a Kazakhstani patent attorney. This was, in her view, in conformity with Article 4(d) of the TRIPS Agreement.

1012. One Member noted that Article 4(d) of the WTO TRIPS Agreement applied only to international agreements entered into force prior to entry into force of the WTO Agreement, i.e., on or before 1 January 1995.

1013. The representative of Kazakhstan confirmed that Kazakhstan, from the date of its accession to the WTO, would implement fully the provisions of Articles 3 and 4 of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights. The Working Party took note of this commitment.

- **SUBSTANTIVE STANDARDS OF PROTECTION, INCLUDING PROCEDURES FOR THE ACQUISITION AND MAINTENANCE OF INTELLECTUAL PROPERTY RIGHTS**

- **Copyright and Related Rights**

1014. The representative of Kazakhstan said that the Copyright Law and the provisions of the Berne Convention (which applied directly pursuant to Article 4 of the Constitution of the Republic of Kazakhstan) extended protection to literary, artistic and scientific works to incorporate all forms of copyright covered by the WTO TRIPS Agreement. The protection included computer programs, computer operating systems and databases (defined as a collection of information). Rental rights for musical works in the form of notes, phonogram works, audio and visualworks, databases and computer software were stipulated in Article 16 of the Copyright Law.

1015. Article 28 of the Copyright Law provided a term of protection for the lifetime of the author and 70 years following his/her death, except in cases stipulated in the Article. The copyright for a work first published within 30 years of the author's death was protected for 70 years after the publication date. Works published anonymously or under a pseudonym were protected for 70 years after the date of publication, unless the author had been revealed. The rights of performers, producers of phonograms and broadcasters were protected for 70 years from the date of performance/publication/broadcast. Special terms for cinematographic and photographic works were not foreseen.

1016. Asked specifically about the protection of works that were still protected in their country of origin and that had not had a full term of protection in Kazakhstan, the representative of Kazakhstan replied that Kazakhstan extended protection to such works, as provided for in Article 28 of the Copyright Law, unless they had become available in the public domain in their country of origin. Works with expired terms of protection fell into the public domain and were deemed to be national property that could be used free of charge by any person in accordance with Article 29 of the Copyright Law.

1017. A Member noted that the Copyright Law did not contain a clear provision on the protection of pre-existing works and sound recordings and requested more detail on Law No. 586-II "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Intellectual Property" of 9 July 2004 (hereinafter: Law No. 586-II), more specifically on its provisions addressing the protection of pre-existing works and sound recordings.

1018. The representative of Kazakhstan replied that Law No. 586-II had introduced retroactive protection procedures and other amendments to the Copyright Law and, specifically, amendments pertaining to the protection of pre-existing works.

1019. With regard to enforcement of copyrights, a Member urged the Government of Kazakhstan to increase the penalties for copyright piracy and impose penalties that were sufficient to act as an effective deterrent to potential pirates and counterfeiters. In response, the representative of Kazakhstan said that, in her view, existing penalties were sufficiently strict. However, her Government had adopted Law No. 90-III "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Intellectual Property" of 22 November 2005 which provided for the enforcement of measures against the infringement of intellectual property rights and the illegal use of copyright. Overall, 11 legislative acts had been amended, including the Criminal Code (paragraph 1 of Article 184) and the Code of Administrative Offences (Articles 128, 129 and 145). These amendments introduced the categories of "selection achievements" and "integrated circuit layouts"; defined such types of infringement as illegal acquisition, storage or hauling of counterfeit copies of works and phonograms; doubled applicable penalties, the maximum penalty being five years of imprisonment; introduced measures against recurring offences; and, authorized seizure of equipment used for production of counterfeit products.

1020. The representative of Kazakhstan further explained that, in 2009, the Copyright Law had been amended in order to bring it into compliance with the WIPO's Copyright Treaty and the Performances and Phonograms Treaty, and the term "technological measure" had been introduced into the Law. In reply to a specific question, the representative of Kazakhstan clarified that, in accordance with the 2009 amendments, "technological measure" was understood as technology (programme technology) or its components that controlled access to copyright works or objects of related rights and prevented or restricted actions prohibited by the author, owner of related rights, or other owner of exclusive copyright or related rights.

1021. A Member noted that sub-paragraph 39 of Article 2 of the Copyright Law defined a "work of amateur and folk arts" as "a work including peculiar elements of traditional art heritage (folk fairy tales, folk poetry, folk songs, instrumental folk music, folk dances and plays, artistic forms of folk traditions, etc.)". This Member asked whether these were works intended to be included within Article 6 ("Objects of Copyright General Provisions") of the Copyright Law, and whether these works were excluded under paragraph 3 of Article 8 ("Works of Folklore") of the Copyright Law. This Member also inquired whether works of amateur and folk arts were protected under other laws and, if so, asked the representative of Kazakhstan to describe the scope and nature of such protection.

1022. The representative of Kazakhstan replied that "works of amateur and folk arts", as defined by sub-paragraph 39 of Article 2 of the Copyright Law, were not protected by copyright or other laws of Kazakhstan. To be a "work of amateur and folk art" excluded from copyright protection under paragraph 3 of Article 8 of the Copyright Law, this work would not have had an author(s), but instead would have been created by a community. Anonymous works and works created under a pseudonym had an author; only works created by a community were not protected under sub-paragraph 39 of Article 2 and paragraph 3 of Article 8 of the Copyright Law. Derivative works using an underlying work of amateur or folk arts, like derivative works using other public domain works, would be protected as independent works under paragraph 3 of Article 7 of the Copyright Law. For example, a musical composer who created an arrangement of a work of amateur and folk art would have that arrangement protected by paragraphs 1(5) of and 3(1) of Article 7 under the Copyright Law. Likewise, sound recordings, audio-visual works and other fixations of works covered by sub-paragraph 39 of Article 2 would be protected under the Copyright Law. Performers/producers/broadcasting organizations had the rights enumerated in Chapter III "Related Rights" of the Copyright Law to fixations of works of amateur and folk arts. Works that could arguably fall under the folklore definition of sub-paragraph 39 of Article 2 of the Copyright Law, but which were protected as copyrighted works in the country of origin, would be protected as copyrighted works in Kazakhstan.

1023. A Member noted that a number of terms used in the Copyright Law were unclear and asked the representative of Kazakhstan to explain their meanings. In particular, this Member requested a clarification of the meaning of the terms "cite" and "citation" in paragraph 1(1) of Article 19 of the Copyright Law and the meaning of the term "training nature" in paragraph 1(2) of Article 19 of this Law. A Member also asked Kazakhstan to clarify the meaning of the term "information purposes" in paragraph 1(3) of Article 41.

1024. In response, the representative of Kazakhstan stated that the terms "cite" and "citation" in paragraph 1(1) of Article 19 of the Copyright Law meant "quotation" as used in Article 10(1) of the

Berne Convention. The term "training nature" in paragraph 1(2) of Article 19 of the Copyright Law meant "teaching" as used in Article 10(2) of the Berne Convention. She noted that the term "information purposes" in paragraph 1(3) of Article 41 of the Copyright Law meant "to report events that are expected to occur in the near future" and "to report recent historical events". She added that the term "current events" in paragraph 1(1) of Article 41 of the Copyright Law meant "an event that is occurring at the present time, e.g., a live report".

1025. A Member noted that Article 41 of the Copyright Law referred to the use of certain works without authorization or payment and asked Kazakhstan to clarify what was meant by "exclusively" in paragraph 1(2) of Article 41.

1026. The representative of Kazakhstan confirmed that the term "exclusively" in paragraph 1(2) of Article 41 of the Copyright Law meant "solely" as used in Article 15(1)(d) of the Rome Convention.

- Trademarks, including Service Marks

1027. The representative of Kazakhstan said that with the adoption of the Trademark Law, Kazakhstan had ensured that all requirements of Articles 15-24 of the WTO TRIPS Agreement had been taken into account. Other relevant legislation included Order of the acting Minister of Justice No. 136 of 23 April 2010 adopting the "Instruction on Acknowledgement of Trademark (Service Mark) as Well-Known" that stipulated the rules for filing, submission and processing of applications for the registration of a trademark. In addition, some changes and amendments to bring the Trademark Law in full compliance with the WTO TRIPS Agreement had been introduced in 2004 and 2007. She also noted that the terms of the Paris Convention, specifically Articles 6*bis* and 10*bis*, were directly applicable pursuant to Article 4 of the Constitution of the Republic of Kazakhstan.

1028. She added that the Trademark Law accorded trademark protection to all pictorial, verbal, letter, digital, volumetric and other designations or their combinations that allowed a person to distinguish the goods and services of one manufacturer from those of another. Signs could not be registered if they were identical, or confusingly similar to those already protected, or when they had become generally accepted symbols. Pursuant to paragraph 3(1) of Article 6 of the Trademark Law, signs that were false or could mislead the public about the product or its manufacturer, including geographical indications that could mislead the public about the product's place of production, could not be registered. All well-known trademarks (for goods and services) were protected without any restrictions. She held the view that these provisions were in compliance with Article 16 of the WTO TRIPS Agreement.

1029. Protection of trademarks was provided on the basis of registration and issuance of a trademark certificate by the Ministry of Justice and was available to all owners of well-known trademarks, regardless of whether or not their trademark rights were registered in Kazakhstan. The registration of a trademark could be contested and deemed invalid, in full or in part, and the owner of a well-known trademark could petition in Kazakhstan's courts for recognition of the mark as well-known and to prevent its continued unauthorized use. The owner bore the burden of proof to establish that the trademark was "well-known" and was required to demonstrate this on the basis of public-opinion poll (survey) results. In addition to survey results, the authorities could also consider information on the extent of use of the trademark in Kazakhstan, the methods of its use, the sales volume and the marketing outlets; information about the average annual number of consumers, the value of the trademark, the extent of advertising of the trademark, and the extent of initial or acquired distinctiveness of the trademark; and information about the trademark's use or a similar trademark by third parties, the number of licenses, and the trademark's registration abroad. In reply to a specific question, the representative of Kazakhstan clarified that in order to comply with the requirement of Article 16 of the WTO TRIPS Agreement and determine the degree of knowledge of the trademark in the relevant sector of the public, Kazakhstan took public opinion results into account. In addition, the owner was allowed to use other means to demonstrate that the trademark was well-known, including those mentioned in the WIPO Joint Recommendations on the Protection of Well-Known Marks. According to Article 2 of these Recommendations, the competent authority could consider: (i) the degree of knowledge or recognition of the mark in the relevant sector of the public; (ii) the duration, extent and geographical area of any use of the mark; (iii) the duration, extent and geographical area of any promotion of the mark, including advertising or publicity and the presentation, at fairs or exhibitions, of the goods and/or services

to which the mark applied; (iv) the duration and geographical area of any registrations, and/or any applications for registration, of the mark, to the extent that they reflected use or recognition of the mark; (v) the record of successful enforcement of rights in the mark, in particular, the extent to which the mark was recognized as well-known by competent authorities; and, (vi) the value associated with the mark.

1030. The period of validity of an initial registration and each renewal of registration of a trademark was 10 years. The registration of a trademark was renewable indefinitely. Any person could file for a cancellation of a trademark to the Board of Appeal of the Ministry of Justice after three years of non-use. However, trademark owners could submit evidence to demonstrate that non-use had occurred due to circumstances beyond their control.

1031. Asked whether a trademark could be assigned with or without the goodwill of a company, the representative of Kazakhstan replied that assigning trademark rights entailed transferring of the trademark itself, when used with certain products or services, as well as transferring of the trademark's business reputation (goodwill) that had been gained through its use. Pursuant to the Trademark Law, the owner of a registered trademark (licensor) could license the right to use a registered trademark to another party (licensee). For licensing rights to a trademark, a written agreement had to contain provisions stipulating that the quality of goods associated with the licensee's use of the trademark had not been inferior to that of the licensor's, as well as provisions stipulating the licensor's right to supervise compliance with the terms of the agreement. Licensing and assignment agreements had to be registered with the Ministry of Justice. Asked about any possible negative effects of the registration procedure for such agreements, she clarified that official registration of agreements with the Ministry implied that the rights of a person, to whom the rights for industrial property were assigned, had not been infringed in any way, and in the event the other party requested to make further changes to the agreement, such changes could only be made by court decision. In her view, the provisions of the Trademark Law met the requirements of Article 6*quater* of the Paris Convention.

1032. A Member questioned the value of the mandatory licence recording, in particular as it could affect the rights of legitimate trademark owners. In response, the representative of Kazakhstan said that the mandatory licence recording procedure protected the rights of intellectual property owners and, as such, was in compliance with Article 21 of the WTO TRIPS Agreement.

1033. In reply to the specific question, the representative of Kazakhstan clarified that according to Article 6 of the Trademark Law, registration of generic names was not allowed. Such names could be used as unprotected elements of a trademark if they were not predominant.

- **Geographical Indications, including Appellations of Origin**

1034. The representative of Kazakhstan said that, according to the Trademark Law, the term "appellation of origin" was equal to the term "geographical indication" as used in the WTO TRIPS Agreement. Appellations of origin (geographical indications) could be registered if they denominated a product with specific qualities which were mainly or exclusively associated with its place of origin (including natural conditions and/or human factors). Only appellations of origin (geographical indications) associated with a particular product could be registered. The registration certificate entitled the owner to the right to use the appellation of origin for the goods listed in the certificate. Registration of appellations of origin (geographical indications) was prohibited when it could mislead consumers about the place of origin, or when registration could infringe upon the rights of third parties. Appellations of origin (geographical indications) which were false, identical, confusingly similar, or clearly misled consumers about the product's place of origin, were not protected. In reply to a specific question from a Member, the representative of Kazakhstan clarified that registration of the appellation of origin (geographical indication) which, although literally true as to the place in which the goods originated, falsely represented to the public that the goods originated in another territory, was also not allowed. She added that the Trademark Law provided for the protection of wines and spirits as required under Articles 22 and 23 of the WTO TRIPS Agreement. Asked whether geographical indications were protected against unfair competition, she referred to Articles 16 and 17 of Law No. 112-IV "On Competition" of 25 December 2008 (hereinafter: Competition Law).

1035. Applications for protection of appellations of origin (geographical indications) were filed with the National Institute on Intellectual Property Rights (NIIP) and included: (i) a single name (composed of one or more words) indicating the place of origin of a good; (ii) the name and address of the applicant(s); (iii) the good's designation; and, (iv) the type of product for which appellation of origin (geographical indication) registration was sought, including its place of manufacture and/or natural occurrence and a description of the specific properties of the good. In addition to the above, foreigners had to submit applications through a patent attorney along with a document confirming the authority of the patent attorney to act on behalf of the applicant. National applicants had to provide a statement from the relevant local administrative body certifying that the applicant resided on its territory and that the quality of goods originating therein was associated with the natural conditions and/or human factors of that particular geographical area. Similarly, foreign applicants had to accompany their applications by a document attesting the applicant's right to use the appellation of origin (geographical indication) in their country of origin (paragraph 3(3) of Article 29 of the Trademark Law). In reply to the specific question, the representative of Kazakhstan clarified that proof of registration in the country of origin could qualify for this requirement. Besides, Kazakhstan would accept certification mark registration, or other evidence of use and control of the term, as long as it demonstrated that the appellation of origin (geographical indication) was protected in the country of origin. In the view of representative of Kazakhstan, provisions stipulating these requirements did not create any preconditions to use them in such a way as to raise national treatment and MFN concerns.

1036. One Member noted that a provision specifying that foreigners had to submit applications through a patent attorney could read like a discriminatory treatment of foreigners and questioned whether domestic nationals had to use the services of a patent attorney. The representative of Kazakhstan replied that domestic nationals were not required to recourse to a patent attorney. In her opinion, it could be justified within the WTO accession since Kazakhstan did not take any commitments with regard to services of patent attorneys in accordance with its Schedule of Specific Commitments on Services. Moreover, paragraph 3 of Article 2 of the Paris Convention (reflected in paragraph 2 of Article 3 of the WTO TRIPS Agreement on exceptions) provided that: "the provisions of the laws of each of the countries of the Union relating to [...] the appointment of an agent, which may be required by the laws on industrial property, were expressly reserved".

1037. Some Members continued to have concerns that the requirement for foreigners to use a patent attorney was contrary to the MFN provisions of the WTO TRIPS Agreement and asked for establishment of non-discriminatory treatment in this matter. In reply, the representative of Kazakhstan agreed that this requirement had to apply in accordance with the MFN provision of the WTO TRIPS Agreement. In this regard bilateral agreements concluded with Uzbekistan, the Kyrgyz Republic, Tajikistan and Georgia had to be revised in order to exclude preferential provisions allowing their nationals to submit applications without recourse to a patent attorney. Kazakhstan confirmed that it did not have any non-MFN arrangements with any other CIS countries or EAEU member States in the area of intellectual property protection.

1038. In reply to a specific question the representative of Kazakhstan said that, in terms of applications which had to be made through patent attorneys, "foreigners" had to be understood as "non-residents" of the Republic of Kazakhstan as defined in Code of the Republic of Kazakhstan No. 99-IV "On Taxes and Other Obligatory Payments to the Budget (Tax Code)" of 10 December 2008.

1039. A Member asked Kazakhstan to clarify whether, in order to have a geographical indication protected, it had to be registered in Kazakhstan. This Member noted that such a provision would be in conflict with Article 22.2 of the WTO TRIPS Agreement, which set an obligation for Members to provide legal protection regardless of registration.

1040. The representative of Kazakhstan replied that paragraph 2 of Article 37 of the Trademark Law prohibited the use of unregistered appellations of origin (geographical indications) that were identical or similar to registered ones, where such use would result in confusion. Such protection of appellations of origin (geographical indications) in Kazakhstan could be provided only through registration, which could be made on the basis of a document proving that an appellation of origin (geographical indication) was protected in the country of origin. The representative of Kazakhstan also added that, in her view, registration was sufficient legal means for interested parties to prevent illegal use of appellations of origin (geographical indications) as required under Article 22.2 of the WTO TRIPS Agreement. According to Articles 16 and 17 of the Competition

Law, illegal use of another person's appellation of origin (geographical indication) for similar goods was recognized as unfair use of appellation of origin (geographical indication) in Kazakhstan. The representative of Kazakhstan said that any interested party could challenge the illegal registration in Kazakhstan or use in Kazakhstan of another person's appellation of origin (geographical indication). To challenge the illegal registration in Kazakhstan or use in Kazakhstan of another person's appellation of origin (geographical indication), an interested party was not required to provide either proof of registration of an appellation of origin (geographical indication) in Kazakhstan or proof of use of an appellation of origin (geographical indication) in Kazakhstan.

1041. A Member raised a concern that Articles 16 and 17 of the Competition Law limited the scope of protection of Article 22 of the WTO TRIPS Agreement to cases where a specific geographical indication was illegally used for "similar goods". A Member asked for clarification concerning the protection granted to geographical indications according to the legislation of Kazakhstan implementing Article 22 of the WTO TRIPS Agreement and in particular to know whether this protection applied to any kind of products. The representative of Kazakhstan replied that Article 27 of the Trademark Law fully implemented the provisions of Article 22 of the WTO TRIPS Agreement providing that the following designations could not be registered as appellations of origin (geographical indications): (i) representing the names of geographical objects (i.e., an indication that identified a product originating from a particular territory, region or locality) in a manner that misled the public as to the geographical origin of the goods; (ii) those that, although literally true as to the territory in which the goods originated, falsely represented to the public that the goods originated in another territory; and, (iii) containing names of geographical objects not related to the place of origin of the goods. Therefore, Article 27 contained legal means of protection that were not limited to the specific type of goods designated by the relevant geographical indication. Articles 16 and 17 of the Competition Law implemented provisions of Article 22.2(b) of the WTO TRIPS Agreement, which required Parties to prevent any use which constituted an act of unfair competition within the meaning of Article 10*bis* of the Paris Convention.

1042. A Member was concerned that Kazakhstan would not be providing national treatment to the nationals of WTO Members and would also be denying MFN treatment to at least some of those Members, if a bilateral agreement was required in order to obtain protection for foreign geographical indications.

1043. The representative of Kazakhstan replied that, pursuant to Article 48 of the Trademark Law, foreign natural and juridical persons had the same rights and obligations as nationals of Kazakhstan, unless otherwise provided in Kazakhstan's legislation. In particular, foreigners could apply directly for protection of appellations of origin (geographical indications) in Kazakhstan without the need for a bilateral agreement or government intervention.

1044. Asked whether earlier protected trademarks would be protected from confusingly similar and later-in-time geographical indications, she said that Kazakhstan had developed a draft Law "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Intellectual Property" which amended paragraph 3 of Article 39 of the Trademark Law. According to the new amendments, the registration of an appellation of origin (geographical indication) could be contested and invalidated if it was likely to cause confusion for consumers as to the true identity of the good or its manufacturer due to the existence of an earlier-in-time trademark which had become renown/well known in Kazakhstan due to its active use, including its promotion or its use in advertisements. The amendments represented limited exceptions to trademark rights because they provided for coexistence only in the cases where the likelihood of confusion between the trademark and appellation of origin (geographical indication) was low. In cases where the likelihood of confusion was high, registration of appellation of origin (geographical indication) could be challenged in the court by the interested third parties.

1045. A Member raised a concern that by referring to the possibility to invalidate a protected geographical indication, paragraph 1044 of this Report seemed, however, to suggest that owners of trademarks containing geographical indications could not only contest later applications for geographical indication registration but also require the invalidation of a protected geographical indication.

1046. In reply, the representative of Kazakhstan clarified that paragraph 1044 of this Report as well as the amendments made to the Trademark Law suggested the possibility to contest and

invalidate registration of the appellation of origin (geographical indication) in certain circumstances, specifically if it could mislead consumers as to the true identity of the good or its manufacturer due to the existence of an earlier-in-time trademark which had become renowned/well known in Kazakhstan due to its active use, including its promotion or its use in advertisements. The representative of Kazakhstan confirmed that in practice the possibility to contest and invalidate registration of the geographical indication existed for a pending application and a registered geographical indication.

1047. In reply to a specific question, the representative of Kazakhstan clarified that interpretation of "low" and "high" degree of the likelihood of confusion had to be made by the court in each case individually on the basis of such criteria as a renowned/well known trademark in Kazakhstan, acquired due to its active use. The time period limitation to contest and invalidate registration of appellation of origin (geographical indication) due to the existence of an earlier-in-time trademark was five years from the moment of publication of the information on the State registration of the appellation of origin (geographical indication) in the official bulletin.

1048. With regard to subsequent registration of trademarks, the representative of Kazakhstan confirmed that according to Article 23 of the Trademark Law, it could be contested and invalidated during five years after the registration. Bad faith registrations could be opposed without any limitations in time. According to paragraph 1(1) of Article 42 of the Trademark Law, disputes on legality of the certificates confirming the registration of trademark or appellation of origin (geographical indication) were subject to consideration in court.

1049. Asked to clarify if active use included use outside of Kazakhstan, the representative of Kazakhstan said that according to paragraph 4 of Article 19 of the Trademark Law, manufacture, importation, storage, offering for sale, sale of goods with a trademark, its use in advertising, billboards, printed publications, on official letterhead or other business document, transfer of trademark rights or its demonstration at exhibitions held in the Republic of Kazakhstan, as well as other introduction into civil circulation, were recognized as use of a trademark. Therefore, active use included also use outside of Kazakhstan. Taking into account that trademark must be renowned/well known in Kazakhstan, it had to be actively used in Kazakhstan as well.

1050. With respect to the statement that the trademark had to be actively used in Kazakhstan, a Member pointed out that Article 16.2 of the WTO TRIPS Agreement indicated that use in other States was sufficient. In response the representative of Kazakhstan stated that the term "use" in paragraph 3 of Article 39 of the Trademark Law had the same meaning and, in her view, its definition in Article 19 of the Trademark Law covered the concept of promotion in the sense of Article 16 of the WTO TRIPS Agreement. The competent authority considered whether a mark had been used intensively taking into account, *inter alia*, the advertising budget (proved by annual financial reports), the degree of familiarity of the mark to customers, and the information on countries where the mark was renowned/well known.

1051. The representative of Kazakhstan also confirmed that traditional non-geographical names could be protected as appellations of origin (geographical indications) in Kazakhstan, if they were protected as appellations of origin (geographical indications) in their country of origin.

- Industrial Designs

1052. The representative of Kazakhstan said that the rights of industrial designs were regulated by the Patent Law and certified only by patents, provided that the applied industrial design met patentability requirements, such as novelty and originality. The "industrial applicability" criterion, i.e., the possibility to industrially reproduce the industrial design, was the main criterion for an industrial design. Architectural objects (except for small architectural forms), industrial, hydraulic engineering and other stationary constructions were not recognized as industrial designs because they did not meet the "industrial applicability" criterion. However, these constructions qualified for copyright protection. Artistic-design solutions that determined the exterior of a product, textile goods, as well as small architectural forms were considered to be industrial designs according to Article 8 of the Patent Law. Small architectural forms recognized as industrial designs included solutions that determined the exterior of different stands, tents or exhibition pavilions that could be reproduced serially.

1053. She added that an industrial design patent was valid for 15 years as of the date of application. Industrial design patent could be extended upon request of the owner for a period of up to five years. The owner of an industrial design patent had the exclusive right to its use. A person other than the patent owner could use the protected industrial design only by permission of the patent owner and under a licence agreement subject to compulsory registration with the Ministry of Justice.

- Patents

1054. The representative of Kazakhstan stated that, in her view, the Patent Law, as amended by Law No. 237-III "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Intellectual Property" of 2 March 2007, met all the provisions of Articles 25-34 of the WTO TRIPS Agreement. The Patent Law covered inventions, industrial designs and utility models and stipulated an expanded list of ways for protecting the rights of patent owners. An invention was granted legal protection if it was new, involved an inventive step and was industrially applicable. Paragraph 2 of Article 6, of the Patent Law provided an exhaustive list of subject matter that could be patented as an invention, including a device, process, substance, microorganism strain or culture of plant or animal cells, as well as the use of a known device, process, substance or strain for a new purpose. Diagnostic, therapeutic and surgical methods could also be protected as inventions under the Article 6 criteria. The Patent Law did not recognize as inventions: (i) discoveries; (ii) scientific theories; (iii) mathematical methods; (iv) methods of economic organization and management; (v) symbols, schedules, and rules; (vi) rules and methods for mental activities; (vii) algorithms *per se* and computer programs; (viii) projects and plans of buildings and structures, and land development; (ix) proposals concerning solely the outward appearance of manufactured goods; and, (x) proposals that were contrary to the public interest, humanitarian principles and morality. Paragraph 2 of Article 11 of the Patent Law stipulated the requirement that a patented invention be used, while "use" was defined as manufacturing, application, importation, offer for sale, sale, as well as other means of putting the industrial property into circulation, including storage in view of subsequent use. The provisions of the Patent Law applied equally to both foreign and Kazakhstan's natural and juridical persons, in accordance with signed international agreements or the reciprocity principle.

1055. Some Members expressed concern regarding the exclusion of computer programs from patentable subject matter. They explained that computer programs, for example, could be part of a patentable process for making or using products. These Members asked for a clarification of whether such computer programs could be patented under Kazakhstan's Patent Law.

1056. In response, the representative of Kazakhstan explained that patent protection in the Republic of Kazakhstan could be provided under a full patent and an innovation patent. The degree of protection provided by an innovation patent was functionally equivalent to that provided by a full patent. The principal difference concerned the procedure for issuing patents and the validity period. Innovation patents could be issued after examination of an application for industrial applicability and local novelty of an invention, and were valid for a period of three years. Full patents were issued after conducting a substantive examination of the patent application, provided that the application for a full patent was filed within three years of filing an application for an innovation patent with the Ministry of Justice. The substantive examination included verification of the patentability conditions of the innovation (novelty, originality and industrial application). The full patent was valid for a period of 20 years starting from the date of initial application. If, however, the innovation patent holder did not submit an application for an extension of the patent or for conducting a full examination within the prescribed period, the innovation patent was cancelled as of the date of its expiration (i.e., three years from the date of application). The validity of an innovation patent could be extended upon the request of the patent holder for up to two years.

1057. The representative of Kazakhstan added that utility models were granted patent protection if they met the patentability requirements, including novelty and industrial applicability. Utility model patents were granted for a period of five years, subject to subsequent renewal at the request of the patent owner for a period not exceeding three years. Exclusive rights to use protected utility models and what constituted an infringement of such rights were identical to the rights provided to patented inventions and industrial designs, and infringements of such rights.

1058. A Member noted that Kazakhstan excluded the patentability of "proposals that were contrary to the public interest, humanitarian principles and morality". This Member was concerned that this language was broader than the permissible exceptions provided in Article 27.2 of the WTO TRIPS Agreement. This Member also expressed concerns regarding the exclusion from patentability of "methods of economic organization" and "computer programs".

1059. The representative of Kazakhstan confirmed that in excluding the patentability of "proposals that were contrary to the public interest, humanitarian principles and morality", Kazakhstan intended to cover only the exclusions for "*ordre public*" and "morality" provided for in Article 27.2 of the WTO TRIPS Agreement. As for the exclusion from the patentability of "methods of economic organization", she said that, according to paragraph 2 of Article 6 of the Patent Law, only technical solutions were protected as inventions. Methods of economic organization were not recognized as inventions because of their non-technical character.

1060. A Member continued to have concerns regarding the scope of exceptions permitted under Article 6 of the Patent Law and requested that Kazakhstan amend the Law to comply with the requirements of Article 27.2 of the WTO TRIPS Agreement.

1061. The representative of Kazakhstan confirmed that Article 6 of Law No. 427-I "Patent Law of the Republic of Kazakhstan" of 16 July 1999 was amended to comply with Article 27.2 of the WTO Agreement on Trade-Related Intellectual Property Rights, by replacing the term "public interests, principles of humanity and morality" with "*ordre public*" and "morality" in the text of Law No. 427-I "Patent Law of the Republic of Kazakhstan" of 16 July 1999. The representative of Kazakhstan also confirmed that an invention, such as a process, that includes a computer program was patentable subject matter under Kazakhstan's Law No. 427-I "Patent Law of the Republic of Kazakhstan" of 16 July 1999. The Working Party took note of these commitments.

1062. A Member asked Kazakhstan to provide an explanation of how the compulsory licensing provisions of the Patent Law complied with the requirements of Article 31(a)-(l) of the WTO TRIPS Agreement. In reply, the representative of Kazakhstan said that pursuant to paragraph 1 of Article 11 of the Patent Law, the patent holder had the exclusive right to use the protected invention. The unauthorized use of a protected invention was deemed to infringe the exclusive rights of the patent owner. Protected inventions could only be used by obtaining the patent holder's authorization under a licensing agreement, subject to compulsory registration with the Ministry of Justice or under a compulsory licence granted pursuant to Article 11 of the Patent Law. Pursuant to paragraph 4 of Article 11 of the Patent Law, any person could apply to the court for a compulsory non-exclusive licence if, prior to the application, efforts to obtain authorization from the right holder on reasonable commercial terms and over a reasonable time period, had failed. An interested party could also file an application requesting a compulsory licence if uninterrupted non-use had occurred for a period of four consecutive years, provided that the applicant presented evidence of non-use. The court would issue a compulsory licence, specifying the term and scope of use, as well as terms, amount and conditions of payment, unless the patent owner could prove that non-use had been due to valid reasons. The compulsory licence would be non-exclusive and the amount of payment could not be lower than the market price of the licence. As for the requirements of Article 31(l) of the WTO TRIPS Agreement, pursuant to paragraph 5 of Article 11 of the Patent Law, the patent holder could apply to the court requesting a compulsory licence if the exploitation of his/her patent was not possible without infringing another patent, and efforts to obtain authorization from the right holder of this patent had failed. The court could issue a compulsory licence specifying the term and scope of its use, as well as the terms, amount and conditions of payment. The payment could not be less than the market price of the licence. A Member raised concerns regarding paragraph 5 of Article 11 of Kazakhstan's Patent Law. In this Member's view, paragraph 5 of Article 11 did not include the requirement of the WTO TRIPS Agreement that the second patent be an important technical advance. This Member also noted that Kazakhstan's Patent Law did not appear to limit the purpose for which a compulsory licence for semi-conductor technology could be granted, as required under Article 31(c) of the WTO TRIPS Agreement. This Member asked that Kazakhstan bring its compulsory licensing for patents into conformity with Article 31 of the WTO TRIPS Agreement.

1063. Asked specifically how Kazakhstan's Law No. 427-I "Patent Law of the Republic of Kazakhstan" of 16 July 1999 addressed the issue of "use" or "non-use" in terms of imported patented products, the representative of Kazakhstan confirmed that paragraph 2 of Article 11 of Kazakhstan's Law No. 427-I "Patent Law of the Republic of Kazakhstan" of 16 July 1999 provides

that, in the case of importation of a patented product, non-use could not be established under Kazakhstan's Law No. 427-I "Patent Law of the Republic of Kazakhstan" of 16 July 1999. In addition, prior to the date of its accession, Article 11 of Law No. 427-I "Patent Law of the Republic of Kazakhstan" of 16 July 1999 would be amended to ensure that where use of the subject matter of a patent was authorized to permit the exploitation of a patent (second patent) which could not be exploited without infringing another patent (first patent), the invention claimed in the second patent must involve an important technical advance of considerable economic significance in relation to the invention claimed in the first patent, as provided for in Article 31(l) of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights. Similarly, Article 11 would be amended to limit the purposes for which a compulsory licence for patented semiconductor technology could be granted in order to comply with Article 31(c) of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights. The Working Party took note of these commitments.

1064. The representative of Kazakhstan stated that pursuant to Article 12 of the Patent Law, the following were not considered to constitute a violation of the exclusive right of a patent holder: (i) application of a patent in foreign transportation vehicles which were present on the territory of Kazakhstan temporarily (or by accident), provided the patent was used for the needs of the vehicles; (ii) research or experimentation conducted on an object containing a patent; (iii) application of a patent in emergency situations (natural and other disasters, major accidents) with immediate notification of the patent holder and subsequent payment of corresponding compensation to the patent holder; (iv) application of a patent for personal needs without a commercial purpose; and, (v) one-time preparation of prescription medicine. The aforementioned provisions met, in her view, the requirements of Article 30 of the WTO TRIPS Agreement.

1065. Asked specifically how Kazakhstan's law addressed the need to balance acceptable private use with the need to prevent "unreasonable prejudice to the rights of patent owners", the representative of Kazakhstan replied that use of protected objects of industrial property was not considered as a violation of the patent holder's rights only in exceptional cases when this use was limited to private or personal purpose. In addition, personal use of protected objects had to be non-commercial. Taking into account that a patent provided a monopoly to the right holder over commercial activity, but did not extend so far as to cover non-commercial activity, such use of patented inventions did not, in her view, unreasonably prejudice the legitimate interests of the right holder.

1066. A Member asked Kazakhstan to bring paragraphs 2 and 4 of Article 12 of the Patent Law into compliance with the requirements of Article 30 of the WTO TRIPS Agreement, i.e., that these provisions would constitute limited exceptions to the exclusive rights conferred by a patent, provided that such exceptions did not unreasonably conflict with a normal exploitation of the patent and did not unreasonably prejudice the legitimate interests of the patent owner, taking account of the legitimate interests of third parties.

1067. The representative of Kazakhstan confirmed that prior to the date of Kazakhstan's accession to the WTO, paragraphs 2 and 4 of Article 12 of Law No. 427-I "Patent Law of the Republic of Kazakhstan" of 16 July 1999 would be amended to bring Law No. 427-I "Patent Law of the Republic of Kazakhstan" of 16 July 1999 into compliance with the requirements of Article 30 of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights. Specifically, paragraph 2 of Article 12 would be amended to indicate that the following was not an infringement of the exclusive rights of a patent holder: "carrying out scientific research or experiment on means which contain the protected object of industrial property when such research or experiment does not have a commercial purpose". Paragraph 4 of Article 12 of Law No. 427-I "Patent Law of the Republic of Kazakhstan" of 16 July 1999 would be amended to indicate that utilization of a patent without the authorization of the patent holder for the satisfaction of personal, family, home, or other needs not connected with entrepreneurial activity would be permitted if the purpose of such utilization was not financial gain. The Working Party took note of these commitments.

1068. With regard to reversal of the burden of proof in civil proceedings concerning the infringement of process patents, she said that the requirements of Article 34 of the WTO TRIPS Agreement were not covered by the Patent Law, but were contained in Article 65 of the Civil Procedure Code, which stipulated that each party was responsible for providing proof for its own claims and statements. Other parties involved in the process could also provide evidence.

- **Plant Variety Protection**

1069. The representative of Kazakhstan said that new varieties of plants and animals were protected in accordance with Law No. 422-I "On Protection of Selection Achievements" of 13 July 1999. This Law was awarded a positive legal opinion by the International Union for the Protection of New Varieties of Plants (UPOV) for its conformity with the International Convention for the Protection of New Varieties of Plants (adopted in Paris on 2 December 1961 and revised in 1972, 1978 and 1991). She held the view that with the adoption of this Law, Kazakhstan had met the requirement of Article 27.3(b) of the WTO TRIPS Agreement, namely that WTO Members would provide for the protection of plant varieties either by patents, an effective *sui generis* system, or a combination thereof.

1070. The representative of Kazakhstan confirmed that plant variety protection would be accorded to natural and juridical persons of all WTO Members from the date of the accession.

- **Layout Designs of Integrated Circuits**

1071. The representative of Kazakhstan said that legal protection of layout designs of integrated microcircuits was provided by Law No. 217-III "On Legal Protection of Layout Design of Integrated Microcircuits" of 29 June 2001, and was implemented through Articles 1013-1016 of the Civil Code (Special Part) which, in her view, reflected the provisions of Articles 35-38 of the WTO TRIPS Agreement.

- **Requirements on Undisclosed Information, including Trade Secrets and Test Data**

1072. A Member enquired how Kazakhstan's legal framework met the requirements of Article 39.3 of the WTO TRIPS Agreement, noting that, in this Member's view, to protect undisclosed information and test data against unfair commercial use, Governments needed to provide an effective period of time during which the person first submitting the data was given a period of exclusive use during which a third party (e.g., a second applicant) could not use or rely on such data directly or indirectly to seek marketing approval/registration, without the permission of the person first submitting that data.

1073. The representative of Kazakhstan replied that Kazakhstan was in the process of drafting the law which would introduce a norm providing for the applicant submitting undisclosed information and test data to obtain marketing approval/registration for a period of exclusive use that would guarantee that no third party would be permitted to rely directly or indirectly upon the applicant's data for a period of time during which it would be appropriate under the circumstances to prevent unfair commercial use. She added that, with regard to disclosure of such data, pursuant to Article 126 of the Civil Code, the civil legislation ensured the protection of information of real (actual) or commercial value, provided that this information was unknown to third parties, its confidentiality was strictly preserved, and it was not accessible on legal grounds.

1074. She further added that a person accessing restricted information could be liable under Article 158 of the Code of Administrative Offences. Moreover, Article 200 of the Criminal Code prohibited collection of information that constituted a commercial or banking secret by persons who had access to such information in their work capacity, including disclosure or use of such information for financial or other personal interest without the consent of the owner. Employees of ministries and other State bodies that disclosed protected information were held administratively responsible, together with their employers. Such disclosure was punishable by imprisonment of up to three years, payment of fines, arrest, or correctional labour. In her view, undisclosed information and test data submitted to obtain marketing approval/registration would be protected from disclosure under this legislation.

1075. Asked to clarify how a person in control of restricted information could enforce his/her rights, the representative of Kazakhstan said that the civil legislation provided a number of judicial means, including the possibility to file a complaint with the court having jurisdiction over the alleged right violation. The court could order reimbursement of damages and all costs incurred by the claimant.

1076. Asked whether the draft law, which included a provision granting an applicant marketing approval for a period of exclusive use of data, submitted to obtain that approval, would guarantee that no third party would be permitted to rely, directly or indirectly, upon the applicant's data without the applicant's permission and whether the draft law had been adopted, the representative of Kazakhstan replied that this draft Law "On Commercial Secrets" had been withdrawn from the Parliament and that no reconsideration was planned.

1077. Some Members expressed their concerns that without legal provisions requiring the authorities to prohibit the unfair commercial use of undisclosed information and test data provided to obtain marketing approval/registration in Kazakhstan of pharmaceuticals and agricultural chemical products, there would be no effective protection against such use granted to the applicant providing such data. A period of at least six years, starting from the date of marketing approval in Kazakhstan, should be provided, and during this period no person other than the person who submitted such data originally would be permitted, without the explicit consent of the person who submitted the data, to rely directly or indirectly on such data in support of an application for marketing approval/registration. These Members also sought confirmation that applicants that sought marketing approval/registration for generic versions of pharmaceuticals (reproduced medicines) were required to submit pre-clinical and clinical test results and other data that was required for marketing approval/registration of "original" medicines and would not be permitted to rely on others' data without permission for the six-year period of protection against unfair commercial use. These Members requested that Kazakhstan comply with Article 39.3 of the WTO TRIPS Agreement and provide this level of protection.

1078. Some Members also expressed concerns about the transparency of the process for granting marketing approval/registration for pharmaceuticals and requested that Kazakhstan establish procedures so that an entity submitting undisclosed information and test data to obtain marketing approval/registration of a pharmaceutical in Kazakhstan would be informed if another application was filed seeking marketing approval/registration of a pharmaceutical with a similar active ingredient. These Members sought assurances that those entities that had a marketing approval/registration or pending application for a pharmaceutical with the same or similar active ingredient had an opportunity to provide information to Kazakhstan's officials on whether other applicants had permission to use the first applicant's undisclosed information and test data, and to bring to the attention of Kazakhstan's officials issues regarding a subsequent applicant's development and submission of its own undisclosed information and test data. Members also requested information on whether Kazakhstan's officials would deny marketing approval/registration for a pharmaceutical if the applicant did not provide its own undisclosed information and test data and on the status of pharmaceuticals that were improperly granted marketing approval/registration. In particular, on whether pharmaceuticals that were granted marketing approval/registration based on applications that did not include the applicant's own undisclosed information and test data would be removed from the market until such legal requirements were satisfied.

1079. In response, the representative of Kazakhstan confirmed that such undisclosed information and test data was protected against disclosure under the Civil Code, the Criminal Code, and the Code of Administrative Offences, and that there was no time limitation on this protection. She further confirmed that Kazakhstan's laws did not permit others to rely, directly or indirectly, on undisclosed test data developed or submitted by another to obtain marketing approval/registration in Kazakhstan, and that upon its accession to the WTO, Kazakhstan would adopt measures to provide for the protection of undisclosed information and test data, in compliance with Article 39.3 of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights, providing that undisclosed information and test data submitted to obtain marketing approval/registration in Kazakhstan, i.e., registration of pharmaceutical products, which utilize new chemical entities, would have a period of at least six years of protection against unfair commercial use starting from the date of grant of marketing approval in Kazakhstan. During this period of protection against unfair commercial use, no person or entity (public or private), other than the person or entity who submitted such undisclosed information and test data, could without the explicit consent of the person or entity who submitted such undisclosed information and test data rely, directly or indirectly, on such data in support of an application for marketing approval/registration in Kazakhstan. Notice of subsequent applications for marketing approval/registration would be provided in accord with established procedures. During the six-year period, any subsequent application for marketing approval/registration would not be granted, unless the subsequent applicant submitted his own data (or data used with the

authorization of the right holder) meeting the same requirements as the first applicant, and products registered without submission of such data would be removed from the market until requirements were met. Further, she confirmed that Kazakhstan would protect such data against any disclosure, except where necessary to protect the public or unless steps were taken to ensure that the data were protected against unfair commercial use. The Working Party took note of these commitments.

1080. In response to Member's concerns about generic or "reproduced" pharmaceuticals, the representative of Kazakhstan explained that the six-year prohibition of unfair commercial use of undisclosed information and test data submitted to obtain marketing approval/registration in Kazakhstan also applied to generic or reproduced pharmaceuticals, including those pharmaceuticals subject to expedited or abbreviated approval procedures.

1081. The representative of Kazakhstan confirmed that all agricultural chemicals, including mineral fertilizers, were subject to registration in Kazakhstan. In accordance with Law No. 302-III "On Safety of Chemical Products" of 21 July 2007, mineral fertilizers had to be registered not as agricultural products but chemical products. Pesticides and poisons had to be registered in accordance with Government Resolution No. 1396 "On Approval of the Rules on Registration and Production Testing and State Registration of Pesticides" of 30 November 2011. Specifically, under Law No. 302-III "On Safety of Chemical Products" of 21 July 2007 and Government Resolution No. 1396 "On Approval of the Rules on Registration and Production Testing and State Registration of Pesticides" of 30 November 2011, registration requirements for chemical products, pesticides and poisons were the same for every applicant and did not permit the reliance on undisclosed data developed or submitted by another applicant to obtain product registration. The Working Party took note of these commitments.

- **ENFORCEMENT**

- **Civil Judicial Procedures and Remedies**

1082. The representative of Kazakhstan noted that the Civil Code, the Criminal Code, Article 33 of the Patent Law, and Article 42 of the Trademark Law ensured that no discrimination existed between domestic and foreign parties to disputes concerning possible infringement of intellectual property rights. Foreign and domestic holders of intellectual property rights had the right to settle disputes in court related to: (i) authorship; (ii) the legality of granting protection; (iii) infringements of exclusive rights and other economic rights; (iv) identification of the patent owner; (v) granting of a compulsory licence for patents; (vi) conclusion and execution of licence contracts; (vii) compensation and damages for infringement of exclusive rights; and, (viii) other disputes arising from intellectual property rights. She added that right holders had the right to seek protection of their rights from local authorities or administration, which did not prevent them from filing an application in court.

1083. She noted that, pursuant to paragraph 4 of Article 66 of the Code of Civil Procedure, the court could assist the parties to a dispute in obtaining necessary evidence when evidence relevant to the substantiation of one party's claims was in the control of the opposing party. If necessary, the court could provide the requesting party with an official letter of request for providing the evidence by the opposing party. In addition, paragraph 1 of Article 74, of the Code of Civil Procedure, stipulated that a party could request a "securing of evidence" when in doubt about the availability of the necessary evidence at a later point in time.

1084. In accordance with Kazakhstan's legislation, the court had the authority to recover from the infringer damages that had been incurred by the right holder. In reply to the specific question, the representative of Kazakhstan clarified that Articles 9 and 917 of the Civil Code foresaw a complete recovery for damages, including actual damage and lost profit. Damages included expenses that were made or should be made by the person whose right was violated, loss or injury of his property (actual damage) and profit that this person could receive if his right would not be violated (lost profit). In this regard, Articles 9 and 917 of the Civil Code clearly established that the calculation of damages would reference the value of the corresponding legitimate good. Article 44 of the Trademark Law stipulated that a person illegally using a trademark or an appellation of origin (geographical indication) had to discontinue such use and provide compensation for the damages incurred by the right holders also including actual profit and lost

profit. Pursuant to Article 49 of the Copyright Law, the court could oblige a copyright infringer to: (i) compensate the claimant for damages including lost profit; (ii) compensate the profit received by the infringer; or (iii) pay compensation in the amount of 20 to 50,000 minimum wages (500 to 50,000 minimum wages for infringement of software or database copyright). Moreover, in accordance with Article 111 of the Code of Civil Procedure, the court could order the infringer to compensate the successful party for attorney's fees; however, the sum could not exceed 10% of the amount of the claim. Asked specifically about the authority of the courts to order recovery of profits pursuant to Article 45(2) of the WTO TRIPS Agreement, she referred to paragraph 4 of Article 9, of the Civil Code and paragraph 1 of Article 111, of the Code of Civil Procedure.

1085. Asked to provide information on Kazakhstan's compliance with the provisions of Article 46 of the WTO TRIPS Agreement, she said that Article 49 of the Copyright Law stipulated that a judge could order the seizure and withdrawal of all copies of suspected pirated works and phonograms, as well as all materials and equipment used in their production or reproduction. Pirated copies of works or phonograms could be transferred to the right holders upon their request, or be destroyed by a decision of the court. In addition, Article 129 of the Code of Administrative Offences also provided for the seizure and forfeiture of pirated copies of works and phonograms. The disposal of counterfeit goods outside the channels of commerce was foreseen in Article 145 of the Code of Administrative Offences, which had been in force since 1 January 2008. Pursuant to paragraph 2 of Article 44 of the Trademark Law, a person illegally using a trademark or appellation of origin (geographical indication), or using a confusingly similar designation, had to remove the mark or designation from the product, its packaging, blank forms and all other documentation. If doing so was impossible, the goods were destroyed (liquidated) in accordance with the relevant legal procedures. In reply to the specific comment that the simple removal of the trademark unlawfully affixed should not be sufficient, other than in exceptional cases, the representative of Kazakhstan noted that Kazakhstan was planning to amend Article 44 of the Trademark Law in order to ensure its compliance with Article 46 of the WTO TRIPS Agreement by the date of WTO accession.

1086. Some Members enquired whether any training had been provided to judges to enable them to consider disputes involving intellectual property rights. The representative of Kazakhstan replied that judges took active part in discussions on intellectual property rights protection (workshops, conferences and roundtables). For instance, in July 2005, the Ministry of Justice, in collaboration with the WIPO, the CIPR and the World Customs Organization (WCO), had held a workshop on enforcement practices in the sphere of intellectual property for judges of the Supreme Court and oblast courts. In 2011, the Ministry of Justice, in collaboration with the USAID had held a conference entitled "Judicial Protection of Intellectual Property Rights in the Republic of Kazakhstan". In addition, the Judicial Academy under the Academy of State Service of the Republic of Kazakhstan, organized skills improvement trainings for Kazakhstan's judges on different issues related to the applicable law of the country.

- **Provisional Measures**

1087. The representative of Kazakhstan said that judges and Government bodies had the authority to grant provisional measures if any delay was likely to cause irreparable harm to the right holder, or if a demonstrable risk of evidence being destroyed existed. She noted that the Trademark Law and the Patent Law did not reference provisional remedies, but pointed to Chapter 15 of the Code of Civil Procedure which provided for the imposition of such measures. According to Article 159 of this Code, judges, at the request of the claimant or at their own initiative, had the power to: (i) seize the defendant's property; (ii) prohibit the defendant from taking certain actions, such as sale of goods bearing a trademark belonging to the claimant; (iii) prohibit other persons from transferring property or performing certain actions in respect to the defendant; (iv) suspend the sale of property in cases where a claim was filed to cancel the seizure of property; (v) suspend a contested legal act issued by a State body, organization or an official; and, (vi) suspend a penalty imposed by an executive document, contested by the debtor in court. The court could order any of the above measures without prior notice to the defendant. The court could also apply other provisional measures for the purposes of Article 158 of the Code of Civil Procedure, which foresaw the adoption of such measures in cases where, in their absence, the court would not be able to issue a ruling or its work would be hindered.

1088. In reply to a question from a Member, the representative of Kazakhstan clarified that the Code of Civil Procedure provided for the right of the participants in a proceeding to request replacement of one type of provisional measure with another. The request was considered by the

court with notification of participants about time and place of the proceedings (Article 162). Therefore, a defendant affected by a provisional measure adopted *inaudita altera parte* (i.e., without prior hearing of the other side) had the right to request the review of the measure, including the right to be heard. The Code of Civil Procedure also provided for the right of the participants or the judge of proceedings to request revocation or cessation of effects of the provisional measure (Article 163). Therefore, if proceedings leading to a decision on the merits of the case were not initiated within a reasonable period, the participants or the judge of proceedings could initiate revocation or cessation of such measures. In addition, the defendant could request compensation from the applicant where there was a decision of no infringement or threat of infringement (Article 165).

1089. In reply to the concern of a Member, the representative of Kazakhstan confirmed that in the cases where provisional measures had been adopted *inaudita altera parte*, parties affected had to be given notice, without delay after the execution of the measures at the latest.

- **Administrative Procedures and Remedies**

1090. The representative of Kazakhstan stated that, pursuant to Articles 128, 129 and 145 of the Code of Administrative Offences, certain actions were considered as an infringement of intellectual property rights and entailed administrative responsibility. These included: (i) non-criminal, but illegal, use of an invention, industrial design, utility model, selection achievement, or microcircuit layout design prior to its official publication, as well as misappropriation of authorship or coercion into joint authorship; (ii) non-criminal, but illegal, use of copyright or related rights, as well as the purchase, storage, hauling or production of counterfeit copies of artistic works and/or phonograms for the purpose of sale, misappropriation or coercion into joint authorship; and, (iii) non-criminal, but illegal, use of a trademark, service mark, appellation of origin (geographical indication) or similar designations for goods (services), as well as illegal use of a firm name.

1091. She noted that such infringements were reviewed by the courts. Petitions were permitted during proceedings, persons participating in the review were given a hearing, and evidence was examined. After consideration of the case, the court terminated the proceedings or imposed administrative sanctions.

1092. For Article 128 violations, fines for natural persons were set at 20-50 Monthly Calculation Index (MCI), for officials at 50-100 MCI, and for juridical persons at 150-400 MCI. For repeated violations under this Article, the corresponding fines were set at 50-100 MCI, 100-150 MCI and 200-700 MCI, respectively. As for Article 129 violations, fines for natural persons were set at 10-15 MCI, for officials at 20-30 MCI, and for juridical persons at 100-150 MCI, with corresponding confiscation of copies of works and phonograms, as well as the equipment used for their production. For repeated violations under this Article, the corresponding fines were set at 15-20 MCI, 30-50 MCI, and 150-200 MCI, respectively, with corresponding confiscation of copies of works and phonograms and the equipment used for their production. Finally, in the case of Article 145 violations, fines for natural persons were set at 10-30 MCI, for officials at 30-50 MCI, and for juridical persons at 50-100 MCI, with confiscation of the infringing goods. For repeated violations under this Article, the corresponding fines were set at 30-50 MCI, 50-100 MCI and 100-200 MCI, respectively. Any interested party could challenge the decision of the court to a higher court.

1093. Asked about the administrative actions available to owners of intellectual property rights for the enforcement of their rights, the bodies responsible for such actions, as well as about the channels available to foreign parties to invoke such actions, she replied that the applicant (foreign or domestic) had the right to raise objections to the Board of Appeal of the Ministry of Justice (Articles 22, 23, and 29 of the Patent Law and Articles 12, 23, 31 and 44 of the Trademark Law). If the applicant remained dissatisfied with the decision of the Board of Appeal, the applicant had the right to further appeal that decision in court. She further noted that while infringements of intellectual property rights were considered by the courts, disputes concerning the rights to objects of industrial property, other than those considered in the Code of Administrative Offences, were considered within the framework of civil legislation.

1094. Asked to provide more information concerning the procedures followed by the administrative commissions in reviewing allegations of infringement of intellectual property rights

and about the remedies that the commissions could impose, she replied that, in accordance with the national legislation, no administrative commissions on infringement of intellectual property rights could be established in Kazakhstan. Under the legislation, all disputes concerning intellectual property rights could be settled only in the courts.

- **Special Border Measures**

1095. The representative of Kazakhstan said that as of 1 July 2010, border measures in Kazakhstan were applied pursuant to Chapter 46 (Articles 328-333) of the Treaty on the Customs Code of the Customs Union of 27 November 2009 (hereinafter: CU Customs Code) and Section 53 of the Customs Code of Kazakhstan (Articles 436-445). Consistent with the procedures set-out in Chapter 46 and Section 53, Kazakhstan's customs authorities were authorized to take action to prevent the import and export of goods containing objects of intellectual property rights. Kazakhstan's State Revenue Committee maintained a Registry of goods containing intellectual property, which was published periodically. Goods were included in the Registry free of charge, at the request of right holders. This guaranteed that the rights of applicants would be protected by the customs authorities for the duration specified in the application, with the maximum period being two years from the date of inclusion in the Registry (with a possible extension, which could not exceed the period of validity of the right itself). Although right holders could register their intellectual property with the State Revenue Committee, the representative of Kazakhstan confirmed that customs officials could exercise *ex officio* authority to seize suspect goods even if right holders did not have the registration.

1096. In order to address the concern of a Member, the representative of Kazakhstan gave the following examples of use of the *ex officio* powers:

- registered trademark "Shemonaikhinskoe" (milk): quantity – 21,000 kg for the value of US\$12,005; and
- registered trademarks "Yaguar", "Diplomaticheskaya" and "Senator" (caps for the spirits): quantity – 6,022.52 kg (28,012 items) for the value of US\$12,045.04.

1097. The representative of Kazakhstan explained that on 21 May 2010, the EAEU member States had signed the Customs Union Agreement on Unified Customs Registry of Goods Containing Objects of Intellectual Property, and the State Revenue Committee maintained Kazakhstan's contribution to this Unified Customs Registry. According to this Agreement in order to be included in the Unified Customs Registry, it was required that the intellectual property right be protected in Kazakhstan as well as the other EAEU member States. In the case of an intellectual property right included in the Unified Customs Registry, the minimum security/guarantee was €10,000. This CU Agreement would remain in force until it was superseded by the new EAEU Customs Code.

1098. In reply to the concern that security/guarantee was considerable and could deter right holders from participating in the Unified Customs Registry, the representative of Kazakhstan clarified that the most widespread form of meeting this obligation was an insurance guarantee, i.e., a contract between an insurance company and an applicant. In accordance with the contract, insurance company guaranteed payments to compensate for property damage. The real expenses of the applicant for signing such contract would not be higher than from 4% to 7% of the security/guarantee sum. Insurance guarantee was required for each application, but the application could cover unlimited trademarks and objects of copyright. No payment was required for submission and examination of the application and implementation by the customs authorities of border measures.

1099. The CU Customs Code and the Customs Code of Kazakhstan authorized the national customs authorities to suspend the customs processing of goods containing intellectual property for up to 10 working days if the right holder applied for such protection and if they found that the goods violated the intellectual property rights of the applicant. The CU Customs Code authorized the enforcement of intellectual property rights with respect to intellectual property not included in the Unified Customs Registry in accordance with the Customs Code of Kazakhstan.

1100. Asked whether the Customs Code of Kazakhstan provided for any measures allowing the customs authorities to suspend the export or transit of counterfeit goods in Kazakhstan, she said

that Article 440 of the Customs Code of Kazakhstan allowed the customs authorities to suspend the release of goods included in the national Customs Registry if they discovered any signs of the goods being counterfeit. Pursuant to paragraph 3 of Article 436 of the Customs Code of Kazakhstan, the customs authorities did not take enforcement action for goods in transit. The procedure for keeping the national Customs Registry had been approved by Order of the Minister of Finance of the Republic of Kazakhstan No. 356 of 16 June 2010.

1101. She further noted that, when such goods were discovered, the customs authorities would attempt to identify right holders by consulting the Unified Customs Registry or Kazakhstan's national Customs Registry. If a right holder had not registered its intellectual property rights on these registers, the customs authorities would attempt to identify and contact the right holder by consulting the registries of the Ministry of Justice. After the right holder was identified, the customs authorities informed him/her about the goods under investigation and provided the right holder, or his/her representative, with the opportunity to inspect samples/specimens from the goods under customs supervision at the place of temporary storage (Article 440 of the Customs Code of Kazakhstan and CU Commission Decision No. 258 "On Customs Examination under Customs Control" of 20 March 2010). Pursuant to Article 440 of the Customs Code of Kazakhstan, the customs authorities had to provide the right holder with the name and address of the declarant, as well as provide the declarant with the name and address of the right holder. This was done within one day of taking a decision to suspend the release of the goods, i.e., before the matter was taken to court and before the infringement was identified by the right holder. Pursuant to the Customs Code of Kazakhstan, the customs authorities were entitled to receive compensation to cover expenses incurred in connection with the suspension of the goods (e.g., for warehouse storage). For goods that proved to be counterfeit, such compensation would be provided by the declarant, and for goods that proved not to be counterfeit, by the applicant. However, so far, such a situation had not occurred. For goods that proved not to be counterfeit, the right holder would compensate the declarant for any damages incurred (minimum security/guarantee of €10,000 was a requirement for right holders wishing to include goods in the national Customs Registry). The exact amount of compensation could be agreed between the declarant and the right holder, or could be determined by the court.

1102. The representative of Kazakhstan confirmed that intellectual property right holders would be provided, whether by Kazakhstan or by the competent bodies of the EAEU, with procedures related to border measures that complied fully with the relevant provisions of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (Articles 51 to 60). The Working Party took note of this commitment.

1103. Asked whether the customs authorities were the sole enforcer of intellectual property laws and what was the role of police units in proactive and reactive infringement investigations, the representative of Kazakhstan said that the court, the office of the public prosecutor, the internal affairs authorities and the financial police were among those who were actively involved in the enforcement of intellectual property laws in Kazakhstan. Police units worked in close cooperation with right holders as well as conducted repeated, unannounced inspections in order to examine compliance with intellectual property rights legislation. If evidence of unauthorized use of intellectual property rights protection was found, administrative or criminal proceedings were initiated.

- **Criminal Procedures**

1104. The representative of Kazakhstan said that the Criminal Code provided for legal protection against infringement of intellectual property rights and for criminal responsibility. The provisions of the Criminal Code had been strengthened with the adoption of Law No. 90-III "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Intellectual Property" of 22 November 2005. In particular, these amendments had introduced the concepts of "selection achievements" and "integrated circuit layouts", and had also provided definitions of certain types of infringement, namely, illegal acquisition, storage or hauling of counterfeit copies of works and phonograms.

1105. Criminal sanctions for infringement of copyright and related rights were provided in Article 184 of the Criminal Code. Under paragraph 1 of Article 184 and paragraph 1 of Article 184-1, fines equivalent to 100-500 MCI or equivalent to up to five times the monthly income of the convicted party, as well as 100 to 180 hours of public work or imprisonment for up to two years

were authorized for: (i) usurpation of authorship or coercion into joint authorship, if such action caused considerable damages; and (ii) disclosure without the consent of the author/applicant of an invention, utility model, industrial design, selection achievement or microcircuit layout design prior to its official publication. Under paragraph 2 of Articles 184 and paragraph 2 of Article 184-1, fines equivalent to 500-700 MCI or 180 to 240 hours of public work or imprisonment for a period of up to one year were authorized for: (i) the illegal use of a copyright and related rights, as well as the purchase, storage and production of counterfeit copies of artistic works and/or phonograms for the purpose of sale (in significant quantities); and (ii) the illegal use of an invention, utility model, industrial design, selection achievement or microcircuit layout design (in significant quantities). Under paragraph 3 of Article 184 and paragraph 3 of 184-1, imprisonment up to one year and from two to five years, respectively, with or without confiscation of the property of the convicted party, was authorized for the actions identified under paragraph 2 of Article 184 and paragraph 2 of Article 184-1 where those actions were committed: (i) on repeated occasions (either by individuals or a group of individuals); (ii) by a group of individuals or an organized group of individuals; (iii) on a large-scale or causing large-scale damage; or, (iv) with abuse of official position. She added that criminal cases under paragraph 1 of Article 184 and paragraph 1 of 184-1 (in relation to private non-property rights) required a complaint by the right holder. Criminal cases under paragraphs 2 and 3 of Article 184 and paragraphs 2 and 3 of 184-1 (large-scale acquisition for the purpose of sale, repeated offences by organized groups or abuse of official position) could be opened without a complaint by the right holder because such offences were deemed to be dangerous for the society.

1106. Pursuant to Article 199 of the Criminal Code, the minimum threshold for bringing criminal cases involving unlawful use of a trademark, service mark, firm name, appellation of origin (geographical indication) or other designations of goods (services) was 500 MCI. The court could impose a fine of 200-500 MCI. For repeated violations, or those resulting in large-scale damage (i.e., exceeding 500 MCI, or approximately US\$5,000), the court could impose fines equivalent to 200-500 MCI, or to the amount of income received by the convicted party for a period of two to five months; 180 to 240 hours of public work; detention for up to six months; or imprisonment for up to two years. For unlawful use of a trademark or appellation of origin (geographical indication) not registered in Kazakhstan, if the action was performed repeatedly and resulted in large-scale damage, the court could impose fines equivalent to 100-200 MCI, or to the amount of income received by the convicted party for up to two months; public work for 120 to 180 hours; detention for up to three months; or imprisonment for up to one year.

1107. Actions were considered to cause considerable damage if the amount of the damage, the value of the rights for the use of intellectual property rights, or the value of the copies of the works and phonograms containing an invention, utility model, industrial design, selection achievement or microcircuit layout design exceeded 100 MCI, as established at the time of the crime. Actions were considered to cause large-scale damage if that value exceeded 500 MCI.

1108. A Member asked what was the status and/or likely outcome for determining thresholds for application of criminal procedures and penalties with regard to cases of wilful trademark counterfeiting or copyright piracy on a commercial scale and what was the timeline for Kazakhstan's decision. The representative of Kazakhstan replied that the application of thresholds was traditionally used in Kazakhstan in order to separate criminal offences punishable by means of criminal prosecution from administrative misdemeanours. This clear and unambiguous criterion was an effective, practical tool for enforcement, as it could be implemented easily and contained no element of subjective evaluation. The timeline for determining a threshold (within a preliminary investigation) could not exceed a two-month period which, however, could be extended in exceptionally difficult cases.

1109. Concerning the seizure, forfeiture and destruction of counterfeit goods, as well as materials and equipment used in their production, she pointed to paragraph 3 of Article 121 of the Code of Criminal Procedure and Resolution of the Supreme Court No. 19 "On Judicial Sentence" of 15 August 2002 (see also Sub-section "Civil Judicial Procedures and Remedies" of this Section of this Report).

1110. According to official statistics, in 2009, 493 legal proceedings had been instituted under Articles 184 and 199 of the Criminal Code.

1111. Some Members noted that there was a criminal penalty for pirated copyright and related rights (Article 184 of the Criminal Code), but expressed concern that there did not appear to be a criminal penalty for counterfeit trademark goods. They further stated that the administrative fines provided by the Code of Administrative Offences appeared insufficient to serve as an effective deterrent.

1112. The representative of Kazakhstan replied that criminal penalties to prevent trade in counterfeit trademark goods were provided in Article 199 of the Criminal Code. The representative of Kazakhstan added that Law No. 90-III "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Intellectual Property" of 22 November 2005 had reinforced the sanctions available against infringement and repeated infringement of copyright and other rights, and provided for sanctions for administrative infringements. Recognizing Members' concerns, the representative of Kazakhstan stated that in order to improve the effectiveness of enforcement measures in the area of intellectual property rights, when determining the existence of large-scale or considerable damage, the prosecutor/court would take into account that storage of pirated copies of works or phonograms for the purpose of sale was also considered to be a crime. Thus, application of the thresholds to the activity would take into account both the value of the pirated copies of works or phonograms that were sold, and the value of the pirated copies in storage. In accordance with Kazakhstan's law, the value of pirated copies was calculated by reference to the value of the corresponding legitimate products, and not by reference to the price of the pirated product. This approach of taking into account copies in storage would also apply in cases of copyright infringement over the Internet.

1113. Some Members continued to have concerns that Kazakhstan's thresholds for application of criminal procedures and penalties precluded action against certain cases of wilful trademark counterfeiting or copyright piracy on a commercial scale. These Members requested Kazakhstan to ensure that criminal procedures and penalties would be applied to all cases of wilful trademark counterfeiting or copyright piracy on a commercial scale. In their view, the value of the products that were counterfeited or pirated was not always a good indicator of whether the counterfeiting was wilful or if piracy was on a commercial scale. Other circumstances could establish wilful trademark counterfeiting and copyright piracy on a commercial scale. For example, in some cases, each individual act of piracy might involve a small amount of money, but given other conditions in the market, e.g., the number of pirated copies, or the existence of copies made before the release of the work, the acts were clearly on a commercial scale. Finding other evidence, such as a worn mold for making copies, would be another situation in which commercial scale piracy was evident.

1114. In response to Members' concerns regarding thresholds for application of criminal procedures and penalties with regard to cases of wilful trademark counterfeiting or copyright piracy on a commercial scale, the representative of Kazakhstan confirmed that thresholds in such cases would be set and applied in a manner that reflected the realities of the commercial market place in Kazakhstan, including with regard to the Internet market. The Working Party took note of this commitment.

1115. Members sought a commitment that Kazakhstan would be in compliance with the WTO TRIPS Agreement, including its enforcement provisions, as of the date of accession, without recourse to transitional arrangements.

1116. The representative of Kazakhstan confirmed that Kazakhstan would apply fully the provisions of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights from the date of its accession to the WTO, including provisions for enforcement, without recourse to any transitional period. The Working Party took note of this commitment.

VI. POLICIES AFFECTING TRADE IN SERVICES

1117. The representative of Kazakhstan said that the services sector was one of the most dynamic sectors of the economy, and its role was expected to grow in the future. Since 1990, the share of services in GDP had grown steadily to reach a peak of 60% in 1998, while the average level for the last decade had been 50%; in 2010, the share had stood at 52.8%.

1118. Some Members requested information on the legislative base regulating commercial services and asked whether the Government was taking measures to ensure non-discrimination

with regard to foreign service suppliers. The representative of Kazakhstan, noting the growing role of services in the national economy, said that the existing legislative framework governing the services sector was still being developed and generally there was no discrimination against foreign service suppliers.

1119. In response to a question on "natural monopolies" in the telecommunications sector, she said that the Telecommunications Sector Development Programme for the period 2006-2008, adopted by Government Resolution No. 519 of 7 June 2006, had outlined a plan for stage-by-stage liberalization of the telecommunications market. These measures were expected to facilitate competition, improve the quality and capacity of telecommunication services, and remove barriers to new entrants. Accordingly, since 1 January 2005, the exclusive right of JSC "KazakhTeleCom" to provide international and long distance communication services had been discontinued, and licenses for the provision of these services were now held by more than 25 operators. In addition, since 1 January 2006, all restrictions on the inter-connectivity between operators had been removed and customers were given the technical opportunity to choose between operators of international and long distance communications. Pursuant to amendments to Article 4 of Law No. 272-I "On Natural Monopolies of Regulated Markets" of 9 July 1998, the activities of natural monopolies no longer pertained to "telecommunication services through local networks", but instead covered: (i) telecommunication services, when there was no other competing operator due to the fact that it might be economically and technically infeasible to enter the market (specifically, these telecommunication services included operator connection services to universal connection networks and telephone traffic transmission services); and (ii) lease or use of cable channels and other basic facilities technologically related to connecting telecommunication networks with telecommunications of common use. She added that pursuant to Law No. 567-II "On Communications" of 5 July 2004: (i) local telephone communication services; (ii) area and long distance telephone services; and, (iii) services providing mass Internet access with connection speed no less than 256 Kb/sec., were defined as universal telecommunication services which were subject to governmental regulation.

1120. In accordance with Law No. 527-IV "On National Security of the Republic of Kazakhstan" of 6 January 2012, foreign participation in the capital of companies providing long distance and/or international telecommunication services using fixed communication networks (cable, optical fibre, and radio relay) was limited to 49%. This limitation had been introduced to protect the national security interests of Kazakhstan. However, this limitation did not apply to operators of mobile, satellite and local communications and would be removed for all companies other than JSC "KazakhTeleCom" (and its possible successors) within a period of 2.5 years starting from the date of Kazakhstan's accession to the WTO.

1121. The representative of Kazakhstan also pointed to a number of other liberalization initiatives in this sector. To avoid cross-subsidization and to recover the financial losses of operators rendering universal telecommunication services in rural areas, her Government had begun subsidizing these operators through the State budget. From 1997 to 2010, 371 licenses for local communication services and 511 licenses for rendering data transmission services had been issued. To resolve the "last mile" problem of access to customers, 51 operators had received permission to use the 5.2-5.9 GHz radio spectrum.

1122. Some Members noted that it was clear that there was no "natural" monopoly in the telecommunication services sector, adding that the limited nature of Kazakhstan's offer in the negotiation of its services commitments supported the contention that a State monopoly was being granted and preserved. A Member noted that, while "KazakhTeleCom" no longer had exclusive rights for the provision of international and long distance communication, the company had participated in a tender for the acquisition of another telecommunication company, effectively creating a State-owned monopoly in the telecommunications sector.

1123. In response, the representative of Kazakhstan said that KazakhTeleCom's actions were in compliance with Kazakhstan's antitrust legislation. She noted that KazakhTeleCom's share in Kazakhstan's market did not exceed 30% in all types of telecommunication services.

1124. A Member requested Kazakhstan to explain the local content requirements relating to services²², in particular with regard to foreign invested companies and to identify those circumstances in which a foreign investor was required to buy services only from Kazakhstan-based companies unless the required service was unavailable in Kazakhstan.

1125. The representative of Kazakhstan replied that the local content requirement with regard to surface and subsurface use pertained to all services acquired by subsurface users. This was a non-discriminatory requirement, which equally applied to both foreign and domestic investors signing investment agreements with the Government of Kazakhstan on use of surface and subsurface resources. This provision was included in Law No. 291-IV "On Subsurface and Subsurface Use" of 24 June 2010. This Law established a requirement for such investors to procure services from juridical persons of Kazakhstan, provided that such services met the requirements of the project documentation and Kazakhstan's legislation on technical regulation. If services required were not found in Kazakhstan, a subsurface user could attract foreign country-based companies to provide those services. Law No. 291-IV "On Subsurface and Subsurface Use" of 24 June 2010 did not stipulate a minimum percentage of local content requirements, but provided that a contract had to contain obligations in respect to Kazakhstan's goods, services, and personnel, which were determined individually in each contract on subsurface use and were dependent on the complexity and specificity of the project. The winner of the competitive bidding to provide services to the investor was determined on the basis of the lowest price, with putative discounts granted for service suppliers meeting certain minimum thresholds for employment of citizens of Kazakhstan.

1126. Asked to clarify whether an investor only had to use the tender process or if it might find service providers through other methods, the representative of Kazakhstan responded that, in addition to tenders, subsurface users could also use other procurement methods such as a quotation request, from one source and through commodity exchanges. Tendering was the most commonly used procurement method since it was more transparent and gave equal opportunities to all suppliers to participate in the bid.

1127. The representative of Kazakhstan confirmed that Kazakhstan would not adopt any measure pertaining to requirements to use Kazakhstan content that exceeded those provided for in Law No. 291-IV "On Subsurface and Subsurface Use" of 24 June 2010 as was in effect in September 2011. Upon accession, in establishing the terms for conducting a tender for granting subsurface use rights, Kazakhstan would not establish a minimum Kazakhstan content for personnel or services of more than 50%, as determined pursuant to this paragraph: (a) Kazakhstan content of personnel of an investor that had been granted subsurface use rights ("the investor") would be calculated as the proportion, on a per capita basis, of executives, managers and specialists, as those terms were defined for purposes of entry and temporary stay of intra-corporate transferees in Kazakhstan's WTO Schedule of Specific Commitments on Trade in Services ("qualified employees"), who were citizens of Kazakhstan; (b) Kazakhstan content in all services, which were rendered to the investor, was defined as the share of the total annual amount of payments (expenditures) for services under all contracts, which were paid to juridical persons of Kazakhstan²³. However, the amount paid to juridical persons of Kazakhstan would be reduced by any amount paid for services subcontracted at any level that were performed by enterprises that were not juridical persons of Kazakhstan; and, (c) in determining the tender winner for purposes of granting subsurface use rights, Kazakhstan would not take into account the fact that a potential investor might have offered a level of Kazakhstan content for personnel or services above 50%. Within five years from the date of its accession to the WTO, Kazakhstan would bring into conformity with above-mentioned terms any contract signed between September 2011 and the date of Kazakhstan's accession to the WTO. The Working Party took note of these commitments.

1128. Some Members requested information on the regulation of the banking sector, and in particular, requested information on the conditions under which a foreign bank would be able to obtain a licence to establish a branch within Kazakhstan. In response, the representative of

²² The term services included both "services" and "works" as those terms were used in Law No. 291-IV "On Subsurface and Subsurface Use" of 24 June 2010.

²³ A contract with a juridical person of Kazakhstan would be disregarded, if that person did not actually carry out the agreed activity in Kazakhstan. The term "juridical person of Kazakhstan" included also individual entrepreneurs.

Kazakhstan stated that direct branching would be permitted under a new banking law or amendment to the current banking law upon expiration of the five-year period starting from the date of Kazakhstan's accession to the WTO. She reported that the activities of banking firms were regulated by Law No. 2444 "On Banks and Banking Activity in the Republic of Kazakhstan" of 31 August 1995. Under the Law, a juridical person was required to have a licence to engage in a banking business. Article 15 of Law No. 2444 provided that banks had to be established in the form of a joint stock company. The licensing criteria to be adopted for branches of foreign banks would be prudential in nature. She clarified that Kazakhstan's commitments in the banking and other financial services (excluding insurance) sectors with respect to branches were related only to foreign bank branches. Also, the authorized body of Kazakhstan was permitted to impose additional requirements providing for the solvency and stability of financial organizations. However, there may be differences between the licensing criteria for a joint stock bank and those for a branch of a foreign bank. The representative of Kazakhstan added that the National Bank of Kazakhstan would comply with the requirements of Articles XVI and XVII of the GATS when considering an application for a new licence, subject to the limitations set forth in Kazakhstan's Schedule of Specific Commitments on Trade in Services.

1129. In response to questions from a Member related to the regulatory regime for foreign bank branches, the representative of Kazakhstan said that the regime was yet to be developed but it would be in line with commonly accepted international practice. This regime would include, but would not be limited to such requirements, as for example, capital adequacy, which would depend on the parent bank's capital. The specific capital requirement for a foreign bank branch would differ depending on its business plans in Kazakhstan; a branch would be required to maintain a deposit with the National Bank of Kazakhstan, the sum of which would be based on obligations which would be accepted by the foreign bank branch. In addition, a branch would be required to have at least two resident managers.

1130. Some Members stated that they expected Kazakhstan to make a commitment to guarantee transparency of licensing requirements and procedures, qualification requirements and procedures as well as of other authorization requirements, in particular with respect to obtaining, extending, renewing, denying and terminating licenses and other approvals required to provide services in Kazakhstan's market and appeals of such actions. Kazakhstan's licensing procedures and conditions should not in themselves act as a barrier to market access and should not be more trade restrictive than necessary. Kazakhstan should publish a list of authorities responsible for authorizing, approving or regulating those service sectors in which Kazakhstan had made specific commitments and Kazakhstan's licensing procedures and conditions. Members also expected Kazakhstan to make a commitment to guarantee that for those services included in Kazakhstan's WTO Schedule of Specific Commitments on Trade in Services, relevant regulatory authorities would be separated from, and not accountable to, any service suppliers they regulated. Members further expected Kazakhstan to make a commitment to guarantee that foreign service suppliers remained free to choose their partners.

1131. In response, the representative of Kazakhstan confirmed that, upon accession Kazakhstan would ensure that all normative legal acts of general application pertaining to or affecting trade in services, as well as information on their effective date and scope of application were published²⁴ or made otherwise publicly available. She further confirmed that Kazakhstan would ensure that the names of competent authorities that were responsible for certification and issuing licenses for service activities were published or made otherwise publicly available. The Working Party took note of these commitments.

1132. Without prejudice to the right of Kazakhstan to establish and apply licensing procedures and requirements, the representative of Kazakhstan confirmed, that in sectors in which Kazakhstan had undertaken specific commitments, Kazakhstan would ensure that its licensing procedures would not in themselves constitute a restriction on the supply of the service, and its licensing requirements directly related to eligibility to supply a service would not in themselves be an unjustified barrier to the supply of the service. She further confirmed that for those services sectors in which specific commitments were undertaken by Kazakhstan in its WTO Schedule of Specific Commitments on Trade in Services, Kazakhstan would ensure that:

²⁴ Publication would include publication on the Internet.

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- (a) All licensing procedures and requirements were set out in normative legal acts and that any law establishing or implementing licensing procedures or requirements would be published prior to its effective date;
 - (b) Relevant authorities would review and make a decision on granting or denying a licence within the period specified in official procedures or, if no time period was specified, without undue delay;
 - (c) Any fees charged in connection with the filing and review of an application for a licence would not constitute in themselves a restriction on the supply of the service;
 - (d) Once any period established in a normative legal act for review of an application for a licence had lapsed, and on the request of an applicant, Kazakhstan's relevant regulatory authority would inform the applicant of the status of its application and whether it was considered complete. If the authority required additional information from the applicant, it would notify the applicant without delay and specify the additional information required to complete the application. Applicants would have the opportunity to provide the additional information requested and to make technical corrections in the application. An application would not be considered complete until all information and documents specified in the relevant laws and regulations were received;
 - (e) Kazakhstan's relevant regulatory authority would make an administrative decision on a completed application for issuance of a licence and authorization for the supply of a financial service, and, if appropriate, approval of new products and rate changes, within a reasonable period of time and would promptly notify the applicant of the decision. An application would not be considered complete until all information specified in the relevant normative legal acts was received. Where it was not practicable for a decision to be made on:
 - (i) an application for supply of banking services to receive an authorization within six months, and to receive a licence within two months; and,
 - (ii) an application for supply of other financial services to receive an authorization within three months, and to receive a licence within one month,
 the relevant regulatory authority would notify the applicant without delay;
 - (f) On the written request of an unsuccessful applicant, a regulatory authority that had denied an application would inform the applicant in writing of the reasons for denial of the application. However, this provision would not be construed to require a regulatory authority to disclose information, the disclosure of which would impede law enforcement or otherwise be contrary to the national security interests;
 - (g) Where an application had been denied, an applicant may submit a new application that attempted to address any prior problems for licensing;
 - (h) Where approval was required, once the application had been approved, the applicant would be informed in writing and in the time period provided for by the relevant normative legal act or, if no time period was specified, without undue delay; and,
 - (i) Where examination was required to licence professionals, such examinations would be scheduled at reasonable intervals. That would not apply to qualifying examinations administered or offered by financial service regulators or self-regulatory bodies or organizations.

The Working Party took note of these commitments.

1133. The representative of Kazakhstan further confirmed that in those sectors, where Kazakhstan had undertaken specific commitments, relevant regulatory authorities would not be accountable to any service suppliers they regulated. Further, the representative of Kazakhstan confirmed that in sectors in which Kazakhstan had undertaken specific commitments it would ensure where practicable, that:

- (a) regulations of general application that it proposed to adopt were published in advance;
- (b) an opportunity to comment on such proposed regulations was provided to interested persons and other Members; and,
- (c) a reasonable time between publication of the final regulation and its effective date was allowed.

The Working Party took note of these commitments.

1134. With respect to foreign service suppliers' choice of partner, the representative of Kazakhstan confirmed that in those sectors, where Kazakhstan had undertaken specific commitments, foreign service suppliers, when entering into joint venture or other partnerships with persons of Kazakhstan, were free to choose their partner(s). This was without prejudice to regulations relating to ownership of financial organizations or participation in them. The Working Party took note of these commitments.

1135. In response to the question of a Member whether existing legislation of Kazakhstan provided for possibility to review administrative decisions, such as the denial of a licence, the representative of Kazakhstan replied that, in accordance with Article 46 of Law No. 214-III "On Licensing" of 11 January 2007, if a licence was not issued within the time-frame established by the Law or the applicant contested the denial to issue a licence as unreasonable, the applicant had the right to appeal to the court in accordance with the legislation of the Republic of Kazakhstan (Code of Civil Procedure No. 411-I of 13 July 1999). Terms and procedures for the review of decisions such as the denial of a licence were established in the Code of Civil Procedure. Specifically, in accordance with Chapter 27 of the Code of Civil Procedure, a natural or a juridical person had the right to file an application to the court within three months of the date when they became aware of the violation of their rights, freedoms and interests guaranteed by the law. The application was reviewed by the court within one month. If the court found that the applicant's rights, freedoms and interests were violated, the court obliged an appropriate state authority to eliminate the violation. The relevant state authority had to notify the court and the applicant of the enforcement of the court's decision no later than one month of the date the state authority had received the court's decision.

1136. A Member asked to clarify the scope of EAEU competence in trade in services and investments between the EAEU member States, and between the EAEU member States and third countries. The representative of Kazakhstan replied that trade in services and investments within the Single Economic Space (SES) had been regulated by the Agreement on Trade in Services and Investments of 9 December 2010, enacted as of 1 January 2012. The SES Agreement was terminated when the EAEU Treaty came into effect on 1 January 2015. The provisions of the SES Agreement were incorporated into Section XV "Trade in Services, Establishment, Activities and Investments" and Annex No. 16 "Protocol on Trade in Services, Establishment, Activities, and Investments" of the EAEU Treaty. Section XV and Annex No. 16 regulated internal trade in services, establishment, activities and investments between the EAEU member States. The basic objective of the Section was to create conditions for free movement of services and investments within the EAEU. In order to create such conditions, the EAEU member States aspired to create a Single Services Market in the services sectors, which were approved by the Supreme Eurasian Economic Council based on the proposals of the EAEU Member States. At the same time, each EAEU member State was entitled to reserve the right to maintain the exemptions from national treatment regime and reservations on market access in accordance with its individual lists of exemptions, based on its national interests. Section XV and Annex No. 16 of the EAEU Treaty did not apply to trade in services establishment, activities and investments between the EAEU member States and third countries. External policy in trade in services was in the national competences of each EAEU member State.

1137. The Republic of Kazakhstan had undertaken market access negotiations in services with Members of the Working Party. The commitments of the Republic of Kazakhstan in services were contained in the WTO Schedule of Specific Commitments on Trade in Services, reproduced in Annex I to the Protocol of Accession.

VII. TRANSPARENCY

- Publication of Information on Trade

1138. Some Members requested a description of the measures providing legal authorization for Kazakhstan to implement Article X of the GATT 1994 and the other transparency provisions in the WTO Agreements, together with a confirmation that these measures would be applied upon accession. A clarification was particularly sought on where the laws, decrees, resolutions, orders, letters and other measures of general application of Kazakhstan would be published to fulfil the

requirements of Article X of the GATT 1994, and the transparency provisions in other WTO Agreements, including the WTO GATS and TRIPS Agreements. Because the EAEU member States and competent bodies of the EAEU were adopting international treaties, decisions and other measures related to trade, Members also requested confirmation that the EAEU member States and competent bodies of the EAEU would comply with the transparency provisions of the WTO Agreement on matters within EAEU competency.

1139. Some Members stated that access to customs regulations and decrees was vital for traders attempting to import and export. In this regard, Members also noted that, since 1 July 2010, when the Customs Union had entered into force, and now that the EAEU had entered into force on 1 January 2015, agreements, decisions and other legal instruments affecting trade with the EAEU as a whole, and with Kazakhstan as an EAEU member State, had become relevant to Members and traders. These Members requested information on when and where these agreements, decisions and other legal instruments would be published and made available to Members and traders.

1140. The representative of Kazakhstan replied that Article 4 of the Constitution of the Republic of Kazakhstan of 15 August 1995 stipulated that all laws and international treaties signed by Kazakhstan had to be published.

1141. Law No. 213-I "On Regulatory Legal Acts" of 24 March 1998 provided for the official publication and subsequent official publication of regulatory legal acts. Regulatory legal acts, including those affecting the rights, freedoms and obligations of citizens (other than acts containing State secrets and legally-protected confidential information), were published in the official periodicals. In particular, laws were published in the Bulletin of Parliament; Presidential and Government Resolutions were published in the Collection of Acts of the President and the Government; and legal acts of the Central Executive and other Central State Bodies were published in the Collection of Acts of the Central Executive and Other Central State Bodies. Regulatory legal acts were also officially published in the periodicals "Yegemen Kazakhstan" and "Kazakhstanskaya Pravda". Regulatory Decisions and Resolutions of Maslikhats and Akims were published in local periodicals and were distributed within the respective administrative territorial entity. Subsequent publication took place in periodicals after the texts had undergone a compliance check with the centralized collection of legal acts of Kazakhstan. The list of regulatory legal acts was published and regularly updated on the website of the Ministry of Justice: www.minjust.kz.

1142. In accordance with Law No. 213-I "On Regulatory Legal Acts" of 24 March 1998, after the elaboration of a regulatory legal act, the draft had to be sent to the concerned State bodies and organizations for approval. The draft regulatory legal act affecting the interests of private entities was subject to mandatory publication (circulation) in the mass media, including Internet resources, prior to sending it for the approval of the concerned State bodies. Regulatory legal acts affecting private entity interests had to be approved by accredited business associations. The State body, which had elaborated the draft regulatory legal act, would send it to the accredited business associations. Accredited business associations considered the draft and submitted their opinion within 10 working days. In case the formulation of the opinion would require additional time, the term could be extended, upon written request, for another 10 working days. If the State body, which had developed the draft regulatory legal act, agreed with the opinion, it introduced the relevant amendments into the draft regulatory legal act. In cases where the State body disagreed with the expert reports, it would send a reply, outlining its reasons, to the association(s). If needed, the association(s) could request a meeting of the expert council. Further, the draft regulatory legal act, including the opinion or justification of disagreement, would be sent to the State bodies concerned, for approval. After approval of the draft regulatory legal act, the State body, which had elaborated the draft regulatory legal act, would publish it on its official website, including the proposals of the expert council and interested individuals, the replies of the Government bodies, as well as the protocols and expert reports on each effective regulatory legal act that had been tabled for discussion at the experts' council meeting. The terms of entry into force of regulatory legal acts that would affect private enterprise entities' interests were fixed with the acceptance of the terms required for entrepreneurs to be in a position to carry out their activities. The terms and conditions for the entry into force of regulatory legal acts must not cause damage to private enterprise entities. Regulatory legal acts that set qualification requirements, licensing of activities, and lists of goods that were subject to export and import licensing did not become effective until 21 days after the relevant acts' official publication.

1143. The representative of Kazakhstan replied that international agreements within the EAEU, the EAEU international agreements with third countries and decisions of the EAEU bodies would be published in the official website of the Commission (www.eurasiancommission.org). Decisions were posted on this website within two working days after their adoption. She noted that the Commission had a dedicated website and the date of publication of a measure on the website was considered to be the official date for determining the date of entry into force of the measure. As a general rule, decisions of the Commission of a mandatory nature did not enter into force earlier than 30 calendar days after the date of their publication on the Commission website. Decisions of the Commission taken in exceptional cases that required immediate reaction could have another date of entry into force, but no less than 10 calendar days after official publication. Decisions of the Commission that improved the conditions of natural and juridical persons could be applied retroactively and could also have another date of entry into force, but no less than 10 calendar days after official publication. She also stated that the EAEU member States were required to publish all decisions of the Commission in dedicated national official journals, stating the date of entry into force of a decision, the basis for which was the date of publication on the Commission website.

1144. Some Members expressed concern that the EAEU Treaty and Commission decisions did not appear to provide the opportunity for Members to consult with or provide comments to the competent EAEU bodies on matters affecting trade, including where provisions of the WTO Agreements specifically required Members to provide drafts of measures, receive comments from Members, consult on those comments, and take the comments and discussions into account. These Members requested a commitment that Kazakhstan would make drafts of laws and other normative legal acts, as well as proposals/submissions to the EAEU bodies that, if adopted, would have the effect of a normative legal act in Kazakhstan, available for interested persons, including Members, to provide comments prior to their adoption and that Kazakhstan and the competent bodies of the EAEU would comply with the transparency requirements of the WTO Agreements on matters within their respective competence.

1145. The representative of Kazakhstan replied that, in accordance with Part II of Annex No. 7 "Protocol on Non-Tariff Measures Concerning Third Countries" to the EAEU Treaty, organizations or individual entrepreneurs of the EAEU member States could provide comments, as provided for under the procedure of the development of draft decision on introduction, implementation and termination of non-tariff measure, concerning trade in goods with third countries. Paragraph 6 of Annex No. 7 to the EAEU Treaty stated that foreign activity participants of an EAEU member State could provide comments, as provided for under the procedure of the development of draft decision of the Commission on introduction, implementation and termination of non-tariff measure, concerning trade in goods with third countries. The procedure for making proposals on introduction or termination of a measure was defined by the Commission. In addition, in cases where an EAEU member State had concluded an international treaty with a third country that provided for consultations, the Government of that country, organizations and entrepreneurs of that country could present their views with regard to the measure in compliance with the terms of the relevant treaty.

1146. The representative of Kazakhstan confirmed that from the date of accession, all laws, regulations, decrees, decisions and administrative rulings of general application pertaining to or affecting trade in goods, services, or intellectual property rights, whether adopted or issued in the Republic of Kazakhstan or by a competent body of the EAEU, would be published promptly in a manner that fulfilled applicable requirements of the WTO Agreement, including those of Article X of the WTO General Agreement on Tariffs and Trade 1994, the WTO General Agreement on Trade in Services, and the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights. The representative of Kazakhstan confirmed that, from the date of accession, the Republic of Kazakhstan and the competent bodies of the EAEU would update published resources, including websites, containing such measures, on a regular basis and make them readily available to WTO Members, individuals and enterprises. Such measures would be available while they were in effect and for a reasonable period after they were no longer in effect. She added that the Republic of Kazakhstan intended to post the contents of editions of Bulletin of Parliament, the Collection of Acts of the President and the Government, and in the Collection of Acts of the Central Executive and Other Central State Bodies. Official publication of regulatory legal acts was carried out also by periodicals as "Yegemen Kazakhstan", "Kazakhstanskaya Pravda", on websites as well, and would keep them current. The Working Party took note of these commitments.

1147. The representative of Kazakhstan further confirmed that, except in cases of emergency, measures involving national security, specific measures setting monetary policy, measures the publication of which would impede law enforcement, or otherwise be contrary to the public interest, or prejudice the legitimate commercial interest of particular enterprises, public or private, the Republic of Kazakhstan would publish all laws, regulations, decrees, decisions and administrative rulings of general application pertaining to or affecting trade in goods, services, or intellectual property rights, prior to their adoption and would provide a reasonable period of time, normally not less than 30 calendar days, for Members and interested persons to comment to the responsible authorities before the relevant measure was finalized or submitted to the competent EAEU bodies. In cases where an EAEU body was responsible for proposing or adopting EAEU legal acts, including decisions, or other measures corresponding to those specified in the preceding sentence of this paragraph, the competent EAEU body would publish them before their adoption and a reasonable period would be provided for Members and interested persons to comment to the competent EAEU body. Any comments received during the period for commenting, whether provided to the Republic of Kazakhstan or a competent body of the EAEU, would be taken into account. The Working Party took note of these commitments.

1148. The representative of Kazakhstan confirmed that, from the date of accession, no law, regulation, decree, decision or administrative ruling of general application pertaining to or affecting trade in goods, services, or intellectual property rights, whether adopted or issued in the Republic of Kazakhstan or by a competent body of the EAEU, would become effective prior to publication, as provided for in the applicable provisions of the WTO Agreement, including the WTO General Agreement on Tariffs and Trade 1994, the WTO General Agreement on Trade in Services, and the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights. The Working Party took note of this commitment.

- **Notifications**

1149. Some Members noted that all Members of the WTO were obliged to provide notifications to the various subsidiary bodies of the WTO, pursuant to the covered WTO Agreements. These Members requested a specific commitment that Kazakhstan would provide, as from the date of accession, initial notifications for all WTO Agreements, and that Kazakhstan would also comply with the notification requirements of the WTO Agreements with regard to the EAEU Treaty, the EAEU international agreements and Commission decisions, as well as domestic regulations, decrees, decisions or administrative rulings of general application, subsequently adopted by Kazakhstan, which implemented any of the WTO Agreements.

1150. The representative of Kazakhstan confirmed that, upon the date of accession, the Republic of Kazakhstan would submit all initial notifications required by any Agreement constituting part of the WTO Agreement, except for the notifications set out in Table 4, which would be submitted within the time-frame indicated in that Table. After submitting its initial notifications, the Republic of Kazakhstan would submit subsequent notifications in conformity with the relevant provisions and procedures of the WTO Agreement. The Working Party took note of these commitments.

Table 4: - Timeline for the Submission of Notifications

| Notification Requirement | Type of Measure | Deadline |
|--|--|--------------------------|
| WTO Agreement on Implementation of Article VII of the GATT 1994 - Decision on checklist of issues | Responses to the checklist of issues | 90 days after accession |
| WTO Agreement on Subsidies and Countervailing Measures (ASCM) - Article 25.1 annual; - GATT 1994, Article XVI:1 annual | Any subsidy as defined in ASCM Article 1.1 which is specific within the meaning of ASCM Article 2 as well as any other subsidy which causes increased exports or decreased imports within the meaning of the GATT 1994, Article XVI:1 (Format: G/SC) | 120 days after accession |
| WTO Agreement on Trade-Related Investment Measures - Article 5.1 | Trade-related investment measures (TRIMs) which are inconsistent with the provisions of Article III or Article XI of the GATT 1994 and not justified under exceptions to the GATT 1994 (Format: G/TRI) | 90 days after accession |
| WTO Agreement on Import Licensing Procedures - Article 7.3 | Replies to the annual questionnaire on import licensing procedures | 90 days after accession |
| WTO Agreement on Rules of Origin - Article 5.1; - Annex II, paragraph 4 | Existing non-preferential rules of origin, judicial decisions and administrative rulings of general application relating to non-preferential rules of origin | 90 days after accession |

VIII. TRADE AGREEMENTS

1151. The representative of Kazakhstan noted that Kazakhstan had free trade agreements (FTAs) with other CIS countries, Georgia and Serbia, and along with the Republic of Belarus and the Russian Federation, had created the Customs Union and then the Eurasian Economic Union. At the moment, these agreements included: bilateral Free Trade Agreements with CIS countries; a bilateral Free Trade Agreement with Georgia; a bilateral Free Trade Agreement with the Republic of Serbia; the Agreement on the Creation of Free Trade Area between CIS countries of 15 April 1994 (hereinafter: CIS Free Trade Agreement 1994); the Agreement on Free Trade Area of 18 October 2011, signed by eight CIS countries²⁵ (hereinafter: CIS Free Trade Agreement 2011) which had replaced the CIS Free Trade Agreement 1994); between countries that had signed the CIS Free Trade Agreement 2011; the Agreement on the Customs Union between the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation of 20 January 1995. Implementation of the Treaty on the Establishment of Common Customs Territory and the Formation of the Customs Union of 6 October 2007 (hereinafter: Treaty on the CU) had been initiated on 1 January 2010 among the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation with the establishment of the Common External Tariff (CET), the adoption of the Customs Union (CU) Customs Code and the establishment of the CU institutions. The Treaty of the Eurasian Economic Union (hereinafter: EAEU Treaty), signed in Astana by the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation on 29 May 2014, came into effect on 1 January 2015. The list of Kazakhstan's trade agreements is contained in Annex 24 of this Report.

1152. With regard to the Customs Union of the Republic of Belarus, the Republic of Kazakhstan, and the Russian Federation, the representative of Kazakhstan said that the first steps towards establishing this Customs Union had been taken with the approval of the Agreement on the Customs Union between the Russian Federation and the Republic of Belarus of 6 January 1995 and the Agreement on the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation of 20 January 1995. In addition, the Republic of Kazakhstan, the Republic of Belarus, the Kyrgyz Republic, the Russian Federation, and the Republic of Tajikistan had signed the Agreement on the Establishment of the Customs Union and the Single Economic Space on 26 February 1999 that was terminated as of 1 January 2015, according to Decision of the Interstate Council of the Eurasian Economic Community (EurAsEC) No. 652 "On Termination of the Functioning of the Eurasian Economic Community" of 10 October 2014 (hereinafter: Decision of Interstate Council of EurAsEC No.652). The Agreement had foreseen the gradual creation of a

²⁵ The Agreement was signed by the Republic of Armenia, the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic, the Republic of Moldova, the Russian Federation, the Republic of Tajikistan and Ukraine.

free-trade area and a customs union that would eventually cover not only trade in goods, but also services (national treatment with respect to access to services markets, including the gradual elimination of existing restrictions on natural and juridical persons) and the movement of capital. In particular, the Agreement had set the initial objective of the elimination of all customs tariffs and other restrictions related to trade in goods between the Parties, except those allowed under the WTO Agreement, and the establishment of a common external tariff.

1153. In order to continue progress towards the establishment of the Customs Union and the Single Economic Space, the Agreement on the Establishment of the Eurasian Economic Community (EurAsEC) had been signed on 10 October 2000 and had entered into force on 30 May 2001. On 19 September 2003, the Presidents of the Republic of Belarus, the Republic of Kazakhstan, the Russian Federation and Ukraine had signed the Agreement on the Establishment of the Single Economic Space. The Parties to the Agreement intended to promote mutual trade and investment on the basis of fundamental principles and norms of international law, including WTO rules, and also to increase the competitiveness of their economies via, *inter alia*, the creation of a free trade area and, possibly, a customs union. According to the Agreement, the Single Economic Space would be created on a stage-by-stage basis, taking account the possibility of different implementation speeds and levels of integration among the Parties. Transition from one stage to another could be achieved by those Parties who had performed all the measures envisaged in the previous stage. Each Party would determine independently which integration measures it would adopt, as well as the rate and degree of such integration. However, no specific follow-on agreements aimed at realization of this four-party Single Economic Space had been concluded so far, and efforts to implement the Agreement had been suspended.

1154. To implement the tasks stipulated in the List of Activities on Creating the Eurasian Economic Community for 2003-2006, the Heads of Governments of the EurAsEC had authorized implementation of previously adopted decisions, conclusion of new international treaties and agreements, and the preparation of new documents. On 6 October 2007, the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation had concluded the Treaty on the CU. According to the Treaty on the CU, the common customs territory had been established in several steps and had been completed by 1 July 2011 when the customs border between the Republic of Kazakhstan and the Russian Federation had been eliminated. Provisions of the agreements concluded earlier by the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation, and resolutions of governing bodies that had not conflicted with the Treaty on the Establishment of the EurAsEC of 10 December 2000 (hereinafter: Treaty on the EurAsEC) had continued to be in force. She further noted that the Treaty on EurAsEC was terminated as of 1 January 2015, according to Decision of Interstate Council of EurAsEC No.652. The representative of Kazakhstan stated that the Treaty on the CU, agreements, and other acts subsequently agreed by the Republic of Kazakhstan, the Republic of Belarus and the Russian Federation through the end of 2009, had finalized the legal basis for the Customs Union within the EurAsEC and had laid out a framework for progressively increasing economic cooperation between entities of member States, starting with plans for the unification of foreign trade, customs policies and trade remedies; and initiating cooperation between the financial and banking systems; cooperation in social and humanitarian areas; and cooperation in the field of legal regulation. The two members of the EurAsEC not parties to the Treaty on the CU (the Republic of Tajikistan and the Kyrgyz Republic) had not been members of the Customs Union established by the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation. She added that progress towards a single economic space had continued and had been finalized by the establishment of the EAEU as of 1 January 2015.

1155. A Member noted that approximately 62% of the applied import tariffs of the EurAsEC members had been harmonized and asked when the rest of the tariff lines would be harmonized. This Member also inquired if there was a formal schedule for harmonization of the remaining tariff lines. The representative of Kazakhstan replied that currently, tariff harmonization was taking place exclusively within the framework of the EAEU. Almost 100% of import tariffs in the CET had been gradually harmonized. The exemptions granted to Kazakhstan had been limited to 72 tariff lines at 10-digit level out of 11,119 tariff lines at the applied CET. By 1 January 2015, the import tariffs for those goods were planned to increase up to the levels set by the CET. The exemptions from the CET had been granted in the form of 0% for medical equipment, pharmaceuticals, polyethylene, greenhouses, aluminium foil and railway wagons (the list of tariff lines subject to exemptions from the CET, with respective transitional periods, is provided in Annex 11 of this

Report). As for export tariffs, currently the Republic of Kazakhstan, the Russian Federation, and the Republic of Belarus applied separate export duty regimes *vis-à-vis* third countries.

1156. On 27 November 2009, the EurAsEC Interstate Council had also approved the Treaty on the Customs Union Customs Code that had entered into force in the Republic of Kazakhstan and the Russian Federation on 1 July 2010, and in the Republic of Belarus on 6 July 2010. Agreements, decisions and national complementary customs regulations related to the CU Customs Code had been developed. The representative of Kazakhstan explained that, as laid out in the Treaty on the Establishment of the Common Customs Territory and the Formation of the Customs Union of 6 October 2007, the Interstate Council had taken a decision on the establishment of the common customs territory and the completion of the formation of the Customs Union after the tasks set out in the Treaty had been completed. The Customs Union had been implemented in 2010. On 1 January 2015, the Customs Union was superseded by the Eurasian Economic Union (EAEU). The representative of Kazakhstan further noted that a detailed description of the EAEU trade policies and regulations was provided for in the relevant sections of this Report.

1157. The institutional and legislative set-up of the EAEU was described in Chapter III "Framework for Making and Enforcing Policies" of this Report to the extent it was relevant for the trade regime of the Republic of Kazakhstan and the implementation of its WTO commitments.

1158. A Member asked for information on the establishment of the Single Economic Space of the Republic of Kazakhstan, the Republic of Belarus and the Russian Federation. The representative of Kazakhstan replied that, on 1 January 2012, 17 agreements establishing the legal basis for the Single Economic Space of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation (SES) had entered into force. She stated that the SES agreements had provided the legal framework for the harmonization of legislation of the SES members in the spheres of government support to industrial and agricultural sectors, public procurement, access to services rendered by natural monopolies, provision of fair competition, trade in services, movement of natural persons, investments, etc.

1159. She added that the SES agreements had been aimed at creating conditions for conducting a coordinated trade and economic policy between the SES members, with the overall objective to provide a level playing field for competition among businesses of the SES members. She noted that the SES agreements had been incorporated into the EAEU Treaty, which entered into force on 1 January 2015.

1160. The representative of Kazakhstan stated that the EAEU was open to the accession of new partners, as provided for in Article 108 of the EAEU Treaty. Membership was open to any State that was ready to undertake the obligations and fulfil the commitments called for in the EAEU Treaty and other EAEU legal instruments.

1161. Concerning the CIS free trade area, the representative of Kazakhstan stated that on 15 April 1994, the CIS countries had signed the CIS Free Trade Agreement 1994. This Agreement had provided for gradual elimination of customs duties, taxes and charges and other barriers that had impeded the free movement of goods. The Agreement had not been fully implemented and had been further modified by the Protocol on Amending the Agreement on the Creation of the Free Trade Area of 2 April 1999. The Protocol had established that the Free Trade Area would be implemented via existing or future bilateral agreements and protocols on exemptions.

1162. The Republic of Kazakhstan had concluded bilateral Free Trade Agreements with Georgia and all CIS countries (the Republic of Armenia, the Republic of Azerbaijan, the Republic of Belarus, the Kyrgyz Republic, the Republic of Moldova, the Russian Federation, the Republic of Tajikistan, the Republic of Uzbekistan and Ukraine), with the exception of Turkmenistan. These Agreements had established a regime of free trade between the Parties that had covered a substantial part of trade in goods between them. Under these bilateral Free Trade Agreements, mutual trade in goods originating from these countries and imported to, or exported from, the Republic of Kazakhstan was free from customs duties, except for the goods listed in appropriate schedules of exemptions, which were subject to normal customs duties, taxes and charges. The lists of goods subject to restrictions from free trade regime were included in the Protocols on exemptions from free trade regime attached to the bilateral FTAs. According to the relevant Protocols, the Republic of Kazakhstan had applied exemptions on import of alcoholic beverages (HS chapter 22, except for

codes 2201, 2202 and 2209), and tobacco and manufactured tobacco substitutes (HS chapter 24) from Azerbaijan and Ukraine; specified alcoholic beverages (HS codes 2203, 2205, 2206 and 2207), tobacco and manufactured tobacco substitutes (HS chapter 24) and white sugar (HS tariff line 1701 99 100) from Georgia. Currently, the Republic of Kazakhstan applied exemption on imports of rice (HS code 1006), alcoholic beverages (HS chapter 22, except for codes 2201, 2202 and 2209), and tobacco and manufactured tobacco substitutes (HS chapter 24) originating from the Republic of Uzbekistan. According to the respective Protocols, the Republic of Kazakhstan had reserved the right to apply duties on goods which were subject to export tariff regulation of the Republic of Kazakhstan when these goods were exported to the Kyrgyz Republic, the Republic of Moldova and the Republic of Tajikistan. The goods subject to export tariff regulation had been exempted from duty-free regime in trade between the Republic of Kazakhstan and the Russian Federation (Protocol of 22 October 1992). However, those exemptions had never been used in practice, as the implementation of the Protocol had been suspended. The Protocol had been revoked by signing a new Protocol on Establishment of a Free Trade Regime without Exemptions and Restrictions on 20 January 1995.

1163. A Member said that the phase-out schedule for the restrictions, such as exemptions from free trade regime, had already been planned with the Republic of Uzbekistan and asked if the schedules for phasing out these restrictions with Georgia, Ukraine, the Republic of Azerbaijan, and the Republic of Moldova were also planned or required further negotiations. The representative of Kazakhstan replied that, until now, there was no phase-out Protocol signed between the Republic of Kazakhstan and the Republic of Uzbekistan. The phase-out Protocol had been signed with Georgia on 11 November 2004, based on which the exemptions from the free trade regime applied to imports from Georgia had been phased out on 1 April 2005. According to the Protocol signed with the Republic of Azerbaijan on 24 May 2005, the exemptions of the Republic of Kazakhstan from a free trade regime for imports of alcoholic beverages, tobacco and manufactured tobacco substitutes from the Republic of Azerbaijan had been phased out by 1 January 2012. The Republic of Kazakhstan and the Republic of Moldova had not stipulated any import duty exemptions from a free trade regime, but had reserved the right to apply export duties in mutual trade. She added that the Protocol on Exemptions had also been signed between the Republic of Kazakhstan and the Republic of Armenia of 2 September 1994. This Protocol had been signed for a one-year period and had not been extended.

1164. The representative of Kazakhstan further informed Members that the CIS Free Trade Agreement 2011 had been signed on 18 October 2011 by the Republic of Armenia, the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic, the Republic of Moldova, the Russian Federation, the Republic of Tajikistan and Ukraine. The other CIS countries could join the Agreement later. Upon its entry into force, the CIS Free Trade Agreement 2011 would replace the bilateral FTAs between the CIS countries and the Republic of Kazakhstan, and establish a CIS-wide preferential trade area. In accordance with the CIS Free Trade Agreement 2011, the Republic of Kazakhstan applied exemptions from a free trade regime for imports of sugar and vodka from Ukraine. The exemption for Ukrainian vodka was in force till 1 January 2015. The exemption from a free trade regime for imports of sugar from Ukraine was also applied by the Russian Federation and the Republic of Belarus. In turn, Ukraine also applied import duties for sugar originating from the Republic of Kazakhstan, the Russian Federation and the Republic of Belarus. Within the CIS Free Trade Agreement 2011, the Republic of Kazakhstan had also reserved the right to apply duties for soybeans, rape or colza seeds and sunflower seeds, crude oil, light, medium and heavy oils, bitumen, natural and coal gases, petroleum gases and other gaseous hydrocarbons, raw hides and skins of bovine, sheep and lambs, wool and animal hair, ferrous, copper, and aluminum waste and scrap, rail, crossing piece, iron/steel, part of railway locomotives, certain aluminum products (i.e., powders and flakes, bars and profiles, foil, tubes, pipes, etc.), listed in Annex 1 to the Agreement, when these products were exported to the other Parties of the Agreement, with the exception of the EAEU member States. The CIS Free Trade Agreement 2011 had created a uniform legal structure based on WTO rules. The Agreement contained provisions stipulating, *inter alia*, substantial reduction with subsequent elimination of import customs duties and restrictions in mutual trade, commitments regulating the levels and application of export duties, application of safeguard measures in mutual trade, competition and subsidies rules, technical barriers to trade, SPS measures, an effective mechanism for dispute settlement, etc.

1165. A Member asked Kazakhstan to clarify how the establishment of a uniform legal structure based on the WTO rules would be accomplished within the CIS Free Trade Agreement 2011. This Member also asked Kazakhstan to clarify if the CIS Free Trade Agreement 2011 was

considered an extension of the CIS Free Trade Agreement 1994 and to inform about the status of the CIS Free Trade Agreement 1994 in light of the CIS Free Trade Agreement 2011.

1166. In reply, the representative of Kazakhstan noted that the CIS Free Trade Agreement 2011 contained provisions confirming the obligations of the Parties to the Agreement to comply with the WTO rules. Some provisions contained citations and references to the GATT 1994 and the other WTO Agreements related to trade in goods. For instance, the CIS Free Trade Agreement 2011 stipulated the following key principles based on WTO rules:

- provision of national treatment for goods imported from the other Parties;
- provision of freedom of transit through the territories of the Parties within the meaning of Article V of the GATT 1994;
- general elimination of quantitative restrictions according to Article XI of the GATT 1994;
- prohibition of subsidies contingent upon export performance or the use of domestic over imported goods;
- application of trade remedies, SPS and TBT measures in accordance with the WTO rules, etc.

1167. She added that most specifically, Article 5 of the CIS Free Trade Agreement 2011 stipulated that the Parties should provide each other national treatment according to Article III of the GATT 1994. In accordance with Article 5, the Parties were committed to apply internal taxes, laws, regulation and requirements affecting the sale of imported products in a non-discriminatory manner to prevent protection to domestically-produced goods. According to Article 10 of the CIS Free Trade Agreement 2011, the Parties should not maintain or grant subsidies prohibited under Article 3 of the WTO SCM Agreement. The Parties that maintained prohibited subsidies had committed to phase out such measures after expiration of the transitional period stipulated in the CIS Free Trade Agreement 2011. She noted that under the Agreement, the Republic of Kazakhstan had reserved the right to maintain its local content requirements in: (i) purchases of subsoil users, and enterprises partially or fully controlled by the government, until these measures were phased out in accordance with Kazakhstan's commitments upon accession to the WTO; (ii) preferences granted under the free warehouse regime and special economic zones till 1 January 2017; and (iii) tariff preferences granted under agreements on industrial assembly concluded in accordance with Order of the Deputy Prime Minister - Minister of Industry and New Technologies No. 113 "On Certain Issues on Concluding, Conditions and Model Form of the Agreement on Industrial Assembly of Motor Vehicles with Legal Entities - Residents of the Republic of Kazakhstan" of 11 June 2010 – till 31 December 2020.

1168. Concerning the status of the CIS Free Trade Agreement 1994, the representative of Kazakhstan stated that the CIS Free Trade Agreement 2011 had been concluded with the view to replace the CIS Free Trade Agreement 1994. The CIS Free Trade Agreement 1994 had not been fully implemented, as the establishment of a CIS-wide free trade area had not been completed. The CIS Free Trade Agreement 1994 had become an overall framework agreement, and the CIS countries had built free trade areas based on bilateral agreements. Therefore, the Agreement had been signed on 18 October 2011 with the objective to establish a free trade area among the CIS countries signatories to the Agreement, based on the principles and provisions of the WTO rules. She further explained that according to Article 23 of the Agreement, the CIS Free Trade Agreement 1994 had ceased to apply in relations between Parties to the CIS Free Trade Agreement 2011. The bilateral agreements on free trade concluded between these Parties were also replaced by the CIS Free Trade Agreement 2011. However, the CIS Free Trade Agreement 1994 as well as the bilateral FTAs remained in force in trade relations between the Parties to the CIS Free Trade Agreement 2011 and the CIS countries that had not signed the CIS Free Trade Agreement 2011, and those CIS countries that had signed but had not yet ratified the CIS Free Trade Agreement 2011.

1169. The representative of Kazakhstan noted that in order to unify its trade regime with those of the Russian Federation and the Republic of Belarus, the Republic of Kazakhstan had signed a bilateral Free Trade Agreement with the Republic of Serbia on 7 October 2010 and was engaged in free trade negotiations with Montenegro. In accordance with the Free Trade Agreement with the Republic of Serbia, nearly all goods (including agricultural products) originating from the Republic of Serbia or the Republic of Kazakhstan enjoyed duty free regime when imported to the other country.

1170. She added that the Republic of Kazakhstan also hoped to conclude more agreements on trade liberalisation along with the Republic of Belarus and the Russian Federation. Currently, New Zealand, the European Free Trade Association (EFTA) and Viet Nam were in the process of negotiations aimed at concluding FTAs with the Republic of Kazakhstan and the other EAEU member States.

1171. A Member requested information on Kazakhstan's participation in the Economic Cooperation Organization Trade Agreement (ECOTA), and on the plans of the Shanghai Cooperation Organization (SCO) to establish a free trade arrangement among its members by 2020. The representative of Kazakhstan replied that the Republic of Kazakhstan had joined the Economic Cooperation Organization (ECO) in November 1992, but was not a member to the ECOTA and provided an MFN-based trade regime to ECO members. In addition, four out of ECO's 10 members were beneficiaries of the EAEU Generalized System of Tariff Preferences for Developing and Least Developed Countries. The Republic of Kazakhstan had concluded bilateral free trade agreements with the remaining four ECO members: the Republic of Azerbaijan, the Kyrgyz Republic, the Republic of Tajikistan and the Republic of Uzbekistan. She added that, at present, no plans existed to conclude a free trade agreement within the SCO.

1172. The representative of Kazakhstan also noted that the MFN regime was granted to all countries that had concluded bilateral non-preferential trade agreements with the Republic of Kazakhstan. Moreover, the Republic of Kazakhstan applied the MFN regime to all third countries regardless of the existence of a bilateral agreement with a particular country.

1173. A Member enquired whether the Republic of Kazakhstan participated in the Production Cooperation Agreement signed by all CIS countries on 23 December 1993 in Ashkhabad and under what terms trade was conducted, and what portion of the Republic of Kazakhstan's trade was conducted under this Agreement, in case the Republic of Kazakhstan participated in this Agreement. The representative of Kazakhstan replied that the Agreement on Common Rules and Mechanisms of Support for Production Cooperation Development of Enterprises and Industrial Sectors of CIS Countries, signed by the Republic of Kazakhstan on 23 December 1993, had entered into force on 10 May 1995. The Agreement had been signed in order to preserve and promote the development of existing and newly created technological and cooperative relationships between enterprises of all forms of ownership, and industrial complexes of the CIS countries on the basis of their direct production linkages during the period of the Union of Soviet Socialist Republics. The Agreement envisaged non-application of import duties, taxes and quantitative restrictions with respect to goods, supplied from the CIS customs territories within the cooperation²⁶ and within the framework of the customs regimes of processing²⁷ and services rendered²⁸. The Agreement foresaw the conclusion of related inter-governmental, sectoral and inter-ministerial agreements. Goods supplied within contracts concluded under the agreements could receive the aforementioned preferences. However, the Republic of Kazakhstan had not concluded such inter-governmental, sectoral and inter-ministerial agreements, and therefore had not implemented the Production Cooperation Agreement in practice.

1174. The representative of Kazakhstan confirmed that from the date of accession to the WTO Kazakhstan would observe relevant WTO provisions, including but not limited to Article XXIV of the WTO General Agreement on Tariffs and Trade 1994 and Article V of the WTO General Agreement on Trade in Services, in its participation in preferential trade agreements, and would ensure that the provisions of the WTO Agreements for notification, consultation and other requirements concerning free trade areas and customs unions were met from the date of accession. She confirmed that Kazakhstan would, upon accession, submit notifications and copies of its Free Trade Agreements, the EAEU Treaty and its sub-agreements to the WTO Committee on Regional Trade Agreements (CRTA). The Working Party took note of these commitments.

²⁶ Supplies within the cooperation mean supplies of raw materials, components, intermediate products and other articles used in technologically dependent productions of final goods.

²⁷ Supplies within the frameworks of customs regimes of processing mean supplies of goods in accordance with the customs legislation of the Parties to the Agreement.

²⁸ Services rendered mean projects, repair and maintenance services and technological operations.

CONCLUSIONS

1175. The Working Party took note of the explanations and statements of Kazakhstan concerning its foreign trade regime, as reflected in this Report. The Working Party took note of the commitments by Kazakhstan in relation to certain specific matters which are reproduced in paragraphs 59, 87, 101, 142, 170, 208, 209, 250, 274, 288, 298, 301, 303, 307, 308, 309, 310, 311, 313, 317, 351, 359, 383, 431, 434, 435, 438, 439, 443, 445, 464, 467, 469, 483, 493, 521, 526, 527, 540, 559, 585, 590, 625, 631, 634, 641, 650, 651, 653, 657, 670, 704, 711, 712, 716, 720, 721, 722, 724, 736, 738, 747, 753, 762, 764, 765, 766, 772, 777, 784, 785, 788, 789, 797, 803, 812, 830, 833, 835, 838, 841, 848, 849, 856, 859, 872, 874, 875, 896, 897, 933, 934, 947, 949, 962, 986, 987, 988, 989, 1013, 1061, 1063, 1067, 1079, 1081, 1102, 1114, 1116, 1127, 1131, 1132, 1133, 1134, 1146, 1147, 1148, 1150, and 1174. The Working Party took note that these commitments had been incorporated in paragraph 2 of the Protocol of Accession of the Republic of Kazakhstan to the WTO.

1176. Having carried out the examination of the foreign trade regime of the Republic of Kazakhstan and in the light of the explanations, commitments and concessions made by the representative of Kazakhstan, the Working Party reached the conclusion that the Republic of Kazakhstan be invited to accede to the Marrakesh Agreement Establishing the WTO under the provisions of Article XII. For this purpose, the Working Party has prepared the draft Decision and Protocol of Accession reproduced in the Appendix to this report, and takes note of Kazakhstan's Schedule of Concessions and Commitments on Goods (document WT/ACC/KAZ/93/Add.1) and its Schedule of Specific Commitments on Services (document WT/ACC/KAZ/93/Add.2) that are annexed to the Protocol. It is proposed that these texts be adopted by the General Council when it adopts the Report. When the Decision is adopted, the Protocol of Accession would be open for acceptance by the Republic of Kazakhstan which would become a Member 30 days after it accepts the said Protocol. The Working Party agreed, therefore, that it had completed its work concerning the negotiations for the accession of the Republic of Kazakhstan to the Marrakesh Agreement Establishing the WTO.

ANNEX 1

Laws, Regulations and other Information Provided to the Working Party by Kazakhstan

| <u>LEGISLATION/REGULATION</u> | <u>LEGISLATION NOTICE</u> |
|--|---|
| II. ECONOMIC POLICIES | |
| - Monetary and Fiscal Policy | |
| Treaty on the Eurasian Economic Union of 29 May 2014 | WT/ACC/KAZ/85, WT/ACC/KAZ/85/Rev.1 |
| Code of the Republic of Kazakhstan No. 99-IV "On Taxes and Other Obligatory Payments to the Budget (Tax Code)" of 10 December 2008 | WT/ACC/KAZ/68 |
| Law "On Currency Regulation" of 14 April 1993 (repealed by Law No. 54-I of 24 December 1996) | WT/ACC/KAZ/4 |
| Law No. 54-I "On Currency Regulation" of 24 December 1996 (repealed by Law No. 57-III of 30 June 2005) | WT/ACC/KAZ/6/Add.2, WT/ACC/KAZ/57/Add.1 |
| Law No. 57-III "On Currency Regulation and Currency Control" of 13 June 2005 | WT/ACC/KAZ/66/Add.1, WT/ACC/KAZ/67/Add.1, WT/ACC/KAZ/68, WT/ACC/KAZ/75/Add.1 |
| Presidential Decree No. 2155 "On the National Bank of Kazakhstan" of 30 March 1995, which has the force of Law | WT/ACC/KAZ/4 |
| Regulation of the Board of the National Bank No. 182 "On the Settlements with Cheques" of 15 November 1994 | WT/ACC/KAZ/4 |
| Resolution of the Board of the National Bank No. 134 "On Approval of Rules of Currency Transactions in the Republic of Kazakhstan" of 29 October 2005 (repealed by Resolution of the Board of the National Bank No. 129 of 11 December 2006) | WT/ACC/KAZ/66/Add.1 |
| - Foreign Exchange and Payments | |
| Treaty on the Eurasian Economic Union of 29 May 2014 | WT/ACC/KAZ/85, WT/ACC/KAZ/85/Rev.1 |
| Decision of the EurAsEC Interstate Council No. 51 "On the Treaty on the Procedure for the Movement of Cash Monetary Funds and/or Monetary Instruments by Natural Persons across the Customs Border of the Customs Union" of 5 July 2010 | WT/ACC/KAZ/68 |
| Law No. 237-I "On Payments and Money Transfers" of 29 June 1998 | WT/ACC/KAZ/18 |
| Law No. 57-III "On Currency Regulation and Currency Control" of 13 June 2005 | WT/ACC/KAZ/66/Add.1, WT/ACC/KAZ/67/Add.1, WT/ACC/KAZ/68, WT/ACC/KAZ/75/Add.1 |
| Presidential Decree No. 2155 "On the National Bank of Kazakhstan" of 30 March 1995, which has the force of Law | WT/ACC/KAZ/4 |
| Presidential Decree No. 2227 "On Securities and Stock Exchange" of 21 April 1995, which had the force of Law (repealed by Law No. 79-I of 5 March 1997) | WT/ACC/KAZ/4 |
| Resolution of the Board of the National Bank No. 188 "On Rules for Conducting Currency Transactions in the Republic of Kazakhstan" of 24 November 1994 | WT/ACC/KAZ/4 |
| - Investment Regime | |
| Decision of the CU Commission No. 130 "On Common Customs and Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation" of 27 November 2009 | WT/ACC/KAZ/68 |
| Constitution of the Republic of Kazakhstan of 5 September 1995 | WT/ACC/KAZ/4 |
| Civil Code of Kazakhstan (General Part) No. 269-XII of 27 December 1994 (Table of Contents) | WT/ACC/KAZ/4 |
| Code of the Republic of Kazakhstan No. 99-IV "On Taxes and Other Obligatory Payments to the Budget (Tax Code)" of 10 December 2008 | WT/ACC/KAZ/68 |
| Law No. 136-I "On Pensions in the Republic of Kazakhstan" of 20 June 1997 (repealed by Law No. 105-V of 21 June 2013) | WT/ACC/KAZ/68 |
| Law No. 272-I "On Natural Monopolies and Regulated Markets" of 9 July 1998 | WT/ACC/KAZ/68 |
| Law No. 373-II "On Investments" of 8 January 2003 | WT/ACC/KAZ/42, WT/ACC/KAZ/57/Add.1 |

| <u>LEGISLATION/REGULATION</u> | <u>LEGISLATION NOTICE</u> |
|---|---|
| Law No. 291-IV "On Subsurface and Subsurface Use" of 24 June 2010 | WT/ACC/KAZ/69 |
| Presidential Decree No. 2717 "On Land" of 22 December 1995, which had the force of Law (repealed by Law No. 153-II of 24 January 2001) | WT/ACC/KAZ/4 |
| Presidential Decree No. 1096 "On Strategy for Industrial and Innovation Development of the Republic of Kazakhstan for 2003-2015" of 17 May 2003 (repealed by Presidential Decree No. 958 of 19 March 2010) | WT/ACC/KAZ/66/Add.1 |
| Government Resolution No. 1219 "On Approval of the Plan of Activities on Development of Stock Market and Increasing Investment Activeness of the Population on Stock Market for the year 2008" of 11 December 2007 | WT/ACC/KAZ/67/Add.1 |
| - State Ownership, State-Trading Entities and Privatization | |
| Constitution of the Republic of Kazakhstan of 5 September 1995 | WT/ACC/KAZ/4 |
| Law No. 156-XIII "On Transport in the Republic of Kazakhstan" of 21 September 1994 | WT/ACC/KAZ/4 |
| Law No. 2255 "On Business Partnerships" of 2 May 1995 | WT/ACC/KAZ/4 |
| Law No. 68-III "On Production Sharing Agreements in Offshore Oil Operations" of 8 July 2005 (repealed by Law No. 100-IV of 10 February 2008) | WT/ACC/KAZ/66/Add.1 |
| Law No. 527-IV "On National Security of the Republic of Kazakhstan" of 6 January 2012 | WT/ACC/KAZ/68 |
| Presidential Decree No. 2350 "On Oil" of 28 June 1995, which had the force of Law (repealed by Law No. 291-IV of 24 June 2010) | WT/ACC/KAZ/4 |
| Presidential Decree No. 2721 "On Privatization" of 23 December 1995, which had the force of Law (repealed by Law No. 413-IV "On State Property" of 1 March 2011) | WT/ACC/KAZ/57/Add.1 |
| Presidential Decree No. 422 "On the List of State Property Objects Not Subject to Privatization" of 28 July 2000 | WT/ACC/KAZ/57/Add.1 |
| Regulation "On Approval of Rules of Purchasing of Goods, Services and Works for Oil Operations", approved by Government Resolution No. 1034 of 8 December 1992 (repealed by Government Resolution No. 779 of 4 August 2003) | WT/ACC/KAZ/4 |
| Government Resolution No. 1587 "On the Schedule of Non-Privatizable State Property" of 24 October 2000 (as amended on 18 December 2003) | WT/ACC/KAZ/50/Add.1, WT/ACC/KAZ/57/Add.1 |
| Government Resolution No. 969 "On Draft Law of the Republic of Kazakhstan 'On Production Sharing Agreements in Offshore Oil Operations'" of 16 September 2004 | WT/ACC/KAZ/66/Add.1 |
| Government Resolution No. 483 "On Some Issues of Republican State Ownership" of 11 June 2007 | WT/ACC/KAZ/67/Add.1 |
| Draft Law "On Joint Stock Companies" of 4 June 1997 | WT/ACC/KAZ/18 |
| Draft Law "On Limited Liability Partnerships" of 25 March 1997 | WT/ACC/KAZ/18 |
| - Pricing Policies | |
| Treaty on the Eurasian Economic Union of 29 May 2014 | WT/ACC/KAZ/85, WT/ACC/KAZ/85/Rev.1 |
| Law No. 272-I "On Natural Monopolies and Regulated Markets" of 9 July 1998 | WT/ACC/KAZ/68 |
| Law No. 291-IV "On Subsurface and Subsurface Use" of 24 June 2010 | WT/ACC/KAZ/69 |
| Government Resolution No. 1171 "On Price Regulation for Products of Business Entities, Recognized as Natural Monopolists" of 19 October 1994 (repealed by Government Resolution No. 258 of 17 March 2003) | WT/ACC/KAZ/4 |
| Government Resolution No. 376 "On Approval of the Rules on Public Consultation in Considering Applications for Approval or Change of Natural Monopolies' Tariffs (Prices, Rates)" of 21 April 2003 | WT/ACC/KAZ/57/Add.1 |
| Order of the Chairman of the Agency on Regulation of Natural Monopolies, Protection of Competition and Support of Small Businesses No. 24-OD "On Adoption of the Rules for Introduction and Discontinuation of Decreasing Coefficients for Tariffs on Regulated Rail Freight" of 12 December 1999 | WT/ACC/KAZ/50/Add.1 |
| - Competition Policy | |
| Treaty on the Eurasian Economic Union of 29 May 2014 | WT/ACC/KAZ/85, WT/ACC/KAZ/85/Rev.1 |
| Constitution of the Republic of Kazakhstan of 5 September 1995 | WT/ACC/KAZ/4 |
| Law No. 232-I "On Unfair Competition" of 9 June 1998 (repealed by Law No. 112-IV "On Competition" of 25 December 2008) | WT/ACC/KAZ/18, WT/ACC/KAZ/36/Add.2 |
| Law "On Development of Competition and Restriction of Monopolistic Activities" of 11 June 1991 (repealed by Law No. 184-II of 3 May 2001) | WT/ACC/KAZ/4 |

| <u>LEGISLATION/REGULATION</u> | <u>LEGISLATION NOTICE</u> |
|---|---------------------------------------|
| Law No. 456-I "On Trademarks, Service Marks and Appellations of Origin of Goods" of 26 July 1999 | WT/ACC/KAZ/23, WT/ACC/KAZ/75/Add.1 |
| Law No. 9-III "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on the Activity of Subjects of Natural Monopolies" of 9 December 2004 | WT/ACC/KAZ/66/Add.1 |
| Law No. 34-V "On Amendments and Addenda to Certain Legislative Acts on Issues of State Monopoly" of 10 July 2012 | WT/ACC/KAZ/76 |
| III. FRAMEWORK FOR MAKING AND ENFORCING POLICIES | |
| - Powers of Executive, Legislative and Judicial Branches of Government | |
| Constitution of the Republic of Kazakhstan of 5 September 1995 | WT/ACC/KAZ/4 |
| - Framework of the Eurasian Economic Union among the Republic of Kazakhstan, the Russian Federation and the Republic of Belarus | |
| Treaty on the Establishment of Common Customs Territory and the Formation of the Customs Union of 6 December 2007 (repealed as of 1 January 2015) | WT/ACC/KAZ/68 |
| Treaty on the Functioning of the Customs Union in the Framework of the Multilateral Trading System of 19 May 2011 | WT/ACC/KAZ/68, WT/ACC/KAZ/69 |
| Decision of the Supreme Eurasian Economic Council No. 1 "On the Regulation of the Work of the Eurasian Economic Commission" of 18 November 2011 | WT/ACC/KAZ/72/Add.1 |
| Treaty on the Eurasian Economic Union of 29 May 2014 | WT/ACC/KAZ/85, WT/ACC/KAZ/85/Rev.1 |
| Protocol "On the Rules of Entry into Force of International Treaties Comprising the Legal Basis of the Customs Union, Withdrawal from Them and Accession to Them" of 6 October 2007 (repealed as of 1 January 2015) | WT/ACC/KAZ/68 |
| Statute of the Court of the Eurasian Economic Community, approved by Decision of the EurAsEC Interstate Council No. 122 of 27 April 2003 | WT/ACC/KAZ/68 |
| List of International Treaties which Formed Contractual and Legal Base of the Customs Union, approved by Decision of the EurAsEC Interstate Council No. 14 of 27 November 2009 | WT/ACC/KAZ/68 |
| Decision of the EurAsEC Intergovernmental Council No. 15 "On the Issues of the Organization of Functioning of the Commission of the Customs Union" of 27 November 2009 | WT/ACC/KAZ/68 |
| Decision of the EurAsEC Interstate Council No. 534 of 9 December 2010 "On the Treaty on Judicial Recourse to the EurAsEC Court of the Economic Operators on Disputes within the Framework of the Customs Union and Peculiarities of the Judicial Procedure on Them" | WT/ACC/KAZ/68 |
| Decision of the CU Commission No. 308 "On Regulation on Introduction of Changes on Control Measures of Foreign Trade in the Customs Union Commission (as in force on the Customs Union Commission No. 553 of 2 March 2011)" of 18 June 2010 | WT/ACC/KAZ/68 |
| Code "On Administrative Offences" of 22 March 1984, as amended on 1 April 1995 (repealed by Code No. 155-II "On Administrative Offences" of 30 January 2001) | WT/ACC/KAZ/4 |
| Law of the Republic of Kazakhstan No. 536-IV "On Ratification of the Treaty on the Eurasian Economic Commission" of 10 January 2012 | WT/ACC/KAZ/72/Add.1 |
| - Government Entities Responsible for Making and Implementing Policies Affecting Foreign Trade; Right of Appeal | |
| Treaty on the Customs Code of the Customs Union of 27 November 2009 | WT/ACC/KAZ/68 |
| Law No. 221-III "On Order of Review of Requests of Natural and Juridical Persons" of 12 January 2007 | WT/ACC/KAZ/68 |
| Presidential Decree No. 2340 "On Procedure for Review of Formal Requests from Citizens" of 19 June 1995, which had the force of Law (repealed by Law No. 221-III of 12 January 2007) | WT/ACC/KAZ/57/Add.1 |

| <u>LEGISLATION/REGULATION</u> | <u>LEGISLATION NOTICE</u> |
|---|---|
| IV. POLICIES AFFECTING TRADE IN GOODS | |
| - Registration Requirements for Import and Export Operations | |
| Treaty on the Customs Code of the Customs Union of 27 November 2009 | WT/ACC/KAZ/68 |
| Treaty on the Eurasian Economic Union of 29 May 2014 | WT/ACC/KAZ/85, WT/ACC/KAZ/85/Rev.1 |
| CU Agreement on Common Measures of Non-Tariff Regulation in Respect of Third Countries of 25 January 2008 (repealed as of 1 January 2015) | WT/ACC/KAZ/68 |
| CU Agreement on Licensing in the Area of Foreign Merchandise Trade of 9 July 2009 (repealed as of 1 January 2015) | WT/ACC/KAZ/68 |
| Regulation "On the Order of Entry into the Customs Territory of the Customs Union and Removal from the Customs Territory of the Customs Union of Encryption (Cryptographic) Means", approved by Decision of the EEC Collegium No. 134 of 16 August 2012 | WT/ACC/KAZ/72/Add.1 |
| Code of the Republic of Kazakhstan No. 99-IV "On Taxes and Other Obligatory Payments to the Budget (Tax Code)" of 10 December 2008 | WT/ACC/KAZ/68 |
| Code of the Republic of Kazakhstan No. 296-IV "On Customs Issues in the Republic of Kazakhstan" of 30 June 2010 | WT/ACC/KAZ/68 |
| Law No. 57-III "On Currency Regulation and Currency Control" of 13 June 2005 | WT/ACC/KAZ/66/Add.1, WT/ACC/KAZ/67/Add.1, WT/ACC/KAZ/68, WT/ACC/KAZ/75/Add.1 |
| Law No. 214-III "On Licensing" of 11 January 2007 | WT/ACC/KAZ/75/Add.1 |
| Presidential Decree No. 2198 "On State Registration of Juridical Persons and Statistical Record-Keeping and Registration of Branches and Representative Offices" of 17 April 1995, which has the force of Law | WT/ACC/KAZ/4, WT/ACC/KAZ/66/Add.1 |
| Government Resolution No. 578 "On Certain Issues of Export and Import Licensing of Goods" of 12 June 2008 | WT/ACC/KAZ/72/Add.1, WT/ACC/KAZ/75/Add.1 |
| Government Resolution No. 57 "On Certain Issues of Activity Licensing for Production of Ethyl Spirits and Production, Storage, Wholesale and/or Retail Sale of Alcohol Products Except for Storage, Wholesale and/or Retail Sale of Alcohol Products within the Territory of Production" of 29 January 2013 | WT/ACC/KAZ/77/Add.1 |
| A. IMPORT REGULATIONS | |
| - Ordinary Customs Duties | |
| Treaty on the Eurasian Economic Union of 29 May 2014 | WT/ACC/KAZ/85, WT/ACC/KAZ/85/Rev.1 |
| CU Agreement on Common Customs and Tariff Regulation of 25 January 2008 (repealed as of 1 January 2015) | WT/ACC/KAZ/68 |
| CU Agreement on Rules of the Origin of Goods, Originating from Developing and Least developed Countries of 12 December 2008 | WT/ACC/KAZ/68 |
| Decision of the EurAsEC Interstate Council No. 18 "On Common Customs and Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation" of 27 November 2009 | WT/ACC/KAZ/68 |
| Decision of the CU Commission No. 130 "On Common Customs and Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation" of 27 November 2009 | WT/ACC/KAZ/68 |
| Law No. 2368 "On Customs Regulation in the Republic of Kazakhstan" of 20 July 1995, as amended on 5 July 2000 (repealed by Law No. 401-II of 5 April 2003) | WT/ACC/KAZ/36, WT/ACC/KAZ/6/Add.2 |
| Law No. 62-III "On Amendments and Addenda to the Customs Code of the Republic of Kazakhstan" of 20 June 2005 (repealed by Law No. 298-IV of 30 June 2010) | WT/ACC/KAZ/66/Add.1 |
| Law No. 211-III "On Amendments and Addenda to the Customs Code of the Republic of Kazakhstan" of 8 January 2007 (repealed by Law No. 298-IV of 30 June 2010) | WT/ACC/KAZ/67/Add.1 |
| Government Resolution No. 1009 "On the Approval of the List of Countries which are Beneficiaries from the Preference Scheme of Kazakhstan" of 20 July 1995 (repealed by Government Resolution No. 1389 of 14 November 1996) | WT/ACC/KAZ/4 |

| LEGISLATION/REGULATION | LEGISLATION NOTICE |
|---|---|
| Government Resolution No. 1125 "On the Rates of Customs Duties on Imported Goods" of 15 August 1995 (repealed by Government Resolution No.1389 of 14 November 1996) | WT/ACC/KAZ/4 |
| Government Resolution No. 1389 "On Rates of Customs Duties on Imported Goods" of 14 November 1996 | WT/ACC/KAZ/8 |
| Government Resolution No. 891 "On Rates of Customs Duties on Imported Goods" of 29 June 2001 (repealed by Government Resolution No. 765 of 14 August 2006) | WT/ACC/KAZ/36 |
| Government Resolution No. 524 "On Approval of the List of Goods Transported Through the Republic of Kazakhstan with Obligatory Securing of Payment of Customs Duties and Taxes" of 4 June 2003 (repealed by Government Resolution No. 272 of 25 March 2011) | WT/ACC/KAZ/57/Add.1, WT/ACC/KAZ/67/Add.1 |
| Draft Customs Code of Kazakhstan | WT/ACC/KAZ/39 |
| - Other Duties and Charges | |
| Decision of the EurAsEC Interstate Council No. 18 "On Common Customs and Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation" of 27 November 2009 | WT/ACC/KAZ/68 |
| Decision of the CU Commission No. 130 "On Common Customs and Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation" of 27 November 2009 | WT/ACC/KAZ/68 |
| - Tariff Exemptions | |
| Treaty on the Customs Code of the Customs Union of 27 November 2009 | WT/ACC/KAZ/68 |
| Treaty on the Eurasian Economic Union of 29 May 2014 | WT/ACC/KAZ/85, WT/ACC/KAZ/85/Rev.1 |
| Protocol "On Conditions and Procedure for Use in Exceptional Cases of the Rates of Import Customs Duties Other than Common Customs Tariff Rates" of 12 December 2008 (repealed as of 1 January 2015) | WT/ACC/KAZ/68 |
| Decision of the EurAsEC Interstate Council No. 18 "On Common Customs and Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation" of 27 November 2009 | WT/ACC/KAZ/68 |
| Decision of the CU Commission No. 130 "On Common Customs and Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation" of 27 November 2009 | WT/ACC/KAZ/68 |
| Customs Code of the Republic of Kazakhstan No. 401-II of 5 April 2003 (repealed by Law No. 296-IV of 30 June 2010) | WT/ACC/KAZ/39/Rev.1, WT/ACC/KAZ/50/Add.1, WT/ACC/KAZ/57/Add.1, WT/ACC/KAZ/66/Add.1 |
| - Tariff Rate Quotas | |
| Treaty on the Eurasian Economic Union of 29 May 2014 | WT/ACC/KAZ/85, WT/ACC/KAZ/85/Rev.1 |
| CU Agreement on Regime and Implementation of Tariff Quota of 12 December 2008 (repealed as of 1 January 2015) | WT/ACC/KAZ/68 |
| Decision of the CU Commission No. 865 "On the List of Goods in Respect of Which from 1 January 2012, Tariff Rate Quotas as well as Volumes of Tariff Rate Quotas are Established for Imports into the Territory of the Customs Union Member Countries" of 18 November 2011 | WT/ACC/KAZ/68 |
| Government Resolution No. 269 "On Certain Issues of Allocation of Tariff Rate Quotas Volumes for Importation of Certain Kinds of Meat" of 24 March 2011 | WT/ACC/KAZ/68 |
| Decision of the EEC Collegium No. 229 "On the List of Products, with respect to which Tariff Rate Quotas, and the Volumes of Tariff Rate Quotas to the Territories of the member States of the Customs Union and Common the Single Economic Space for 2013 are Established" of 20 November 2012 | WT/ACC/KAZ/72/Add.1 |
| Government Resolution No. 336 "On Certain Issues of Allocation of Tariff Rate Quotas Volumes for Importation of Certain Kinds of Meat among Participants of Foreign Trade Activity for 2012" of 15 March 2012 | WT/ACC/KAZ/68 |
| Government Resolution No. 1085 "On Amendments and Addenda to Government Resolution No. 336 'On Certain Issues of Allocation of Tariff Rate Quota Volumes for Importation of Certain Kinds of Meat among Participants of Foreign Economic Activity for 2012' of 15 March 2012" of 24 August 2012 | WT/ACC/KAZ/75/Add.3 |

| <u>LEGISLATION/REGULATION</u> | <u>LEGISLATION NOTICE</u> |
|--|---------------------------------------|
| - Fees and Charges for Services Rendered | |
| Treaty on the Customs Code of the Customs Union of 27 November 2009 | WT/ACC/KAZ/68 |
| Code of the Republic of Kazakhstan No. 296-IV "On Customs Issues in the Republic of Kazakhstan" of 30 June 2010 | WT/ACC/KAZ/68 |
| Decree of the President No. 2369 "On the Implementation of Presidential Decree "On the Customs Regulation in the Republic of Kazakhstan", which has the force of Law" of 20 July 1995 (repealed by President Decree No. 829 of 18 June 2009) | WT/ACC/KAZ/4 |
| Presidential Decree No. 2370 "On the Introduction of Amendments to Certain Legislative Acts and Decrees on Customs Issues" of 20 July 1995, which has the force of Law | WT/ACC/KAZ/4 |
| Government Resolution No. 1479 "On Rates of Customs Fees" of 7 November 1995 (repealed by Government Resolution No. 669 of 8 July 2003) | WT/ACC/KAZ/4 |
| Government Resolution No. 669 "On Adoption of the Customs Charges, Charges and Fees Levied by Customs Bodies" of 8 July 2003 (repealed by Government Resolution No. 24 of 21 January 2011) | WT/ACC/KAZ/50/Add.1 |
| Government Resolution No. 202 "On Amendments to Resolution No. 669 of 8 July 2003 "On Adoption of Rates of Customs Charges, Charges and Fees Levied by Customs Bodies"" of 24 March 2006 (repealed by Government Resolution No.171 of 20 February 2008) | WT/ACC/KAZ/66/Add.1 |
| Government Resolution No. 24 "On Adoption of Rates of Customs Fees Levied by Customs Bodies" of 21 January 2011 | WT/ACC/KAZ/68 |
| - Application of Internal Taxes to Imports | |
| Treaty on the Customs Code of the Customs Union of 27 November 2009 | WT/ACC/KAZ/68 |
| Treaty on the Eurasian Economic Union of 29 May 2014 | WT/ACC/KAZ/85, WT/ACC/KAZ/85/Rev.1 |
| CU Agreement on the Principles of Indirect Tax Collection at Export and Import of Goods, Performing Works and Rendering Services in the Customs Union of 25 January 2008 (repealed as of 1 January 2015) | WT/ACC/KAZ/68 |
| Protocol "On the Procedure of Levying Indirect Taxes upon Performing Works and Rendering Services in the Customs Union" of 11 December 2009 (repealed as of 1 January 2015) | WT/ACC/KAZ/68 |
| Protocol "On the Procedure of Collection of Indirect Taxes and on the Mechanism of Carrying out the Control over their Payment while Exporting/Importing Goods from/to the Customs Union" of 11 December 2009 (repealed as of 1 January 2015) | WT/ACC/KAZ/68 |
| Protocol "On Amending the Agreement on the Principles of Collection of Indirect Taxes on Exports and Imports of Goods, Performing Works and Rendering Services in the Custom Union" of 11 December 2009 (repealed as of 1 January 2015) | WT/ACC/KAZ/68 |
| Code of the Republic of Kazakhstan No. 209-II "On Taxes and Other Obligatory Payments to the Budget (Tax Code)" of 12 June 2001 (repealed by Law No. 100-IV of 10 December 2008) | WT/ACC/KAZ/6/Add.2, WT/ACC/KAZ/36 |
| Code of the Republic of Kazakhstan No. 99-IV "On Taxes and Other Obligatory Payments to the Budget (Tax Code)" of 10 December 2008 | WT/ACC/KAZ/68 |
| Law No. 11-III "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Issues of Taxation" of 13 December 2004 (repealed by Law No. 100-IV of 10 December 2008) | WT/ACC/KAZ/66/Add.1 |
| Law No. 23-III "On International Commercial Arbitration" of 28 December 2004 | WT/ACC/KAZ/66/Add.1 |
| Presidential Decree No. 2703 "On the Introduction of Amendments to Certain Legislative Acts and Decrees" of 21 December 1995, which has the force of Law | WT/ACC/KAZ/4 |
| Presidential Decree No. 2827 "On the Introduction of Amendments to Presidential Decree "On Taxes and Other Compulsory Payments to the Budget"" of 26 January 1996, which had the force of Law | WT/ACC/KAZ/4 |
| Government Resolution No. 960 "On the Rates of Excise Taxes on Imported Excisable Goods and the Quotas of Transfer by Natural Persons through the Customs Boundary of Kazakhstan of Excisable Goods which Are not Subject to Excise Duties" of 13 July 1995 (repealed by Government Resolution No. 1747 of 31 December 1996) | WT/ACC/KAZ/4 |
| Government Resolution No. 974 "On the Rates of Excise Taxes on Excisable Goods Manufactured in Kazakhstan and the Gambling Business" of 14 July 1995 (repealed by Resolution No. 1747 of 31 December 1996) | WT/ACC/KAZ/4 |
| Government Resolution No. 1397 "On the Introduction of Amendments and | WT/ACC/KAZ/4 |

| <u>LEGISLATION/REGULATION</u> | <u>LEGISLATION NOTICE</u> |
|---|---------------------------------------|
| Addenda to Government Resolution No. 960 of 13 July 1995" of 30 October 1995 (repealed by Government Resolution No. 819 of 28 June 1996) | |
| Government Resolution No. 1439 "On the Rates of Excise Duties on Certain Types of Excisable Goods Imported to the Territory of Kazakhstan" of 2 November 1995 (repealed by Government Resolution No. 819 of 28 June 1996) | WT/ACC/KAZ/4 |
| Government Resolution No. 1487 "On the Introduction of Amendments and Additions to Government Resolution No. 974 of 14 July 1995" of 8 November 1995 (repealed by Government Resolution No. 1747 of 31 December 1996) | WT/ACC/KAZ/4 |
| Government Resolution No. 341 "On Introduction of Amendments and Addenda to some Decisions of the Government" of 25 March 1996 (repealed by Government Resolution No. 1747 of 31 December 1996) | WT/ACC/KAZ/4 |
| Government Resolution No. 608 of 26 June 1998, Appendix 1: "Excise Taxes for the Excisable Goods Imported to the Customs Territory of the Republic of Kazakhstan" (repealed by Government Resolution No. 217 of 9 March 2005) | WT/ACC/KAZ/18 |
| Government Resolution No. 556 "On Procedure for Offsetting due Value Added Tax to Importers of Goods to Kazakhstan Under the International Agreement on Different Taxation of Export and Import of Goods" of 22 May 2002 | WT/ACC/KAZ/57/Add.1 |
| Government Resolution No. 1035 "On Amendments to Government Resolution No. 137 of 28 January 2000 'On Excise Rates on Excised Goods Produced in the Republic of Kazakhstan and Imported to the Customs Territory of the Republic of Kazakhstan, Sold on the Territory of the Republic of Kazakhstan; and on Gambling Industry'" of 15 October 2005 (repealed by Government Resolution No. 1332 of 31 December 2008) | WT/ACC/KAZ/66/Add.1 |
| Government Resolution No. 1075 "On Approval of the List of Taxpayers who Benefited from VAT Exemptions on Import of Goods within the Framework of Contract for Subsoil Use on the Territory of the Republic of Kazakhstan" of 11 November 2006 (repealed by Government Resolution No. 1326 of 31 December 2008) | WT/ACC/KAZ/67/Add.1 |
| Order of the Customs Committee No. 131 "On the Procedure for Application of Value Added Tax and Excise Taxes to Goods which are Imported into the Customs Territory of Kazakhstan" of 29 September 1995 (repealed by Joint Order of the Tax Committee No. 82 of 27 August 1999 and the Customs Committee No. 153 of 1 September 1999) | WT/ACC/KAZ/4 |
| - Quantitative Import Restrictions, including Prohibitions, Quotas and Licensing Systems | |
| Treaty on the Eurasian Economic Union of 29 May 2014 | WT/ACC/KAZ/85, WT/ACC/KAZ/85/Rev.1 |
| CU Agreement on Common Measures of Non-Tariff Regulation in Respect of Third Countries of 25 January 2008 (repealed as of 1 January 2015) | WT/ACC/KAZ/68 |
| CU Agreement on the Procedure for Introduction and Application of Measures Concerning Foreign Trade in Goods on the Common Customs Territory in Respect of Third Countries of 9 June 2009 (repealed as of 1 January 2015) | WT/ACC/KAZ/68 |
| CU Agreement on the Rules of Licensing in the Area of Foreign Merchandise Trade of 9 July 2009 (repealed as of 1 January 2015) | WT/ACC/KAZ/68 |
| Regulation "On the Order of Entry into the Customs Territory of the Customs Union and Removal from the Customs Territory of the Customs Union of Encryption (Cryptographic) Means", approved by Decision of the EEC Collegium No. 134 of 16 August 2012 | WT/ACC/KAZ/72/Add.1 |
| Decision of the EEC Collegium No. 103 "On Amendments to the Regulation on Application of Restrictions" of 14 May 2013 | WT/ACC/KAZ/75/Add.3 |
| Code of the Republic of Kazakhstan No. 99-IV "On Taxes and Other Obligatory Payments to the Budget (Tax Code)" of 10 December 2008 | WT/ACC/KAZ/68 |
| Law No. 2200 "On Licensing" of 17 April 1995 (repealed by Law No. 214-III of 11 January 2007) | WT/ACC/KAZ/4 |
| Law No. 45-III "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Issues of Licensing" of 15 April 2005 | WT/ACC/KAZ/66/Add.1 |
| Law No. 214-III "On Licensing" of 11 January 2007 | WT/ACC/KAZ/75/Add.1 |
| Presidential Decree No. 2720 "On the Introduction of Amendments and Addenda to Certain Presidential Decrees" of 23 December 1995, which has the force of Law | WT/ACC/KAZ/4 |
| Government Resolution No. 1035 "On the Approval of the List of Exchange Commodities" of 28 July 1995 (repealed by Government Resolution No. 1492 of 5 December 1996) | WT/ACC/KAZ/4 |

| <u>LEGISLATION/REGULATION</u> | <u>LEGISLATION NOTICE</u> |
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| Government Resolution No. 1894 "On the Implementation of Presidential Decree No. 2201 "On Licensing" of 17 April 1995" of 29 December 1995 (repealed by Government Resolution No. 753 of 7 June 2012) | WT/ACC/KAZ/4 |
| Government Resolution No. 298 "On the Procedure for Export and Import of Public Goods (Works, Services) in Kazakhstan" of 12 March 1996 (repealed by Government Resolution No. 1037 of 30 June 1997) | WT/ACC/KAZ/4 |
| Government Resolution No. 304 "On Introduction of Amendments and Addenda to Government Resolution No. 1035 of 28 July 1995" of 13 March 1996 (repealed by Government Resolution No. 1253 of 12 August 2000) | WT/ACC/KAZ/4 |
| Government Resolution No. 342 "On the Approval of the List of Goods Allowed and not Allowed to the Regime of Temporary Import and Export" of 25 March 1996 (repealed by Government Resolution No. 668 of 8 July 2003) | WT/ACC/KAZ/4 |
| Government Resolution No. 1324 "On Amendments into Government Resolution No. 1660 'On Approval of Fee Rates for State Registration of Juridical Persons of 19 December 2001'" of 30 December 2005 (repealed by Government Resolution No. 1332 of 31 December 2008) | WT/ACC/KAZ/66/Add.1 |
| Government Resolution No. 1334 "On Amendments to Resolution of the Government of the Republic of Kazakhstan No. 100 'On Approval of Licensing Fee Rates for the Right to Perform Certain Types of Activities' of 24 January 2002" of 31 December 2005 (repealed by Government Resolution No. 610 of 9 August 2007) | WT/ACC/KAZ/66/Add.1 |
| Government Resolution No. 578 "On Certain Issues of Export and Import Licensing of Goods" of 12 June 2008 | WT/ACC/KAZ/72/Add.1, WT/ACC/KAZ/75/Add.1 |
| Government Resolution No. 440 "On Approval of Qualification Requirements for Licensing Activity on Development and Sale (including another Transfer) of Means of Cryptographic Protection of Information" of 10 January 2012 | WT/ACC/KAZ/72/Add.1 |
| Government Resolution No. 711 "On Approval of the Rules on Importation and Exportation of Medicines, Products of Medical Purposes and Medical Equipment" of 31 May 2012 | WT/ACC/KAZ/77/Add.1 |
| Government Resolution No. 57 "On Certain Issues of Activity Licensing for Production of Ethyl Spirits and Production, Storage, Wholesale and/or Retail Sale of Alcohol Products Except for Storage, Wholesale and/or Retail Sale of Alcohol Products within the Territory of Production" of 29 January 2013 | WT/ACC/KAZ/77/Add.1 |
| Draft Law "On Licensing" | WT/ACC/KAZ/66/Add.1 |
| List of Goods Subject to Non-Tariff Measures | WT/ACC/KAZ/50/Add.2 |
| - Customs Valuation | |
| Treaty on the Customs Code of the Customs Union of 27 November 2009 | WT/ACC/KAZ/68 |
| CU Agreement on the Determination of Customs Value of Goods, Transferred Across Customs Border of the Customs Union of 25 January 2008 | WT/ACC/KAZ/68 |
| Protocol "On Amendments and Addenda to the Agreement on the Determination of Customs Value of Goods, Transferred Across Customs Border of the Customs Union of 25 January 2008" of 23 April 2012 | WT/ACC/KAZ/68 |
| Decision of the EEC Collegium No. 53 "On Amendment to the Rules of Application of Method on Determination of Customs Value of Goods According to the Transaction Value of Imported Goods (Method 1) and the Termination of the Recommendation of the EEC Collegium No. 1 of 20 June 2012" of 26 March 2012 | WT/ACC/KAZ/75/Add.1 |
| Decision of the EEC Collegium No. 202 "On Rules of Application of Methods on Determination of Customs Value of Goods According to the Transaction Value of Identical Goods (Method 2) and According to the Transaction Value of Similar Goods (Method 3)" of 30 October 2012 | WT/ACC/KAZ/72/Add.1, WT/ACC/KAZ/75/Add.1 |
| Decision of the EEC Collegium No. 214 "On Rules of Application of Method on Determination of Customs Value of Goods According to the Deductive Value Method (Method 4)" of 13 November 2012 | WT/ACC/KAZ/75/Add.1 |
| Decision of the EEC Collegium No. 273 "On Rules of Application of Method on Determination of Customs Value of Goods According to the Computed Value Method (Method 5)" of 12 December 2012 | WT/ACC/KAZ/75/Add.1 |
| Decision of the EEC Collegium No. 283 "On Application of Methods on Determination of Customs Value of Goods According to the Transaction Value of Imported Goods (Method 1)" of 20 December 2012 | WT/ACC/KAZ/75/Add.1 |
| Customs Code of the Republic of Kazakhstan No. 401-II of 5 April 2003 (repealed by Law No. 296-IV of 30 June 2010) | WT/ACC/KAZ/39/Rev.1, WT/ACC/KAZ/50/Add.1, WT/ACC/KAZ/57/Add.1, WT/ACC/KAZ/66/Add.1 |

| LEGISLATION/REGULATION | LEGISLATION NOTICE |
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| Code of the Republic of Kazakhstan No. 296-IV "On Customs Issues in the Republic of Kazakhstan" of 30 June 2010 | WT/ACC/KAZ/68 |
| Law No. 221-III "On Order of Review of Requests of Natural and Juridical Persons" of 12 January 2007 | WT/ACC/KAZ/68 |
| Presidential Decree No. 2155 "On the National Bank of Kazakhstan" of 30 March 1995, which has the force of Law | WT/ACC/KAZ/4 |
| - Rules of Origin | |
| Treaty on the Customs Code of the Customs Union of 27 November 2009 | WT/ACC/KAZ/68 |
| CU Agreement on Common Rules for Determining the Country of Origin of Goods of 25 January 2008 | WT/ACC/KAZ/68 |
| CU Agreement on Rules of the Origin of Goods, Originating from Developing and Least developed Countries of 12 December 2008 | WT/ACC/KAZ/68 |
| Decision of the CU Commission No. 130 "On Common Customs and Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation" of 27 November 2009 | WT/ACC/KAZ/68 |
| Customs Code of the Republic of Kazakhstan No. 401-II of 5 April 2003 (repealed by Law No. 296-IV of 30 June 2010) | WT/ACC/KAZ/39/Rev.1, WT/ACC/KAZ/50/Add.1, WT/ACC/KAZ/57/Add.1, WT/ACC/KAZ/66/Add.1 |
| Code of the Republic of Kazakhstan No. 296-IV "On Customs Issues in the Republic of Kazakhstan" of 30 June 2010 | WT/ACC/KAZ/68 |
| Order of the Chairman of the Customs Control Agency of the Republic of Kazakhstan No. 209 "On Approval of Rules for Filling in Customs Value Declaration Forms and Rules for Filling in Customs Value Correction Forms" of 15 May 2003 | WT/ACC/KAZ/57/Add.1 |
| Order of the Chairman of the Customs Control Agency of the Republic of Kazakhstan No. 210 "On Approval of Rules on Preliminary Decisions and Their Form" of 15 May 2003 | WT/ACC/KAZ/57/Add.1 |
| - Other Customs Formalities | |
| CU Agreement on the Introduction and Application of Measures Concerning Foreign Trade in Goods on the Common Customs Territory in Respect of Third Countries of 9 June 2009 (repealed as of 1 January 2015) | WT/ACC/KAZ/68 |
| Code of the Republic of Kazakhstan No. 296-IV "On Customs Issues in the Republic of Kazakhstan" of 30 June 2010 | WT/ACC/KAZ/68 |
| Law No. 57-III "On Currency Regulation and Currency Control" of 13 June 2005 | WT/ACC/KAZ/66/Add.1, WT/ACC/KAZ/67/Add.1, WT/ACC/KAZ/68, WT/ACC/KAZ/75/Add.1 |
| - Preshipment Inspection | |
| Treaty on the Eurasian Economic Union of 29 May 2014 | WT/ACC/KAZ/85, WT/ACC/KAZ/85/Rev.1 |
| CU Agreement on Common Measures of Non-Tariff Regulation in Respect of Third Countries of 25 January 2008 (repealed as of 1 January 2015) | WT/ACC/KAZ/68 |
| CU Agreement on the Introduction and Application of Measures Concerning Foreign Trade in Goods on the Common Customs Territory in Respect of Third Countries of 9 June 2009 (repealed as of 1 January 2015) | WT/ACC/KAZ/68 |
| - Anti-dumping, Countervailing Duty and Safeguard Regimes | |
| Treaty on the Eurasian Economic Union of 29 May 2014 | WT/ACC/KAZ/85, WT/ACC/KAZ/85/Rev.1 |
| Law No. 337-I "On Measures to Protect the Domestic Market upon Importation of Goods" of 28 December 1998 | WT/ACC/KAZ/20, WT/ACC/KAZ/66/Add.1 |
| Law No. 421-I "On Anti-Dumping Measures" of 13 July 1999 | WT/ACC/KAZ/23 |
| Law No. 441-I "On Subsidies and Countervailing Measures" of 16 July 1999 | WT/ACC/KAZ/23 |
| Law No. 114-III "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Subsidies, Countervailing and Anti-Dumping Measures" of 9 January 2006 | WT/ACC/KAZ/66/Add.1 |

| LEGISLATION/REGULATION | LEGISLATION NOTICE |
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| Government Resolution No. 1374 "On Approval of the Rules for Conducting Investigation prior to Introduction of Safeguard, Countervailing and Anti-Dumping Measures" of 9 September 2000 | WT/ACC/KAZ/67/Add.1 |
| Draft Law "On Safeguard Measures" | WT/ACC/KAZ/13 |
| Draft Law "On Anti-Dumping" | WT/ACC/KAZ/13 |
| Draft Law "On Subsidies and Countervailing Measures" | WT/ACC/KAZ/13 |
| B. EXPORT REGULATIONS | |
| - Customs Tariffs, Fees and Charges for Services Rendered, Application of Internal Taxes to Exports | |
| Code of the Republic of Kazakhstan No. 99-IV "On Taxes and Other Obligatory Payments to the Budget (Tax Code)" of 10 December 2008 | WT/ACC/KAZ/68 |
| Government Resolution No. 810 "On the Amendments to Government Resolution No. 299 of 12 March 1996" of 28 June 1996 (repealed by Government Resolution No. 124 of 9 February 2005) | WT/ACC/KAZ/4 |
| - Quantitative Export Restrictions, including Prohibitions and Quotas | |
| Treaty on the Eurasian Economic Union of 29 May 2014 | WT/ACC/KAZ/85, WT/ACC/KAZ/85/Rev.1 |
| CU Agreement on Common Measures of Non-Tariff Regulation in Respect of Third Countries of 25 January 2008 (repealed as of 1 January 2015) | WT/ACC/KAZ/68 |
| - Export Licensing Procedures | |
| Treaty on the Eurasian Economic Union of 29 May 2014 | WT/ACC/KAZ/85, WT/ACC/KAZ/85/Rev.1 |
| CU Agreement on Common Measures of Non-Tariff Regulation in Respect of Third Countries of 25 January 2008 (repealed as of 1 January 2015) | WT/ACC/KAZ/68 |
| CU Agreement on the Procedure for Introduction and Application of Measures Concerning Foreign Trade in Goods on the Common Customs Territory in Respect of Third Countries of 9 June 2009 (repealed as of 1 January 2015) | WT/ACC/KAZ/68 |
| CU Agreement on the Rules of Licensing in the Area of Foreign Merchandise Trade of 9 July 2009 (repealed as of 1 January 2015) | WT/ACC/KAZ/68 |
| Code of the Republic of Kazakhstan No. 99-IV "On Taxes and Other Obligatory Payments to the Budget (Tax Code)" of 10 December 2008 | WT/ACC/KAZ/68 |
| Law No. 2200 "On Licensing" of 17 April 1995 (repealed by Law No. 214-III of 11 January 2007) | WT/ACC/KAZ/4 |
| Law No. 9-I "On Export Controls" of 18 June 1996 (repealed by Law No. 300-III of 21 July 2007) | WT/ACC/KAZ/4 |
| Law No. 45-III "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Issues of Licensing" of 15 April 2005 | WT/ACC/KAZ/66/Add.1 |
| Law No. 214-III "On Licensing" of 11 January 2007 | WT/ACC/KAZ/75/Add.1 |
| Presidential Decree No. 2720 "On the Introduction of Amendments and Addenda to Certain Presidential Decrees" of 23 December 1995, which has the force of Law | WT/ACC/KAZ/4 |
| Government Resolution No. 298 "On the Procedure for Export and Import of Public Goods (Works, Services) in Kazakhstan" of 12 March 1996 (repealed by Government Resolution No. 1037 of 30 June 1997) | WT/ACC/KAZ/4 |
| Government Resolution No. 342 "On the Approval of the List of Goods Allowed and not Allowed to the Regime of Temporary Import and Export" of 25 March 1996 (repealed by Government Resolution No. 668 of 8 July 2003) | WT/ACC/KAZ/4 |
| Government Resolution No. 1894 "On the Implementation of Presidential Decree No. 2201 'On Licensing' of 17 April 1995" of 29 December 1995 (repealed by Government Resolution No. 753 of 7 June 2012) | WT/ACC/KAZ/4 |
| C. INTERNAL POLICIES AFFECTING FOREIGN TRADE IN GOODS | |
| - Industrial Policy, including Subsidies | |
| Treaty on the Eurasian Economic Union of 29 May 2014 | WT/ACC/KAZ/85, WT/ACC/KAZ/85/Rev.1 |

| <u>LEGISLATION/REGULATION</u> | <u>LEGISLATION NOTICE</u> |
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| Code of the Republic of Kazakhstan No. 99-IV "On Taxes and Other Obligatory Payments to the Budget (Tax Code)" of 10 December 2008 | WT/ACC/KAZ/68 |
| Law No. 266-XIII "On Foreign Investments" of 27 December 1994 (repealed by Law No. 373-II "On Investments" of 8 January 2003) | WT/ACC/KAZ/4 |
| Law No. 178-II "On the Development Bank of Kazakhstan" of 25 April 2001 | WT/ACC/KAZ/66/Add.1 |
| Law No. 373-II "On Investments" of 8 January 2003 | WT/ACC/KAZ/42, WT/ACC/KAZ/57/Add.1, WT/ACC/KAZ/68 |
| Presidential Decree No. 1815 "On Establishment of the State Export-Import Bank of the Republic of Kazakhstan" of 16 July 1994 (repealed by Presidential Decree No. 1696 of 9 January 2006) | WT/ACC/KAZ/57/Add.1, WT/ACC/KAZ/66/Add.1 |
| Government Resolution No. 1017 "On Approval of Rules of Partial Reimbursement of Costs to Entities of Industrial and Innovative Activity On Promotion of Domestically Processed Goods and Services to External Markets, the List of Domestically Processed Goods and Services Subject to Partial Reimbursement of External Markets Promotion Costs, and the Repeal of Some Resolutions of the Government of the Republic of Kazakhstan" of 2 August 2012 | WT/ACC/KAZ/75/Add.3, WT/ACC/KAZ/92 |
| Order of the Acting Chairman of the Agency on Regulation of Natural Monopolies and Protection of Competition No. 375-OD "On Rules Governing Application and Discontinuation of Temporary Decreasing Coefficients and Tariffs for Mainline Railway Transportation" of 8 September 2004 | WT/ACC/KAZ/66/Add.1 |
| - Technical Barriers to Trade, Standards and Certification | |
| Treaty on the Eurasian Economic Union of 29 May 2014 | WT/ACC/KAZ/85, WT/ACC/KAZ/85/Rev.1 |
| EurAsEC Agreement on the Basics of Harmonization of Technical Regulations of the Eurasian Economic Community Members of 24 March 2005 | WT/ACC/KAZ/69/Add.1 |
| CU Agreement on Uniform Principles and Rules of Technical Regulation in the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation of 18 November 2010 (repealed as of 1 January 2015) | WT/ACC/KAZ/69/Add.1 |
| Agreement on Common Principles and Rules for the Circulation of Medical Devices (Medical Products and Medical Equipment) in the Framework of the Eurasian Economic Union of 23 December 2014 | WT/ACC/KAZ/92 |
| Decision of the EurAsEC Interstate Council No. 321 "On Recommendations on Model Structure of Technical Regulation of the Eurasian Economic Community" of 27 October 2006 | WT/ACC/KAZ/75/Add.1 |
| "Procedure for Development of Technical Regulations of the Eurasian Economic Community", approved by Decision of the EurAsEC Integration Committee No. 1175 of 17 August 2010 | WT/ACC/KAZ/69/Add.1 |
| Schedule of Development of Priority Technical Regulations of the Customs Union, approved by Decision of the CU Commission No. 492 of 8 December 2010 | WT/ACC/KAZ/69/Add.1 |
| Decision of the CU Commission No. 526 "On Unified List of Products, in Respect of Which Mandatory Requirements Are Established Within the Framework of the Customs Union" of 28 January 2011 | WT/ACC/KAZ/75/Add.1 |
| Decision of the CU Commission No. 620 " On the New Version of the Unified List of Products Subject to Mandatory Conformity Assessment (Confirmation of Compliance) within the Framework of the CU with Issuance of Single Documents, approved by CU Commission Decision No. 319 of 18 June 2010" of 7 April 2011 | WT/ACC/KAZ/69/Add.1 |
| Decision of the CU Commission No. 621 "On the Regulation on the Application Application of Model Schemes of Conformity Assessment (Confirmation) in the Technical Regulations of the Customs Union" of 7 April 2011 | WT/ACC/KAZ/75/Add.1 |
| Decision of the EEC Collegium No. 17 "On Amendments to the Unified List of Products Subject to Mandatory Conformity Assessment (Confirmation) within the Framework of the Customs Union with the Issuance of Common Documents" of 5 April 2012 | WT/ACC/KAZ/71/Add.1 |
| Decision of the EEC Collegium No. 57 "On Amendments to the Regulation on the Procedure of Formation of the List of International and Regional (Interstate) Standards, and Case of their Absence - the National (State) Standards which Ensure Compliance with Requirements of the Technical Regulations of the Customs Union and Required for Conformity Assessment (Confirmation)" of 31 May 2012 | WT/ACC/KAZ/71/Add.1 |
| Decision of the EEC Council No. 102 "On Amendments to the Unified List of Products for which Mandatory Requirements are Established within the Customs Union" of 23 November 2012 | WT/ACC/KAZ/75/Add.1 |

| LEGISLATION/REGULATION | LEGISLATION NOTICE |
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| Decision of the EEC Council No. 103 "On Approval of the Schedule of Development of Technical Regulations of the Customs Union for 2012-2013" of 23 November 2012 | WT/ACC/KAZ/75/Add.1 |
| Decision of the EEC Council No. 245 "On Draft Protocol on Amending the Agreement on Common Principles and Rules of Technical Regulation in the Republic of Belarus, Republic of Kazakhstan and Russian Federation of 18 November 2010" of 4 December 2012 | WT/ACC/KAZ/75/Add.1 |
| Decision of the EEC Council No. 294 "On Regulation on the Procedures for Importation to the Customs Union Territory of Goods (Products) in Respect of which Mandatory Requirements Are Established within the Customs Union" of 25 December 2012 | WT/ACC/KAZ/75/Add.1 |
| Decision of the EEC Collegium No. 306 "On Approval of the Regulation on Procedures for Development and Approval of Lists of International and Regional Standards, and, in their Absence, National (State) Standards of Customs Union Member States, that Ensure Compliance with Technical Regulations of the Customs Union and Necessary for Conducting Conformity Assessment (Confirmation)" of 25 December 2012 | WT/ACC/KAZ/75/Add.1 |
| Decision of the EEC Council No. 48 "On Regulation on Development, Adoption, Amendment and Cancellation of Technical Regulations of the Customs Union" of 20 June 2012 | WT/ACC/KAZ/69/Add.1, WT/ACC/KAZ/71/Add.1 |
| Law No. 640-XII "On the Protection of Consumer Rights" of 5 June 1991 (repealed by Law No. 274-IV of 4 May 2010) | WT/ACC/KAZ/4 |
| Law "On Standardization and Certification" of 18 January 1993 (repealed by Law 603-II of 9 November 2004) | WT/ACC/KAZ/4 |
| Law No. 434-I "On Certification" of 16 July 1999 (repealed by Law No. 603-II of 9 November 2004) | WT/ACC/KAZ/23 |
| Law No. 603-II "On Technical Regulation" of 9 November 2004 | WT/ACC/KAZ/63/Add.1 |
| Law No. 209-III "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Issues of Technical Regulation" of 29 December 2006 | WT/ACC/KAZ/67/Add.1 |
| Law No. 302-III "On Safety of Chemical Products" of 21 July 2007 | WT/ACC/KAZ/67/Add.1 |
| Law No. 305-III "On Safety of Machinery and Equipment" of 21 July 2007 | WT/ACC/KAZ/67/Add.1 |
| Law No. 306-III "On Safety of Toys" of 21 July 2007 | WT/ACC/KAZ/67/Add.1 |
| Government Resolution No. 411 "On Stage-by-Stage Introduction of Compulsory Certification of Products (Works, Services) in Kazakhstan" of 20 May 1993 (repealed by Government Resolution No. 1112 of 15 September 1997) | WT/ACC/KAZ/4 |
| Government Resolution No. 225 "On the Committee for Standardization, Metrology and Certification" of 21 February 1996 (repealed by Government Resolution No. 851 of 20 May 1997) | WT/ACC/KAZ/4 |
| Government Regulation No. 1112 "On Approval of List of Goods (Works, Services) Subject to Mandatory Certification for Conformity to Obligatory Requirements of Standards or Other Documents for Guarantee of Safety of Life and Health of Citizens, Property of Citizens, and Environment" of 15 July 1997 (Excerpt) (repealed by Government Resolution No. 1787 of 29 November 2000) | WT/ACC/KAZ/14 |
| Joint Order of the Ministry of Industry and Trade, the Ministry of Agriculture and the Ministry of Health No. 145/327/528 "On the Establishment of the Single Enquiry Point for Interaction with the WTO Members on Technical Barriers to Trade and Sanitary and Phytosanitary Measures" of 16 and 23 June, and 7 July 2004 | WT/ACC/KAZ/56 |
| "Statute of the Committee on Technical Regulation and Metrology of the Ministry of Industry and Trade", approved by Government Resolution No. 1237 of 26 November 2004 | WT/ACC/KAZ/63/Add.1 |
| Government Resolution No. 367 "On Mandatory Conformity Assessment of Products in the Republic of Kazakhstan" of 20 April 2005 | WT/ACC/KAZ/63/Add.1 |
| Government Resolution No. 718 "On the Rules of Creation and Functioning of the Enquiry Point on TBT and SPS" of 11 July 2005 | WT/ACC/KAZ/67/Add.1 |
| Decree of the Prime Minister No. 64-r "On Implementation Measures of the Law of the Republic of Kazakhstan 'On Technical Regulation'" of 25 March 2005 | WT/ACC/KAZ/63/Add.1 |
| Order of the Customs Administration under the Ministry of Finance No. 1 "On Customs Control Over Products which are Subject to Compulsory Certification" of 18 January 1994 | WT/ACC/KAZ/4 |
| Gosstandart Ordinance No. 156 "On the State Standard of the Republic of Kazakhstan: National Certification System ST RK 3.10-97 'Procedure for Processing of Appeals'" of 1 July 1999 | WT/ACC/KAZ/63/Add.1, WT/ACC/KAZ/66/Add.1 |

| <u>LEGISLATION/REGULATION</u> | <u>LEGISLATION NOTICE</u> |
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| Order No. 94 of the Chairman of the Committee on Technical Regulation and Metrology of the Ministry of Industry and Trade "On Approval of the Form, Regulations of Filling in and Submission of Notifications of the Informational Centre on Technical Barriers to Trade, Sanitary and Phytosanitary Measures" of 1 April 2005 (repealed by Order No. 319 of 14 September 2012) | WT/ACC/KAZ/63/Add.1 |
| Order No. 98 of the Chairman of the Committee on Technical Regulation and Metrology of the Ministry of Industry and Trade "On Approval of the Regulations of Elaboration, Co-ordination, Registration, Approval, Examination, Alteration, Annulment and Implementation of the State Standards and Classifiers of Technical and Economic Information" of 4 April 2005 (repealed by Order No. 172 of 29 March 2007) | WT/ACC/KAZ/63/Add.1 |
| Order No. 99 of the Chairman of the Committee on Technical Regulation and Metrology of the Ministry of Industry and Trade "On Approval of the Regulations of Establishment, Operation and Liquidation of the Technical Committees on Standardization" of 4 April 2005 (repealed by Order No. 42 of 23 April 2010) | WT/ACC/KAZ/63/Add.1 |
| Order No. 106 of the Acting Chairman of the Committee on Technical Regulation and Metrology of the Ministry of Industry and Trade "On Approval of the Regulations of Elaboration and Approval of Plans and Programs of the State Standardization" of 15 April 2005 (repealed by Order No. 41 of 23 April 2010) | WT/ACC/KAZ/63/Add.1 |
| Order No. 107 of the Acting Chairman of the Committee on Technical Regulation and Metrology of the Ministry of Industry and Trade "On Approval of the Regulations on Publication and Providing of Users with the Standards and Normative Instruments in the Field of Standardization, Metrology, Certification, Accreditation, Catalogues and Directories of Standards and Information About Them" of 15 April 2005 (repealed by Order No. 318 of 14 September 2012) | WT/ACC/KAZ/63/Add.1 |
| Order of the Minister of Industry and New Technologies of the Republic of Kazakhstan No. 318 "On Approval of Rules of Distribution and Providing Users with Official Publications of Regulating Technical Documents" of 14 September 2012 | WT/ACC/KAZ/92 |
| Order No. 118 of the Chairman of the Committee on Technical Regulation and Metrology of the Ministry of Industry and Trade "On Approval of the Regulations of Training and Attestation of the Experts-Auditors on Standardization, Conformity Verification and Accreditation" of 22 April 2005 (repealed by Order No. 305 of 20 July 2006) | WT/ACC/KAZ/63/Add.1 |
| Order No. 119 of the Chairman of the Committee on Technical Regulation and Metrology of the Ministry of Industry and Trade of 22 April 2005: (a) "On Rules of Suspension or Cancellation of the Validity of Issued Certificates of Conformity or the Validity of Registration of Conformity Declarations"; (b) "On Rules of Conducting Inspections by the Accredited Conformity Assessment Body"; and, (c) "On Rules of Recognition of Certificates of Conformity of Foreign Countries, Test Protocols, Conformity Marks and Other Documents Issued in Foreign Systems of Conformity Assessment" | WT/ACC/KAZ/63/Add.1 |
| Order No. 135 of the Chairman of the Committee on Technical Regulation and Metrology of the Ministry of Industry and Trade "On Approval of the Regulations of Registration and Implementation of the International, Regional, National Standards, Classifiers of Technical and Economic Information, Regulations and Recommendations of the Foreign States in the Field of Standardization, Conformity Verification and Accreditation Within the Territory of the Republic of Kazakhstan" of 13 May 2005 (repealed by Order No. 39 of 23 April 2010) | WT/ACC/KAZ/63/Add.1 |
| Order No. 136 of the Chairman of the Committee on Technical Regulation and Metrology of the Ministry of Industry and Trade "On Approval of the Regulations on Conducting Works with Participation of the State Authorities, Technical Committees on Standardization and the Conformity Verification Agencies in the field of Conformity Verification and Accreditation" of 13 May 2005 (repealed by Order No. 172 of 29 March 2007) | WT/ACC/KAZ/63/Add.1, WT/ACC/KAZ/66/Add.1 |
| List of Products (Works, Services) that are Subject to Mandatory Certification as to the Conformity with Requirements of Standards or Other Codes that Ensure the Safety for Life, Health of People, Property of Citizens, and Environment | WT/ACC/KAZ/14 |
| Draft Agreement on Cooperation of CU member States in the Field of Circulation of Pharmaceuticals | To be deposited |
| Draft Law "On Certification" | WT/ACC/KAZ/21 |
| Draft Law "On Standardisation" | WT/ACC/KAZ/21 |
| Draft Law "On Safety of Toys" | WT/ACC/KAZ/63/Add.1 |
| Draft Government Resolution "On Electromagnetic Compatibility" | WT/ACC/KAZ/63/Add.1 |

| <u>LEGISLATION/REGULATION</u> | <u>LEGISLATION NOTICE</u> |
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| - Sanitary and Phytosanitary Measures | |
| Treaty on the Eurasian Economic Union of 29 May 2014 | WT/ACC/KAZ/85, WT/ACC/KAZ/85/Rev.1 |
| CU Commission Decision No. 299 "On the Application of Sanitary Measures in the Customs Union" of 28 May 2010 | WT/ACC/KAZ/92 |
| CU Commission Decision No. 317 "On the Application of Veterinary-Sanitary Measures in the Customs Union" of 18 June 2010 | WT/ACC/KAZ/92 |
| CU Commission Decision No. 318 "On Providing Plant Quarantine in the Customs Union" of 18 June 2010 | WT/ACC/KAZ/92 |
| CU Commission Decision No. 607 "On Common Forms of Veterinary Certificates on Regulated Goods Imported into the Customs Territory of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation from Third Countries" of 7 April 2011 | WT/ACC/KAZ/92 |
| CU Commission Decision No. 625 "On Ensuring of Harmonization of Legal Acts of the Customs Union in the Sphere of Sanitary, Veterinary and Phytosanitary Measures with International Standards" of 7 April 2011 | WT/ACC/KAZ/92 |
| CU Commission Decision No. 721 "On Application of International Standards, Recommendations and Guidelines" of 22 June 2011 | WT/ACC/KAZ/92 |
| CU Commission Decision No. 726 of "On Veterinary Measures" of 15 July 2011 | WT/ACC/KAZ/92 |
| CU Commission Decision No. 834 "On Regulation on Common System of Joint Inspections of Objects and Sampling Goods (Products), Subject to Veterinary Control (Surveillance)" of 18 October 2011 | |
| Decision of the EEC Collegium No. 161 "On Consultative Committee on Technical Regulation, Application of Sanitary, Veterinary and Phytosanitary Measures" of 18 September 2012 | WT/ACC/KAZ/75/Add.1 |
| Decision of the EEC Council No. 226 "On Repealing Some Decisions of the CU Commission with Regard to Adoption of Declaration of Conformity of Products with Mandatory Requirements within the Customs Union of Common Form" of 13 November 2012 | WT/ACC/KAZ/75/Add.1 |
| Decision of the EEC Collegium No. 294 "On Introduction of Amendments to Certain Decisions of the Customs Union Commission" of 10 December 2013 | To be deposited |
| Decision of the EEC Council No. 94 "On Regulation on Common System of Joint Inspections of Objects and Sampling Goods (Products), Subject to Veterinary Control (Surveillance)" of 9 October 2014 | WT/ACC/KAZ/89 |
| Decision of the EEC Council No. 95 "On Introduction of Amendments into Regulation on Common Procedure for Carrying Out Veterinary Control at the Customs Border of the Customs Union and Customs Territory of the Customs Union" of 9 October 2014 | WT/ACC/KAZ/89 |
| Law "On the Protection of the Natural Environment" of 18 June 1991 (repealed by Law No. 160-I of 15 July 1997) | WT/ACC/KAZ/4 |
| Law No. 111-I "On Protection of the Health of Citizens in the Republic of Kazakhstan" of 19 May 1997 (repealed by Law No. 170-III of 7 July 2006) | WT/ACC/KAZ/62 |
| Law No. 160-I "On Environment Protection" of 15 July 1997 (repealed by the Environmental Code of the Republic of Kazakhstan No. 212-III of 9 January 2007) | WT/ACC/KAZ/62 |
| Law No. 334-I "On Plant Quarantine" of 11 February 1999 | WT/ACC/KAZ/20, WT/ACC/KAZ/62 |
| Law No. 422-I "On Legal Protection of Selective Breeding Achievements" of 13 July 1999 | WT/ACC/KAZ/23 |
| Law No. 331-II "On Plant Protection" of 3 July 2002 | WT/ACC/KAZ/63/Add.1 |
| Law No. 339-II "On Veterinary" of 10 July 2002 | WT/ACC/KAZ/36/Add.3, WT/ACC/KAZ/69/Add.1 |
| Law No. 361-II "On Sanitary and Epidemiological Well-Being of the Population" of 4 December 2002 (repealed by Code of the Republic of Kazakhstan No. 193-IV "On Public Health and Healthcare System" of 18 September 2009) | WT/ACC/KAZ/63/Add.1, WT/ACC/KAZ/67/Add.1 |
| Law No. 430-II "On Healthcare System" of 4 June 2003 (repealed by Code of the Republic of Kazakhstan No. 193-IV "On Public Health and Healthcare System" of 18 September 2009) | WT/ACC/KAZ/62 |
| Law No. 543-II "On Quality and Safety of Food Products" of 8 April 2004 | WT/ACC/KAZ/57/Add.1 |
| Law No. 13-III "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan on Separation of Authorities between the Levels of State Governance and Budget Relations" of 20 December 2004 | WT/ACC/KAZ/66/Add.1 |

| <u>LEGISLATION/REGULATION</u> | <u>LEGISLATION NOTICE</u> |
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| Law No. 8-III "On Amendments and Addenda to the Law of the Republic of Kazakhstan 'On Environment Protection' on Industrial and Consumption Waste" of 1 January 2005 (repealed by the Environmental Code of the Republic of Kazakhstan No. 212-III of 9 January 2007) | WT/ACC/KAZ/66/Add.1 |
| Law No. 301-III "On Food Safety" of 21 July 2007 | WT/ACC/KAZ/67/Add.1 |
| Government Resolution No. 637 "On Approval of the Regulation on the State Ecological Appraisal in Kazakhstan" of 25 October 1991 (repealed by Government Resolution No. 781 of 27 July 2005) | WT/ACC/KAZ/4 |
| Government Resolution No. 1891 "On Approval of the Order of Destruction or Further Reprocessing Products in the Case of their Recognition as not Suitable for Sale and Consumption" of 29 December 1995 (repealed by Government Resolution No. 1411 of 19 September 2009) | WT/ACC/KAZ/4 |
| Government Resolution No. 1295 "On Approval of the List of Quarantine Facilities, Alien Species and Extremely Dangerous Pests" of 10 December 2002 | WT/ACC/KAZ/69/Add.1 |
| Government Resolution No. 407 "On Approval of Regulatory Legal Acts in the Sphere of Veterinary" of 28 April 2003 | WT/ACC/KAZ/72/Add.1 |
| "List of Highly Contagious Animal Diseases when Compulsory Seizure and Destruction of Animals, Products and Raw Materials of Animal Origin, which Constitute High Danger to Animal and Human Health are to be Held", approved by Government Resolution No. 407 "On Approval of Regulatory Legal Acts in the Sphere of Veterinary" of 28 April 2003 | WT/ACC/KAZ/69/Add.1 |
| Government Resolution No. 132 "On Approval of Rules for Issuance of Permit for Exportation, Importation and Transit of Objects with Regard to Evaluation of Epizootic Situation in the Territory" of 19 January 2012 | WT/ACC/KAZ/69/Add.1 |
| Order of the Minister of Agriculture No. 166 "On Approval of the Nomenclature of the Basic Quarantine Products, subject to Phytosanitary Control under Plants Quarantine" of 30 May 2002 (repealed by Order of the Minister of Agriculture No. 10-1/52 of 13 February 2012) | WT/ACC/KAZ/63/Add.1 |
| Order of the Minister of Agriculture No. 10-1/52 "On Recognizing Some Orders of the Ministry of Agriculture of the Republic of Kazakhstan as Repealed" of 13 February 2012 | WT/ACC/KAZ/92 |
| Order of the Minister of Agriculture No. 16-04/647 "On Approval of Rules of Issuance of Permits for Exportation, Importation and Transit of Objects with Regard to Evaluation of Epizootic Situation in the Territory" of 9 December 2014 | To be deposited |
| Draft Decision of the EEC Council "On Amendments to the Regulation on Common System of Joint Inspections of Objects and Sampling of Goods (Products), Subject to Veterinary Control (Surveillance)", approved by Decision of the Customs Union Commission No. 834 of 18 October 2011" | WT/ACC/KAZ/72/Add.1 |
| Draft Decision of the EEC Council "On Introduction of Amendments to Decision of the CU Commission No. 810 'On Exception in Application of Veterinary Measures with regard to Goods Included into the Common List of Goods Subject to Veterinary Control (Surveillance)' of 23 September 2011" | WT/ACC/KAZ/69/Add.1 |
| Draft Decision of the EEC Collegium "On Amendments to the 'Common Veterinary (Veterinary and Sanitary) Requirements for Goods Subject to Veterinary Control (Surveillance)', approved by the Decision of the CU Commission No. 317 of 18 June 2010" | WT/ACC/KAZ/69/Add.1 |
| Draft Law "On Legal Protection of Selective Breeding Achievements" | WT/ACC/KAZ/20 |
| Draft Law "On Amendments and Addenda to the Code of the Republic of Kazakhstan No. 193-IV 'On Public Health and Healthcare System' of 18 September 2009" | WT/ACC/KAZ/75/Add.1 |
| Human Health Risk Assessment of Tetracycline Intake with Food | WT/ACC/KAZ/75/Add.2 |
| Analysis of Phytosanitary Risk of Khapra Beetle Trogoderma Granarium for the Territory of the Russian Federation of 2006 | WT/ACC/KAZ/79 |
| Pest Risk Analysis of Four-Spotted Bean Weevil Callosobruchus Maculatus for the Territory of the Russian Federation of 2006 | WT/ACC/KAZ/79 |
| - Trade-Related Investment Measures | |
| Treaty on the Eurasian Economic Union of 29 May 2014 | WT/ACC/KAZ/85, WT/ACC/KAZ/85/Rev.1 |
| Decision of the EurAsEC Interstate Council No. 18 "On Common Customs and Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation" of 27 November 2009 | WT/ACC/KAZ/68 |
| Decision of the CU Commission No. 130 "On Common Customs and Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation" of 27 November 2009 | WT/ACC/KAZ/68 |

| <u>LEGISLATION/REGULATION</u> | <u>LEGISLATION NOTICE</u> |
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| Presidential Decree No. 2828 "On Subsurface and Subsurface Use" of 27 January 1996, which had the force of Law (repealed by Law No. 291-IV of 24 June 2010) | WT/ACC/KAZ/4, WT/ACC/KAZ/69 |
| Law No. 291-IV "On Subsurface and Subsurface Use" of 24 June 2010 | WT/ACC/KAZ/69 |
| Governmental Resolution No. 134 "On Approval of Rules for Procurement of Goods, Works and Services in Performance of Subsurface Use Operations" of 14 February 2013 | WT/ACC/KAZ/77/Add.1 |
| Government Resolution No. 793 "On Approval of Rules of Determining the Country of Origin of Goods, Execution, Confirmation and Issuance of Certificate on Origin of Goods and Repeal of Certain Decisions of the Government of the Republic of Kazakhstan" of 16 July 2014 | WT/ACC/KAZ/92 |
| Order of the Deputy Prime Minister - Minister of Industry and New Technologies No. 113 "On Certain Issues on Concluding, Conditions and Model Form of the Agreement on Industrial Assembly of Motor Vehicles with Legal Entities - Residents of the Republic of Kazakhstan" of 11 June 2010 | WT/ACC/KAZ/72/Add.1 |
| - Free Zones, Special Economic Areas | |
| Treaty on the Customs Code of the Customs Union of 27 November 2009 | WT/ACC/KAZ/68 |
| Treaty on the Eurasian Economic Union of 29 May 2014 | WT/ACC/KAZ/85, WT/ACC/KAZ/85/Rev.1 |
| Code of the Republic of Kazakhstan No. 99-IV "On Taxes and Other Obligatory Payments to the Budget (Tax Code)" of 10 December 2008 | WT/ACC/KAZ/68 |
| Presidential Decree No. 2823 "On Special Economic Zones" of 26 January 1996, which had the force of Law (repealed by Law No. 274 "On Special Economic Areas in the Republic of Kazakhstan" of 6 July 2007) | WT/ACC/KAZ/4, WT/ACC/KAZ/6/Add.2, WT/ACC/KAZ/50/Add.1 |
| Presidential Decree No. 2824 "On the Introduction of Amendments to Certain Laws and Decrees" of 26 January 1996, which had the force of Law (repealed by Law No. 274 "On Special Economic Areas in the Republic of Kazakhstan" of 6 July 2007) | WT/ACC/KAZ/4 |
| Law No. 223-II "On Amendments and Addenda to Legal Normative Acts of the Republic of Kazakhstan On 'Astana - New City' Special Economic Zone" of 5 July 2001 | WT/ACC/KAZ/57/Add.1 |
| Law No. 274-III "On Special Economic Zones in the Republic of Kazakhstan" of 6 July 2007 (repealed by Law No. 469-IV "On Special Economic Zones in the Republic of Kazakhstan" of 21 July 2011) | WT/ACC/KAZ/67/Add.1 |
| Government Resolution No. 355 "On Approval of the List of Kazakhstani Goods Determined in accordance with Customs Legislation of the Republic of Kazakhstan, Produced on the Territory of Free Warehouse, and Sold to Other Part of the Customs Territory of the Republic of Kazakhstan, Sale Turnover of which is Exempted from VAT" of 14 April 2005 (repealed by Government Resolution No. 133 of 19 January 2012) | WT/ACC/KAZ/66/Add.1 |
| - Government Procurement | |
| Treaty on the Eurasian Economic Union of 29 May 2014 | WT/ACC/KAZ/85, WT/ACC/KAZ/85/Rev.1 |
| CU/SES Agreement on State (Municipal) Procurement of 9 December 2010 (repealed as of 1 January 2015) | WT/ACC/KAZ/75/Add.1 |
| Law No. 303-III "On Government Procurement" of 21 July 2007 | WT/ACC/KAZ/72/Add.1 |
| Government Resolution No. 586 "On Public Procurement of Goods (Works, Services) in the Republic of Kazakhstan" of 13 May 1996 (repealed by Government Resolution No. 141 of 25 February 1998) | WT/ACC/KAZ/4 |
| Government Resolution No. 1301 "On Approval of the Rules of Conducting Government Procurement" of 27 December 2007 | WT/ACC/KAZ/92 |
| Government Resolution No. 623 "On Approval of the Rules of Conducting Electronic Government Procurement" of 15 May 2012 | WT/ACC/KAZ/92 |
| - Transit | |
| Treaty on the Customs Code of the Customs Union of 27 November 2009 | WT/ACC/KAZ/68 |
| CU Agreement on the Specificity of Customs Transit of Goods, Transported by Railway on the Customs Territory of the Customs Union of 21 May 2010 | WT/ACC/KAZ/68 |
| Code of the Republic of Kazakhstan No. 99-IV "On Taxes and Other Obligatory Payments to the Budget (Tax Code)" of 10 December 2008 | WT/ACC/KAZ/68 |

| <u>LEGISLATION/REGULATION</u> | <u>LEGISLATION NOTICE</u> |
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| Code of the Republic of Kazakhstan No. 296-IV "On Customs Issues in the Republic of Kazakhstan" of 30 June 2010 | WT/ACC/KAZ/68 |
| - Government-mandated Counter-trade and Barter | |
| Government Resolution No. 984 "On Prohibition of Export and Import Barter Operations" of 17 July 1995 (repealed by Government Resolution No. 483 of 27 May 1998) | WT/ACC/KAZ/4 |
| - Agricultural Policies | |
| CU/SES Agreement on Common Rules of State Support of Agriculture of 9 December 2010 (repealed as of 1 January 2015) | WT/ACC/KAZ/69 |
| Law No. 66-III "On State Regulation of Agricultural and Industrial Complex and Rural Territories Development" of 8 July 2005 | WT/ACC/KAZ/66/Add.1 |
| Government Resolution No. 1200 "On Introduction of Amendments to Government Resolution No. 984 'On Prohibition of Export and Import Barter Operations'" of 29 August 1995 (repealed by Government Resolution No. 483 of 27 May 1998) | WT/ACC/KAZ/4 |
| Government Resolution No. 151 "On Approval of Agriculture Development Programme for 2013-2020 'Agrobusiness 2020'" of 12 February 2013 | To be deposited |
| - Trade in Civil Aircraft | |
| Treaty on the Eurasian Economic Union of 29 May 2014 | WT/ACC/KAZ/85, WT/ACC/KAZ/85/Rev.1 |
| Decision of the CU Commission No. 130 "On Common Customs and Tariff Regulation of the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation" of 27 November 2009 | WT/ACC/KAZ/68 |
| V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME | |
| Treaty on the Customs Code of the Customs Union of 27 November 2009 | WT/ACC/KAZ/68 |
| Treaty on the Eurasian Economic Union of 29 May 2014 | WT/ACC/KAZ/85, WT/ACC/KAZ/85/Rev.1 |
| CU/SES Agreement on Common Principles of Regulation in the Sphere of Protection of Intellectual Property Rights of 9 December 2010 (repealed as of 1 January 2015) | WT/ACC/KAZ/75/Add.1 |
| Constitution of the Republic of Kazakhstan of 5 September 1995 | WT/ACC/KAZ/4 |
| Code of the Republic of Kazakhstan No. 99-IV "On Taxes and Other Obligatory Payments to the Budget (Tax Code)" of 10 December 2008 | WT/ACC/KAZ/68 |
| Code of the Republic of Kazakhstan No. 296-IV "On Customs Issues in the Republic of Kazakhstan" of 30 June 2010 | WT/ACC/KAZ/68 |
| Criminal Code No. 167-I of 16 July 1997 (Articles 184, 199 and 200) | WT/ACC/KAZ/13 |
| Law No. 1422-XII "Patent Law of the Republic of Kazakhstan" of 24 June 1992 (repealed by Law No. 427-I of 16 July 1999) | WT/ACC/KAZ/4 |
| Law No. 1888-XII "On Trademarks, Service Marks and Appellations of Origin of Goods" of 18 January 1993 (repealed by Law No. 457-I "On Trademarks, Service Marks and Appellations of Origin of 26 July 1999) | WT/ACC/KAZ/4 |
| Law No. 6-I "On Copyright and Related Rights" of 10 June 1996 | WT/ACC/KAZ/4, WT/ACC/KAZ/67/Add.2, WT/ACC/KAZ/75/Add.1, WT/ACC/KAZ/77/Add.1, WT/ACC/KAZ/84 |
| Law No. 427-I "Patent Law of the Republic of Kazakhstan" of 16 July 1999 | WT/ACC/KAZ/75/Add.1 |
| Law No. 456-I "On Trademarks, Service Marks and Appellations of Origin of Goods" of 26 July 1999 | WT/ACC/KAZ/23, WT/ACC/KAZ/75/Add.1 |
| Law No. 217-II "On Legal Protection of Layout Design of Integrated Microcircuits" of 29 June 2001 | WT/ACC/KAZ/36/Add.1 |
| Law No. 586-II "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan On Intellectual Property" of 9 July 2004 | WT/ACC/KAZ/57/Add.1 |
| Law No. 537-IV "On Amendments and Addenda to Some Legislative Acts of the Republic of Kazakhstan on Intellectual Property" of 12 January 2012 | WT/ACC/KAZ/57/Add.1 |
| Presidential Decree No. 806 "On National Patent Office" of 23 June 1992 (repealed by Presidential Decree No. 1696 of 9 January 2006) | WT/ACC/KAZ/4 |

| LEGISLATION/REGULATION | LEGISLATION NOTICE |
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| Government Resolution No. 508 "On the Establishment of State Agency for Copyright and Related Rights" of 8 July 1992 (repealed by Presidential Decree No. 3377 of 4 March 1997) | WT/ACC/KAZ/4 |
| Governmental Resolution No. 622 "On the National Patent Department Under the Cabinet of Ministers" of 21 July 1992 | WT/ACC/KAZ/4 |
| Government Resolution No. 889 "On the Procedure for Payment and Charge Rates for Patenting Inventions, Industrial Samples and Utility Models, Registration of Trademarks and Service Marks, Registration and Acquisition of the Right for Using the Appellations of Origin of Goods" of 20 October 1992 (repealed by Resolution No. 1139 of 3 November 2004) | WT/ACC/KAZ/4 |
| Government Resolution No. 949 "On the Approval of Procedure for Issuing the Protection Documents on Inventions, Industrial Samples, Trademarks and Service Marks" of 11 November 1992 | WT/ACC/KAZ/4 |
| Government Resolution No. 266 "On Procedure of Payments and Charge Rates for Foreign Applicants for Legal Actions Connected with Protection of Industrial Property Objects within the Territory of Kazakhstan" of 6 April 1993 (repealed by Resolution No. 1139 of 3 November 2004) | WT/ACC/KAZ/4 |
| Government Resolution No. 926 "On Rules of Public Demonstration of Cine-video Production" of 5 July 1995 (repealed by Resolution No. 1494 of 6 December 1994) | WT/ACC/KAZ/4 |
| Government Resolution No. 297 "On Regulation for Consideration of Application for Trademark Registration" of 8 October 1997 | WT/ACC/KAZ/57/Add.1 |
| Government Resolution No. 1249 "On Concept of Protection of Intellectual Property Rights" of 26 September 2001 | WT/ACC/KAZ/92 |
| Order of the Ministry of Finance No. 201 "On Rules on Keeping Register of Intellectual Property, Related Products, and Sharing Experience with Customs Bodies and Applicants" of 13 May 2003 (repealed by Order of the Ministry of Finance No. 356 of 16 July 2010) | WT/ACC/KAZ/66/Add.1 |
| Government Resolution No. 1102 "On the Draft Law of the Republic of Kazakhstan 'On Amendments and Addenda to Legislative Acts of the Republic of Kazakhstan on Intellectual Property'" of 28 October 2004 | WT/ACC/KAZ/57/Add.2 |
| Order of the Patent Agency under the Ministry of Economy and Trade No. 296 "On the Rules for Filing and Submission of Application for Registration of a Trademark" of 8 October 1996 (repealed by Order of the Ministry of Justice No. 55-OD of 24 April 2007) | WT/ACC/KAZ/50/Add.1 |
| Draft Patent Law | WT/ACC/KAZ/20 |
| Draft Law "On Amendments and Addenda to Certain Legislative Acts of the Republic of Kazakhstan Concerning Intellectual Property" | WT/ACC/KAZ/57/Add.1 |
| VI. POLICIES AFFECTING TRADE IN SERVICES | |
| Treaty on the Eurasian Economic Union of 29 May 2014 | WT/ACC/KAZ/85, WT/ACC/KAZ/85/Rev.1 |
| CU/SES Agreement on Trade in Services and Investments of 9 December 2010 (repealed as of 1 January 2015) | WT/ACC/KAZ/71/Add.1 |
| Law No. 2446-XII "On Auditing Activity" of 18 October 1993 (repealed by Law No. 304-I of 20 November 1998) | WT/ACC/KAZ/4 |
| Law No. 272-I "On Natural Monopolies and Regulated Markets" of 9 July 1998 | WT/ACC/KAZ/68 |
| Law No. 567-II "On Communications" of 5 July 2004 | WT/ACC/KAZ/68 |
| Law No. 214-III "On Licensing" of 11 January 2007 | WT/ACC/KAZ/75/Add.1 |
| Law No. 291-IV "On Subsurface and Subsurface Use" of 24 June 2010 | WT/ACC/KAZ/69 |
| Law No. 527-IV "On National Security" of 6 January 2012 | WT/ACC/KAZ/68 |
| Presidential Decree No. 2329 "On Medical Insurance of Citizens" of 15 June 1995, which had the force of Law (repealed by Law No. 324-I of 12 December 1998) | WT/ACC/KAZ/4 |
| Presidential Decree No. 2444 "On Banks and Banking Activity in the Republic of Kazakhstan" of 31 August 1995, which has the force of Law | WT/ACC/KAZ/4 |
| Presidential Resolution No. 2445 "On the Measures for the Implementation of Presidential Decree 'On Banks and Banking Activity'" of 31 August 1995 | WT/ACC/KAZ/4 |
| Presidential Decree No. 2475 "On Insurance" of 3 October 1995, which had the force of Law (repealed by Law No. 127-II of 18 December 2000) | WT/ACC/KAZ/4 |
| Presidential Decree No. 2697 "On the Utilization of Airspace and Activities of Aviation" of 20 December 1995, which had the force of Law (repealed by Law No. 339-IV of 15 July 2010) | WT/ACC/KAZ/4 |

| <u>LEGISLATION/REGULATION</u> | <u>LEGISLATION NOTICE</u> |
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| Government Resolution No. 1803 "On the Issues of the State Insurance Monitoring" of 19 December 1995 (repealed by Government Resolution No. 851 of 20 May 1997) | WT/ACC/KAZ/4 |
| Government Resolution No. 478 "On the Approval of the Regulation on Licensing of Insurance Activities on the Territory of Kazakhstan" of 19 April 1996 (repealed by Government Resolution No. 709 of 24 May 2001) | WT/ACC/KAZ/4 |
| Government Resolution No. 1064 "On Approval of Nomenclature of Telecommunication Services and Telecommunication Technologically Related Services with State-Regulated Prices" of 15 October 2004 (repealed by Government Resolution No. 155 of 14 March 2006) | WT/ACC/KAZ/57/Add.3 |
| VII. TRANSPARENCY | |
| Treaty on the Eurasian Economic Union of 29 May 2014 | WT/ACC/KAZ/85, WT/ACC/KAZ/85/Rev.1 |
| Constitution of the Republic of Kazakhstan of 5 September 1995 | WT/ACC/KAZ/4 |
| VIII. TRADE AGREEMENTS | |
| Treaty on the Customs Code of the Customs Union of 27 November 2009 | WT/ACC/KAZ/68 |
| Treaty on the Eurasian Economic Union of 29 May 2014 | WT/ACC/KAZ/85, WT/ACC/KAZ/85/Rev.1 |
| Agreement between the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation on the Customs Union of 20 January 1995 | WT/ACC/KAZ/6 |
| Free Trade Agreement between the Government of the Republic of Kazakhstan and the Government of the Kyrgyz Republic of 22 June 1995 | WT/ACC/KAZ/6 |
| Free Trade Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Moldova on of 26 May 1995 | WT/ACC/KAZ/6 |
| Treaty on the Establishment of the Common Customs Territory and the Formation of the Customs Union of 6 October 2007 (repealed as of 1 January 2015) | WT/ACC/KAZ/68 |
| Agreement between the Government of the Republic of Kazakhstan and the Government of the Russian Federation on the Common Procedure for Regulating Foreign Economic Activities of 20 January 1995 | WT/ACC/KAZ/6 |
| Protocol "On Introduction of Free Trade Regime Without Exemptions and Restrictions Between the Republic of Kazakhstan and the Russian Federation" of 20 January 1995 | WT/ACC/KAZ/6 |
| Protocol between the Government of the Republic of Kazakhstan, the Government of the Kyrgyz Republic and the Government of Uzbekistan "On the Consideration of Issues of Participation of the Republic of Kazakhstan in the Customs Union between Belarus, Kazakhstan and Russia" of 19 July 1995 | WT/ACC/KAZ/6 |
| Protocol between the Government of the Republic of Belarus, the Government of the Republic of Kazakhstan and the Government of the Russian Federation "On Completion of the First Stage of Enforcement of the Treaty on the Customs Union" of 22 November 1995 | WT/ACC/KAZ/6 |
| Resolution of the Intergovernmental Commission of Belarus, Kazakhstan and the Russian Federation "On Terms of Formation of the Customs Union" of 22 November 1995 | WT/ACC/KAZ/6 |
| Presidential Decree No. 2461 "On Ratification of the Agreement on the Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation" of 15 September 1995, which has the force of Law | WT/ACC/KAZ/6 |

ANNEX 2

List of Priority Activities, on the Level of the Classifier of Sub-types of Activity, for which Investment Preferences Are Granted

| No. | Name of section | Group | Name of group | Code | Name of type and sub-type of activity |
|-------|--|-------|--|-------|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 01 | Plant cultivation and livestock farming, hunting and provision of services in these fields | 01.1 | Growing of seasonal culture | 01.11 | Growing of cereals crops (except for rice), leguminous plants and oil seed |
| | | | | 01.12 | Cultivation of rice |
| | | | | 01.13 | Cultivation of vegetables and gourds, root crops and tuber crops |
| | | | | 01.14 | Growing of sugarcane |
| | | | | 01.16 | Growing of fibrillose fibre crops |
| | | 01.2 | Growing of perennial crops | 01.19 | Growing of other seasonal culture, except for growing of flowers, production of flowers and cultivation of flowers seed |
| | | | | 01.21 | Growing of grapes |
| | | | | 01.22 | Cultivation of tropical and subtropical fruits |
| | | | | 01.23 | Cultivation of citrus fruits |
| | | | | 01.24 | Cultivation of large fruits |
| | | | | 01.25 | Cultivation of other types of fruit tree |
| | | | | 01.26 | Growing of oily fruits |
| | | | | 01.27 | Growing of croppers for drinks production |
| | | 01.29 | Growing of other perennial crops | | |
| | | 01.3 | Manufacturing of farm production | 01.30 | Manufacturing of farm production |
| | | 01.4 | Animal breeding | 01.41 | Breeding of livestock dairy breed |
| | | | | 01.42 | Breeding of other breeds of livestock and buffalos |
| | | | | 01.43 | Breeding of horses and other hoofed breeds |
| | | | | 01.44 | Breeding of camels and camelids |
| | | | | 01.45 | Breeding of sheep and goats |
| | | | | 01.46 | Breeding of pigs and piglet |
| 01.47 | Poultry breeding | | | | |
| 01.49 | Breeding of other types of animals | | | | |
| 01.6 | Additional types of activities of growing of agricultural cultures | 01.64 | Processing and preparation of seeds for breeding | | |
| 03 | Fishery and aquaculture | 03.2 | Aquaculture | 03.21 | Marine aquaculture |
| | | | | 03.22 | Fresh water aquaculture |
| | | 10.1 | Processing and canning of meat and production of meat products | 10.11 | Processing and preservation of meat |
| | | | | 10.12 | Processing and preservation of meat of poultry |
| | | | | 10.13 | Production of products made by meat and meat of poultry |
| | | 10.2 | Processing and preservation of fish, shellfish and scallops | 10.20 | Processing and preservation of fish, shellfish and scallops |
| | | 10.3 | Processing and canning of fruit and vegetables | 10.31 | Processing and canning of potatoes |
| | | | | 10.32 | Production of fruit and vegetable juices |
| | | | | 10.39 | Processing and canning of fruit and vegetables, not included in other groups |
| | | 10.4 | Production of fat and oil | 10.41 | Production of fat and oil |
| | | | | 10.42 | Production of margarine and butter |

| No. | Name of section | Group | Name of group | Code | Name of type and sub-type of activity |
|-------|---|-------|---|-------|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | 10.5 | Production of dairy products | 10.51 | Processing of milk and cheese production |
| | | | | 10.52 | Ice-cream production |
| | | 10.6 | Production of flour-and-cereals industry | 10.61 | Production of flour-and-cereals industry |
| | | | | 10.62 | Production of starch and starch products |
| | | 10.7 | Production of other products | 10.71 | Production of bread; production of fresh confectionery products, cakes and pastry |
| | | | | 10.72 | Production of dried bread and cookies; production confectionery products, cakes, pastry and biscuits intended for long-term storage |
| | | | | 10.73 | Production of macaroni foods |
| | | | | 10.81 | Production of sugar |
| | | | | 10.83 | Manufacture of tea and coffee |
| | | | | 10.84 | Manufacture of spices and seasonings |
| | | | | 10.85 | Manufacture of prepared food and in-process foods |
| | | | | 10.86 | Manufacture of baby food and dietetic foodstuffs |
| | | | | 10.89 | Manufacture of other foodstuffs not entered in other groups |
| | | | | 10.91 | Manufacture of prepared foodstuff for animals that keeping in farms |
| | | | | 10.92 | Manufacture of ready-made foodstuff for animals |
| 11.06 | Manufacture of malt | | | | |
| 11.07 | Manufacture of mineral water and other non-alcoholic beverages | | | | |
| 13 | Manufacture of textile articles | 13.1 | Spinning, weaving and finishing industry | 13.10 | Spinning, weaving and finishing industry |
| | | | | 13.20 | Manufacture textile articles |
| | | 13.2 | Manufacture of textile fabric | 13.30 | Manufacture ready-made textile articles |
| | | | | 13.9 | Manufacture of other textile fabric |
| | | 13.92 | Manufacture ready-made textile articles, except for clothes | | |
| | | 13.93 | Manufacture of carpets and carpet articles | | |
| | | 13.94 | Manufacture of cordage, ropes, binder and nets | | |
| | | 13.95 | Manufacture of non-woven textile materials, except for clothes | | |
| | | 13.96 | Manufacture of other engineering and manufacturing textile articles | | |
| 13.99 | Manufacture of other textile articles not entered in other groups | | | | |
| 14 | Manufacture of clothes, | 14.1 | Manufacture of clothes, except made from leather | 14.11 | Manufacture of clothes of leather |
| | | | | 14.12 | Manufacture of working clothes |
| | | | | 14.13 | Manufacture of outerwear |
| | | | | 14.14 | Manufacture of underwear |
| | | | | 14.19 | Manufacture of other clothes and accessories |
| | | 14.2 | Manufacture of fur articles | 14.20 | Manufacture of fur articles |
| | | 14.3 | Manufacture of knitted hosiery and other knitted goods | 14.31 | Manufacture of knitted hosiery goods |
| | | | | 14.39 | Manufacture of other knitted goods |
| 15 | Manufacture of leather, articles of leather | 15.1 | Hardening and currying of leather; manufacture paper | 15.11 | Hardening and currying of leather; dressing and dyeing of fur |

| No. | Name of section | Group | Name of group | Code | Name of type and sub-type of activity |
|-----|---|-------|---|-------|--|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | | | 15.12 | Manufacture paper bags and ladies bags, harness articles |
| | | 15.2 | Manufacture of footwear | 15.20 | Manufacture of footwear |
| 16 | Manufacture of wood and cork articles, other than furniture; manufacture articles made from straws and articles for plating | 16.1 | Manufacture wood-sawing and joiner blade of articles for plating | 16.10 | Manufacture wood-sawing and joiner blade |
| | | 16.2 | Manufacture of scale wood, plywood, slab and board | 16.21 | Manufacture of scale wood, plywood, slab and board |
| | | | | 16.22 | Manufacture of ready-cut parquet coverage |
| | | | | 16.23 | Manufacture of other wood building constructions and millwork |
| 17 | Manufacture of pulp, paper, cardboard and articles of it | 17.1 | Manufacture of wood pulp and cellulose and cardboard | 17.11 | Manufacture of wood pulp and cellulose |
| | | | | 17.12 | Manufacture of paper and cardboard |
| | | 17.2 | Manufacture of articles of paper and cardboard | 17.21 | Manufacture of corrugated cardboard, paper and cardboard tare |
| | | | | 17.22 | Manufacture of paper articles of household and sanitary-hygienic designation |
| | | | | 17.23 | Manufacture of writing paper articles |
| | | | | 17.24 | Manufacture of wallpaper |
| | | | | 17.29 | Manufacture of other articles of paper and cardboard |
| 19 | Manufacture of charred coal and products of oil refining | 19.1 | Manufacture of products of coke oven | 19.10 | Manufacture of products of coke oven |
| | | 19.2 | Manufacture of products of oil refining | 19.20 | Manufacture of products of oil refining |
| 20 | Chemical industry | 20.1 | Manufacture of main chemicals, fertilisers and nitrogen compounds, plastics and synthetic caoutchouc in primary forms | 20.11 | Manufacture of industrial gas |
| | | | | 20.12 | Manufacture of colours and pigments |
| | | | | 20.13 | Manufacture of other general inorganic (chemical) matters |
| | | | | 20.14 | Manufacture of other general organic (chemical) matters, |
| | | | | 20.15 | Manufacture of fertilisers and nitrogen compounds |
| | | | | 20.16 | Manufacture of plastics in primary forms |
| | | | | 20.17 | Manufacture of synthetic caoutchouc in primary forms |
| | | 20.2 | Manufacture of pesticides and other agricultural chemical products | 20.20 | Manufacture of pesticides and other agricultural chemical products |
| | | 20.3 | Manufacture of paints, lacquers and analogous coatings, typographic paints and mastics | 20.30 | Manufacture of paints, lacquers and analogous coatings, typographic paints and mastics |
| | | 20.4 | Manufacture of soap and washing, cleansing and polishing matters, perfume and cosmetic matters | 20.41 | Manufacture of soap and washing, cleansing and polishing matters |
| | | | | 20.42 | Manufacture of perfume and cosmetic matters |
| | | 20.5 | Manufacture of chemical products | 20.51 | Manufacture of explosive materials |
| | | | | 20.52 | Manufacture of glues |
| | | | | 20.53 | Manufacture of essences |

| No. | Name of section | Group | Name of group | Code | Name of type and sub-type of activity |
|-------|---|-------|---|-------|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | | | 20.59 | Manufacture of other chemical products not included in other categories |
| | | 20.6 | Manufacture of artificial fibres | 20.60 | Manufacture of artificial fibres |
| 21 | Manufacture of general pharmaceutical products | 21.1 | Manufacture of general pharmaceutical products | 21.10 | Manufacture of general pharmaceutical products |
| | | 21.2 | | 21.20 | Manufacture of pharmaceutical products |
| 22 | Manufacture of rubber and plastic articles | 22.1 | Manufacture of rubber articles | 22.11 | Manufacture of rubber tires and automobile inner tube; retreading of rubber tires |
| | | | | 22.19 | Manufacture of other rubber articles |
| | | 22.2 | Manufacture of plastic articles | 22.21 | Manufacture of plastic sheets, automobile inner tube and profile |
| | | | | 22.22 | Manufacture of plastic packages for goods |
| | | | | 22.23 | Manufacture of constructional plastic articles |
| | | | | 22.29 | Manufacture of other plastic articles |
| 23 | Manufacture of other non-metal mineral products | 23.1 | Manufacture of glass and other glass articles | 23.11 | Manufacture of plate glasses |
| | | | | 23.12 | Forming and handling of plate glasses |
| | | | | 23.13 | Manufacture of hollow glass articles |
| | | | | 23.14 | Manufacture of glass fibre |
| | | | | 23.19 | Manufacture and processing of other glass articles |
| | | 23.2 | Manufacture of refractory products | 23.20 | Manufacture of refractory products |
| | | 23.3 | Manufacture of building articles of burnt clay | 23.31 | Manufacture of building articles of clay |
| | | | | 23.32 | Manufacture of bricks, tiles and other building articles of burnt clay |
| | | 23.4 | Manufacture of other porcelain and ceramic articles | 23.41 | Manufacture of household and decorative ceramic articles |
| | | | | 23.42 | Manufacture of ceramic sanitary-technical articles |
| | | | | 23.43 | Manufacture of ceramic electric insulators and insulating accessories |
| | | | | 23.44 | Manufacture of other technical ceramic articles |
| | | 23.5 | Manufacture of cement, linden and plaster | 23.51 | Manufacture of cement including clinker |
| | | | | 23.52 | Manufacture of gypsum articles for use in construction |
| | | 23.6 | Manufacture of beton articles, cement and gypsum articles for use in construction | 23.61 | Manufacture of construction articles of concrete |
| | | | | 23.62 | Manufacture of gypsum articles for construction purposes |
| | | | | 23.63 | Manufacture of concrete ready for use |
| | | | | 23.64 | Manufacture of dry concrete mixtures |
| | | | | 23.65 | Manufacture of articles of asbestos cement and fibrous cement |
| 23.69 | Manufacture of other concrete articles construction gypsum and cement | | | | |
| 23.7 | Cutting, treatment and finishing of decoration of stone | 23.70 | Cutting, treatment and finishing of decoration of stone | | |

| No. | Name of section | Group | Name of group | Code | Name of type and sub-type of activity |
|-----|--|-------|---|-------|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | 23.9 | Manufacture of abrasive articles and other non-metal mineral products not entered in other groups | 23.91 | Manufacture of abrasive articles |
| | | | | 23.99 | Manufacture of other non-metal mineral products not entered in other groups |
| 24 | Manufacture of ready-made metal articles | 24.1 | Manufacture of iron, steel and ferrous alloys | 24.10 | Manufacture of iron, steel and ferrous alloys |
| | | 24.2 | Manufacture of tubes, pipeline, section material, fittings made by steel | 24.20 | Manufacture of tubes, pipeline, section material, fittings made by steel |
| | | 24.3 | Manufacture of other steel articles by primary operation | 24.31 | Manufacture of cold drawing |
| | | | | 24.32 | Cold rolling of ribbons and ridges |
| | | | | 24.33 | Cold moulding and folding |
| | | | | 24.34 | Manufacture of wires made by cold extension |
| | | 24.4 | Production of main precious metals and other ferrous metals | 24.41 | Production of precious metals |
| | | | | 24.42 | Manufacture of aluminium |
| | | | | 24.43 | Manufacture of lead, zinc and tin |
| | | | | 24.44 | Manufacture of copper |
| | | | | 24.45 | Manufacture of other ferrous metals |
| | | | | 24.46 | Nuclear-fuel reprocessing |
| | | 24.5 | Casting of metals | 24.51 | Casting of pig-iron |
| | | | | 24.52 | Casting of steel |
| | | | | 24.53 | Casting of light metals |
| | | | | 24.54 | Casting of other non-ferrous metals |
| 25 | Manufacture of ready-made metal articles, except for machinery and equipment | 25.2 | Manufacture of metallic cisterns, basin and containers | 25.11 | Manufacture of cisterns, basin and containers |
| | | | | 25.12 | Manufacture of metallic doors and windows |
| | | | | 25.21 | Manufacture of radiators and boilers for central heating |
| | | | | 25.29 | Manufacture of metallic cisterns, basin and containers |
| | | 25.3 | Manufacture of steam boilers | 25.30 | Manufacture of steam boilers |
| | | 25.4 | Manufacture of weapons and ammunition | 25.40 | Manufacture of weapons and ammunition |
| | | 24.5 | Hammering, pressing, stamping and shaping of metal sheet made by rolling manner | 24.50 | Hammering, pressing, stamping and shaping of metal sheet made by rolling manner |
| | | 25.6 | | 25.61 | Metal working and applying coat on metals |
| | | | | 25.62 | Automatic development; processing and covering of metals |
| | | 25.7 | | 25.71 | Manufacture of other metallic articles |
| | | | | 25.72 | Manufacture of key locks, loop and hinges |
| | | | | 25.73 | Manufacture of instruments |
| | | 25.9 | | 25.91 | Manufacture of other metallic drums and similar container |
| | | | | 25.92 | Manufacture of packing materials of light metals |
| | | | | 25.93 | Manufacture of articles of wire |
| | | | | 25.94 | Manufacture of fastening articles |
| | | | | 25.99 | Manufacture of other ready-made metal articles not included to this category |

| No. | Name of section | Group | Name of group | Code | Name of type and sub-type of activity |
|-------|--|-------|---|-------|--|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 26 | Manufacture of computers, electronic and optical products | 26.1 | Manufacture of electronic details | 26.11 | Manufacture of electronic details |
| | | | | 26.12 | Manufacture of electronic panel feeds |
| | | 26.2 | Manufacture of computers and off-line equipment | 26.20 | Manufacture of computers and off-line equipment |
| | | 26.3 | Manufacture of communication equipment | 26.30 | Manufacture of communication equipment |
| | | 26.4 | Manufacture electric appliances | 26.40 | Manufacture electric appliances for users |
| | | 26.5 | Manufacture of instruments and equipment for measuring, testing and navigation; watches | 26.51 | Manufacture of instruments and equipment for measuring, testing and navigation |
| | | 26.6 | Manufacture of illuminating, electro-medical and electrotherapy equipment | 26.60 | Manufacture of illuminating, electro-medical and electrotherapy equipment |
| | | 26.7 | Manufacture of optical and photographic equipment | 26.70 | Manufacture of optical and photographic equipment |
| 26.8 | Manufacture of magnetic and optical transmission facility | 26.80 | Manufacture of magnetic and optical transmission facility | | |
| 27 | Manufacture of electric equipment | 27.1 | Manufacture of electric motors, generators and transformers and electric distributing and controlling equipment | 27.11 | Manufacture of electric motors, generators and transformers |
| | | | | 27.12 | Manufacture of electric distributing and controlling equipment |
| | | 27.2 | Manufacture of radiators and accumulators | 27.20 | Manufacture of radiators and accumulators |
| | | 27.3 | Manufacture of electric line and electric line articles | 27.31 | Manufacture of fibre-optic cable |
| | | | | 27.32 | Manufacture of other types of electric line and cable |
| | | | | 27.33 | Manufacture of electric appliances |
| | | 27.4 | Manufacture of electric lighting equipment | 27.40 | Manufacture of electric lighting equipment |
| | | 27.5 | Manufacture of household appliances | 27.51 | Manufacture of electric household appliances |
| 27.52 | Manufacture of no electric household appliances | | | | |
| 27.9 | Manufacture of other electric equipment | 27.90 | Manufacture of other electric equipment | | |
| 28 | Manufacture of machines and equipments, not included to other categories | 28.1 | Manufacture of engines of general use | 28.11 | Manufacture of engines and turbines, except for aviation, machinery and motorcycle engines |
| | | | | 28.12 | Manufacture of hydraulic equipment |
| | | | | 28.13 | Manufacture of other pumps, compressors, thimbles and valves |
| | | | | 28.14 | Manufacture of other valves and vents |

| No. | Name of section | Group | Name of group | Code | Name of type and sub-type of activity |
|-----|---|-------|---|-------|--|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | | | 28.15 | Manufacture of bearings, gears, elements of tooth gear and gear-drive |
| | | 28.2 | Manufacture of other equipment of general use | 28.21 | Manufacture of slabs, stoves and kiln burner |
| | | | | 28.22 | Manufacture of elevating and shipping equipment |
| | | | | 28.23 | Manufacture of office equipment, office appliances (except for computers and peripheral equipment) |
| | | | | 28.24 | Manufacture of manual electric tools |
| | | | | 28.25 | Manufacture of industrial cooling and ventilating equipment |
| | | | | 28.29 | Manufacture of other machines and general-purpose equipment, not included to other categories |
| | | 28.3 | Manufacture of agricultural and forestry-based machines | 28.30 | Manufacture of agricultural and forestry-based machines |
| | | 28.4 | Manufacture of metal fabrication machinery and metal machines | 28.41 | Manufacture of metal fabrication machinery |
| | | | | 28.49 | Manufacture of other metal-working machine |
| | | 28.9 | Manufacture of other machines and equipment of special purposes | 28.91 | Manufacture of machinery and equipment for metallurgy |
| | | | | 28.92 | Manufacture of machinery for mining industry, underground operations and construction |
| | | | | 28.93 | Manufacture of facilities for production, processing of foodstuff, beverages and tobacco |
| | | | | 28.94 | Manufacture of facilities for textile, needle, fur and leather articles |
| | | | | 28.95 | Manufacture of machines for paper and paperboard |
| | | | | 28.96 | Manufacture of equipment for processing rubber, plastics and other polymeric materials |
| | | | | 28.99 | Manufacture of other machines and equipment of special purposes, not included to other categories |
| 29 | Manufacture of cars, trailers and semi-trailers | 29.1 | Manufacture of transportations | 29.10 | Manufacture of transportations |
| | | 29.2 | Manufacture of bodies for transportations, trailers and semi-trailers | 29.20 | Manufacture of bodies for transportations, trailers and semi-trailers |
| | | 29.3 | Manufacture of parts and equipment of transportations and their engines | 29.31 | Manufacture of electric and electronic equipment for transportations |
| | | | | 29.32 | Manufacture of parts and materials for transportations and their engines |
| 30 | Manufacture of other transportations | 30.1 | Building marine ships and boats | 30.11 | Building of ships and floating structures |
| | | | | 30.12 | Building of pleasure and sporting boats |
| | | 30.2 | Manufacture of railway locomotives and rolling stocks | 30.20 | Manufacture of railway locomotives and rolling stocks |
| | | 30.3 | Manufacture of air and space and etc. equipment | 30.30 | Manufacture of air and space and etc. equipment |

| No. | Name of section | Group | Name of group | Code | Name of type and sub-type of activity |
|-------|---|-------|---|-------|--|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | 30.4 | Manufacture of military transportation facilities | 30.40 | Manufacture of military transportation facilities |
| | | 30.9 | Manufacture of transportation facilities not included to other categories | 30.91 | Manufacture of motorcycles |
| | | | | 30.92 | Manufacture of bicycle and invalid's wheel chair/armchairs |
| 31 | Manufacture of furniture | 31.1 | Manufacture of furniture | 31.01 | Manufacture of office and studio furniture |
| | | | | 31.02 | Manufacture of kitchen furniture |
| | | | | 31.03 | Manufacture of mattress |
| | | | | 31.09 | Manufacture of other furniture |
| 32 | Manufacture of other ready-made articles | 32.5 | Manufacture of other ready-made articles | 32.50 | Manufacture of medical and dental facilities and articles |
| 33 | Mending and assembling of machinery and equipment | 33.1 | Mending ready-made metallic materials and machinery and equipment- | 33.11 | Mending ready-made metallic materials |
| | | | | 33.12 | Mending of machinery and equipment |
| | | | | 33.13 | Mending of electronic and optical equipment |
| | | | | 33.14 | Mending of electric equipment |
| | | | | 33.15 | Mending, servicing of vessels and ships |
| | | | | 33.16 | Mending, servicing of aerial vehicles and spacecrafts |
| | | | | 33.17 | Mending, servicing of other types of transportation facilities |
| | | 33.19 | Mending of other types of transportation facilities | | |
| | | 33.2 | Assembling of industrial engineering and equipment | 33.20 | Assembling of industrial engineering and equipment |
| | | 35 | Electricity and gas supply, air-conditioning | 35.1 | Production, supply of electrical energy |
| 35.12 | Supply of electrical energy | | | | |
| 35.13 | Distribution of electrical energy | | | | |
| 35.14 | Sales of electrical energy to consumer | | | | |
| 35.2 | Production and distribution of gaseous fuel | | | 35.21 | Production of gaseous fuel |
| | | | | 35.22 | Distribution of gaseous fuel via pipelines |
| | | | | 35.23 | Sales of gaseous fuel via pipelines |
| 35.3 | System for delivering pair and conditioned air | | | 35.30 | System for delivering pair and conditioned air |
| 36 | Collection, processing and distribution of water | | | 36.0 | Collection, processing and distribution of water |
| 38 | Collection, processing, elimination and recycling of wastes | 38.1 | Collection of hazardous wastes | 38.12 | Collection of hazardous wastes |
| | | 38.2 | Processing and elimination of non-hazardous waste | 38.21 | Processing and elimination of non-hazardous waste |
| | | 38.3 | Recycling of materials | 38.32 | Recycling of sorted materials |
| 42 | Civil engineering | 42.1 | Construction of auto roads and railways roads | 42.11 | Construction of roads and highway |
| | | | | 42.12 | Construction of railways and metro |
| | | | | 42.13 | Construction of bridges and tunnels |
| | | 42.2 | Construction of engineering structures | 42.21 | Construction of distributive engineering project |
| | | | | 42.22 | Construction of distributive engineering project for electric-light and telecommunication services |

| No. | Name of section | Group | Name of group | Code | Name of type and sub-type of activity |
|-----|---|-------|---|-------|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | | | 42.91 | Construction of water facilities |
| | | | | 42.99 | Construction of other civil engineering projects, not entered in other groups |
| 49 | Land transport and transportation by pipelines | 49.1 | Railway transport for passengers | 49.10 | Railway transport for passengers |
| | | 49.2 | Railway transport for cargo-carrying | 49.20 | Railway transport for cargo-carrying |
| | | 49.3 | Other ground transport for passengers | 49.31 | Urban and suburban ground passengers transport |
| | | | | 49.39 | Other ground transport for passengers, not entered in other categories |
| | | 49.4 | Freight traffic by highway transportation and services for pickup of wastes | 49.41 | Freight traffic by highway transportation |
| | | 49.5 | Transportation by pipelines | 49.50 | Transportation by pipelines |
| 50 | Water transport | 50.1 | Marine and riverside passenger's transport | 50.10 | Marine and riverside passenger's transport |
| | | 50.2 | Marine and riverside cargo's transport | 50.20 | Marine and riverside cargo's transport |
| | | 50.3 | River transport for passengers | 50.30 | River transport for passengers |
| | | 50.4 | River transport for cargo | 50.40 | River transport for cargo |
| 51 | Air transport | 51.1 | Air passenger transport | 51.10 | Air passenger transport |
| | | 51.2 | Air cargo transport and transport of space system | 51.21 | Air cargo transport |
| | | | | 51.22 | Transport of space system |
| 52 | Warehousing and auxiliary and additional transport activity | 52.1 | Warehousing and storage of cargo | 52.10 | Warehousing and storage of cargo |
| | | 52.2 | Other ancillary activities in transportation | 52.21 | Services in the area of land transport |
| | | | | 52.22 | Services rendered in a water transport |
| | | | | 52.23 | Services rendered in air transport |
| | | | | 52.24 | Handling services |
| 55 | Rendering of services by hotels | 55.1 | Rendering of services by hotels | 55.10 | Rendering of services by hotels |
| | | | | 55.10 | Rendering of services by hotels |
| | | 55.3 | Tourist camps, parks and entertainments | 55.30 | Tourist camps, parks and entertainments |
| 61 | Telecommunication | 61.2 | Wireless communications | 61.20 | Wireless communications |
| | | 61.3 | Activities in the sphere of satellite telecommunications | 61.30 | Activities in the sphere of satellite telecommunications |
| 68 | Real estate operations | 68.1 | Renting and using of personal or rental real estate | 68.20 | Renting and using of personal or rental real estate |

| No. | Name of section | Group | Name of group | Code | Name of type and sub-type of activity |
|-------|---|-------|---|-------|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 85 | Education | 85.1 | Preschool education | 85.10 | Preschool education |
| | | 85.2 | Primary education (first level) | 85.20 | Primary education (first level) |
| | | 85.3 | Fundamental and general secondary level education (second and third levels) | 85.31 | Fundamental and general secondary level education |
| | | | | 85.32 | Technical and professional secondary level education |
| | | 85.4 | Higher education | 85.41 | After secondary-level education |
| 85.42 | Higher education | | | | |
| 86 | Activity in the field of health care | 86.1 | Activity of medical institutions | 86.10 | Activity of medical institutions |
| 93 | Activity for organization of leisure and entertainment, culture and sport | 93.1 | Sport activities | 93.11 | Activity of sporting institutions |
| | | 93.2 | Other types of activities for organization of leisure and entertainment | 93.29 | Other types of activities for organization of leisure and entertainment |

Note: Government Resolution No. 436 of 8 May 2003 is not applied for customs duties exemptions for spare parts of the technological equipment, raw materials and inputs.

Customs duties exemptions for spare parts of the technological equipment, raw materials and inputs are granted for the list of priority activities, on the level of the classifier of sub-types of activities, for which customs duties exemptions for imported spare parts of the technological equipment, raw materials and inputs are granted, approved by the Government Resolution No. 416 of 8 August 2012.

Source: Government Resolution No. 436 of 8 May 2003 as amended by Government Resolution No. 809 of 6 August 2010.

SUPPLEMENT TO ANNEX 2

List of Priority Activities, on the Level of the Classifier of Sub-types of Activity, for which Customs Duties Exemptions for Imported Spare Parts of the Technological equipment, raw Materials and Inputs Are Granted

| No. | Name of section | Group | Name of group | Code | Name of type and sub-type of activity | | |
|-------|--|-------|---|-------|---|-------|--|
| 1 | 2 | 3 | 4 | 5 | 6 | | |
| 01 | Plant cultivation and livestock farming, hunting and provision of services in these fields | 01.1 | Growing of seasonal culture | 01.11 | Growing of cereals crops (except for rice), leguminous plants and oil seed | | |
| | | | | 01.12 | Cultivation of rice | | |
| | | | | 01.13 | Cultivation of vegetables and gourds, root crops and tuber crops | | |
| | | | | 01.14 | Growing of sugarcane | | |
| | | | | 01.16 | Growing of fibrillose fibre crops | | |
| | | | | 01.19 | Growing of other seasonal culture, except for growing of flowers, production of flowers and cultivation of flowers seed | | |
| | | | | 01.2 | Growing of perennial crops | 01.21 | Growing of grapes |
| | | | | | | 01.22 | Cultivation of tropical and subtropical fruits |
| | | | | | | 01.23 | Cultivation of citrus fruits |
| | | 01.24 | Cultivation of large fruits | | | | |
| | | 01.25 | Cultivation of other types of fruit tree | | | | |
| | | 01.26 | Growing of oily fruits | | | | |
| | | 01.27 | Growing of croppers for drinks production | | | | |
| | | 01.29 | Growing of other perennial crops | | | | |
| | | 01.3 | Manufacturing of farm production | 01.30 | Manufacturing of farm production | | |
| | | 01.4 | Animal breeding | 01.41 | Breeding of livestock dairy breed | | |
| | | | | 01.42 | Breeding of other breeds of livestock and buffalos | | |
| | | | | 01.43 | Breeding of horses and other hoofed breeds | | |
| | | | | 01.44 | Breeding of camels and camelids | | |
| | | | | 01.45 | Breeding of sheep and goats | | |
| 01.46 | Breeding of pigs and piglet | | | | | | |
| 01.47 | Poultry breeding | | | | | | |
| 01.49 | Breeding of other types of animals | | | | | | |
| 01.6 | Additional types of activities of growing of agricultural cultures | 01.64 | Processing and preparation of seeds for breeding | | | | |
| 03 | Fishery and aquaculture | 03.2 | Aquaculture | 03.21 | Marine aquaculture | | |
| | | | | 03.22 | Fresh water aquaculture | | |
| | | 10.1 | Processing and canning of meat and production of meat products | 10.11 | Processing and preservation of meat | | |
| | | | | 10.12 | Processing and preservation of meat of poultry | | |
| | | | | 10.13 | Production of products made by meat and meat of poultry | | |
| | | 10.2 | Processing and preservation of fish, shellfish and scallops | 10.20 | Processing and preservation of fish, shellfish and scallops | | |
| | | 10.3 | Processing and canning of fruit and vegetables | 10.31 | Processing and canning of potatoes | | |
| | | | | 10.32 | Production of fruit and vegetable juices | | |
| | | | | 10.39 | Processing and canning of fruit and vegetables, not included in other groups | | |
| | | 10.4 | Production of fat and oil | 10.41 | Production of fat and oil | | |
| | | | | 10.42 | Production of margarine and butter | | |
| | | 10.5 | Production of dairy products | 10.51 | Processing of milk and cheese production | | |
| | | | | 10.52 | Ice-cream production | | |
| | | 10.6 | Production of flour-and-cereals industry | 10.61 | Production of flour-and-cereals industry | | |
| | | | | 10.62 | Production of starch and starch products | | |
| 10.7 | Production of other products | 10.71 | Production of bread; production of fresh confectionery products, cakes and pastry | | | | |

| No. | Name of section | Group | Name of group | Code | Name of type and sub-type of activity | | |
|------|--|-------|---|-------|---|-------|---|
| 1 | 2 | 3 | 4 | 5 | 6 | | |
| | | | | 10.72 | Production of dried bread and cookies; production confectionery products, cakes, pastry and biscuits intended for long-term storage | | |
| | | | | 10.73 | Production of macaroni foods | | |
| | | | | 10.81 | Production of sugar | | |
| | | | | 10.83 | Manufacture of tea and coffee | | |
| | | | | 10.84 | Manufacture of spices and seasonings | | |
| | | | | 10.85 | Manufacture of prepared food and in-process foods | | |
| | | | | 10.86 | Manufacture of baby food and dietetic foodstuffs | | |
| | | | | 10.89 | Manufacture of other foodstuffs not entered in other groups | | |
| | | | | 10.91 | Manufacture of prepared foodstuff for animals that keeping in farms | | |
| | | | | 10.92 | Manufacture of ready-made foodstuff for animals | | |
| | | | | 11.06 | Manufacture of malt | | |
| | | | | 11.07 | Manufacture of mineral water and other non-alcoholic beverages | | |
| 13 | Manufacture of textile articles | 13.1 | Spinning, weaving and finishing industry | 13.10 | Spinning, weaving and finishing industry | | |
| | | | | 13.20 | Manufacture textile articles | | |
| | | 13.2 | Manufacture of textile fabric | 13.30 | Manufacture ready-made textile articles | | |
| | | | | 13.9 | Manufacture of other textile fabric | 13.91 | Manufacture of textile fabric |
| | | 13.92 | Manufacture ready-made textile articles, except for clothes | | | | |
| | | 13.93 | Manufacture of carpets and carpet articles | | | | |
| | | 13.94 | Manufacture of cordage, ropes, binder and nets | | | | |
| | | 13.95 | Manufacture of non-woven textile materials, except for clothes | | | | |
| | | 13.96 | Manufacture of other engineering and manufacturing textile articles | | | | |
| | | 13.99 | Manufacture of other textile articles not entered in other groups | | | | |
| 14 | Manufacture of clothes, | 14.1 | Manufacture of clothes, except made from leather | 14.11 | Manufacture of clothes of leather | | |
| | | | | 14.12 | Manufacture of working clothes | | |
| | | | | 14.13 | Manufacture of outerwear | | |
| | | | | 14.14 | Manufacture of underwear | | |
| | | | | 14.19 | Manufacture of other clothes and accessories | | |
| | | 14.2 | Manufacture of fur articles | 14.20 | Manufacture of fur articles | | |
| | | 14.3 | Manufacture of knitted hosiery and other knitted goods | 14.31 | Manufacture of knitted hosiery goods | | |
| | | | | 14.39 | Manufacture of other knitted goods | | |
| | | 15 | Manufacture of leather, articles of leather | 15.1 | Hardening and currying of leather; manufacture paper bags and ladies bags, harness articles; dressing and dyeing of fur | 15.11 | Hardening and currying of leather; dressing and dyeing of fur |
| | | | | | | 15.12 | Manufacture paper bags and ladies bags, harness articles |
| 15.2 | Manufacture of footwear | | | 15.20 | Manufacture of footwear | | |
| 16 | Manufacture of wood and cork articles, other than furniture; manufacture | 16.1 | Manufacture wood-sawing and joiner blade of articles for plating | 16.10 | Manufacture wood-sawing and joiner blade | | |

| No. | Name of section | Group | Name of group | Code | Name of type and sub-type of activity |
|-----|--|-------|---|-------|--|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | 16.2 | Manufacture of scale wood, plywood, slab and board | 16.21 | Manufacture of scale wood, plywood, slab and board |
| | | | | 16.22 | Manufacture of ready-cut parquet coverage |
| | | | | 16.23 | Manufacture of other wood building constructions and millwork |
| 17 | Manufacture of pulp, paper, cardboard and articles of it | 17.1 | Manufacture of wood pulp and cellulose and cardboard | 17.11 | Manufacture of wood pulp and cellulose |
| | | | | 17.12 | Manufacture of paper and cardboard |
| | | 17.2 | Manufacture of articles of paper and cardboard | 17.21 | Manufacture of corrugated cardboard, paper and cardboard tare |
| | | | | 17.22 | Manufacture of paper articles of household and sanitary-hygienic designation |
| | | | | 17.23 | Manufacture of writing paper articles |
| | | | | 17.24 | Manufacture of wallpaper |
| | | | | 17.29 | Manufacture of other articles of paper and cardboard |
| 19 | Manufacture of charred coal and products of oil refining | 19.1 | Manufacture of products of coke oven | 19.10 | Manufacture of products of coke oven |
| | | 19.2 | Manufacture of products of oil refining | 19.20 | Manufacture of products of oil refining |
| 20 | Chemical industry | 20.1 | Manufacture of main chemicals, fertilisers and nitrogen compounds, plastics and synthetic caoutchouc in primary forms | 20.11 | Manufacture of industrial gas |
| | | | | 20.12 | Manufacture of colours and pigments |
| | | | | 20.13 | Manufacture of other general inorganic (chemical) matters |
| | | | | 20.14 | Manufacture of other general organic (chemical) matters, |
| | | | | 20.15 | Manufacture of fertilisers and nitrogen compounds |
| | | | | 20.16 | Manufacture of plastics in primary forms |
| | | | | 20.17 | Manufacture of synthetic caoutchouc in primary forms |
| | | 20.2 | Manufacture of pesticides and other agricultural chemical products | 20.20 | Manufacture of pesticides and other agricultural chemical products |
| | | 20.3 | Manufacture of paints, lacquers and analogous coatings, typographic paints and mastics | 20.30 | Manufacture of paints, lacquers and analogous coatings, typographic paints and mastics |
| | | 20.4 | Manufacture of soap and washing, cleansing and polishing matters, perfume and cosmetic matters | 20.41 | Manufacture of soap and washing, cleansing and polishing matters |
| | | | | 20.42 | Manufacture of perfume and cosmetic matters |
| | | 20.5 | Manufacture of chemical products | 20.51 | Manufacture of explosive materials |
| | | | | 20.52 | Manufacture of glues |
| | | | | 20.53 | Manufacture of essences |
| | | | | 20.59 | Manufacture of other chemical products not included in other categories |
| | | 20.6 | Manufacture of artificial fibres | 20.60 | Manufacture of artificial fibres |
| 21 | Manufacture of general pharmaceutical products | 21.1 | Manufacture of general pharmaceutical products | 21.10 | Manufacture of general pharmaceutical products |
| | | 21.2 | Manufacture of pharmaceutical products | 21.20 | Manufacture of pharmaceutical products |

| No. | Name of section | Group | Name of group | Code | Name of type and sub-type of activity | | |
|-------|---|-------|---|-------|---|-------|--|
| 1 | 2 | 3 | 4 | 5 | 6 | | |
| 22 | Manufacture of rubber and plastic articles | 22.1 | Manufacture of rubber articles | 22.11 | Manufacture of rubber tires and automobile inner tube; retreading of rubber tires | | |
| | | | | 22.19 | Manufacture of other rubber articles | | |
| | | 22.2 | Manufacture of plastic articles | 22.21 | Manufacture of plastic sheets, automobile inner tube and profile | | |
| | | | | 22.22 | Manufacture of plastic packages for goods | | |
| | | | | 22.23 | Manufacture of constructional plastic articles | | |
| | | | | 22.29 | Manufacture of other plastic articles | | |
| 23 | Manufacture of other non-metal mineral products | 23.1 | Manufacture of glass and other glass articles | 23.11 | Manufacture of plate glasses | | |
| | | | | 23.12 | Forming and handling of plate glasses | | |
| | | | | 23.13 | Manufacture of hollow glass articles | | |
| | | | | 23.14 | Manufacture of glass fibre | | |
| | | | | 23.19 | Manufacture and processing of other glass articles | | |
| | | 23.2 | Manufacture of refractory products | 23.20 | Manufacture of refractory products | | |
| | | 23.3 | Manufacture of building articles of burnt clay | 23.31 | Manufacture of building articles of clay | | |
| | | | | 23.32 | Manufacture of bricks, tiles and other building articles of burnt clay | | |
| | | 23.4 | Manufacture of other porcelain and ceramic articles | 23.41 | Manufacture of household and decorative ceramic articles | | |
| | | | | 23.42 | Manufacture of ceramic sanitary-technical articles | | |
| | | | | 23.43 | Manufacture of ceramic electric insulators and insulating accessories | | |
| | | | | 23.44 | Manufacture of other technical ceramic articles | | |
| | | 23.5 | Manufacture of cement, linden and plaster | 23.51 | Manufacture of cement including clinker | | |
| | | | | 23.52 | Manufacture of gypsum articles for use in construction | | |
| | | | | 23.62 | Manufacture of gypsum articles for construction purposes | | |
| | | | | 23.63 | Manufacture of concrete ready for use | | |
| | | | | 23.64 | Manufacture of dry concrete mixtures | | |
| | | | | 23.65 | Manufacture of articles of asbestos cement and fibrous cement | | |
| | | 23.69 | Manufacture of other concrete articles construction gypsum and cement | 23.69 | Manufacture of other concrete articles construction gypsum and cement | | |
| | | | | 23.70 | Cutting, treatment and finishing of decoration of stone | | |
| | | 23.7 | Cutting, treatment and finishing of decoration of stone | 23.70 | Cutting, treatment and finishing of decoration of stone | | |
| | | 23.9 | Manufacture of abrasive articles and other non-metal mineral products not entered in other groups | 23.91 | Manufacture of abrasive articles | | |
| | | | | 23.99 | Manufacture of other non-metal mineral products not entered in other groups | | |
| | | 24 | Manufacture of ready-made metal articles | 24.1 | Manufacture of iron, steel and ferrous alloys | 24.10 | Manufacture of iron, steel and ferrous alloys |
| | | | | | | 24.20 | Manufacture of tubes, pipeline, section material, fittings made by steel |
| | | | | 24.3 | Manufacture of other steel articles by primary operation | 24.31 | Manufacture of cold drawing |
| | | | | | | 24.32 | Cold rolling of ribbons and ridges |
| 24.33 | Cold moulding and folding | | | | | | |
| 24.34 | Manufacture of wires made by cold extension | | | | | | |

| No. | Name of section | Group | Name of group | Code | Name of type and sub-type of activity |
|-----|--|-------|---|-------|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | 24.4 | Production of main precious metals and other ferrous metals | 24.41 | Production of precious metals |
| | | | | 24.42 | Manufacture of aluminium |
| | | | | 24.43 | Manufacture of lead, zinc and tin |
| | | | | 24.44 | Manufacture of copper |
| | | | | 24.45 | Manufacture of other ferrous metals |
| | | | | 24.46 | Nuclear-fuel reprocessing |
| | | 24.5 | Casting of metals | 24.51 | Casting of pig-iron |
| | | | | 24.52 | Casting of steel |
| | | | | 24.53 | Casting of light metals |
| | | | | 24.54 | Casting of other non-ferrous metals |
| 25 | Manufacture of ready-made metal articles, except for machinery and equipment | 25.2 | Manufacture of metallic cisterns, basin and containers | 25.11 | Manufacture of cisterns, basin and containers |
| | | | | 25.12 | Manufacture of metallic doors and windows |
| | | | | 25.21 | Manufacture of radiators and boilers for central heating |
| | | | | 25.29 | Manufacture of metallic cisterns, basin and containers |
| | | 25.3 | Manufacture of steam boilers | 25.30 | Manufacture of steam boilers |
| | | 25.4 | Manufacture of weapons and ammunition | 25.40 | Manufacture of weapons and ammunition |
| | | 24.5 | Hammering, pressing, stamping and shaping of metal sheet made by rolling manner | 24.50 | Hammering, pressing, stamping and shaping of metal sheet made by rolling manner |
| | | 25.6 | | 25.61 | Metal working and applying coat on metals |
| | | | | 25.62 | Automatic development; processing and covering of metals |
| | | 25.7 | | 25.71 | Manufacture of other metallic articles |
| | | | | 25.72 | Manufacture of key locks, loop and hinges |
| | | | | 25.73 | Manufacture of instruments |
| | | 25.9 | | 25.91 | Manufacture of other metallic drums and similar container |
| | | | | 25.92 | Manufacture of packing materials of light metals |
| | | | | 25.93 | Manufacture of articles of wire |
| | | | | 25.94 | Manufacture of fastening articles |
| | | | | 25.99 | Manufacture of other ready-made metal articles not included to this category |
| 26 | Manufacture of computers, electronic and optical products | 26.1 | Manufacture of electronic details | 26.11 | Manufacture of electronic details |
| | | | | 26.12 | Manufacture of electronic panel feeds |
| | | 26.2 | Manufacture of computers and off-line equipment | 26.20 | Manufacture of computers and off-line equipment |
| | | 26.3 | Manufacture of communication equipment | 26.30 | Manufacture of communication equipment |
| | | 26.4 | Manufacture electric appliances | 26.40 | Manufacture electric appliances for users |
| | | 26.5 | Manufacture of instruments and equipment for measuring, testing and navigation; watches | 26.51 | Manufacture of instruments and equipment for measuring, testing and navigation |
| | | 26.6 | Manufacture of illuminating, electro-medical and electrotherapy equipment | 26.60 | Manufacture of illuminating, electro-medical and electrotherapy equipment |

| No. | Name of section | Group | Name of group | Code | Name of type and sub-type of activity |
|-------|--|-------|---|-------|--|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | 26.7 | Manufacture of optical and photographic equipment | 26.70 | Manufacture of optical and photographic equipment |
| | | 26.8 | Manufacture of magnetic and optical transmission facility | 26.80 | Manufacture of magnetic and optical transmission facility |
| 27 | Manufacture of electric equipment | 27.1 | Manufacture of electric motors, generators and transformers and electric distributing and controlling equipment | 27.11 | Manufacture of electric motors, generators and transformers |
| | | | | 27.12 | Manufacture of electric distributing and controlling equipment |
| | | 27.2 | Manufacture of radiators and accumulators | 27.20 | Manufacture of radiators and accumulators |
| | | 27.3 | Manufacture of electric line and electric line articles | 27.31 | Manufacture of fibre-optic cable |
| | | | | 27.32 | Manufacture of other types of electric line and cable |
| | | | | 27.33 | Manufacture of electric appliances |
| | | 27.4 | Manufacture of electric lighting equipment | 27.40 | Manufacture of electric lighting equipment |
| | | 27.5 | Manufacture of household appliances | 27.51 | Manufacture of electric household appliances |
| 27.52 | Manufacture of no electric household appliances | | | | |
| 27.9 | Manufacture of other electric equipment | 27.90 | Manufacture of other electric equipment | | |
| 28 | Manufacture of machines and equipments, not included to other categories | 28.1 | Manufacture of engines of general use | 28.11 | Manufacture of engines and turbines, except for aviation, machinery and motorcycle engines |
| | | | | 28.12 | Manufacture of hydraulic equipment |
| | | | | 28.13 | Manufacture of other pumps, compressors, thimbles and valves |
| | | | | 28.14 | Manufacture of other valves and vents |
| | | | | 28.15 | Manufacture of bearings, gears, elements of tooth gear and gear-drive |
| | | 28.2 | Manufacture of other equipments of general use | 28.21 | Manufacture of slabs, stoves and kiln burner |
| | | | | 28.22 | Manufacture of elevating and shipping equipment |
| | | | | 28.23 | Manufacture of office equipment, office appliances (except for computers and peripheral equipment) |
| | | | | 28.24 | Manufacture of manual electric tools |
| | | | | 28.25 | Manufacture of industrial cooling and ventilating equipment |
| | | 28.29 | Manufacture of other machines and general-purpose equipment, not included to other categories | | |
| | | 28.3 | Manufacture of agricultural and forestry-based machines | 28.30 | Manufacture of agricultural and forestry-based machines |
| | | 28.4 | Manufacture of metal fabrication machinery and metal machines | 28.41 | Manufacture of metal fabrication machinery |
| | | | | 28.49 | Manufacture of other metal-working machine |

| No. | Name of section | Group | Name of group | Code | Name of type and sub-type of activity |
|-----|---|-------|---|-------|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | 28.9 | Manufacture of other machines and equipment of special purposes | 28.91 | Manufacture of machinery and equipment for metallurgy |
| | | | | 28.92 | Manufacture of machinery for mining industry, underground operations and construction |
| | | | | 28.93 | Manufacture of facilities for production, processing of foodstuff, beverages and tobacco |
| | | | | 28.94 | Manufacture of facilities for textile, needle, fur and leather articles |
| | | | | 28.95 | Manufacture of machines for paper and paperboard |
| | | | | 28.96 | Manufacture of equipment for processing rubber, plastics and other polymeric materials |
| | | | | 28.99 | Manufacture of other machines and equipment of special purposes, not included to other categories |
| 29 | Manufacture of cars, trailers and semi-trailers | 29.1 | Manufacture of transportations | 29.10 | Manufacture of transportations |
| | | 29.2 | Manufacture of bodies for transportations, trailers and semi-trailers | 29.20 | Manufacture of bodies for transportations, trailers and semi-trailers |
| | | 29.3 | Manufacture of parts and equipments of transportations and their engines | 29.31 | Manufacture of electric and electronic equipment for transportations |
| | | | | 29.32 | Manufacture of parts and materials for transportations and their engines |
| 30 | Manufacture of other transportations | 30.1 | Building marine ships and boats | 30.11 | Building of ships and floating structures |
| | | | | 30.12 | Building of pleasure and sporting boats |
| | | 30.2 | Manufacture of railway locomotives and rolling stocks | 30.20 | Manufacture of railway locomotives and rolling stocks |
| | | 30.3 | Manufacture of air and space and etc. equipment | 30.30 | Manufacture of air and space and etc. equipment |
| | | 30.4 | Manufacture of military transportation facilities | 30.40 | Manufacture of military transportation facilities |
| | | 30.9 | Manufacture of transportation facilities not included to other categories | 30.91 | Manufacture of motorcycles |
| | | | | 30.92 | Manufacture of bicycle and invalid's wheel chair/armchairs |
| 31 | Manufacture of furniture | 31.1 | Manufacture of furniture | 31.01 | Manufacture of office and studio furniture |
| | | | | 31.02 | Manufacture of kitchen furniture |
| | | | | 31.03 | Manufacture of mattress |
| | | | | 31.09 | Manufacture of other furniture |
| 32 | Manufacture of other ready-made articles | 32.5 | Manufacture of other ready-made articles | 32.50 | Manufacture of medical and dental facilities and articles |
| 33 | Mending and assembling of machinery and equipment | 33.1 | Mending ready-made metallic materials and machinery and equipment | 33.11 | Mending ready-made metallic materials |
| | | | | 33.12 | Mending of machinery and equipment |
| | | | | 33.13 | Mending of electronic and optical equipment |
| | | | | 33.14 | Mending of electric equipment |
| | | | | 33.15 | Mending, servicing of vessels and ships |
| | | | | 33.16 | Mending, servicing of aerial vehicles and spacecrafts |

| No. | Name of section | Group | Name of group | Code | Name of type and sub-type of activity |
|-------|---|-------|--|-------|--|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | | | 33.17 | Mending, servicing of other types of transportation facilities |
| | | | | 33.19 | Mending of other types of transportation facilities |
| | | 33.2 | Assembling of industrial engineering and equipment | 33.20 | Assembling of industrial engineering and equipment |
| 35 | Electricity and gas supply, air-conditioning | 35.1 | Production, supply of electrical energy | 35.11 | Production electrical energy |
| | | | | 35.12 | Supply of electrical energy |
| | | | | 35.13 | Distribution of electrical energy |
| | | | | 35.14 | Sales of electrical energy to consumer |
| | | 35.2 | Production and distribution of gaseous fuel | 35.21 | Production of gaseous fuel |
| | | | | 35.22 | Distribution of gaseous fuel via pipelines |
| | | 35.23 | Sales of gaseous fuel via pipelines | | |
| 35.3 | System for delivering pair and conditioned air | 35.30 | System for delivering pair and conditioned air | | |
| 36 | Collection, processing and distribution of water | 36.0 | Collection, processing and distribution of water | 36.00 | Collection, processing and distribution of water |
| 38 | Collection, processing, elimination and recycling of wastes | 38.1 | Collection of hazardous wastes | 38.12 | Collection of hazardous wastes |
| | | 38.2 | Processing and elimination of non-hazardous waste | 38.21 | Processing and elimination of non-hazardous waste |
| | | 38.3 | Recycling of materials | 38.32 | Recycling of sorted materials |
| 42 | Civil engineering | 42.1 | Construction of auto roads and railways roads | 42.11 | Construction of roads and highway |
| | | | | 42.12 | Construction of railways and metro |
| | | | | 42.13 | Construction of bridges and tunnels |
| | | 42.2 | Construction of engineering structures | 42.21 | Construction of distributive engineering project |
| | | | | 42.22 | Construction of distributive engineering project for electric-light and telecommunication services |
| | | | | 42.91 | Construction of water facilities |
| 42.99 | Construction of other civil engineering projects, not entered in other groups | | | | |
| 49 | Land transport and transportation by pipelines | 49.1 | Railway transport for passengers | 49.10 | Railway transport for passengers |
| | | 49.2 | Railway transport for cargo-carrying | 49.20 | Railway transport for cargo-carrying |
| | | 49.3 | Other ground transport for passengers | 49.31 | Urban and suburban ground passengers transport |
| | | | | 49.39 | Other ground transport for passengers, not entered in other categories |
| | | 49.4 | Freight traffic by highway transportation and services for pick up of wastes | 49.41 | Freight traffic by highway transportation |
| | | 49.5 | Transportation by pipelines | 49.50 | Transportation by pipelines |

| No. | Name of section | Group | Name of group | Code | Name of type and sub-type of activity |
|-----|---|-------|---|-------------------|--|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 50 | Water transport | 50.1 | Marine and riverside passenger's transport | 50.10 | Marine and riverside passenger's transport |
| | | 50.2 | Marine and riverside cargo's transport | 50.20 | Marine and riverside cargo's transport |
| | | 50.3 | River transport for passengers | 50.30 | River transport for passengers |
| | | 50.4 | River transport for cargo | 50.40 | River transport for cargo |
| 51 | Air transport | 51.1 | Air passenger transport | 51.10 | Air passenger transport |
| | | 51.2 | Air cargo transport and transport of space system | 51.21 | Air cargo transport |
| | | | | 51.22 | Transport of space system |
| 52 | Warehousing and auxiliary and additional transport activity | 52.1 | Warehousing and storage of cargo | 52.10 | Warehousing and storage of cargo |
| | | 52.2 | Other ancillary activities in transportation | 52.21 | Services in the area of land transport |
| | | | | 52.22 | Services rendered in a water transport |
| | | | | 52.23 | Services rendered in air transport |
| | | | 52.24 | Handling services | |

Source: Government Resolution No. 1416 of 8 August 2012.

ANNEX 3(A)

Progress in Privatization of State Property in 1991-2012

(in entities)

| Year | 1991-1992 | 1993 | 1994 | 1995 | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
|--|-----------|------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|------|------|------|-------|------|------|------|
| Number of privatized entities of State ownership | 4,771 | 154 | 2,646 | 3,630 | 4,442 | 7,004 | 3,240 | 2,624 | 1,859 | 2,205 | 1,823 | 2,106 | 2,094 | 1,239 | 654 | 945 | 846 | 1,241 | 651 | 658 | 799 |
| Privatized State shares in JSCs and LLPs | - | - | - | 385 | 889 | 1,315 | 513 | 162 | 93 | 146 | 67 | 65 | 58 | 16 | 1 | - | - | 3 | 3 | 1 | 5 |
| Privatized individual projects | - | 1 | 1 | 6 | 27 | 48 | 11 | - | - | - | - | - | - | - | - | - | - | - | - | - | - |
| Privatized property complexes, immovable property objects, incomplete construction, transportation and other objects | 4,771 | 153 | 2,645 | 3,239 | 3,526 | 5,641 | 2,716 | 2,462 | 1,766 | 2,059 | 1,756 | 2,041 | 2,036 | 1,223 | 653 | 945 | 846 | 1,238 | 648 | 657 | 794 |

Source: Adapted from the data provided by the State Property and Privatization Committee, Ministry of Finance.

ANNEX 3(B)**Progress in Privatization of State Property in 2000-2012**

(in entities)

| Area of activity | 2000-2012 |
|--|-----------|
| 1. Privatized State shares in JSCs and LLPs, total | 458 |
| Including: | |
| - Industry | 136 |
| - Construction | 26 |
| - Agriculture | 50 |
| - Transportation and communication | 54 |
| - Trade in and repair of household goods | 28 |
| - Finance | 8 |
| - Health care | 27 |
| - Education | 15 |
| - Other objects | 114 |
| 2. Privatized property complexes, immovable property objects, incomplete construction, transportation and other objects | 16,662 |
| Total | 17,120 |

Source: Adapted from the data provided by the State Property and Privatization Committee, Ministry of Finance.

ANNEX 3(C)

The Number of State Enterprises by Type of Economic Activity in 2009-2013

| Type of economic activity | 01.01.2009 | | 01.01.2010 | | 01.01.2011 | | 01.01.2012 | | 01.01.2013 | |
|--|------------|--------|------------|-------|------------|-------|------------|-------|------------|-------|
| | RSEs* | CSEs** | RSEs | CSEs | RSEs | CSEs | RSEs | CSEs | RSEs | CSEs |
| Total | 707 | 5,808 | 719 | 6,098 | 636 | 6,218 | 584 | 6,376 | 479 | 6,348 |
| Agriculture, forestry and fishing | 49 | 96 | 49 | 101 | 35 | 80 | 21 | 74 | 20 | 74 |
| Mining and quarrying | 2 | 1 | 2 | 0 | 1 | 0 | 1 | 0 | 1 | 0 |
| Manufacturing | 24 | 44 | 23 | 41 | 21 | 36 | 19 | 37 | 19 | 28 |
| Electricity, gas, steam and air conditioning supply | 7 | 137 | 7 | 135 | 7 | 136 | 6 | 135 | 6 | 124 |
| Water supply, sewerage, waste management and remediation activities | 18 | 322 | 18 | 330 | 16 | 328 | 8 | 324 | 6 | 283 |
| Construction | 34 | 83 | 32 | 88 | 26 | 88 | 21 | 78 | 21 | 63 |
| Wholesale and retail trade; repair of motor vehicles and motorcycles | 30 | 66 | 29 | 64 | 23 | 55 | 22 | 48 | 18 | 43 |
| Transportation and storage | 38 | 52 | 39 | 52 | 30 | 55 | 26 | 57 | 23 | 46 |
| Accommodation and food service activities | 9 | 18 | 8 | 19 | 7 | 21 | 6 | 22 | 6 | 22 |
| Information and communication | 43 | 205 | 44 | 209 | 41 | 190 | 39 | 183 | 21 | 62 |
| Financial and insurance activities | 4 | 8 | 8 | 16 | 3 | 8 | 3 | 8 | 3 | 7 |
| Real estate activities | 37 | 81 | 36 | 82 | 34 | 74 | 33 | 67 | 28 | 50 |
| Administrative and support service activities | 9 | 200 | 8 | 194 | 8 | 164 | 8 | 160 | 7 | 132 |
| Public administration and defence, compulsory social security | 30 | 65 | 29 | 74 | 17 | 52 | 15 | 44 | 13 | 38 |
| Education | 75 | 2,255 | 79 | 2,401 | 78 | 2,768 | 75 | 3,005 | 72 | 3,184 |
| Human health and social work activities | 39 | 1,181 | 44 | 1,320 | 39 | 1,187 | 41 | 1,120 | 37 | 1,054 |
| Arts, entertainment and recreation | 44 | 752 | 44 | 773 | 42 | 781 | 42 | 807 | 42 | 815 |
| Other service activities | 2 | 22 | 2 | 22 | 1 | 19 | 0 | 19 | 0 | 15 |

* RSEs - Republican State Enterprises, property of which is in republican ownership.

** CSEs - Communal State Enterprises, property of which is in municipal ownership.

Data is classified in accordance with the State General Classifier of Types of Economic Activity 03-2007.

Source: Statistics Agency.

ANNEX 3(D)

The Number of Joint Stock Companies with State Participation by Type of Economic Activity in 2008-2013

| Types of economic activity | 01.01.2008 | 01.01.2009 | 01.01.2010 | 01.01.2011 | 01.01.2012 | 01.01.2013 |
|--|------------|------------|------------|------------|------------|------------|
| Total | 468 | 457 | 379 | 370 | 367 | 364 |
| Agriculture, forestry and fishing | 25 | 22 | 19 | 15 | 15 | 14 |
| Mining and quarrying | 2 | 2 | 1 | 2 | 2 | 2 |
| Manufacturing | 62 | 59 | 43 | 42 | 37 | 32 |
| Electricity, gas, steam and air conditioning supply | 33 | 31 | 28 | 25 | 24 | 20 |
| Water supply, sewerage, waste management and remediation activities | 11 | 11 | 10 | 12 | 11 | 9 |
| Construction | 38 | 37 | 28 | 28 | 27 | 28 |
| Wholesale and retail trade; repair of motor vehicles and motorcycles | 46 | 42 | 31 | 23 | 21 | 18 |
| Transportation and storage | 66 | 63 | 52 | 45 | 37 | 36 |
| Accommodation and food service activities | 4 | 4 | 2 | 1 | 1 | 2 |
| Information and communication | 23 | 23 | 18 | 18 | 19 | 23 |
| Financial and insurance activities | 37 | 40 | 33 | 33 | 35 | 35 |
| Real estate activities | 14 | 14 | 13 | 16 | 17 | 16 |
| Professional, scientific and technical activities | 51 | 51 | 49 | 51 | 54 | 62 |
| Administrative and support service activities | 9 | 9 | 11 | 11 | 15 | 15 |
| Public administration and defence, compulsory social security | 1 | 1 | 1 | 1 | 2 | 3 |
| Education | 18 | 19 | 17 | 18 | 20 | 19 |
| Human health and social work activities | 15 | 16 | 11 | 13 | 14 | 14 |
| Arts, entertainment and recreation | 9 | 9 | 10 | 13 | 13 | 13 |
| Other service activities | 4 | 4 | 2 | 3 | 3 | 3 |

Data is classified in accordance with the State General Classifier of Types of Economic Activity 03-2007.

Source: Statistics Agency.

ANNEX 3(E)**The Allotment of State Share Holding in Joint Stock Companies**

| Share of State participation | Number of Joint Stock Companies | | | | | |
|------------------------------|---------------------------------|------------|--------------|------------|------------|------------|
| | 01.01.2008* | 01.01.2009 | 01.01.2010** | 01.01.2011 | 01.01.2012 | 01.01.2013 |
| 100% | 94 | 94 | 212 | 223 | 230 | 236 |
| 50% to 100% | 17 | 14 | 64 | 75 | 71 | 67 |
| 25% to 50% | 13 | 14 | 23 | 29 | 25 | 22 |
| less than 25% | 7 | 7 | 80 | 43 | 41 | 39 |
| Total | 131 | 129 | 379 | 370 | 367 | 364 |

Source: * Data for 2008 and 2009 is adapted from the data provided by the State Property and Privatization Committee, Ministry of Finance.

** Data for 2010 – 2013 is provided by the Statistics Agency.

ANNEX 3(F)**The List of Spheres where State Enterprises could be Established**

1. Public utility services for population (energy, gas, water, heating supply and burial of communal wastes, creation and maintenance of waste landfills);
2. Creation of woodland park, green and protection zones with the restricted regime of nature use and forest planting;
3. Activities maintaining the functions of the National Bank of the Republic of Kazakhstan, the Administration of the President of the Republic of Kazakhstan and its departments and diplomatic service authorities of the Republic of Kazakhstan;
4. Maintenance of State-owned automobile roads;
5. Public healthcare, public higher and post-graduate education;
6. Operation of public sports and fitness entities, culture and leisure parks;
7. Scientific researches;
8. Maintenance of the State land cadastre, information databases concerning subsurface and subsurface use, State reserves of ecological information and State cadastres of natural resources of the Republic of Kazakhstan, state register of regulatory legal acts of the Republic of Kazakhstan;
9. Maintenance, operation, and safety of water management systems, and facilities which were in State ownership;
10. Plant protection and quarantine, and phytosanitary expertise of production subject to plant quarantine;
11. Scientific research, preservation, restoration, re-creation, repair and adjustment of monuments of history and culture;
12. Activities of sea port;
13. Aero navigation services to users of air space of the Republic of Kazakhstan;
14. Formation and storage of the State commodity reserves;
15. Economic and business activities in the sphere of technical regulation and metrology;
16. Production activities in the sphere of the criminal prosecution system and organization of employment of prisoners;
17. Performance of functions on:
 - diagnostics of animal diseases;
 - epizootic monitoring of diseases of wild animals in the Republic of Kazakhstan;
 - maintenance of the National Collection of Deposited Strains of Microorganisms;
 - testing registration, approbation of veterinary specimens, feed additives, as well as control of series (lots) of drugs at their reclamation;
 - State monitoring, on provision of food security;
 - monitoring of safety of veterinary drugs, feeds, and feed additives;
 - veterinary measures against extremely hazardous and enzootic animal diseases;
 - identification of agricultural animals;
 - provision of services on artificial insemination of animals;

- provision of services on transportation (delivery), storage of veterinary preparation against extremely hazardous and enzootic animal diseases, as well as transportation (delivery) of items (means) and attributes of veterinary purpose for conducting identification of agricultural animals;
 - maintenance of animal burial sites (biothermical pits), slaughter sites, built by local executive bodies of corresponding administrative territorial units; and
 - trapping and extermination of stray dogs and cats.
18. Liquidation (termination, utilization, burial) of weapons, military equipment and other not used military property; leasing of defence objects; selling (including exports) and purchasing (including imports) of weapon, military equipment, ammunition, their spare and component parts, products, equipment and corresponding technology of double application for Armed Forces, other troops and military units of the Republic of Kazakhstan;
 19. Liquidation and conservation of State-owned hazardous inactive mines and coal enterprises, under the list determined by the Government, and also liquidation of consequences of their activities;
 20. Rendering and automatization of State services on "single window";
 21. Performance of mountain rescue and other special operations in emergency and accident situations, protection from fire, flood and other natural disasters;
 22. Pre-school education and training, additional education, technical, professional and post-secondary education;
 23. Post-graduate education entities under the President of the Republic of Kazakhstan;
 24. Work safety and protection of employment, social protection of population, except for activities performed by the authorized organization according to Law No. 105-V "On Pension Safety" of 21 June 2013, culture and sports;
 25. Protection, ensuring sustainable use, reproduction and breeding of fauna and flora species for the purposes of preserving biological diversity and genetic stock, and protection of nature (zoological gardens, botanical gardens and dendrological parks), and aviation works for protection and guarding of the forest reserves;
 26. Performance of topographic-geodesic and cartographic works;
 27. Rendering of special social services to persons (families) in a difficult life situation;
 28. Classification and providing for technical safety of vessels.

ANNEX 3(G)

Share of State Enterprises in Gross Value Added by Economic Activities in 2005-2012

| General Classifier of Types of Economic Activities (03-2003) | 2005 | 2006 | 2007 | 2008 | 2009 |
|--|-------|-------|-------|-------|-------|
| Gross Value Added, total | 9.0 | 8.0 | 8.4 | 7.6 | 8.9 |
| Agriculture, forestry and fishery | 7.0 | 7.0 | 7.1 | 6.7 | 5.9 |
| Industry | 1.0 | 1.0 | 0.7 | 0.5 | 0.7 |
| Construction | 1.0 | 1.0 | 0.8 | 1.0 | 1.3 |
| Trading, auto services and repair of household and personal appliances | 0.0 | 0.0 | 0.1 | 0.1 | 0.1 |
| Hotels and restaurants | 2.0 | 2.0 | 1.8 | 1.7 | 1.6 |
| Transport and telecommunication | 3.0 | 5.0 | 3.9 | 3.4 | 4.0 |
| Financial activities | 7.0 | 6.0 | 6.1 | 6.0 | 7.6 |
| Real estate operations, leasing and consumer services | 4.0 | 4.0 | 3.9 | 3.5 | 4.1 |
| Public administration | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |
| Education | 73.0 | 78.0 | 78.0 | 81.4 | 82.8 |
| Healthcare and social services | 66.0 | 65.0 | 66.1 | 70.3 | 71.1 |
| Utility services, personal services | 26.0 | 26.0 | 26.9 | 30.6 | 31.0 |

| General Classifier of Types of Economic Activities (03-2007) | 2010 | 2011 | 2012 |
|--|-------|-------|-------|
| Gross Value Added, Total | 9.3 | 9.6 | 9.1 |
| Agriculture, forestry and fishing | 6.1 | 6.8 | 5.1 |
| Industry | 0.7 | 0.8 | 0.9 |
| Mining and quarrying | 0.0 | 0.0 | 0.0 |
| Manufacturing | 0.4 | 0.3 | 0.5 |
| Electricity, gas, steam and air conditioning supply | 6.1 | 7.4 | 7.4 |
| Water supply, sewerage, waste management and remediation activities | 23.4 | 25.7 | 27.9 |
| Construction | 1.9 | 2.2 | 2.3 |
| Wholesale and retail trade; repair of motor vehicles and motorcycles | 0.1 | 0.1 | 0.0 |
| Transportation and storage | 6.6 | 8.0 | 8.0 |
| Accommodation and food service activities | 1.4 | 1.3 | 1.3 |
| Information and communication | 5.8 | 5.4 | 5.5 |
| Financial and insurance activities | 8.4 | 7.6 | 7.3 |
| Real estate activities | 3.8 | 0.8 | 1.5 |
| Professional, scientific and technical activities | 10.1 | 14.7 | 14.3 |
| Administrative and support service activities | 4.8 | 4.7 | 4.6 |
| Public administration and defence, compulsory social security | 100.0 | 100.0 | 100.0 |
| Education | 78.5 | 80.1 | 76.9 |
| Human health and social work activities | 86.1 | 88.5 | 72.9 |
| Arts, entertainment and recreation | 63.6 | 62.1 | 64.5 |
| Other service activities | 0.3 | 0.2 | 0.2 |

Source: Statistics Agency.

ANNEX 3(H)**Share of State Property in Gross Value Added in Specific Areas in 2005-2012**

| | Share of State Property in Gross Value Added, by Sectors of Economy (%) | | | | | | | |
|-----------------------------------|---|------|------|------|------|------|------|------|
| | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
| Total | 8.7 | 8.2 | 8.4 | 7.6 | 8.9 | 9.3 | 9.6 | 9.1 |
| Agriculture, forestry and fishery | 7.3 | 6.8 | 7.1 | 6.7 | 5.9 | 6.1 | 6.8 | 5.1 |
| Industry | 0.8 | 0.7 | 0.7 | 0.5 | 0.7 | 0.7 | 0.8 | 0.9 |
| Services* | 12.7 | 12.0 | 11.9 | 11.4 | 13.2 | 14.3 | 14.8 | 13.6 |

Source: Statistics Agency

* Services include all sectors of services and construction.

ANNEX 4

**List of Goods and Services for Internal Consumption for which Prices
were regulated by the Government**

| I. List of Services Provided by Natural Monopolies¹ | | |
|---|--|--|
| No. | Types of activities referred to the sphere of natural monopoly in accordance with Law No. 272-I "On Natural Monopolies and Regulated Markets" of 9 July 1998 | Regulated types of services |
| 1. | Transportation of oil and/or oil products by main pipelines | (1) Operation of centralized routing; (2) Transportation of oil via main pipeline system; (3) Unloading of oil from railway tanks; (4) Loading of oil into railway tanks; (5) Loading of oil into tankers; (6) Unloading of oil from vehicle tankers; (7) Loading of oil into vehicle tankers; (8) Storage of oil; (9) Trans-shipment (conveyance) of oil; and, (10) Mixture of oil. |
| | Storage and transportation of commercial gas via connecting, main pipelines, and/or distribution facilities; operation of group reservoir units; and transportation of crude gas via connecting gas distribution pipelines | - Transportation of commercial gas via connecting pipelines; - Transportation of commercial gas via main pipelines; - Transportation of commercial gas via distribution pipelines for consumers of the Republic of Kazakhstan; - Transportation of liquefied gas via gas pipelines from group reservoirs to consumers; - Storage of commercial gas; and, - Transportation of crude gas via connecting pipelines. |
| 3. | Delivery and/or distribution of electric power | Delivery and/or distribution of electric power. |
| 4. | Production, delivery, distribution and/or supply of heating energy | - Production of heating energy; - Delivery and/or distribution of heating energy; - Supply of heating energy; - Production, delivery and distribution of heating energy; and, - Production, delivery, distribution and/or supply of heating energy. |
| 5. 6. | Technical dispatching of delivery into the network and consumption of electric power Management of balancing of production and consumption of electric power. | - Technical dispatching of delivery into the network and consumption of electric power. - Management of balancing of production and consumption of electric power. |
| 7. 8. | Services of main railway network Services of railways equipped with railway transportation facilities in accordance with concession agreements | - Providing for use of mainline railway network; - Management of passage of rolling equipment by main railway network; - Providing for use of mainline railway network and management of passage of rolling equipment by mainline railway network; and, - Use of railways equipped with railway transportation facilities in accordance with concession agreements. |
| 9. | Approaching railway services | - Providing approaching railway services for rolling equipment on condition that there was no competing approaching railway; - Providing approaching railway services for maneuvering operations, loading and unloading, other technological operations of transportation process as well as for lay-over of rolling equipment not provided in technological operations of transportation process on condition that there was no competing approaching railway. |

¹ Source: Government Resolution No. 155 of 14 March 2006.

| | | |
|------------|--|--|
| 10. | Aero-navigation services | <ul style="list-style-type: none"> - Aero-navigation servicing of aircrafts within airspace of the Republic of Kazakhstan except for aero-navigation servicing of aircrafts operating international flights; - Aero-navigation servicing of aircrafts in the area of aerodrome, except for aero-navigation services of aircrafts operating international flights. |
| 11. 12. | Maritime port services Airport services | <ul style="list-style-type: none"> - Loading and unloading conducted by facilities of maritime ports; - Services for vessel calls for loading and/or others purposes. - Services in take-off and landing of aircraft, except for servicing air carriage performing transit flights through air space of Kazakhstan with non-commercial technical landing in the airports of Kazakhstan; - Services in providing aviation safety except for servicing air carriage performing transit flights through air-space of Kazakhstan with non-commercial technical landing in the airports of Kazakhstan; - Providing parking space for aircraft (i) for passenger planes for longer than three hours after landing and (ii) for cargo certified aircrafts having cargo (mail) subject to loading/unloading in the airport of landing - for longer than six hours, except for servicing air carriage performing transit flights through air-space of Kazakhstan with non-commercial technical landing in the airports of Kazakhstan; - Providing parking space for aircraft in the base airdrome; and - Providing working place (area) to passenger registration. |
| 13. | Telecommunication services under conditions of absence of competing operators for the reason of technological infeasibility or commercial inexpediency | <p>(1) Connection to public landline network of facilities (access points) of IP-operators (Internet Telephony) at the intercity level; and,</p> <p>(2) Traffic transmission by connecting telecommunication operators from/to facilities (access points) of IP-operators (Internet Telephony) being connected.</p> |
| 14. | Leasing or providing for use of cable channels and other basic facilities technologically related to connection of telecommunication networks to telecommunications of common use: | Providing for use of telephone channels (underground conduits). |
| 15. | Water management and sewerage system services | <p>Water management sewerage system services:</p> <ul style="list-style-type: none"> - Supply of water by main pipelines; - Supply of water by distribution networks; - Supply of water by channels. <p>Sewerage system services:</p> <ul style="list-style-type: none"> - Drainage of sewage water; - Cleaning of sewage water. |
| 16. | Public mail services | <ul style="list-style-type: none"> - Mailing of ordinary letters; - Mailing of post cards; - Mailing of postal wrappers. |

| II. List of spheres of regulated markets² | |
|---|--|
| Spheres of regulated markets | Regulated market participants |
| Railway transport | Market participants with dominant or monopolistic position |
| Electric and heat energy | Market participants with dominant or monopolistic position |
| Production of petroleum products | Market participants with dominant or monopolistic position |
| Oil transportation | Market participants with dominant or monopolistic position |
| Civil aviation | Market participants with dominant or monopolistic position |
| Harbour activities | Market participants with dominant or monopolistic position |
| Telecommunications | Market participants with dominant or monopolistic position |
| Postal Services | Market participants with dominant or monopolistic position |
| Gas (retail prices) | Market participants with dominant or monopolistic position |
| III. List of goods for which prices are regulated by the Government | |
| Types of goods | Legislative act |
| Vodka, special vodka and other hard liquors | Law No. 429-I "On State Regulation of Production and Turnover of Ethyl Spirits and Alcohol Products" of 16 July 1999; Government Resolution No. 1592 "On Establishing Minimum Prices for Alcohol Products" of 23 October 1999, as amended in February 2011 |
| Filter cigarettes of length between 45 mm and 85 mm, and of length between 87.1 mm and 160 mm | Law No. 439 "On State Regulation of Production and Turnover of Tobacco Products" of 12 June 2003; Government Resolution No. 260 "On Establishing Minimum Retail Prices of Filter Cigarettes" of 4 April 2007 |
| Petroleum products | Law No. 463-IV "On State Regulation of Production and Turnover of Certain Types of Petroleum Products" of 20 July 2011 |
| Gas (wholesale prices) | Law No. 532-IV of 9 January 2012 "On Gas and Gas Supply" and Government Resolution No. 1272 "On Establishing Maximum Wholesale Price of Liquefied Petroleum Gas on the Internal Market" of 8 October 2012 |

² Source: Law No. 272-I "On Natural Monopolies and Regulated Markets" of 9 July 1998.

ANNEX 5(A)

Requirements, Terms and Fees Applied for Registration of Various Legal Forms of Juridical Persons

| Legal forms | List of documents to submit for State registration | State registration terms | Registration fee amount in 2014 |
|--|--|--------------------------|---|
| <u>Limited Liability Partnership (LLP)</u> was a partnership founded by one or several persons, registered capital of which was separated into shares in the amounts determined by the founding documents. The participants of LLP took none of the company's liabilities and shared its risks only within the limits of the contributions made, except for the cases provided by the legislation. | <ol style="list-style-type: none"> 1. Application for registration; 2. Receipt or a copy of remittance order on payment of the registration fee. | 1 working day | KZT 12,038 For small businesses: KZT 3,704 |
| <u>Joint Stock Company (JSC)</u> – was a juridical person, issuing shares with the purpose to attract funding for performance of their activities. | <ol style="list-style-type: none"> 1. Application for registration; 2. Founding charter if a JSC did not operate on the basis of a Model Charter; 3. Protocol of the meeting of founders; 4. Receipt or a copy of remittance order on payment of the registration fee. | 10 working days | KZT 12,038 |
| <u>Production Cooperative</u> – was a voluntary association of individuals on the basis of a membership for joint entrepreneurial activities, based on their personal working participation and unification of the participants' contributions. | <ol style="list-style-type: none"> 1. Application for registration; 2. Receipt or a copy of remittance order on payment of the registration fee. | 1 working day | KZT 12,038 For small businesses: KZT 3,704 |

ANNEX 5(B)**Calculation Methodology for Import/Export Licensing Fees and for Registration of Juridical Persons****1. General Provisions**

Rates of fees for licensing of goods exportation and importation and for registration of juridical persons are calculated in accordance with Article VIII of the GATT 1994. The fee rates shall be fixed and their amounts shall equal to the amount of actual costs incurred by the governmental bodies during registering the juridical person and issuing the licence. The fee rates shall be quoted in the national currency.

2. Main Costs to be Included into Rates Calculation

1. For licensing of export/import of goods and State registration of juridical persons:
 - utilities cost;
 - communication services cost;
 - transport services cost;
 - electric power cost;
 - heating cost;
 - maintenance, servicing and repair of buildings, premises, equipment and other capital assets;
 - rent of offices;
 - other services and works directly related to the process of rendering services;
 - purchase of other goods directly related to the process of rendering services;
 - other current costs (data traffic, seasons, and international standards) the process of rendering services.

2. For issuing duplicates and reregistering of export and import of goods and the duplicate for of the certificate on State registration (re-registration) of juridical persons, and branches and representatives thereof:
 - rent of offices;
 - electric power cost;
 - purchase of other goods directly related to the process of rendering services.

3. For State (statistical) re-registration and ceasing of the activity of juridical persons and branches and representatives thereof:
 - utilities cost;
 - communication services cost;
 - transport services cost;
 - electric power cost;
 - heating cost;
 - maintenance, servicing and repair of buildings, premises, equipment and other capital assets;
 - rent of offices;
 - other services and works directly related to the process of rendering services;
 - purchase of other goods directly related to the process of rendering services;
 - other current costs (data traffic, seasons, and international standards) the process of rendering services.

3. Fee Rates Calculation Algorithm

All actually incurred (or due) expenses under paragraph 2 herein shall be calculated per one State employee. The amount of these expenses shall be the basis for the fee rates calculation. Depending on the inflation the fee rates may be adjusted.

4. Conclusion

Governmental bodies use the methodology to calculate the fee rates for the licensing of goods exportation and importation and for the State registration of juridical persons within their authority.

Source: Order No. 105 of the Ministry of Economy and Budget Planning of 27 August 2005.

ANNEX 6

Common List of Goods Subject to Bans and Restrictions on Importation and Exportation by EAEU member States in Trade with Third Countries

| Description | CET code (HS 2012) | Measure and territorial scope | Institutions issuing licence | Ministries subject to coordination upon issuing licenses (in case of licensing) | Activity Licence Requirement (in case of licensing) |
|---|---|---|------------------------------|---|---|
| 1. Goods for which transportation across the customs border of the EAEU is prohibited | | | | | |
| 1.1 Ozone destroying substances | 2903 77 100 0; 2903 77 200 0; 2903 77 300 0; 2903 77 400 0; 2903 77 500 0; 2903 76 100 0; 2903 76 200 0; 2903 76 900 0; 2903 77 900 0; 2903 14 000 0; 2903 19 100 0; Ex. 2903 79 210 0; Ex. 2903 79 900 0; Ex. 2903 39 110 0; Ex. 3824 71 000 0; Ex. 3824 72 000 0; Ex. 3824 74 000 0 – Ex. 3824 79 000 0; 8415 10; 8415 81 00; 8415 82 000; 8418 61 00; Ex. 8418 69 000; 8418 10 200; 8418 10 800; Ex. 8418 50; Ex. 8418 69 000; Ex. 8418; Ex. 8419; 8418 10 200; 8418 10 800; 8418 30 200; 8418 30 800; 8418 40 200; 8418 40 800; Ex. 8418 50; Ex. 8418 69 000; | Import and export prohibition, all EAEU member States (except for goods in transit) | | | |

| Description | CET code (HS 2012) | Measure and territorial scope | Institutions issuing licence | Ministries subject to coordination upon issuing licenses (in case of licensing) | Activity Licence Requirement (in case of licensing) |
|----------------------|---|---|------------------------------|---|---|
| | Ex. 8479 89 970 1; Ex. 8479 89 970 2; Ex. 3921 11 000 0 - Ex. 3921 19 000 0; Ex. 3907 20 200 1; Ex. 3907 20 200 9; Ex. 8424 10 000 0. | | | | |
| 1.2 Hazardous wastes | Ex. 0511 99 100 0; Ex. 2106 90 980 3; Ex. 2524; Ex. 2620; Ex. 2620 91 000 0; Ex. 2620 21 000 0; Ex. 2620 29 000 0; Ex. 2620 99 950 9; Ex. 2621; Ex. 2706 00 000 0; 2707 91 000 0; 2707 99; Ex. 2710; 2710 91 000 0; 2713 20 000 0; Ex. 2713 90; Ex. 2714 90 000 0; Ex. 28; Ex. 29; Ex. 2805 40; Ex. 2818; Ex. 2826 19 100 0; Ex. 2826 90 800 0; 2833 25 000 0; Ex. 2837; Ex. 2842; Ex. 2901 - 2942 00 000 0; Ex. 2903; Ex. 2908 99; Ex. 2915; Ex. 2916; Ex. 2917; Ex. 2918; Ex. 3006 92 000 0; Ex. 3101 00 000 0; | Import prohibition (including goods in transit), all EAEU member States | | | |

| Description | CET code (HS 2012) | Measure and territorial scope | Institutions issuing licence | Ministries subject to coordination upon issuing licenses (in case of licensing) | Activity Licence Requirement (in case of licensing) |
|-------------|--|-------------------------------|------------------------------|---|---|
| | Ex. 3802; Ex. 3808; Ex. 3811 11; Ex. 3824; Ex. 3824 90 610 0; Ex. 3825; Ex. 3825 30 000 0; Ex. 3825 41 000 0; Ex. 3825 50 000 0; Ex. 3825 61 000 0; Ex. 3825 69 000 0; Ex. 3915; Ex. 3923; Ex. 4013; Ex. 4017 00 000 0; Ex. 4101 - 4103; Ex. 4115 20 000 0; Ex. 4301; Ex. 4401 39; Ex. 4415; Ex. 4707; Ex. 4819; Ex. 5701 90; Ex. 5702 32; Ex. 5702 42; Ex. 5702 50 310 0; Ex. 5702 50 390 0; Ex. 5702 92 100 0; Ex. 5702 92 900 0; Ex. 5703 20; Ex. 5703 30; Ex. 5705 00 300 0; 6811 40 000; Ex. 6812; Ex. 7001 00 100 0; Ex. 7010; Ex. 7019; Ex. 7204; Ex. 7404 00; Ex. 7503 00; Ex.7602 00; Ex. 7802 00 000 0; Ex. 7902 00 000 0; | | | | |

| Description | CET code (HS 2012) | Measure and territorial scope | Institutions issuing licence | Ministries subject to coordination upon issuing licenses (in case of licensing) | Activity Licence Requirement (in case of licensing) |
|--|--|---|------------------------------|---|---|
| | Ex. 8002 00 000 0; Ex. 8101 97 000 0; Ex. 8102 97 000 0; Ex. 8103 30 000 0; Ex. 8104 20 000 0; Ex. 8104 30 000 0; Ex. 8104 90 000 0; Ex. 8105 30 000 0; Ex. 8106 00 100 0; Ex. 8107 30 000 0; Ex. 8108 30 000 0; Ex. 8109 30 000 0; Ex. 8110 20 000 0; Ex. 8111 00 190 0; Ex. 8112 13 000 0; Ex. 8112 22 000 0; Ex. 8112 52 000 0; Ex. 8112 92 100 0; Ex. 8112 92 210 1; Ex. 8112 92 210 9; Ex. 8113 00 400 0; Ex. 8539; Ex. 8540; Ex. 8548 10. | | | | |
| 1.3 Printed information or information on audio-visual and other devices containing information which may cause damage to political or economic interests of the republic, to its State security, to the health and morality of its citizens | Ex. 3706; Ex. 4901; Ex. 4902; Ex. 4908; Ex. 4909 00 000 0; Ex. 4910 00 000 0; Ex. 4911; Ex. 8523. | Import/export/transit prohibition, all EAEU member States | | | |

| Description | CET code (HS 2012) | Measure and territorial scope | Institutions issuing licence | Ministries subject to coordination upon issuing licenses (in case of licensing) | Activity Licence Requirement (in case of licensing) |
|--|--|--|------------------------------|---|---|
| 1.4 Plant protection chemicals prohibited to be imported to the customs territory of the EAEU subject to Annexes A and B of the Stockholm Convention on persistent polluting substances signed in Stockholm on 22 May 2001 | 2903 82 000 0; 2903 89 900 0; 2903 92 000 0; 2903 99; 2910 40 000 0; 2910 90 000 0; 3808 50 000 9; 3808 91 200 0; 3824 82 000 0. | Import prohibition, all EAEU member States (except for goods in transit) | | | |
| 1.5 Timber, recovered paper, paperboard and wastepaper | Ex. 4401 10 000 0; Ex. 4401 31 000 0; Ex. 4401 39; 4403 10 000 - 4403 20; 4403 91 - 4403 99; 4404; 4406; 4407 10; 4407 99 980; 4707. | Export prohibition, Kazakhstan | | | |
| 1.6 Office or civil weapon, its main parts and cartridges | Ex. 93; Ex. 9303; Ex. 9304 00 000 0; Ex. 9306 21 000 0; Ex. 9306 30; Ex. 9306 90; Ex. 9307 00 000 0. | Import/export/transit prohibition, all EAEU member States (except for goods, subject to the export control system) | | | |
| 1.7 Implements for catching aquatic biological resources | Ex. 5608 11 800 0; 8543 20 000 0. | Import prohibition, all EAEU member States | | | |
| 1.8 Skins of Greenland seals and baby seals | Ex. 4301 80 709 5; Ex. 4301 80 709 7; Ex. 4301 90 009 0; Ex. 4302 19 410 0; Ex. 4302 19 499 0; Ex. 4302 20 009 0; Ex. 4302 30 100 0; Ex. 4303 10 101 0; Ex. 4303 10 109 0; Ex. 4303 10 908 0; Ex. 4303 10 909 0; | Import prohibition, all EAEU member States | | | |

| Description | CET code (HS 2012) | Measure and territorial scope | Institutions issuing licence | Ministries subject to coordination upon issuing licenses (in case of licensing) | Activity Licence Requirement (in case of licensing) |
|---|---|---|---|---|---|
| | Ex. 4302 30 510 0; Ex. 4302 30 559 0; Ex. 6506 99 908 0. | | | | |
| 2. Goods which transportation across the customs border of the EAEU is restricted | | | | | |
| 2.1 Ozone destroying substances and products containing such substances | Ex. 2903 71 000 0; Ex. 2903 73 000 0; Ex. 2903 74 000 0; Ex. 2903 75 000 0; Ex. 2903 79 110 0; | Import and export licensing, all EAEU member States (except for goods in transit) | Ministry of Energy | None | Activity licence is not required |
| 2.2 Plant protection chemicals | Ex. 3808 | Import licensing, all EAEU member States | Ministry of Investments and Development | Ministry of Agriculture; Ministry of Energy | Activity licence for production, processing, purchase, storage, sale, use and destruction of toxic substances (Article 14.1 of the Law on Licensing) is required and issued by the Ministry of Investments and Development |
| 2.3 Hazardous wastes | Ex. 0511 99 100 0; 2307 00; Ex. 2520 10 000 0; Ex. 2530 90 000 9; 2618 00 000 0; Ex. 2619 00; Ex. 2619 00 900 0; Ex. 2620 2620 11 000 0; Ex. 2620 19 000 0; Ex. 2620 21 000 0 - Ex. 2620 29 000 0; Ex. 2620 29 000 0; Ex. 2620 30 000 0; Ex. 2620 40 000 0; 2620; Ex. 2620 60 000 0; Ex. 2620 91 000 0; Ex. 2620 99 950 9; Ex. 2621 Ex. 28; | Import and/or export licensing, all EAEU member States | Ministry of Investments and Development | Ministry of Energy | Activity licence for collection (purchase), storage, processing and sale of scrap and waste of nonferrous and ferrous metals by juridical persons is required (Article 12.3 of the Law on Licensing) and issued by Government executives (Akims) of Oblast, Cities of Astana and Almaty |

| Description | CET code (HS 2012) | Measure and territorial scope | Institutions issuing licence | Ministries subject to coordination upon issuing licenses (in case of licensing) | Activity Licence Requirement (in case of licensing) |
|-------------|--|-------------------------------|------------------------------|---|---|
| | Ex. 2805 40; Ex. 2806 10 000 0; Ex. 2807 00; Ex. 2808 00 000 0; Ex. 2811 11 000 0; Ex. 2811 19 100 0; Ex. 2814 20 000 0; Ex. 2815 12 000 0; Ex. 2815 20 000 0; Ex. 2837; Ex. 2907; Ex. 2908; Ex. 2926; Ex. 2929; Ex. 3206; Ex. 3208; Ex. 3212; Ex. 3504 00; Ex. 3802; Ex. 3824; Ex. 3825; Ex. 3825 41 000 0; Ex. 3825 49 000 0; Ex. 3825 61 000 0; Ex. 3912 20; Ex. 4004 00 000 0; Ex. 4012 20 000 0; Ex. 4101 - 4103; Ex. 4115 10 000 0; Ex. 4115 20 000 0; Ex. 4301; Ex. 5003 00 000 0; Ex. 5103 20 000 0; Ex. 5202 10 000 0; Ex. 5505; Ex. 5601 30 000 0; Ex. 7112 30 000 0; Ex. 7112 99 000 0; Ex. 7204; Ex. 7404 00; Ex. 7503 00; Ex. 7602 00; Ex. 7802 00 000 0; | | | | |

| Description | CET code (HS 2012) | Measure and territorial scope | Institutions issuing licence | Ministries subject to coordination upon issuing licenses (in case of licensing) | Activity Licence Requirement (in case of licensing) |
|--|---|---|---|--|---|
| | Ex. 7902 00 000 0; Ex. 8002 00 000 0; Ex. 8101 97 000 0; Ex. 8102 97 000 0; Ex. 8103 30 000 0; Ex. 8104 20 000 0; Ex. 8105 30 000 0; Ex. 8106 00 100 0; Ex. 8107 30 000 0; Ex. 8108 30 000 0; Ex. 8109 30 000 0; Ex. 8110 20 000 0; Ex. 8111 00 190 0; Ex. 8112 13 000 0; Ex. 8112 22 000 0; Ex. 8112 52 000 0; Ex. 8112 92 210 9; Ex. 8113 00 400 0; Ex. 85 Ex. 8548 10 910 0; Ex. 8548 10 100 0; Ex. 8548 10 210 0; Ex. 8548 10 290 0; Ex. 2620. | | | | |
| 2.4 Collectible materials in mineralogy and palaeontology | Ex. 9601; Ex. 9705 00 000 0. | Export licensing, all EAEU member States | Ministry of Investments and Development | Ministry of Education and Science; Ministry of Culture and Sports; Ministry of Investments and Development | Activity licence is not required |
| 2.6 Wild live animals, certain wild growing plants and wild growing crude drug | Ex. 01; Ex. 0301; Ex. 0306; Ex. 0307; Ex. 0308; Ex. 0407; 0802 90 500 0; 1211; 1212 21 000 0; 1212 29 000 0; Ex. 1302. | Export licensing, all EAEU member States | Ministry of Investments and Development | Ministry of Agriculture | Activity licence is not required |
| 2.7 Species of wild fauna and flora subject to the | No CN Codes are provided. Only the | Export restriction, all EAEU member States (the goods | Ministry of Investments and Development | Ministry of Agriculture | Activity licence is not required |

| Description | CET code (HS 2012) | Measure and territorial scope | Institutions issuing licence | Ministries subject to coordination upon issuing licenses (in case of licensing) | Activity Licence Requirement (in case of licensing) |
|---|--|---|---|---|---|
| Convention on international trade in endangered species of wild fauna and flora | names of species of wild fauna and flora are specified. | included into this list are not subject to licensing and transported through the customs border of the EAEU member States in accordance with the order established by the Convention on international trade in endangered species of wild fauna and flora as of 3 March 1973) | | | |
| 2.8 Rare and endangered species of wild animals and wild growing plants and parts thereof and/or derivatives inscribed in the "Red books" of the EAEU member States | Ex. 0101 – 0106; Ex. 0301; 0306 - 0308; Ex. 0601 – 0604; Ex. 07; Ex. 1211; Ex. 1212; Ex. 20; Ex. 2102. | Export licensing, all EAEU member States | Ministry of Investments and Development | Ministry of Agriculture | Activity licence is not required |

| Description | CET code (HS 2012) | Measure and territorial scope | Institutions issuing licence | Ministries subject to coordination upon issuing licenses (in case of licensing) | Activity Licence Requirement (in case of licensing) |
|---|---|---|---|---|---|
| 2.9 Precious metals and gems | Ex. 2530 90 900 1; 7101 10 000 0; Ex. 7102 21 000 0; 7102 31 000 0; 7103 10 000 0; 7103 91 000 0; 7103 99 000 0; 7106; 7106 10 000 0; 7106 91 000 0; 7108; 7108 11 000 0; 7108 12 000 0; 7108 20 000 0; 7110; 7110 11 000 0; 7110 19 100 0; 7110 21 000 0; 7110 29 000 0; 7110 31 000 0; 7110 41 000 0. | Export licensing, all EAEU member States (except for precious metals exported by the Central (National) Banks of the EAEU member States | Ministry of Investments and Development | Ministry of Investments and Development | Activity licence is not required |
| 2.10 Unprocessed precious metals, waste and scrap of precious metals, ores and concentrates of precious metals and commodities containing precious metals | 2603 00 000 0; 2604 00 000 0; 2607 00 000 0; 2608 00 000 0; 2609 00 000 0; 2616; Ex. 2617; 2620 19 000 0; 2620 21 000 0; 2620 29 000 0; 2620 30 000 0; 2620 91 000 0; 2620 99 100 0; 2620 99 400 0; 2620 99 950 1; 2620 99 950 2; 2620 99 950 3; 2620 99 950 9; Ex. 2621; 7106 91 000 0; 7108 12 000 9; 7110 11 000 9; | Export licensing, all EAEU member States | Ministry of Investments and Development | Ministry of Investments and Development | Activity licence is not required |

| Description | CET code (HS 2012) | Measure and territorial scope | Institutions issuing licence | Ministries subject to coordination upon issuing licenses (in case of licensing) | Activity Licence Requirement (in case of licensing) |
|---|--|--|---|---|--|
| | 7110 21 000 9; 7110 31 000 0; 7110 41 000 0; 7112; 7401 00 000 0; 7402 00 000 0; 7501; 7801 99 100 0. | | | | |
| 2.11 Mineral raw materials (only untreated stones) | Ex. 7103 10 000 0; Ex. 2530 90 000 1 | Export licensing, all EAEU member States | Ministry of Investments and Development | Ministry of Investments and Development | Activity licence is not required |
| 2.12 Drugs, substances with psychotropic effects and their precursors | 1209 99 910 0; 1211 30 000 0; 1211 40 000 0; 1211 90 850 0; 1301 90 000 0; 1302 11 000 0; 1302 19 800 0; 2806 10 000 0; 2807 00 100 0; 2812 10 950 0; 2841 61 000 0; 2902 30 000 0; 2902 90 000 0; 2903 39 190 0; 2903 99 900 0; 2904 20 000 0; 2905 39 250 0; 2905 51 000 0; 2907 19 900 0; 2909 11 000 0; 2909 30 900 0; 2912 21 000 0; 2912 49 000 0; 2914 11 000 0; 2914 12 000 0; 2914 31 000 0; 2914 50 000 0; 2915 21 000 0; 2915 24 000 0; 2915 90 000 0; 2916 12 000 0; | Import and/or export licensing, all EAEU member States | Ministry of Internal Affairs | None | Activity licence for circulation of drugs (narcotics), psychoactive substances, precursors is required (Article 17 of the Law on Licensing) and issued by the Ministry of Internal Affairs |

| Description | CET code (HS 2012) | Measure and territorial scope | Institutions issuing licence | Ministries subject to coordination upon issuing licenses (in case of licensing) | Activity Licence Requirement (in case of licensing) |
|-------------|--|-------------------------------|------------------------------|---|---|
| | 2916 14 000 0; 2916 34 000 0; 2918 19 980 0; 2920 90 100 0; 2921 11 000 0; 2921 19 990 0; 2921 30 100 0; 2921 46 000 0; 2921 49 000 0; 2922 14 000 0; 2922 19 850 0; 2922 29 000 0; 2922 31 000 0; 2922 39 000 0; 2922 43 000 0; 2922 44 000 0; 2922 49 850 0; 2922 50 000 0; 2924 23 000 0; 2924 24 000 0; 2924 29 980 0; 2925 12 000 0; 2926 90 950 0; 2926 30 000 0; 2924 11 000 0; 2924 29 980 0; 2930 90 990 0; 2932 11 000 0; 2932 20 900 0; 2932 91 000 0; 2932 92 000 0; 2932 93 000 0; 2932 94 000 0; 2932 95 000 0; 2932 99 000 0; 2933 29 900 0; 2933 32 000 0; 2933 33 000 0; 2933 39 990 0; 2933 41 000 0; 2933 49 300 0; 2933 49 900 0; 2933 53 100 0; | | | | |

| Description | CET code (HS 2012) | Measure and territorial scope | Institutions issuing licence | Ministries subject to coordination upon issuing licenses (in case of licensing) | Activity Licence Requirement (in case of licensing) |
|-------------|---|-------------------------------|------------------------------|---|---|
| | 2933 53 900 0; 2933 55 000 0; 2933 59 950 0; 2933 72 000 0; 2933 91 100 0; 2933 91 900 0; Ex. 2933 99; 2933 99 800; 2933 99 800 9; 2934 91 000 0; 2934 99 900 0; 2939 11 000 0; 2939 19 000 0; 2939 41 000 0 - 2939 49 000 0; 2939 51 000 0; 2939 61 000 0; 2939 62 000 0; 2939 63 000 0; 2939 69 000 0; 2939 91 000 0; 2939 99 000 0; Ex. 3003; 3003 40 000 0; 3003 90 000 0; Ex. 3004; 3004 40 000 0; 3004 40 000 9; 3004 90 000 2; 3004 90 000 9; 3824 90 970. | | | | |

| Description | CET code (HS 2012) | Measure and territorial scope | Institutions issuing licence | Ministries subject to coordination upon issuing licenses (in case of licensing) | Activity Licence Requirement (in case of licensing) |
|---|--|---|---|---|--|
| 2.13 Toxic substances except for precursors of the drugs and substances with psychotropic effects | Ex. 1211 90 850 0; Ex. 1302 19 800 0; 2804 70 001 0; 2804 80 000 0; Ex. 2805 40; Ex. 2811 29 900 0; Ex. 2837 11 000 0; Ex. 2837 19 000 0; Ex. 2842 90 800 0; Ex. 2843 29 000 0; Ex. 2848 00 000 0; Ex. 2852 10 000 7; Ex. 2852 90 000 8; 2905 11 000 0; Ex. 2905 59; Ex. 2907 11 000 0; Ex. 2922 19 850 0; Ex. 2924 19 000 0; Ex. 2926 90 950 0; Ex. 2930 90 990 0; Ex. 2931 10 000 0; Ex. 2931 90 900 9; Ex. 2933 39 990 0; Ex. 2939 20 000 0; Ex. 2939 99 000 0; Ex. 3001 90 980 0; Ex. 8112 51 000 0. | Import/export licensing, all EAEU member States | Ministry of Investments and Development | Ministry of National Economy | Activity licence for production, processing, purchase, storage, sale, use and destruction of toxic substances is required (Article 14.1 of the Law on Licensing) and issued by the Ministry of Investments and Development |
| 2.14 Medicines and pharmaceutical products | Ex. 2106 90 980 3; Ex. 2106 90 980 9; Ex. 2904 - Ex. 2909; Ex. 2912- Ex. 2942 00 000 0; Ex. 2936; Ex. 3001; Ex. 3002; Ex. 3003; Ex. 3004; 3006 30 000 0; 3006 60; Ex. 3913. | Import restriction, all EAEU member States | | | Activity licence for pharmaceutical activity is required (Article 26.2 of the Law on Licensing) and issued by the Ministry of Public Health and Social Development |

| Description | CET code (HS 2012) | Measure and territorial scope | Institutions issuing licence | Ministries subject to coordination upon issuing licenses (in case of licensing) | Activity Licence Requirement (in case of licensing) |
|---|---|---|---|---|---|
| 2.16 Civil radio-electronic and/or high-frequency means including built-in or forming part of other goods | Ex. 8419; Ex. 8470; Ex. 8471; Ex. 8514; 8516 50 000 0; Ex. 8517; Ex. 8517 12 000 0; Ex. 8517 62 000 9; Ex. 8517 69 900 0; Ex. 8518; Ex. 8518 10; Ex. 8519; Ex. 8521; Ex. 8525; Ex. 8526; Ex. 8527; Ex. 8528; Ex. 8531; Ex. 8540; Ex. 90; Ex. 9018; Ex. 9021; Ex. 9027. | Import licensing, all EAEU member States | Ministry of Investments and Development | Ministry of Investments and Development | Activity licence is not required |
| 2.17 Special devices for unauthorized obtaining of information | Ex. 8301 70 000 0; Ex. 8471; Ex. 8505 90 200 0; Ex. 8517 61 000; Ex. 8517 62 000; Ex. 8517 69 390 0; Ex. 8517 69 900 0; Ex. 8517 70 900 1; Ex. 8518 30 950 0; Ex. 8518 40; Ex. 8519 81 550; Ex. 8519 81 510 0; Ex. 8519 81 610; Ex. 8519 81 650; Ex. 8519 81 750; Ex. 8519 81 850; Ex. 8519 89 900; Ex. 8521; Ex. 8523 51; Ex. 8523 29 310 1; | Import/export licensing, all EAEU member States | Ministry of Investments and Development | National Security Committee | Activity licence for development, production, repair and sale of special technical devices designed for conducting of operative-investigation activities is required (Article 19 of the Law on Licensing) and issued by the National Security Committee |

| Description | CET code (HS 2012) | Measure and territorial scope | Institutions issuing licence | Ministries subject to coordination upon issuing licenses (in case of licensing) | Activity Licence Requirement (in case of licensing) |
|-------------------------|--|---|---|---|---|
| | Ex. 8523 29 310 2; Ex. 8523 49 250 0; Ex. 8523 49 450 0; Ex. 8523 49 910 1; Ex. 8523 51 910 1; Ex. 8523 59 910 1; Ex. 8523 80 910 1; Ex. 8525 50 000 0; Ex. 8525 60 000 0; Ex. 8525 80; Ex. 8526 10 000 9; Ex. 8526 91; Ex. 8527; Ex. 8529 10 390 0; Ex. 9002; Ex. 9006 51 000 0; Ex. 9006 52 000 9; Ex. 9006 53 100 0; Ex. 9019 10 900 9; Ex. 9022 19 000 0. | | | | |
| 2.19 Encryption devices | Ex. 8443 31; Ex. 8443 32 100 9; Ex. 8443 32 300 0; Ex. 8443 99 100 9; Ex. 8470 10 000 9; Ex. 8470 50 000; Ex. 8471 30 000 0; Ex. 8471 41 000 0; Ex. 8471 49 000 0; Ex. 8471 50 000 0; Ex. 8471 70 500 0; Ex. 8471 70 980 0; Ex. 8471 80 000 0; Ex. 8471 90 000 0; Ex. 8473 21 100 0; Ex. 8473 21 900 0; Ex. 8473 30 200 9; Ex. 8473 30 800 9; Ex. 8517 11 000 0; Ex. 8517 12 000 0; Ex. 8517 18 000 0; Ex. 8517 61 000 1; Ex. 8517 61 000 2; | Import/export licensing, all EAEU member States | Ministry of Investments and Development | National Security Committee | Activity licence for development and sale (including other types of transfer) of cryptographic devices of information protection is required (Article 18 of the Law on Licensing) and issued by the National Security Committee |

| Description | CET code (HS 2012) | Measure and territorial scope | Institutions issuing licence | Ministries subject to coordination upon issuing licenses (in case of licensing) | Activity Licence Requirement (in case of licensing) |
|---|--|--|---|---|---|
| | Ex. 8517 61 000 8; Ex. 8517 62 000; Ex. 8517 69 390 0; Ex. 8517 69 900 0; Ex. 8517 70 900; Ex. 8523 29 310 1; Ex. 8523 29 310 2; Ex. 8523 29 330; Ex. 8523 49 250 0; Ex. 8523 49 450 0; Ex. 8523 49 910 1; Ex. 8523 49 930 0; Ex. 8523 51 910 1; Ex. 8523 51 930 0; Ex. 8523 52; Ex. 8523 59 910 1; Ex. 8523 59 930 0; Ex. 8523 80 910 1; Ex. 8523 80 930 0; Ex. 8525 50 000 0; Ex. 8525 60 000 0; Ex. 8528 71 130 0; Ex. 8529 90 200 1; Ex. 8529 90 650 0; Ex. 8529 90 970 0; Ex. 8526 91 200 0; Ex. 8526 91 800 0; Ex. 8526 92 000; Ex. 8542 31 901 1; Ex. 8542 31 909 9; Ex. 8542 32 900 9; Ex. 8543 70 900 0; Ex. 8543 90 000 9. | | | | |
| 2.20 Cultural values, documents of the national archive funds, originals of the archive documents | Ex. 37; Ex. 39; Ex. 40; Ex. 42; Ex. 44; Ex. 4420; Ex. 46; Ex. 49; Ex. 4907 00; Ex. 57; | Export licensing, all EAEU member States | Ministry of Investments and Development | Ministry of Culture and Sports | Activity licence is not required |

| Description | CET code (HS 2012) | Measure and territorial scope | Institutions issuing licence | Ministries subject to coordination upon issuing licenses (in case of licensing) | Activity Licence Requirement (in case of licensing) |
|-------------|--|-------------------------------|------------------------------|---|---|
| | Ex. 58; Ex. 61; Ex. 62; Ex. 63; Ex. 64; Ex. 65; Ex. 66; Ex. 69; Ex. 6913; Ex. 70; Ex. 7018; Ex. 7113; Ex. 7114; Ex. 7117; Ex. 7118; Ex. 73; Ex. 74; Ex. 75; Ex. 76; Ex. 78; Ex. 79; Ex. 80; Ex. 81; Ex. 82; Ex. 8306; Ex. 84; Ex. 85; Ex. 87; Ex. 88; Ex. 89; Ex. 90; Ex. 91; Ex. 92; Ex. 93; Ex. 94; Ex. 95; Ex. 96; Ex. 9611 00 000 0; Ex. 97; Ex. 9702 00 000 0; Ex. 9705 00 000 0. | | | | |

| Description | CET code (HS 2012) | Measure and territorial scope | Institutions issuing licence | Ministries subject to coordination upon issuing licenses (in case of licensing) | Activity Licence Requirement (in case of licensing) |
|---|--|--|--|---|---|
| 2.21 Human organs and tissues, blood and its components | Ex. 3001 90 200 0; Ex. 3002 10 910 0; Ex. 3002 10 950; Ex. 3002 90 100 0. | Import and (or) export licensing, all EAEU member States | Ministry of Public Health and Social Development | None | Activity licence for medical activity is required (Article 26.1 of the Law on Licensing) and issued by the Ministry of Public Health and Social Development |
| 2.22 Official and civil weapon, its main parts and cartridges | Ex. 9302 00 000 0; Ex. 9303; Ex. 9303 20 100 0; Ex. 9303 20 950 0; Ex. 9303 30 000 0; Ex. 9304 00 000 0; Ex. 9305 10 000 0; Ex. 9305 20 000 0; Ex. 9306 21 000 0; Ex. 9306 30 100 0; Ex. 9306 30 900 0; Ex. 9306 29 000 0; Ex. 9306 30 900 0; Ex. 8211; Ex. 9307 00 000 0; Ex. 9506 99 900 0. | Import/export licensing, all EAEU member States | Ministry of Investments and Development | Ministry of Internal Affairs | Activity licence for development, manufacture, repair, trade, collecting, exhibit of civil and official fire-arms and their cartridge shells is required (Article 20.5 of the Law on Licensing) and issued by the Ministry of Internal Affairs. |
| 2.23 Information on subsoil | | Export licensing, all EAEU member States | Ministry of Investments and Development | Ministry of Investments and Development | Activity licence is not required |
| 2.24 Goods subject to quantitative restrictions | 7204 (*); 7404 00 (*); 7503 00 (*); 7602 00 (*). | Export and/or import restriction. - (*) Applied to the goods originating from the Republic of Belarus when exported from the customs territory of the EAEU. Application of the exclusive right is regulated by the Belarus' legislation; | N/A | N/A | N/A |

| Description | CET code (HS 2012) | Measure and territorial scope | Institutions issuing licence | Ministries subject to coordination upon issuing licenses (in case of licensing) | Activity Licence Requirement (in case of licensing) |
|---|---|---|------------------------------|---|---|
| 2.25 Goods subject to licensing | 1701 13*; 1701 14*; Ex. 2709 00**; 2710**; 2712 10**; 2713**; 3102**; 3103**; 3105**. | Export and/or import approval. Applied to: *- the goods imported to the territory of the Republic of Kazakhstan from the third countries **-the goods, originating from the Republic of Belarus when exported from the customs territory of the EAEU | Ministry of National Economy | Ministry of Agriculture | Activity licence is not required |
| 2.26 Goods subject export/import monopoly | Goods subject to export exclusive licenses 2711 11 000 0 (*); 2711 21 000 0 (*); 3104 (**). Goods subject to import exclusive licenses (***) 1604; 2401; 2402; 2403; 2207; 2208 90 910; 2208 90 990; Ex. 1302; Ex. 2101; 2103 90 300 0; Ex. 2103 90 900 9; Ex. 2106 90 200 0; Ex. 3302 10; 2204; 2205; 2206 00; 2208 60; 2208 20; 2208 30; 2208 40; 2208 50; 2208 70; | - (*) Applied to the goods originating from the Russian Federation when exported from the customs territory of the EAEU. Application of the exclusive right is regulated by the Russian Federation's legislation; - (**) Applied to the goods originating from the Republic of Belarus when exported from the customs territory of the EAEU. Application of the exclusive right is regulated by the Belarus' legislation; - (***) Applied to the goods originating from the third countries when imported to the Republic of Belarus. Application of the exclusive rights is regulated by the Belarus' legislation. | N/A | N/A | N/A |

| Description | CET code (HS 2012) | Measure and territorial scope | Institutions issuing licence | Ministries subject to coordination upon issuing licenses (in case of licensing) | Activity Licence Requirement (in case of licensing) |
|--|--|---|------------------------------|---|---|
| | 2208 09 (except 2208 09 910 0, 2208 09 990 0). | | | | |
| 2.27 Goods subject to Tariff Rate Quotas | 0201 10 000 1; 0201 20 200 1; 0201 20 300 1; 0201 20 500 1; 0201 20 900 1; 0201 30 000 4; 0202 10 000 1; 0202 20 100 1; 0202 20 300 1; 0202 20 500 1; 0202 20 900 1; 0202 30 100 4; 0202 30 500 4; 0202 30 900 4; 0203 11 100 1; 0203 11 900 1; 0203 12 110 1; 0203 12 190 1; 0203 12 900 1; 0203 19 110 1; 0203 19 130 1; 0203 19 150 1; 0203 19 550 1; 0203 19 590 1; 0203 19 900 1; 0203 21 100 1; 0203 21 900 1; 0203 22 110 1; 0203 22 190 1; 0203 22 900 1; 0203 29 110 1; 0203 29 130 1; 0203 29 150 1; 0203 29 550 1; 0203 29 590 1; 0203 29 900 1; 0203 29 550 2; 0203 29 900 2; 0207 11 100 1; 0207 11 300 1; | Import TRQ, all EAEU member States (within EAEU member State TRQ). Import procedure is determined by a Decision of the-Commission in accordance with Annex No. 6 to the EAEU Treaty | Ministry of National Economy | None | Activity licence is not required |

| Description | CET code (HS 2012) | Measure and territorial scope | Institutions issuing licence | Ministries subject to coordination upon issuing licenses (in case of licensing) | Activity Licence Requirement (in case of licensing) |
|-------------|--|-------------------------------|------------------------------|---|---|
| | 0207 11 900 1; 0207 12 100 1; 0207 12 900 1; 0207 13 100 1; 0207 13 200 1; 0207 13 300 1; 0207 13 400 1; 0207 13 500 1; 0207 13 600 1; 0207 13 700 1; 0207 13 910 1; 0207 13 990 1; 0207 14 100 1; 0207 14 200 1; 0207 14 300 1; 0207 14 400 1; 0207 14 500 1; 0207 14 600 1; 0207 14 700 1; 0207 14 910 1; 0207 14 990 1; 0207 24 100 1; 0207 24 900 1; 0207 25 100 1; 0207 25 900 1; 0207 26 100 1; 0207 26 200 1; 0207 26 300 1; 0207 26 400 1; 0207 26 500 1; 0207 26 600 1; 0207 26 700 1; 0207 26 800 1; 0207 26 910 1; 0207 26 990 1; 0207 27 100 1; 0207 27 200 1; 0207 27 300 1; 0207 27 400 1; 0207 27 500 1; 0207 27 600 1; 0207 27 700 1; 0207 27 800 1; | | | | |

| Description | CET code (HS 2012) | Measure and territorial scope | Institutions issuing licence | Ministries subject to coordination upon issuing licenses (in case of licensing) | Activity Licence Requirement (in case of licensing) |
|-------------|--|-------------------------------|------------------------------|---|---|
| | 0207 27 910 1; 0207 27 990 1; 0207 41 200 1; 0207 41 300 1; 0207 41 800 1; 0207 51 100 1; 0207 51 900 1; 0207 60 050 1; 0207 42 300 1; 0207 42 800 1; 0207 52 100 1; 0207 52 900 1; 0207 60 050 1; 0207 53 000 1; 0207 53 000 1; 0207 43 000 1; 0207 54 100 1; 0207 44 100 1; 0207 60 100 1; 0207 44 210 1; 0207 54 210 1; 0207 60 210 1; 0207 60 310 1; 0207 44 310 1; 0207 54 310 1; 0207 60 410 1; 0207 44 410 1; 0207 54 410 1; 0207 54 510 1; 0207 44 510 1; 0207 60 510 1; 0207 54 610 1; 0207 44 610 1; 0207 60 610 1; 0207 44 710 1; 0207 54 710 1; 0207 60 810 1; 0207 44 810 1; 0207 54 810 1; 0207 44 910 1; 0207 54 910 1; 0207 60 910 1; 0207 44 990 1; | | | | |

| Description | CET code (HS 2012) | Measure and territorial scope | Institutions issuing licence | Ministries subject to coordination upon issuing licenses (in case of licensing) | Activity Licence Requirement (in case of licensing) |
|--|--|--|------------------------------|---|---|
| | 0207 54 990 1; 0207 60 990 1; 0207 55 100 1; 0207 45 100 1; 0207 60 100 1; 0207 45 210 1; 0207 55 210 1; 0207 60 210 1; 0207 45 310 1; 0207 55 310 1; 0207 45 410 1; 0207 55 410 1; 0207 55 510 1; 0207 45 510 1; 0207 60 510 1; 0207 55 610 1; 0207 45 610 1; 0207 60 610 1; 0207 45 710 1; 0207 55 710 1; 0207 60 810 1; 0207 45 810 1; 0207 55 810 1; 0207 55 930 1; 0207 45 930 1; 0207 45 950 1; 0207 55 950 1; 0207 60 910 1; 0207 45 990 1; 0207 55 990 1; 0207 60 990 1. | | | | |
| 2.28 Goods subject to restrictions in accordance with the commitments undertaken upon accession to the WTO | 4403 20 110 1; 4403 20 110 2; 4403 20 190 1; 4403 20 190 9; 4403 20 310 1; 4403 20 310 2; 4403 20 390 1; 4403 20 390 9. | Export tariff quotas. The Russian Federation. | N/A | N/A | N/A |

| Description | CET code (HS 2012) | Measure and territorial scope | Institutions issuing licence | Ministries subject to coordination upon issuing licenses (in case of licensing) | Activity Licence Requirement (in case of licensing) |
|---|---|--|------------------------------|---|---|
| 2.29 Goods subject to import licensing on the basis of application of import quotas as a special safeguards | 7304 11 000 1; 7304 11 000 2; 7304 11 000 3; 7304 11 000 4; 7304 11 000 8; 7304 41 000 9; 7304 49 100 0; 7304 49 930 0; 7304 49 950 0; 7304 49 990 0; 7306 11 100 0; 7306 11 900 0; 7306 40 200 1; 7306 40 200 9; 7306 40 800 -2; 7306 40 800 8; 8433 51 000 1; 8433 51 000 9; 8433 90 000 0. | Import licensing, all EAEU member States | Ministry of National Economy | None | Activity licence is not required |

ANNEX 7

List of Sensitive Products, where Decision on the Level of Import Duties shall be Taken by Eurasian Economic Commission (EEC) Parties Consensus¹

| CET Code | Description of products |
|------------------|---|
| 0201 | Meat of bovine animals, fresh or chilled. |
| 0202 | Meat of bovine animals, frozen. |
| 0203 | Meat of swine, fresh, chilled, or frozen. |
| 0207 | Meat and edible offal, of the poultry of Heading N° 0105, fresh, chilled, or frozen. |
| 0301 | Live fish. |
| 0302 | Fish, fresh or chilled, excluding fish fillets and other fish meat of Heading 0304. |
| 0303 | Fish, frozen, excluding fish fillets and other fish meat of Heading 0304. |
| 0304 | Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen. |
| 0401 | Milk and cream, not concentrated nor containing added sugar or other sweetening matter. |
| 0402 | Milk and cream, concentrated or containing added sugar or other sweetening matter. |
| 0403 | Buttermilk, curdled milk and cream, yogurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa. |
| 0405 | Butter and other fats and oils derived from milk; dairy spreads. |
| 0406 | Cheese and curd. |
| 0407 00 | Birds eggs, in shell, fresh, preserved or boiled |
| 0408 | Birds' eggs, not in shell and egg yolks, fresh, dried, cooked by steaming or by boiling in water, moulded, frozen, or otherwise preserved, whether or not containing added sugar or other sweetening matter. |
| 0602 | Other live plants (including their roots), cuttings and slips; mushroom spawn. |
| 0701 | Potatoes, fresh or chilled. |
| 0703 | Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled. |
| 0704 | Cabbages, cauliflowers, kohlrabi, kale and similar edible brassicas, fresh or chilled. |
| 0706 | Carrots, turnips, salad beetroot, salsify, celeriac, radishes and similar edible roots, fresh or chilled. |
| 0707 00 | Cucumbers and gherkins, fresh or chilled. |
| 0808 | Apples, pears and quinces, fresh. |
| 0810 | Other fruit, fresh. |
| 1002 00 000 0 | Rye. |
| 1003 00 | Barley. |
| 1006 | Rice. |
| 1101 00 | Wheat or wheat-rye flour. |
| 1102 | Cereal flours other than of wheat or meslin. |
| 1103 | Cereal groats, meal and pellets. |
| 1104 | Cereal grain otherwise worked (for example, hulled, rolled, flaked, pearled, sliced or kibbled), except rice of Heading 1006; germ of cereals, whole, rolled, flaked or ground. |
| 1107 | Malt, whether or not roasted. |
| 1108 | Starches; inulin. |
| 1507 | Soya-bean oil and its fractions, whether or not refined but not chemically modified. |
| 1511 | Palm oil and its fractions, whether or not refined, but not chemically modified. |
| 1512 | Sunflower-seed, safflower or cotton-seed oil and fractions thereof, whether or not refined but not chemically modified. |
| 1513 | Coconut (copra), palmkernel or babassu oil and fractions thereof, whether or not refined but not chemically modified. |
| 1514 | Rape, colza or mustard oil and fractions thereof, whether or not refined, but not chemically modified. |
| 1517 | Margarine; edible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this Chapter, other than edible fats or oils or their fractions of Heading 1516. |
| 1601 00 | Sausages and similar products from meat, meat sub-products or blood; finished food products, made on the basis thereof. |
| 1701 | Cane or beet sugar and chemically pure sucrose, in solid form. |
| 1704 | Sugar confectionery (including white chocolate), not containing cocoa. |
| 1806 | Chocolate and other food preparations containing cocoa. |

¹ Not all 10 digit HS codes within a 4 digit HS subgroup may be included in the list.

| CET Code | Description of products |
|------------------|---|
| 1901 | Malt extract; food preparations of flour, meal, starch or malt extract, not containing cocoa or containing less than 40% by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of Headings 0401 to 0404, not containing cocoa or containing less than 5% by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included. |
| 1905 | Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper, and similar products. |
| 2001 | Vegetables, fruit, nuts and other edible parts of plants, prepared or preserved by vinegar or acetic acid. |
| 2005 | Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of Heading 2006. |
| 2007 | Jams, fruit jellies, marmalades, fruit or nut puree, and fruit or nut pastes, being cooked preparations, whether or not containing added sugar or other sweetening matter. |
| 2008 | Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included. |
| 2009 | Fruit juices (including grape must) and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter. |
| 2102 | Yeasts (active or inactive); other single-cell micro-organisms, dead (but not including vaccines of Heading 3002); prepared baking powders. |
| 2207 | Undenatured ethyl alcohol of an alcoholic strength by volume of 80% or higher; ethyl alcohol and other spirits, denatured, of any strength. |
| 2208 | Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80%; spirits, liqueurs and other spirituous beverages. |
| 2304 00 000 | Millicake and other solid wastes from extracts of soy oil, milled or not milled, granulated or not granulated. |
| 2522 | Quicklime, slaked lime and hydraulic lime, other than calcium oxide and hydroxide of Heading 2825. |
| 2523 | Portland cement, aluminous cement, slag cement, super-sulphate cement and similar hydraulic cements, whether or not coloured or in the form of clinkers. |
| 2615 | Niobium, tantalum, vanadium or zirconium ores and concentrates. |
| 2620 | Ash and residues (other than from the manufacture of iron or steel), containing arsenic, metals or metal compounds. |
| 2707 | Oils and other products of the distillation of high temperature coal tar; similar products in which the weight of the aromatic constituents exceeds that of the non-aromatic constituents. |
| 2708 | Pitch and pitch coke, obtained from coal tar or from other mineral tars. |
| 2710 | Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations; used oils. |
| 2711 | Petroleum gases and other gaseous hydrocarbons. |
| 2712 | Petroleum jelly; paraffin wax, microcrystalline petroleum wax, slack wax, ozokerite, lignite wax, peat wax, other mineral waxes, and similar products obtained by synthesis or by other processes, whether or not coloured. |
| 2713 | Petroleum coke, petroleum bitumen and other residues of petroleum oils or of oils obtained from bituminous minerals. |
| 2801 | Fluorine, chlorine, bromine and iodine. |
| 2802 00 000 0 | Sublimed or precipitated sulphur; colloidal sulphur. |
| 2803 00 | Carbon. |
| 2804 | Hydrogen, rare gases and other non-metals. |
| 2805 | Alkali or alkaline-earth metals; rare-earth metals, scandium and yttrium, whether or not intermixed or interalloyed; mercury. |
| 2806 | Hydrogen chloride (hydrochloric acid); chlorosulphuric acid. |
| 2807 00 | Sulphuric acid, oleum. |
| 2808 00 000 0 | Hydrogen nitrate; sulfo-nitrogen acids. |
| 2809 | Diphosphorus pentoxide; phosphoric acid and polyphosphoric acids, whether or not chemically defined. |
| 2810 00 | Boric oxides, boric acids. |
| 2811 | Other inorganic acids and other inorganic oxygen compounds of non-metals. |
| 2812 | Halides and halide oxides of non-metals. |
| 2813 | Sulphides of non-metals; commercial phosphorus trisulphide. |
| 2814 | Ammonia, anhydrous or in aqueous solution. |
| 2815 | Sodium hydroxide (caustic soda); potassium hydroxide (caustic potash); peroxides of sodium or potassium. |

| CET Code | Description of products |
|------------------|---|
| 2816 | Hydroxide and peroxide of magnesium; oxides, hydroxides and peroxides, of strontium or barium. |
| 2817 00 000 0 | Zinc oxide; zinc peroxide. |
| 2818 | Artificial corundum, whether or not chemically defined; aluminium oxide; aluminium hydroxide. |
| 2819 | Chromium oxides and hydroxides. |
| 2820 | Manganese oxides. |
| 2821 | Iron oxides and hydroxides; earth colours containing 70% or more by weight of combined iron evaluated as Fe ₂ O ₃ . |
| 2822 00 000 0 | Cobalt oxides and hydroxides; technical cobalt oxides. |
| 2823 00 000 0 | Titanium oxides. |
| 2824 | Lead oxides; red lead and orange lead. |
| 2825 | Hydrazine and hydroxylamine and their inorganic salts; other inorganic bases; other metal oxides, hydroxides and peroxides. |
| 2826 | Fluorides; fluorosilicates, fluoroaminates and other complex fluorine salts. |
| 2827 | Chlorides, chloride oxides and chloride hydroxides; bromides and bromide oxides; iodides and iodide oxides. |
| 2828 | Hypochlorites; commercial calcium hypochlorite; chlorites; hypobromites. |
| 2829 | Chlorates and perchlorates; bromates and perbromates; iodates and periodates. |
| 2830 | Sulphides; polysulphides whether or not chemically defined. |
| 2831 | Dithionites and sulphoxylates. |
| 2832 | Sulphites; thiosulphates. |
| 2833 | Sulphates; alums; peroxosulphates (persulphates). |
| 2834 | Nitrites; nitrates. |
| 2835 | Phosphinates (hypophosphites), phosphonates (phosphites), phosphates and polyphosphates whether or not chemically defined. |
| 2836 | Carbonates; peroxocarbonates (percarbonates); commercial ammonium carbonate containing ammonium carbamate. |
| 2837 | Cyanides, cyanide oxides, and complex cyanides. |
| 2839 | Silicates; commercial alkali metal silicates. |
| 2840 | Borates; peroxoborates (perborates). |
| 2841 | Salts of oxometallic or peroxometallic acids. |
| 2842 | Other salts of inorganic acids or peroxacids (including aluminosilicates whether or not chemically defined), other than azides. |
| 2843 | Colloidal precious metals; inorganic or organic compounds of precious metals, whether or not chemically defined; amalgams of precious metals. |
| 2844 | Radioactive chemical elements and radioactive isotopes (including the fissile or fertile chemical elements and isotopes) and their compounds; mixtures and residues containing these products. |
| 2845 | Isotopes other than those of Heading 2844; compounds, inorganic or organic, of such isotopes, whether or not chemically defined. |
| 2846 | Compounds, inorganic or organic, of rare-earth metals, of yttrium or of scandium or of mixtures of these metals. |
| 2847 00 000 0 | Urea hydrogen peroxide or non-urea hydrogen peroxide |
| 2848 00 000 0 | Phosphides of defined or undefined chemical composition, except for ferrophosphorus. |
| 2849 | Carbides, whether or not chemically defined. |
| 2850 00 | Hydrides, nitrides, azides, silicides, borides, of defined or undefined chemical composition, except for chemical compounds which are carbides under HS code 2849. |
| 2852 00 000 | Mercuric compounds, inorganic or organic compounds, except for amalgams. |
| 2853 00 | Other inorganic compounds (including distilled or conductivity water and water of the same cleanness); liquid air with or without inactive gas); compressed air; amalgams, except for precious metals amalgams. |
| 2901 | Acyclic hydrocarbons. |
| 2902 | Cyclic hydrocarbons. |
| 2903 | Halogenated derivatives of hydrocarbons. |
| 2904 | Sulphonated, nitrated or nitrosated derivatives of hydrocarbons, whether or not halogenated. |
| 2905 | Acyclic alcohols and their halogenated, sulphonated, nitrated or nitrosated derivatives. |
| 2906 | Cyclic alcohols and their halogenated, sulphonated, nitrated or nitrosated derivatives. |
| 2907 | Phenols; phenol-alcohols. |
| 2908 | Halogenated, sulphonated, nitrated or nitrosated derivatives of phenols or phenol-alcohols. |
| 2909 | Ethers, ether-alcohols, ether phenols, ether-alcohol-phenols, alcohol peroxides, ether peroxides, ketone peroxides (whether or not chemically defined), and their halogenated, sulphonated, nitrated or nitrosated derivatives. |

| CET Code | Description of products |
|------------------|---|
| 2910 | Epoxides, epoxyalcohols, epoxyphenols, and epoxy ethers, with a three-member ring and their halogenated, sulphonated, nitrated or nitrosated derivatives. |
| 2911 00 000 0 | Acetals and semiacetals containing or not containing other acid-containing functional group and their halogenated, sulfonated, nitrated or nitrosated derivatives. |
| 2912 | Aldehydes, whether or not with other oxygen function; cyclic polymers of aldehydes; paraformaldehyde. |
| 2913 00 000 0 | Halogenated, sulphonated, nitrated or nitrosated derivatives of compounds under HS code 2912. |
| 2914 | Ketones and quinones, whether or not with other oxygen function, and their halogenated, sulphonated, nitrated or nitrosated derivatives. |
| 2915 | Saturated acyclic monocarboxylic acids and their anhydrides, halides, peroxides and peroxyacids; their halogenated, sulphonated, nitrated or nitrosated derivatives. |
| 2916 | Unsaturated acyclic monocarboxylic acids, cyclic monocarboxylic acids, their anhydrides, halides, peroxides, and peroxyacids; their halogenated, sulphonated, nitrated or nitrosated derivatives. |
| 2917 | Polycarboxylic acids, their anhydrides, halides, peroxides and peroxyacids; their halogenated, sulphonated, nitrated or nitrosated derivatives. |
| 2918 | Carboxylic acids with additional oxygen function and their anhydrides, halides, peroxides and peroxyacids; their halogenated, sulphonated, nitrated or nitrosated derivatives. |
| 2919 | Phosphoric esters and their salts, including lactophosphates; their halogenated, sulphonated, nitrated or nitrosated derivatives. |
| 2920 | Esters of other inorganic acids (excluding esters of hydrogen halides) and their salts; their halogenated, sulphonated, nitrated or nitrosated derivatives. |
| 2921 | Amine-function compounds. |
| 2922 | Oxygen-function amino-compounds. |
| 2923 | Quaternary ammonium salts and hydroxides; lecithins and other phosphoaminolipids. |
| 2924 | Carboxamide-function compounds; amide-function compounds of carbonic acid. |
| 2925 | Carboxyimide-function compounds (including saccharin and its salts) and imine-function compounds. |
| 2926 | Nitrile-function compounds. |
| 2927 00 000 0 | Diazo-, azo- or azoxy compounds. |
| 2928 00 | Organic hydrazine or hydroxylamine derivatives. |
| 2929 | Compounds with other nitrogen function. |
| 2930 | Organo-sulphur compounds. |
| 2931 00 | Other organic-inorganic compounds. |
| 2932 | Heterocyclic compounds with oxygen hetero-atom(s) only. |
| 2933 | Heterocyclic compounds with nitrogen hetero-atom(s) only. |
| 2934 | Nucleic acids and their salts whether or not chemically defined; other heterocyclic compounds. |
| 2935 00 | Sulfonamides. |
| 2936 | Provitamins and vitamins, natural or reproduced by synthesis (including natural concentrates), derivatives thereof used primarily as vitamins, and intermixtures of the foregoing, whether or not in any solvent. |
| 2937 | Hormones, prostaglandins, thromboxanes and leukotrienes, natural or reproduced by synthesis; derivatives and structural analogues thereof, including chain modified polypeptides, used primarily as hormones. |
| 2938 | Glycosides, natural or reproduced by synthesis and their salts, ethers, esters and other derivatives. |
| 2939 | Vegetable alkaloids, natural or reproduced by synthesis and their salts, ethers, esters and other derivatives. |
| 2940 00 000 0 | Chemically clean sugars, except for saccharose, lactose, maltose, glucose, fructose; sugar ethers, sugar acetals, sugar esters, their salts, except for products under HS codes 2937, 2938 or 2939. |
| 2941 | Antibiotics. |
| 2942 00 000 0 | Other organic compounds. |
| 3001 | Glands and other organs for organo-therapeutic uses, dried, whether or not powdered; extracts of glands or other organs or of their secretions for organo-therapeutic uses; heparin and its salts; other human or animal substances prepared for therapeutic or prophylactic uses, not elsewhere specified or included. |
| 3002 | Human blood; animal blood prepared for therapeutic, prophylactic or diagnostic uses; antisera and other blood fractions and modified immunological products, whether or not obtained by means of biotechnological processes; vaccines, toxins, cultures of micro organisms (excluding yeasts) and similar products. |
| 3003 | Medicaments (excluding goods of Headings 3002, 3005 or 3006) consisting of two or more constituents which have been mixed together for therapeutic or prophylactic uses, not put up in measures doses or in forms or packings for retail sale. |

| CET Code | Description of products |
|------------------|--|
| 3004 | Medicaments (excluding goods of Heading 3002, 3005 or 3006) consisting of mixed or unmixed products for therapeutic or prophylactic uses, put up in measured doses (including those in the form of transdermal administration systems) or in forms or packings for retail sale. |
| 3005 | Wadding, gauze, bandages and similar articles (for example, dressings, adhesive plasters, poultices), impregnated or coated with pharmaceutical substances or put up in forms or packings for retail trade for medical, surgical, dental or veterinary purposes. |
| 3006 | Pharmaceutical goods specified in Note 4 to this Chapter. |
| 3202 | Synthetic organic tanning substances; inorganic tanning substances; tanning preparations, whether or not containing natural tanning substances; enzymatic preparations for pre-tanning. |
| 3204 | Synthetic organic colouring matter, whether or not chemically defined; preparations as specified in Note 3 to this Chapter based on synthetic organic colouring matter; synthetic organic products of a kind used as fluorescent brightening agents or as luminophores, whether or not chemically defined. –synthetic organic colouring matter and preparations based thereon as specified in Note 3 to this Chapter. |
| 3209 | Paints and varnishes (including enamels and lacquers) based on synthetic polymers or chemically modified natural polymers, dispersed or dissolved in an aqueous medium. |
| 3215 | Printing ink, writing or drawing ink, and other inks, whether or not concentrated or solid. |
| 3302 | Mixtures of odoriferous substances and mixtures (including alcoholic solutions) with a basis of one or more of these substances, of a kind used as raw materials in industry; other preparations based on odoriferous substances, of a kind used for the manufacture of beverages. |
| 3307 | Pre-shave, shaving or after-shave preparations, personal deodorants, bath preparations, depilatories and other perfumery, cosmetic or toilet preparations, not elsewhere specified or included; prepared room deodorizers, whether or not perfumed or having disinfectant properties. |
| 3401 | Soap, organic surface-active products and preparations for use as soap, in the form of bars, cakes, moulded pieces or shapes, whether or not containing soap; organic surface-active agents and washing preparations for leather in the form of liquid or cream, in packings for retail sale, whether or not containing soap; paper, wadding, felt and nonwovens, impregnated, coated or covered with soap or detergent. |
| 3402 | Organic surface-active agents (other than soap); surface-active preparations, washing preparations (including auxiliary washing preparations) and cleaning preparations, whether or not containing soap, other than those of Heading 3401. |
| 3507 | Enzymes; prepared enzymes not elsewhere specified or included. |
| 3602 00 000 0 | Finished explosives, except for gunpowder. |
| 3603 00 | Safety fuses, detonating cords, percussion or detonating caps, igniters, detonators. |
| 3805 | Gum, wood or sulphate turpentine and other terpenic oils produced by the distillation or other treatment of coniferous woods; crude dipentene; sulphite turpentine and other crude paracymentene; pine oil containing alpha-terpineol as the main constituent. |
| 3806 | Rosin and resin acids, and derivatives thereof; rosin spirit and rosin oils; run gums. |
| 3808 | Insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant-growth regulators, disinfectants and similar products, put up in forms or packings for retail sale or as preparations or articles (for example, sulphur-treated bands, wicks and candles, and fly-papers). |
| 3901 | Polymers of ethylene, in primary forms. |
| 3902 | Polymers of propylene or of other olefins, in primary forms. |
| 3903 | Polymers of styrene, in primary forms. |
| 3904 | Polymers of vinyl chloride or of other halogenated olefins, in primary forms. |
| 3905 | Polymers of vinyl acetate or of other vinyl esters, in primary forms; other vinyl polymers in primary forms. |
| 3906 | Acrylic polymers in primary forms. |
| 3907 | Polyacetals, other polyethers and epoxide resins, in primary forms; polycarbonates, alkyd resins, polyallyl esters and other polyesters, in primary forms. |
| 3908 | Polyamides in primary forms. |
| 3909 | Amino-resins, phenolic resins, and polyurethanes, in primary forms. |
| 3911 | Petroleum resins, coumarone-indene resins, polyterpenes, polysulphides, polysulphones and other products specified in Note 3 to this Chapter, not elsewhere specified or included, in primary forms. |
| 3912 | Cellulose and its chemical derivatives, not elsewhere specified or included, in primary forms. |
| 3913 | Natural polymers (for example, alginic acid) and modified natural polymers (for example, hardened proteins, chemical derivatives of natural rubber), not elsewhere specified or included, in primary forms. |
| 3914 00 000 0 | Ion-exchange resins, extracted from polymers under HS code 3901-3913, in primary forms. |
| 3915 | Waste, parings and scrap, of plastics. |
| 3916 | Monofilament of which any cross-sectional dimension exceeds 1 mm, rods, sticks and profile shapes, whether or not surface-worked but not otherwise worked, of plastics. |
| 3917 | Tubes, pipes, and hoses, and fittings therefore (for example, joints, elbows, flanges), of plastics. |

| CET Code | Description of products |
|------------------|---|
| 3918 | Floor coverings of polymer materials, whether or not self-adhesive, in rolls or in the form of tiles; wall or ceiling coverings of polymers, as defined in Note 9 to this Chapter. |
| 3919 | Self-adhesive plates, sheets, film, foil, tape, strip and other flat shapes, of polymer materials, whether or not in rolls. |
| 3920 | Other plates, sheets, film, foil and strip, of polymer materials, non-cellular and not reinforced, laminated, supported or similarly combined with other materials. |
| 3921 | Other plates, sheets, film, foil and strip, of polymer materials. |
| 3922 | Baths, shower-baths, wash-basins, bidets, lavatory pans, seats and covers, flushing cisterns and similar sanitary ware, of plastics. |
| 3923 | Articles for the conveyance or packing of goods, of plastics; stoppers, lids, caps and other closures, of plastics. |
| 3924 | Tableware, kitchenware, other household articles and toilet articles, of plastics. |
| 3925 | Builders' ware of plastics, not elsewhere specified or included. |
| 3926 | Other articles of plastics and articles of other materials of Headings 3901 to 3914. |
| 4001 | Natural rubber, balata, gutta-percha, guayule, chicle and similar natural gums, in primary forms or in plates, sheets or strip. |
| 4011 | New pneumatic tyres, of rubber. |
| 4104 | Leather or leather crust of bovine (including buffalo), or equine animals, without hair on, whether or not split, but not further prepared. |
| 4202 | Trunks, suit-cases, vanity-cases, executive-cases, brief-cases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and similar containers; travelling-bags, toilet bags, rucksacks, handbags, shopping-bags, wallets, purses, map-cases, cigarette-cases, tobacco-pouches, tool bags, sports bags, bottle-cases, jewellery boxes, powder-boxes, cutlery cases and similar containers, of leather or of composition leather, of sheeting of polymer or textile materials, of vulcanized fibre or of paperboard, or wholly or mainly covered with such materials or with paper. |
| 4303 | Articles of apparel, clothing accessories and other articles of fur skin. |
| 4410 | Particle board, oriented strand board (OSB) and similar board (for example, waferboard) of wood or other ligneous materials, whether or not agglomerated with resins or other organic binding substances. |
| 4411 | Fibreboard of wood or other ligneous materials, whether or not bonded with resins or other organic substances. |
| 4412 | Plywood, veneered panels and similar laminated wood. |
| 4418 | Builders' joinery and carpentry of wood, including cellular wood panels, assembled parquet panels, shingles and shakes. |
| 4801 00 000 0 | Newsprint paper rolled or in sheets |
| 4803 00 | Paper napkins or face napkins, paper towels or paper diapers and other kinds of paper for household or sanitary-hygienic purposes, cellulose cotton and sheet of cellulose fibre, full-creped or not creped, corrugated or not corrugated, embossed or not embossed, perforated or not perforated, with coloured or uncoloured surface, printed or unprinted, in rolls or sheets. |
| 4808 | Paper and paperboard, corrugated (with or without glued flat surface sheets), creped, crinkled, embossed or perforated, in rolls or sheets, other than paper of the kind described in Heading 4803. |
| 4814 | Wallpaper and similar wall coverings; window transparencies of paper. |
| 4818 | Toilet paper and similar paper, cellulose wadding or webs of cellulose fibres, of a kind used for household or sanitary purposes, in rolls of a width not exceeding 36 cm, or cut to size or shape; handkerchiefs, cleansing tissues, towels, tablecloths, serviettes, napkins for babies, tampons, bed sheets and similar household, sanitary or hospital articles, articles of apparel and clothing accessories, of paper pulp, paper, cellulose wadding or webs of cellulose fibres. |
| 4819 | Cartons, boxes, cases, bags and other packing containers, of paper, paperboard, cellulose wadding or webs of cellulose fibres; box files, letter trays, and similar articles, of paper or paperboard, of a kind used in offices, shops or the like. |
| 4820 | Registers, account books, note books, order books, receipt books, letter pads, memorandum pads, diaries and similar articles, exercise-books, blotting pads, binders (loose-leaf or other), folders, file covers, manifold business forms, interleaved carbon sets and other articles of stationery, of paper or paperboard; albums for samples or for collections and book covers, of paper or paperboard. |
| 5001 00 000 0 | Silk cocoon, good for reeling |
| 5002 00 000 0 | (Thrown) raw silk |
| 5003 00 000 0 | Silk wastes (including cocoons, not good for reeling, cocoon thread wastes and unravelled raw silk) |
| 5004 00 | Silk thread (except for yarn from silk wastes), not packed for retail sale. |
| 5005 00 | Yarn from silk wastes, not packed for retail sale. |

| CET Code | Description of products |
|------------------|---|
| 5006 00 | Silk thread and yarn from silk wastes, packed for retail sale, fibre from silk moth fibroin |
| 5007 | Woven fabrics of silk or of silk waste. |
| 5101 | Wool, not carded or combed. |
| 5102 | Fine or coarse animal hair, not carded or combed. |
| 5103 | Waste of wool or of fine or coarse animal hair, including yarn waste but excluding garnetted stock. |
| 5104 00 000 0 | Unravelled wool or fine or coarse animal hair |
| 5105 | Wool and fine or coarse animal hair, carded or combed (including combed wool in fragments). |
| 5106 | Yarn of carded wool, not put up for retail sale. |
| 5107 | Yarn of combed wool, not put up for retail sale. |
| 5108 | Yarn of fine animal hair (carded or combed), not put up for retail sale. |
| 5109 | Yarn of wool or of fine animal hair, put up for retail sale. |
| 5110 00 000 0 | Yarn of coarse animal hair or horse hair (including gimp thread from horse hair), packed or not packed for retail sale. |
| 5111 | Woven fabrics of carded wool or of carded fine animal hair. |
| 5112 | Woven fabrics of combed wool or of combed fine animal hair. |
| 5113 00 000 0 | Fabric from coarse animal hair or horse hair |
| 5201 00 | Cotton fibre, not carded or combed |
| 5202 | Cotton waste (including yarn waste and garnetted stock). |
| 5203 00 000 0 | Cotton fibre, carded or combed |
| 5204 | Cotton sewing thread, whether or not put up for retail sale. |
| 5205 | Cotton yarn (other than sewing thread), containing 85% or more by weight of cotton, not put up for retail sale. |
| 5206 | Cotton yarn (other than sewing thread), containing less than 85% by weight of cotton, not put up for retail sale. |
| 5207 | Cotton yarn (other than sewing thread) put up for retail sale. |
| 5208 | Woven fabrics of cotton containing 85% or more by weight of cotton, weighing not more than 200 g/m ² . |
| 5209 | Woven fabrics of cotton containing 85% or more by weight of cotton, weighing more than 200 g/m ² . |
| 5210 | Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing not more than 200 g/m ² . |
| 5211 | Woven fabrics of cotton, containing less than 85% by weight of cotton, mixed mainly or solely with man-made fibres, weighing more than 200 g/m ² . |
| 5212 | Other woven fabrics of cotton. |
| 5301 | Flax, raw or processed but not spun; flax tow and waste (including yarn waste and garnetted stock). |
| 5302 | True hemp (<i>Cannabis sativa</i> L.), raw or processed but not spun; tow and waste of true hemp (including yarn waste and garnetted stock). |
| 5303 | Jute and other textile bast fibres (excluding flax, true hemp and ramie), raw or processed but not spun; tow and waste of these fibres (including yarn waste and garnetted stock). |
| 5305 00 000 0 | Fibre of coconut, abacus (<i>Musa textilis</i> Nee), rami and other plant textile fibres, not named or not included under other tariff lines, raw or processed, but not spinned; combings and wastes from these fibres (including spinning wastes and unravelled raw fibres) |
| 5306 | Flax yarn. |
| 5307 | Yarn of jute or of other textile bast fibres of Heading 5303. |
| 5308 | Yarn of other vegetable textile fibres; paper yarn. |
| 5309 | Woven fabrics of flax. |
| 5310 | Woven fabrics of jute or of other textile bast fibres of Heading 5303. |
| 5311 00 | Fabrics of other plant textile fibres; fabrics of spun cotton |
| 5401 | Sewing thread of man-made filaments, whether or not put up for retail sale. |
| 5402 | Synthetic filament yarn (other than sewing thread), not put up for retail sale, including synthetic monofilament of less than 67 decitex. |
| 5403 | Artificial filament yarn (other than sewing thread), not put up for retail sale, including artificial monofilament of less than 67 decitex. |
| 5404 | Synthetic monofilament of 67 decitex or more and of which no cross-sectional dimension exceeds 1 mm; strip and the like (for example, artificial straw) of synthetic textile materials of an apparent width not exceeding 5 mm. |
| 5405 00 000 0 | Monofilament of 67 decitex or more and of which no cross-sectional dimension exceeds 1 mm; strip and the like (for example, artificial straw) of artificial textile materials of an apparent width not exceeding 5 mm. |
| 5406 00 000 0 | Chemical filament yarn (except for sewing threads), packed for retail sale. |

| CET Code | Description of products |
|------------------|---|
| 5407 | Woven fabrics of synthetic filament yarn, including woven fabrics obtained from materials of Heading 5404. |
| 5408 | Woven fabrics of artificial filament yarn, including woven fabrics obtained from materials of Heading 5405. |
| 5501 | Synthetic filament tow. |
| 5502 00 | Man-made filament tow. |
| 5503 | Synthetic staple fibres, not carded, combed or otherwise processed for spinning. |
| 5504 | Artificial staple fibres, not carded, combed or otherwise processed for spinning. |
| 5505 | Waste (including noils, yarn waste and garnetted stock) of man-made fibres. |
| 5506 | Synthetic staple fibres, carded, combed or otherwise processed for spinning. |
| 5507 00 000 0 | Man-made fibres, carded, combed or processed differently for spinning. |
| 5508 | Sewing thread of man-made staple fibres, whether or not put up for retail sale. |
| 5509 | Yarn (other than sewing thread) of synthetic staple fibres, not put up for retail sale. |
| 5510 | Yarn (other than sewing thread) of artificial staple fibres, not put up for retail sale. |
| 5511 | Yarn (other than sewing thread) of man-made staple fibres, put up for retail sale. |
| 5512 | Woven fabrics of synthetic staple fibres, containing 85% or more by weight of synthetic staple fibres. |
| 5513 | Woven fabrics of synthetic staple fibres, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight not exceeding 170 g/m ² . |
| 5514 | Woven fabrics of synthetic staple fibres, containing less than 85% by weight of such fibres, mixed mainly or solely with cotton, of a weight exceeding 170 g/m ² . |
| 5515 | Other woven fabrics of synthetic staple fibres. |
| 5516 | Woven fabrics of artificial staple fibres. |
| 5601 | Wadding of textile materials and articles thereof; textile fibres, not exceeding 5 mm in length (flock), textile dust and mill neps. |
| 5602 | Felt, whether or not impregnated, coated, covered or laminated. |
| 5603 | Nonwovens, whether or not impregnated, coated, covered or laminated. |
| 5604 | Rubber thread and cord, textile covered; textile yarn and strip and the like of Heading 5404 or 5405, impregnated, coated, covered or sheathed with rubber or plastics. |
| 5605 00 0 | Gimped or not gimped metallic thread, which is a textile thread or flat or similar thread under HS codes 5404 or 5405, mixed with metal in the form of a thread, plate or powder, or covered with metal. |
| 5606 00 | Thread gimped and flat and similar thread under HS codes 5404 or 5405, gimped thread (except for thread under HS code 5605 and gimped thread from horse hair); chenille yarn (including flocked chenille); fancy loop yarn. |
| 5607 | Twine, cordage, ropes and cables, whether or not plaited or braided and whether or not impregnated, coated, covered or sheathed with rubber or plastics. |
| 5608 | Knotted netting of twine, cordage of rope; made up fishing nets and other made up nets, of textile materials. |
| 5609 00 000 0 | Products from threads or yarn, flat or similar threads under HS codes 5404 or 5405, twine, cordage of rope, not named or not included under other tariff lines. |
| 5701 | Carpets and other textile floor coverings, knotted, whether or not made up. |
| 5702 | Carpets and other textile floor coverings, woven, not tufted or flocked, whether or not made up, including "Kelem", "Schumacks", "Karamanie" and similar hand-woven rugs. |
| 5703 | Carpets and other textile floor coverings, tufted, whether or not made up. |
| 5704 | Carpets and other textile floor coverings, of felt, not tufted or flocked, whether or not made up. |
| 5705 00 | Carpets and other textile floor coverings, whether or not made up. |
| 5801 | Woven pile fabrics and chenille fabrics, other than fabrics of Heading 5802 or 5806. |
| 5802 | Terry towelling and similar woven terry fabrics, other than narrow fabrics of Heading 5806; tufted textile fabrics, other than products of Heading 5703. |
| 5803 00 | Leno fabrics, except for narrow fabrics under HS code 5806. |
| 5804 | Tulles and other net fabrics, not including woven, knitted or crocheted fabrics; lace in the piece, in strips or in motifs, other than fabrics of Headings 6002- 6006. |
| 5805 00 000 0 | Hand-made tapestry similar to Belgian, Aubusson, Beauvais or similar tapestry and embroidered tapestry (for example, cross-stitched or satin-stitched), whether or not made up. |
| 5806 | Narrow woven fabrics, other than goods of Heading 5807; narrow fabrics consisting of warp without weft assembled by means of an adhesive (bolducs). |
| 5807 | Labels, badges, and similar articles of textile materials, in the piece, in strips or cut to shape or size, not embroidered. |
| 5808 | Braids in the piece; ornamental trimmings in the piece, without embroidery, other than knitted or crocheted; tassels, pompons and similar articles. |
| 5810 | Embroidery in the piece, in strips or in motifs. |
| 5811 00 000 0 | Quilted textile fabrics in piece, consisting of one or a few layers of textile materials, sewed with a soft layer or connected in another way, except for embroidery under HS code 5810. |

| CET Code | Description of products |
|------------------|--|
| 5901 | Textile fabrics coated with gum or amylaceous substances, of a kind used for the outer covers of books or the like; tracing cloth; prepared painting canvas; buckram and similar stiffened textile fabrics of a kind used for hat foundations. |
| 5902 | Tyre cord fabric of high-tenacity yarn of nylon or other polyamides, polyesters or viscose rayon. |
| 5903 | Textile fabrics impregnated, coated, covered or laminated with plastics, other than those of Heading 5902. |
| 5904 | Linoleum, whether or not cut to shape; floor coverings consisting of a coating or covering applied to a textile backing, whether or not cut to shape. |
| 5905 00 | Wall carpets from textile products |
| 5906 | Rubberized textile fabrics, other than those of Heading 5902. |
| 5907 00 | Textile products saturated or covered in another way; painted fabrics for theatrical scenery, background scenery for art studios or similar fabrics. |
| 5908 00 000 0 | Textile wicks, woven, braided or knitted for lamps, oil cooking stoves, lighters, candles or similar products; gas mantle and tubular textile fabric for gas mantles, coated or not coated |
| 5909 00 | Textile hoses and similar textile tubes with pads, trimming or accessories from other materials or without thereof |
| 5910 00 000 0 | Conveyor belt or drive belt or belting from textile materials, coated or not coated, covered or not covered, laminated with plastics or not laminated, or armoured with metal or other material |
| 5911 | Textile products and articles, for technical uses, specified in Note 7 to this Chapter. |
| 6001 | Pile fabrics, including "long-pile" fabrics and terry fabrics, knitted or crocheted. |
| 6002 | Knitted or crocheted fabrics, of a width not exceeding 30 cm, containing by weight 5% or more of elastomeric yarn or rubber thread, other than fabrics of Heading 6001. |
| 6003 | Knitted or crocheted fabrics, of a width not exceeding 30 cm, other than fabrics of Headings 6001 or 6002. |
| 6004 | Knitted or crocheted fabrics, of a width not exceeding 30 cm, containing by weight 5% or more of elastomeric yarn or rubber thread, other than fabrics of Heading 6001. |
| 6005 | Raschel lace (including crocheted fabrics for manufacture of lace), other than fabrics of Headings 6001- 6004. |
| 6006 | Other knitted or crocheted fabrics. |
| 6101 | Men's or boys' overcoats, car-coats, capes, cloaks, anoraks (including ski-jackets), wind-cheaters, wind-jackets and similar articles, knitted or crocheted, other than those of Heading 6103. |
| 6102 | Women's or girls' overcoats, car-coats, capes, cloaks, anoraks (including ski-jackets), wind-cheaters, wind-jackets and similar articles, knitted or crocheted, other than those of Heading 6104. |
| 6103 | Men's or boys' suits, ensembles, jackets, blazers, trousers, bib and brace overalls, breeches and shorts (other than swimwear), knitted or crocheted. |
| 6104 | Women's or girls' suits, ensembles, jackets, blazers, dresses, skirts, divided skirts, trousers, bib-and-brace overalls, breeches and shorts (other than swimwear), knitted or crocheted. |
| 6105 | Men's or boys' shirts, knitted or crocheted. |
| 6106 | Women's or girls' blouses, shirts, and shirt- blouses, knitted or crocheted. |
| 6107 | Men's or boys' underpants, briefs, nightshirts, pyjamas, bathrobes, dressing gowns and similar articles, knitted or crocheted. |
| 6108 | Women's or girls' slips, petticoats, briefs, panties, nightdresses, pyjamas, negliges, bathrobes, dressing gowns and similar articles, knitted or crocheted. |
| 6109 | T-shirts, singlets and other vests, knitted or crocheted. |
| 6110 | Jerseys, pullovers, cardigans, waistcoats and similar articles, knitted or crocheted. |
| 6111 | Babies' garments and clothing accessories, knitted or crocheted. |
| 6112 | Track suits, ski suits and swimwear, knitted or crocheted. |
| 6113 00 | Clothes from textile machine or hand-knitted fabric |
| 6114 | Other garments, knitted or crocheted. |
| 6115 | Pantyhose, tights, stockings, socks and other hosiery, including graduated compression hosiery (for example, stockings for varicose veins) and footwear without applied soles, knitted or crocheted. |
| 6116 | Gloves, mittens and mitts, knitted, or crocheted. |
| 6117 | Other made up clothing accessories, knitted or crocheted; knitted or crocheted parts of garments or of clothing accessories. |
| 6201 | Men's or boys' overcoats, car-coats, capes, cloaks, anoraks (including ski-jackets), wind-cheaters, wind-jackets and similar articles, other than those of Heading 6203. |
| 6202 | Women's or girls' overcoats, car-coats, capes, cloaks, anoraks (including ski-jackets), wind-cheaters, wind-jackets and similar articles, other than those of Heading 6204. |
| 6203 | Men's or boys' suits, ensembles, jackets, blazers, trousers, bib and brace overalls, breeches and shorts (other than swimwear). |
| 6204 | Women's or girls' suits, ensembles, jackets, blazers, dresses, skirts, divided skirts, trousers, bib and brace overalls, breeches and shorts (other than swimwear). |
| 6205 | Men's and boys' shirts. |
| 6206 | Women's or girls' blouses, shirts and shirt-blouses. |

| CET Code | Description of products |
|----------|--|
| 6207 | Men's or boys' singlets and other vests, underpants, briefs, nightshirts, pyjamas, bathrobes, dressing gowns and similar articles. |
| 6208 | Women's and girls' singlets and other vests, slips, petticoats, briefs, panties, nightdresses, pyjamas, negliges, bathrobes, dressing gowns and similar articles. |
| 6209 | Babies' garments and clothing accessories. |
| 6210 | Garments, made up of fabrics of Headings 5602, 5603, 5903, 5906 or 5907. |
| 6211 | Track suits, ski suits and swimwear; other garments. |
| 6212 | Brassieres, girdles, corsets, braces, suspenders, garters and similar articles and parts thereof, whether or not knitted or crocheted. |
| 6213 | Handkerchiefs. |
| 6214 | Shawls, scarves, mufflers, mantillas, veils and the like. |
| 6215 | Ties, bow ties and cravats. |
| 6216 | Gloves and mittens. |
| 00 000 0 | |
| 6217 | Other made-up clothing accessories; parts of garments or of clothing accessories, other than those of Heading 6212. |
| 6301 | Blankets and travelling rugs. |
| 6302 | Bed linen, table linen, toilet linen and kitchen linen. |
| 6303 | Curtains (including drapes) and interior blinds; curtain or bed valances. |
| 6304 | Other furnishing articles excluding those of Heading 9404. |
| 6305 | Sacks and bags, of a kind used for the packing goods. |
| 6306 | Tarpaulins, awnings and sunblinds; tents; sails for boats, sailboards or landcraft; camping goods. |
| 6307 | Other made-up articles, including dress patterns. |
| 6308 | Sets of fabrics and yarn or threads with accessories or without thereof, for carpets, tapestry, embroidered table clothes or napkins or similar textile products, packed for retail sale. |
| 00 000 0 | |
| 6309 | Used clothes and other used products |
| 00 000 0 | |
| 6310 | Used or new rags, scrap twine, cordage, rope and cables and worn out articles of twine, cordage, rope or cables, of textile materials. |
| 6403 | Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of leather. |
| 6404 | Footwear with outer soles of rubber, plastics, leather or composition leather and uppers of textile materials. |
| 6405 | Other footwear. |
| 6806 | Slag wool, rock wool and similar mineral wools; exfoliated vermiculite, expanded clays, foamed slag and similar expanded mineral materials; mixtures and articles of heat-insulating, sound-insulating or sound-absorbing mineral materials, other than those of Heading 6811 or 6812 or of Chapter 69. |
| 6907 | Unglazed ceramic flags and paving, hearth or wall tiles; unglazed ceramic mosaic cubes and the like, whether or not on a backing. |
| 6908 | Glazed ceramic flags and paving, hearth or wall tiles; glazed ceramic mosaic cubes and the like, whether or not on a backing. |
| 6909 | Ceramic wares for laboratory, chemical or other technical uses; ceramic troughs, tubs and similar receptacles of kind used in agriculture; ceramic pots, jars and similar articles of kind used for the conveyance or packing of goods. ceramic wares for laboratory, chemical or other technical uses. |
| 6910 | Ceramic sinks, wash basins, wash basin pedestals, baths, bidets, water closet pans, flushing cisterns, urinals and similar sanitary fixtures. |
| 6911 | Tableware, kitchenware, other household articles and toilet articles, of porcelain or china. |
| 7005 | Float glass and surface ground or polished glass, in sheets, whether or not having an absorbent, reflecting or non-reflecting layer, but not otherwise worked. |
| 7009 | Glass mirrors, whether or not framed, including rear-view mirrors. |
| 7010 | Carboys, bottles, flasks, jars, pots, phials, ampoules and other containers, of glass, of a kind used for the conveyance or packing of goods; preserving jars of glass; stoppers, lids and other closures, of glass. |
| 7013 | Glassware of a kind used for table, kitchen, toilet, office, indoor decoration or similar purposes (other than that of Heading 7010 or 7018). |
| 7016 | Paving blocks, slabs, bricks, squares, tiles and other articles of pressed or moulded glass, whether or not wired, of a kind used for building or construction purposes; glass cubes and other glass small wares, whether or not on a backing, for mosaics or similar decorative purposes; leaded lights and the like; multicellular or foam glass in blocks, panels, plates, shells or similar forms. |
| 7019 | Glass fibres (including glass wool) and articles thereof (for example, yarn, woven fabrics). |
| 7105 | Dust and powder of natural or synthetic precious or semi-precious stones. |
| 7204 | Ferrous waste and scrap; remelting scrap ingots of iron or steel. |
| 7209 | Flat-rolled products of iron or non-alloy steel, of a width of 600 mm or more, cold-rolled (cold-reduced), not clad, plated or coated. |
| 7210 | Flat-rolled products of iron or non-alloy steel, of a width of 600 mm or more, clad, plated or coated. |

| CET Code | Description of products |
|----------|---|
| 7213 | Bars and rods, hot-rolled, in irregularly wound coils, of iron or non-alloy steel. |
| 7214 | Other bars and rods of iron or non-alloy steel, not further worked than forged, hot-rolled, hot-drawn or hot-extruded but including those twisted after rolling. |
| 7216 | Angles, shapes, and sections of iron or non-alloy steel. |
| 7219 | Flat-rolled products of stainless steel, of a width of 600 mm or more. |
| 7220 | Flat-rolled products of stainless steel, of a width of less than 600 mm. |
| 7225 | Flat-rolled products of other alloy steel, of a width of 600 mm or more. |
| 7227 | Bars and rods, hot-rolled, in irregularly wound coils, of other alloy steel. |
| 7228 | Other bars and rods of other alloy steel; angles, shapes and sections, of other alloy steel; hollow drill bars and rods, of alloy or non-alloy steel. |
| 7303 00 | Tubes, pipes and hollow profiles, of iron casting. |
| 7304 | Tubes, pipes and hollow profiles, seamless, of iron (other than cast iron) or steel. |
| 7305 | Other tubes and pipes (for example, welded, riveted or similarly closed), with circular cross-sections and external diameter of which exceeds 406.4 mm, of iron or steel. |
| 7306 | Other tubes, pipes and hollow profiles (for example, open seam or welded, riveted, or similarly closed), of iron or steel. |
| 7404 00 | Copper wastes and scrabs. |
| 7408 | Copper wire. |
| 7410 | Copper foil (whether or not printed or backed with paper, paperboard, plastics or similar backing materials) of a thickness (excluding any backing) not exceeding 0.15 mm. |
| 7606 | Aluminium plates, sheets and strip, of a thickness exceeding 0.2 mm. |
| 7607 | Aluminium foil (whether or not printed or backed with paper, paperboard, plastics or similar backing materials), of a thickness (excluding any backing) not exceeding 0.2 mm. |
| 7608 | Aluminium tubes and pipes. |
| 8104 | Magnesium and articles thereof, including waste and scrap. |
| 8302 | Base metal mountings, fittings and similar articles suitable for furniture, doors, staircases, windows, blinds, coachwork, saddlery, trunks, chests, caskets or the like; base metal hat-racks, hat-pegs, brackets and similar fixtures; castors with mountings of base metal; automatic door closers of base metal. |
| 8309 | Stoppers, caps and lids (including crown corks, screw caps and pouring stoppers), capsules for bottles, threaded bungs, bung covers, seals, and other packing accessories, of base metal. |
| 8407 | Spark-ignition reciprocating or rotary internal combustion piston engines. |
| 8408 | Compression-ignition, internal combustion piston engines (diesel or semi-diesel engines). |
| 8415 | Air conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, including those machines in which humidity cannot be separately regulated. |
| 8418 | Refrigerators, freezers and other refrigerating or freezing equipment, electric or other; heat pumps other than air conditioning machines of Heading 8415. |
| 8424 | Mechanical appliances (whether or not hand-operated) for projecting, dispersing or spraying liquids or powders; fire extinguishers, whether or not charged; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines. |
| 8428 | Other lifting, handling, loading or unloading machinery (for example, lifts, escalators, conveyors, teleferics). |
| 8432 | Agricultural, horticultural or forestry machinery for soil preparation or cultivation; lawn or sports-ground rollers. |
| 8433 | Harvesting or threshing machinery, including straw or fodder balers; grass or hay mowers; machines for cleaning, sorting or grading eggs, fruit or other agricultural produce, other than machinery of Heading 8437. |
| 8434 | Milking machines and dairy machinery. |
| 8443 | Printing machinery used for printing by means of plates, cylinders and other printing components of Heading 8442; other printers, copying machines and facsimile machines, whether or not combined; parts and accessories thereof. |
| 8450 | Household or laundry-type washing machines, including machines which both wash and dry. |
| 8451 | Machinery (other than machines of Heading 8450) for washing, cleaning, wringing, drying, ironing, pressing (including fusing presses), bleaching, dyeing, dressing, finishing, coating or impregnating textile yarns, fabrics, or made up textile articles and machines for applying the paste to the base fabric or other support used in the manufacture of floor coverings such as linoleum; machines for reeling, unreeling, folding, cutting or pinking textile fabrics. |
| 8452 | Sewing machines, other than book-sewing machines of Heading 8440; furniture, bases and covers specially designed for sewing machines; sewing machine needles. |
| 8455 | Metal-rolling mills and rolls therefore. |
| 8456 | Machine-tools for working any material by removal of material, by laser or other light or photon beam, ultrasonic, electro-discharge, electro-chemical, electron beam, ion-beam or plasma arc processes. |
| 8457 | Machining centres, unit construction machines (single station) and multi-station transfer machines for working metal. |

| CET Code | Description of products |
|-------------|--|
| 8458 | Lathes (including turning centres), for removing metal. |
| 8459 | Machine-tools (including way-type unit head machines) for drilling, boring, milling, threading or tapping by removing metal, other than lathes (including turning centres) of Heading 8458. |
| 8460 | Machine-tools for deburring, sharpening, grinding, honing, lapping, polishing or otherwise finishing metal or cermets by means of grinding stones, abrasives or polishing products, other than gear cutting, gear grinding or gear finishing machines of Heading 8461. |
| 8461 | Machine-tools for planing, shaping, slotting, broaching, gear cutting, gear grinding or gear finishing, sawing, cutting-off and other machine-tools working by removing metal or cermets, not elsewhere specified or included. |
| 8462 | Machine-tools (including presses) for working metal by forging, hammering or die-stamping; machine-tools (including presses) for working metal by bending, folding, straightening, flattening, shearing, punching or notching; presses for working metal or metal carbides, not specified above. |
| 8474 | Machinery for sorting, washing, crushing, grinding, mixing or kneading earth, stone, ores or other mineral substances, in solid (including powder or paste) form; machinery for agglomerating, shaping or moulding solid mineral fuels, ceramic paste, unhardened cements, plastering materials or other mineral products in powder or paste form; machines for forming foundry moulds of sand. |
| 8481 | Taps, cocks, valves and similar appliances for pipes, boiler shells, tanks, vats or the like, including pressure-reducing valves and thermostatically controlled valves. |
| 8482 | Ball or roller bearings. |
| 8501 | Electric motors and generators (excluding generating sets). |
| 8502 | Electric generating sets and rotary converters. |
| 8504 | Electrical transformers, static converters (for example, rectifiers) and inductors. |
| 8505 | Electro-magnets; permanent magnets and articles intended to become permanent magnets after magnetisation; electro-magnetic or permanent magnet chucks, clamps and similar holding devices; electro-magnetic couplings, clutches and brakes; electro-magnetic lifting heads. |
| 8507 | Electric accumulators, including separators therefore, whether or not rectangular (including square). |
| 8508 | Vacuum cleaners. |
| 8516 | Electric instantaneous or storage water heaters and immersion heaters; electric space heating apparatus and soil heating apparatus; electro-thermic hair-dressing apparatus (for example, hair dryers, hair curlers, curling tong heaters) and hand dryers; electric smoothing irons; other electro-thermic appliances of a kind used for domestic purposes; electric heating resistors, other than those of Heading 8545. |
| 8517 | Telephone sets, including telephones for cellular networks or for other wireless networks; other apparatus for the transmission or reception of voice, images or other data, including apparatus for communication in a wired or wireless network (such as a local or wide area network), other than transmission or reception apparatus of Heading 8443, 8525, 8527 or 8528. |
| 8519 | Sound recording or sound reproducing apparatus. |
| 8521 | Video recording or reproducing apparatus, whether or not incorporating a video tuner. |
| 8525 | Transmission apparatus for radio-broadcasting or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus; television cameras, digital cameras and video camera recorders. |
| 8528 | Monitors and projectors, not incorporating television reception apparatus; reception apparatus for television, whether or not incorporating radio-broadcast receivers or sound or video recording or reproducing apparatus. |
| 8529 | Parts suitable for use solely or principally with the apparatus of Headings 8525 to 8528. |
| 8537 | Boards, panels, consoles, desks, cabinets and other bases, equipped with two or more apparatus of Heading 8535 or 8536, for electric control or distribution of electricity, including those incorporating instruments or apparatus of Chapter 90, and numerical control apparatus, other than switching apparatus of Heading 8517. |
| 8539 | Electric filament or discharge lamps, including sealed-beam lamp units and ultra-violet or infra-red lamps; arc-lamps. |
| 8542 | Electronic integrated circuits. |
| 8544 | Insulated (including enamelled or anodised) wire, cable (including co-axial cable) and other insulated electric conductors, whether or not fitted with connectors; optical fibre cables, made up of individually sheathed fibres, whether or not assembled with electric conductors or fitted with connectors. |
| 8545 | Carbon electrodes, carbon brushes, lamp carbons, battery carbons and other articles of graphite or other carbon, with or without metal, of a kind used for electrical purposes. |
| 8603 | Self-propelled railway or tramway coaches, vans and trucks, other than those of Heading 8604. |
| 8605 00 000 | Passenger non-self-propelled railway or tram cars; baggage, mail or other specialized railway or tram non-self-propelled cars (except for included under tariff lines 8604). |
| 8701 | Tractors (other than tractors of Heading 8709). |
| 8702 | Motor vehicles for the transport of ten or more persons, including the driver. |
| 8703 | Motor cars and other motor vehicles principally designed for the transport of persons (other than those of Heading 8702), including station wagons and racing cars. |

| CET Code | Description of products |
|----------|--|
| 8704 | Motor vehicles for the transport of goods. |
| 8705 | Special purpose motor vehicles, other than those principally designed for the transport of persons or goods (for example, breakdown lorries, crane lorries, fire fighting vehicles, concrete-mixer lorries, road-sweeper lorries, spraying lorries, mobile workshops, mobile radiological units). |
| 8708 | Parts and accessories of the motor vehicles of Headings 8701 to 8705. |
| 8716 | Trailers and semi-trailers; other vehicles, not mechanically propelled; parts thereof. |
| 8802 | Other aircraft (for example, helicopters, aeroplanes); spacecraft (including satellites) and suborbital and spacecraft launch vehicles. |
| 9001 | Optical fibres and optical fibre bundles; optical fibre cables other than those of Heading 8544; sheets and plates of polarising material; lenses (including contact lenses), prisms, mirrors and other optical elements, of any material, unmounted, other than such elements of glass not optically worked. |
| 9003 | Frames and mountings for spectacles, goggles or the like and parts thereof. |
| 9006 | Photographic (other than cinematographic) cameras; photographic flashlight apparatus and flashbulbs other than discharge lamps of Heading 8539. |
| 9013 | Liquid-crystal devices not constituting articles provided for more specifically in other headings; lasers, other than laser diodes; other optical appliances and instruments, not specified or included elsewhere in this Chapter. |
| 9016 00 | Weight scale with balance sensitivity of 0,05 grams or more, with weights or without thereof. |
| 9018 | Instruments and appliances used in medical, surgical, dental or veterinary sciences, including scintigraphic apparatus, other electro-medical apparatus and sight-testing instruments. |
| 9022 | Apparatus based on the use of X-rays or of alpha, beta or gamma radiations, whether or not for medical, surgical, dental or veterinary uses, including radiography or radiotherapy apparatus, X-ray tubes and other X-ray generators, high-tension generators, control panels and desks, screens, examination or treatment tables, chairs and the like.– apparatus based on the use of X-rays, whether or not for medical, surgical, dental or veterinary uses, including radiography or radiotherapy apparatus. |
| 9025 | Hydrometers and similar floating instruments, thermometers, pyrometers, barometers, hygrometers and psychrometers, recording or not and any combination of these instruments. |
| 9028 | Gas, liquid or electricity supply or production meters, including calibrating meters therefore. |
| 9401 | Seats (other than those of Heading 9402), whether or not convertible into beds, and parts thereof. |
| 9402 | Medical, surgical, dental or veterinary furniture (for example, operating tables, examination tables, hospital beds with mechanical fittings, dentists' chairs); barbers' chairs and similar chairs, having rotating as well as both reclining and elevating movements; parts of the foregoing articles. |
| 9403 | Other furniture and parts thereof. |
| 9406 00 | Assembled building construction. |

ANNEX 8**List of Developing Country Beneficiaries of the Tariff Preferences System of the Eurasian Economic Union**

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|---|--|
| 1. Albania | 56. Malaysia |
| 2. Algeria | 57. Marshall Islands |
| 3. Anguilla | 58. Mauritius |
| 4. Antigua and Barbuda | 59. Mexico |
| 5. Argentina | 60. Micronesia, Federative States of |
| 6. Aruba | 61. Mongolia |
| 7. The Bahamas | 62. Montenegro |
| 8. Bahrain, Kingdom of | 63. Montserrat |
| 9. Barbados | 64. Morocco |
| 10. Belize | 65. Namibia |
| 11. Bermuda | 66. Nauru, Republic of |
| 12. Bolivia, Plurinational State of | 67. Nicaragua |
| 13. Bosnia and Herzegovina | 68. Nigeria |
| 14. Botswana | 69. Niue |
| 15. Brazil | 70. Oman |
| 16. British Virgin Islands | 71. Pakistan |
| 17. Brunei Darussalam | 72. Panama |
| 18. Cameroon | 73. Papua New Guinea |
| 19. Cabo Verde | 74. Paraguay |
| 20. Cayman Islands | 75. Peru |
| 21. Chile | 76. Philippines |
| 22. China | 77. Qatar |
| 23. Colombia | 78. Saint-Helena |
| 24. Cook Islands | 79. Salvador |
| 25. Costa Rica | 80. Serbia |
| 26. Côte d'Ivoire | 81. Seychelles, the Republic of |
| 27. Croatia | 82. Singapore |
| 28. Cuba | 83. South Africa |
| 29. Democratic Republic of the Congo | 84. Sri Lanka |
| 30. Dominica | 85. St. Kitts and Nevis |
| 31. Dominican Republic | 86. St. Lucia |
| 32. Ecuador | 87. St. Vincent and the Grenadines |
| 33. Egypt | 88. Suriname |
| 34. Fiji | 89. Swaziland |
| 35. Gabon | 90. Syria |
| 36. Ghana | 91. Thailand |
| 37. Grenada | 92. The Turks and Caicos Islands |
| 38. Guatemala | 93. Tokelau |
| 39. Guyana | 94. Tonga |
| 40. Honduras | 95. Trinidad and Tobago |
| 41. Hong Kong, China | 96. Tunisia |
| 42. India | 97. Turkey |
| 43. Indonesia | 98. United Arab Emirates |
| 44. Iran, Islamic Republic of | 99. Uruguay |
| 45. Iraq | 100. Venezuela, Bolivarian Republic of |
| 46. Jamaica | 101. Viet Nam |
| 47. Jordan | 102. Zimbabwe |
| 48. Kenya | |
| 49. Saudi Arabia, Kingdom of | |
| 50. Korea, Democratic People's Republic of | |
| 51. Korea, Republic of | |
| 52. Kuwait, the State of | |
| 53. Lebanon | |
| 54. Libya | |
| 55. The former Yugoslav Republic of Macedonia (FYROM) | |

ANNEX 9**List of Least Developed Country Beneficiaries of the Tariff Preferences System of the Eurasian Economic Union**

1. Afghanistan, Islamic Republic of
2. Angola, Republic of
3. Bangladesh
4. Benin, Republic of
5. Bhutan
6. Burkina Faso
7. Burundi
8. Cambodia
9. Central African Republic
10. Chad
11. Comoros, Union of the
12. Congo, Democratic Republic of
13. Djibouti, Republic of
14. Equatorial Guinea
15. Eritrea
16. Ethiopia
17. The Gambia
18. Guinea
19. Guinea Bissau
20. Haiti
21. Kiribati, Republic of
22. Lao People's Democratic Republic
23. Lesotho
24. Liberia
25. Madagascar
26. Malawi
27. Maldives
28. Mali
29. Mauritania
30. Mozambique
31. Myanmar, Union of
32. Nepal
33. Niger
34. Rwanda
35. Samoa, Independent State of
36. Sao Tomé and Príncipe
37. Senegal, Republic of
38. Sierra Leone
39. Solomon Islands
40. Somalia
41. Sudan
42. Tanzania
43. Timor-Leste
44. Togo
45. Tuvalu
46. Uganda
47. Vanuatu
48. Yemen, Republic of
49. Zambia

ANNEX 10

**List of Goods Originating and Imported from Developing and Least Developed Countries
Subject to Tariff Preferences**

| HS Code | Name of goods * |
|--|--|
| 02 | Meat and meat by-products |
| 03 (except 0305) | Fish and shellfish, clams and other sea invertebrate animals (except for sturgeon and salmon fish, and their caviar) |
| 04 | Milk products; birds eggs; natural honey; foodstuffs of animal origin not named or included in other positions |
| 05 | Foodstuffs of animal origin not named or included in other positions |
| 06 | Trees and other plants; bulb, roots and other parts of plants; cut flowers and decorative plants |
| 07 | Vegetables and certain edible root and tuber crops |
| 08 | Edible fruit and nuts; citrus peel or melon peel |
| 09 | Coffee, tea, mate or Paraguayan tea, and spices |
| 1006 | Rice |
| 11 | Products of flour-and-cereals industry; grist; farina; inulin; wheat gluten |
| 12 | Olive seeds and fruits; other seeds, fruits and grain; herbs and plants for technical purposes; straw and forage |
| 13 | Lac; gums, resins and other plant sap and extracts |
| 14 | Plant materials for braiding; other products of vegetable origin, not named or included in other positions |
| 15 (except 1509, 1517 - 1522 00) | Fats and oils of animal or vegetable origin and their split products; finished edible fats; waxes of animal or vegetable origin |
| 16 | Finished products of meat, fish or shellfish, clams and other sea invertebrate animals |
| 1801 00 000 0 | Cacao-beans, whole or granulated, unroasted or roasted |
| 1802 00 000 0 | Husks, peel and other waste products of cacao |
| 20 (except 2001 10 000 0, 2009 50, 2009 71, 2009 79) | Processed products of vegetables, fruit, nuts or other parts of plants |
| 2103 | Products for sauce making and ready sauces; flavoring agents and mixed spices; ground mustard and ready mustard |
| 2104 | Soups and ready-to-use stocks, homogenized ingredients of food products |
| 2401 | Tobacco plants; tobacco wastes |
| 25 (except 2501 00 91, 2529 21 000 0, 2529 22 000 0) | Salt; sulphur; soils and stones; plastering materials, lime and cement |
| 26 | Ores, slag and cinders |
| 3003 | Pharmaceutical products (except for goods of position 3002, 3005 or 3006), consisting of mixtures of two or more components, for therapeutic and preventive purposes, but not packaged in dosage forms or packaged for retail sale |
| 32 | Tannic and dye extracts; tannins and their derivatives; coloring substances; paints and lacquers; filling paints and other kinds of mastic; printing ink |
| 3301, 3302 | Volatile oils; resinoids; mixtures of aromatic substances |
| 3402 | Surface-active organic substances (except soap); Surface-active substances, detergents (including secondary detergents) and cleaners, that contain or do not contain soap (except goods of position 3401) |
| 35 | Protein substances; modified starch; glue; ferments |
| 3923 | Products for transportation or packaging of goods, made of plastic; corks, caps and other closure items |
| 4001 | Natural rubber, balata, gutta-percha, guayule, chicle and the like natural resins in original form or in the form of plates or strips |
| 4403 41 000 0, 4403 49 | Rough timber of exotics |
| 4407 21 - 4407 29 | Ripped timber of exotics |
| 4420 | Mosaic and enchased wood work; wooden caskets and boxes for jewelry or cutlery or the like tools; wooden statuettes and other decorations; wooden furniture, not indicated in group 94 |
| 4421 | Other wooden work |
| 45 | Cork and items made of cork |
| 46 | Items made of straw and other materials for plaiting; wickerwork |
| 50 | Silk |
| 5101 | Wool, not carded or combed |
| 5201 00 | Cotton fiber, not carded or combed |
| 53 | Other plant textile fibers; span cotton and span cotton tissues |

| HS Code | Name of goods * |
|---------------------------------|---|
| 56 | Cotton, felt and unwoven textile; special yarn; twines, cords, ropes, tows and items made of them |
| 5701 | Knotted carpets and other textile floor carpets, finished or unfinished |
| 5702 10 000 0 | "Kilim", "Sumakh", "Kermani" carpets and the like hand-made carpets |
| 5705 00 800 0 | Carpets and other textile floor carpets, finished or unfinished, made of wool or thin animal hair**, *** |
| 5808 | Nubbly braid; nubbly trimmings without embroidery, except hand-knitted and machine-knitted; tassels, pompons and the like items |
| 6702 90 000 0 | Artificial flowers, leaves and fruits and their parts; products of artificial flowers, leaves or fruits, made of other materials |
| 68 | Products made of stone, plaster, cement, asbestos, mica or the like materials |
| 6913 | Statuettes and other ceramic decorations |
| 6914 | Other ceramic products |
| 7018 10 | Glass beads, pearl-like products, precious or semi-precious stones and the like products of glass |
| 7117 | Imitation jewellery |
| 9401 51 000 0, 9401 59 000 0 | Seat furniture made of reed, willow, bamboo or the like materials |
| 9403 81 000 0, 9403 89 000 0 | Furniture made of other materials, including reed, willow, bamboo or the like materials |
| 9403 90 900 0 | Parts of furniture made of other materials |
| 9601 | Finished and good for carving of ivory, bone, tortoise shell, antler, staghorn, coral and other materials of animal origin and products made of these materials (including molded products) |
| 9602 00 000 0 | Finished materials of vegetable or mineral origin, good for carving, and products made of these materials; molded or carved wax, stearine, natural resins or natural rubber products and other molded or carved products, not indicated or included in other positions; processed uncured gelatin (except gelatin of position 3503) and products of uncured gelatin |
| 9603 | Brooms, brushes (including brushes that are parts of mechanisms, devices or vehicles), mechanical hand brush for floor cleaning, mops and feather dusters; bundles for making brooms or brushes; pads and rollers for paint; rubber mops (except rubber rollers for moisture removal) |
| 9604 00 000 0 | Cribbles and hand sieves |
| 9606 | Buttons, snaps, button mould and other parts of these items |
| 9609 | Pencils (except indicated in position 9608), color pencils, pencil lead, crayons, charcoal pencils, chalk for writing or drawing and tailors chalk |
| 9614 00 | Smoking pipes (including cup-shaped parts), cigar-holders and cigarette-holders and their parts |
| 9615 11 000 0 | Ebonite or plastic combs and the like items |
| 9617 00 000 0 | Thermos and other vacuum vessels assembled; their parts, except glass bulbs |
| 97 | Artwork, collection items and antiques |

* Goods in this list are defined only by HS codes; names of goods are given for convenience.

** Tariff preferences are granted only for hand-made carpets.

*** It is necessary to follow both the customs commodity code, and name of the goods.

ANNEX 11

**List of Goods and Rates which Are Subject to Application of Import Customs Duty Rates
Different from the CET by One of the member States during the Transitional Period**

| HS codes | Product description | 2012 | 2013 | 2014 | 2015 |
|---------------|---|------|------|------|---------------|
| 3001 | Glands and other organs for organo-therapeutic uses, dried, whether or not powdered; extracts of glands or other organs or of their secretions for organo-therapeutic uses; heparin and its salts; other human or animal substances prepared for therapeutic or prophylactic uses, not elsewhere specified or included: | | | | |
| 3001 20 | - extracts of glands or other organs or of their secretions: | | | | |
| 3001 20 100 0 | - - of human origin | 0 | 0 | 5 | CET duty rate |
| 3001 20 900 0 | - - other | 0 | 0 | 5 | CET duty rate |
| 3001 90 | - other: | | | | |
| 3001 90 200 0 | - - of human origin | 0 | 0 | 5 | CET duty rate |
| | - - other: | | | | |
| 3001 90 980 0 | - - - other | 0 | 0 | 5 | CET duty rate |
| 3002 | Human blood; animal blood prepared for therapeutic, prophylactic or diagnostic uses; antisera and other blood fractions and modified immunological products, whether or not obtained by means of biotechnological processes; vaccines, toxins, cultures of microorganisms (excluding yeasts) and similar products: | | | | |
| 3002 10 | - antisera and other blood fractions and modified immunological products, whether or not obtained by means of biotechnological processes: | | | | |
| 3002 10 100 | - - antisera: | | | | |
| 3002 10 100 1 | - - - antisera against serpent's poison | 0 | 0 | 0 | CET duty rate |
| 3002 10 100 9 | - - other | 0 | 0 | 5 | CET duty rate |
| | - - other: | | | | |
| 3002 10 910 0 | - - - haemoglobin, blood globulins and serum globulins | 0 | 0 | 5 | CET duty rate |
| | - - - other: | | | | |
| 3002 10 950 | - - - - of human origin: | | | | |
| 3002 10 950 1 | - - - - factors of coagulation of human blood | 0 | 0 | 0 | CET duty rate |
| 3002 10 950 9 | - - - - other | 0 | 0 | 5 | CET duty rate |
| 3002 10 990 0 | - - - - other | 0 | 0 | 5 | CET duty rate |
| 3002 20 000 | - vaccines for human medicine: | | | | |
| 3002 20 000 1 | - - - vaccines against German measles | 0 | 0 | 0 | CET duty rate |
| 3002 20 000 2 | - - - vaccines against Hepatitis of form B | 0 | 0 | 0 | CET duty rate |
| 3002 20 000 9 | - - other | 0 | 0 | 5 | CET duty rate |
| 3002 30 000 0 | - vaccines for veterinary medicine | 0 | 0 | 5 | CET duty rate |
| 3002 90 | - other: | | | | |
| 3002 90 100 0 | - - human blood | 0 | 0 | 5 | CET duty rate |
| 3002 90 300 0 | - - animal blood prepared for therapeutic, prophylactic or diagnostic uses | 0 | 0 | 5 | CET duty rate |
| 3002 90 500 0 | - cultures of microorganisms | 0 | 0 | 5 | CET duty rate |
| 3002 90 900 0 | - - other | 0 | 0 | 5 | CET duty rate |
| 3004 | Medicaments (excluding goods of Heading 3002, 3005 or 3006) consisting of mixed or unmixed products for therapeutic or prophylactic uses, put up in measured doses (including those in the form of transdermal administration systems) or in forms or packings for retail sale: | | | | |
| 3004 10 000 | - containing penicillins or derivatives thereof, with a penicillanic acid structure, or streptomycins or their derivatives: | | | | |

| HS codes | Product description | 2012 | 2013 | 2014 | 2015 |
|---|--|------|------|------|---------------|
| 3004 10 000 1 | - - containing as active substances, only ampicillin trihydrate or ampicilline-sodium salt or salts of benzylpenicillin and compounds or karbenicillin or oxacillin or phenoxymethylpenicillin | 0 | 0 | 5 | CET duty rate |
| - - put up in measured doses or in forms but not in packings for retail sale: | | | | | |
| 3004 10 000 2 | - - - containing as active substances, only streptomycin sulphate | 0 | 0 | 5 | CET duty rate |
| 3004 10 000 3 | - - - - other | 0 | 0 | 0 | CET duty rate |
| 3004 10 000 9 | - - other: | 0 | 0 | 5 | CET duty rate |
| 3004 20 000 | - containing other antibiotics: | | | | |
| 3004 20 000 1 | - - - containing as active substances, only amikacin or gentamicin or griseofulvin or doxycylin or doksorubycin or kanamycin or fusidin acid and its sodium salt or laevomycetin (chloramphenicol) and its salts or lincomycin or methacyclin or nistatin or rifampicin or cephalosporins or cep | 0 | 0 | 5 | CET duty rate |
| 3004 20 000 2 | - - - other | 0 | 0 | 5 | CET duty rate |
| - - other: | | | | | |
| 3004 20 000 3 | - - - containing as active substances only erythromycin or kanamycin sulphate | 0 | 0 | 5 | CET duty rate |
| 3004 20 000 9 | - - - other | 0 | 0 | 5 | CET duty rate |
| | -Containing hormones or other compounds under tariff line 2937 but not containing antibiotics | | | | |
| 3004 32 000 | - - containing adrenal cortical hormones, derivatives thereof: | | | | |
| 3004 32 000 1 | - - - put up in forms or in packings of a kind sold by retail: | 0 | 0 | 5 | CET duty rate |
| 3004 32 000 9 | - - - - other | 0 | 0 | 5 | CET duty rate |
| 3004 39 000 0 | - - - other | 0 | 0 | 5 | CET duty rate |
| 3004 40 000 | - containing alkaloids or derivatives thereof but not containing hormones, other products of heading 2937 or antibiotics: | | | | |
| 3004 40 000 1 | - - put up in forms or in packings of a kind sold by retail:- - - koffein- benzoat of sodium or nikotinat of csantinol or papaverin or pilokarpin or teobromin or teophyllamin | 0 | 0 | 5 | CET duty rate |
| 3004 40 000 9 | - - - other | 0 | 0 | 5 | CET duty rate |
| 3004 50 000 | - other medicaments containing vitamins or other products of Heading 2936: | | | | |

| HS codes | Product description | 2012 | 2013 | 2014 | 2015 |
|---------------|--|------|------|------|---------------|
| 3004 50 000 1 | - - put up in forms or in packings of a kind sold by retail: - - - other medicaments containing ascorbini acid (vitamin C) or nicotin acid or cokarboxilase or nikotinamid or piridoxin or tiamin and its salts (vitamin B1) or cianokobalamin (vitamin B12) | 0 | 0 | 5 | CET duty rate |
| 3004 50 000 9 | - - - other | 0 | 0 | 5 | CET duty rate |
| 3004 90 000 0 | other | 0 | 0 | 5 | CET duty rate |
| 3006 | Pharmaceutical goods specified in Note 4 to this Chapter: | | | | |
| 3006 10 | - sterile surgical catgut, similar sterile suture materials (including sterile absorbable surgical or dental yarns) and sterile tissue adhesives for surgical wound closure; sterile laminaria and sterile laminaria tents; sterile absorbable surgical or dental haemostatics; sterile surgical or dental adhesion barriers, whether or not absorbable: | | | | |
| 3006 10 100 0 | - - sterile surgical catgut | 0 | 0 | 0 | CET duty rate |
| 3006 10 300 0 | - - sterile surgical or dental adhesion barriers, whether or not absorbable | 0 | 0 | 5 | CET duty rate |
| 3006 10 900 0 | - - other | 0 | 0 | 0 | CET duty rate |
| 3006 20 000 0 | - blood- grouping reagents | 0 | 0 | 5 | CET duty rate |
| 3006 30 000 0 | - opacifying preparations for X-ray examinations; diagnostic reagents designed to be administered to the patient | 0 | 0 | 5 | CET duty rate |
| 3006 40 000 0 | - dental cements and other dental fillings; bone reconstruction cements | 0 | 0 | 5 | CET duty rate |
| 3006 50 000 0 | - first-aid boxes and kits | 0 | 0 | 5 | CET duty rate |
| 3006 60 | - chemical contraceptive preparations based on hormones, other compounds of heading 2937 or spermicides: | | | | |
| 3006 60 100 0 | - - based on hormones or other compounds of heading 2937 | 0 | 0 | 5 | CET duty rate |
| 3006 60 900 0 | - - based on spermicides | 0 | 0 | 5 | CET duty rate |
| 3006 70 000 0 | - gel preparations designed to be used in human or veterinary medicine as a lubricant for parts of the body for surgical operations or physical examinations or as a coupling agent between the body and medical instruments | 0 | 0 | 0 | CET duty rate |
| | - other: | | | | |
| 3006 92 000 0 | - - waste pharmaceuticals | 0 | 0 | 5 | CET duty rate |
| 3901 | Polymers of ethylene, in primary forms: | | | | |
| 3901 20 | - polyethylene having a specific gravity of 0.94 or more: | | | | |
| 3901 20 900 0 | - - other | 0 | 0 | | CET duty rate |
| 7607 | Aluminium foil (whether or not printed or backed with paper, paperboard, plastics or similar backing materials), of a thickness (excluding any backing) not exceeding 0.2 mm: | | | | |
| | - not backed: | | | | |
| 7607 20 | - backed: | | | | |
| 7607 20 100 0 | - - of a thickness (excluding any backing) of less than 0.021 mm | 5 | | | CET duty rate |
| | - - of a thickness (excluding any backing) of not less than 0.021 mm but not more than 0.2 mm | | | | |

| HS codes | Product description | 2012 | 2013 | 2014 | 2015 |
|---------------|--|------|------|------|---------------|
| 8603 | Self- propelled railway or tramway coaches, vans and trucks, other than those of Heading 8604: | | | | |
| 8603 10 000 | - powered from an external source of electricity: | | | | |
| 8603 10 000 8 | - - other | 0 | | | CET duty rate |
| 8603 90 000 0 | - other | 0 | | | CET duty rate |
| 8604 00 000 0 | Railway or tramway maintenance or service vehicles, whether or not self- propelled (for example, workshops, cranes, ballast tampers, trackliners, testing coaches and track inspection vehicles) | 5 | | | CET duty rate |
| 8605 00 000 | Railway or tramway passenger coaches, not self- propelled; luggage vans, post office coaches and other special purpose railway or tramway coaches, not self- propelled (excluding those of heading 8604) | | | | |
| | - other | | | | |
| 8605 00 000 8 | - other | 5 | | | CET duty rate |
| 8606 | Railway or tramway goods vans and wagons, not self- propelled: | | | | |
| 8606 10 000 0 | - tank wagons and the like | 5 | | | CET duty rate |
| 8606 30 000 0 | - self- discharging vans and wagons, other than those of subheading Nos. 8606 10 or 8606 20 | 5 | | | CET duty rate |
| | - other: | | | | |
| 8606 91 | - - covered and closed: | | | | |
| 8606 91 100 0 | - - - specially designed for the transport of highly radioactive materials | 5 | | | CET duty rate |
| 8606 91 800 0 | - - - other | 5 | | | CET duty rate |
| 8606 92 000 0 | - - open, with non- removable sides of a height exceeding 60 cm | 5 | | | CET duty rate |
| 8606 99 000 0 | - - other | 5 | | | CET duty rate |
| 9018 | Instruments and appliances used in medical, surgical, dental or veterinary sciences, including scintigraphic apparatus, other electro-medical apparatus and sight-testing instruments: | | | | |
| | - electro-diagnostic apparatus (including apparatus for functional exploratory examination or for checking physiological parameters): | | | | |
| 9018 11 000 0 | - - electro-cardiographs | 0 | 0 | | CET duty rate |
| 9018 19 | - - other: | | | | |
| 9018 19 100 0 | - - - monitoring apparatus for simultaneous monitoring of 2 or more parametres | | 0 | 0 | CET duty rate |
| 9018 31 | - - syringes, with or without needles: | | | | |
| 9018 31 100 | - - - of plastics: | | | | |
| 9018 31 100 1 | - - - - for insulin of volume not exceeding 2 ml | 0 | | 0 | CET duty rate |
| 9018 31 100 9 | - - - - other | 0 | | 0 | CET duty rate |
| 9018 31 900 | - - - other: | | | | |
| 9018 31 900 1 | - - - - for insulin of volume not exceeding 2 ml | 0 | | 0 | CET duty rate |
| 9018 31 900 9 | - - - - other | 0 | | 0 | CET duty rate |
| 9018 32 | - - tubular metal needles and needles for sutures: | | | | |
| 9018 32 100 0 | - - - tubular metal needles | 0 | | 0 | CET duty rate |

| HS codes | Product description | 2012 | 2013 | 2014 | 2015 |
|---------------|--|------|------|---------------|------|
| 9018 32 900 0 | - - - needles for sutures | 0 | 0 | CET duty rate | |
| | - dental devices and appliances, other: | | | | |
| 9018 49 | - - other: | | | | |
| 9018 49 100 0 | - - - chisel, disks, drills, brushes used in dental drill engines | 0 | 0 | CET duty rate | |
| 9018 90 | - other instruments and appliances: | | | | |
| 9018 90 200 0 | - - endoscopes | 0 | 0 | CET duty rate | |
| 9018 90 500 | - - transfusion apparatus: | | | | |
| 9018 90 500 1 | - - - apparatus for taking and transfusion of blood, blood substitute and infusion solutions | 0 | 0 | CET duty rate | |
| 9018 90 840 | --other | | | | |
| 9018 90 840 1 | - - - ultrasonic lithotripters | 0 | 0 | CET duty rate | |
| 9022 | Apparatus based on the use of X- rays or of alpha, beta or gamma radiations, whether or not for medical, surgical, dental or veterinary uses, including radiography or radiotherapy apparatus, X- ray tubes and other X- ray generators, high-tension generators, control panels and desks, screens, examination or treatment tables, chairs and the like: | | | | |
| | - apparatus based on the use of X- rays, whether or not for medical, surgical, dental or veterinary uses, including radiography or radiotherapy apparatus: | | | | |
| 9022 14 000 0 | - - for medical, surgical, dental or veterinary uses | 0 | 0 | CET duty rate | |
| 9406 00 | Prefabricated buildings: | | | | |
| | --from ferrous metals | | | | |
| 9406 00 310 0 | - - - greenhouse | 0 | | CET duty rate | |
| 9406 00 800 | - - from other materials | | | | |
| 9406 00 800 9 | - - - other | 0 | | CET duty rate | |

ANNEX 12

Formulae for Allocation of TRQ Volumes between Suppliers*

1. Formulae for allocation of 25% of the established TRQ volumes among suppliers:

$$a) \quad q_9 = \frac{0,25Q \times S_9}{100\%}$$

where q_9 is the TRQ volume of the supplier determined at the first stage;

Q is the TRQ volume;

$$b) \quad S_9 = \frac{V_I + V_{II-9}}{V'_I + V'_{II-9}} \times 100$$

where S_9 is the supplier's share (in percentage terms);

V_I is the supplier's volume for the first year of the previous period;

V_{II-9} is the supplier's volume for nine months of the year prior to the year of TRQ establishment;

V'_I is the total supplier's volume to the Republic of Kazakhstan for the first year of the previous period;

V'_{II-9} is the total supplier's volume to the Republic of Kazakhstan for nine months of the year prior to the year of TRQ establishment.

2. Formulae for allocation of 100% of the established TRQ volumes among suppliers (after deduction of volumes calculated in accordance with paragraph 1 of this Annex):

$$a) \quad q_{12} = \frac{Q \times S_{12}}{100\%} - q_9,$$

where q_{12} is the TRQ volume established for the supplier determined at the second stage ;

Q is the volume of the established TRQ;

$$b) \quad S_{12} = \frac{V_I + V_{II}}{V'_I + V'_{II}} \times 100,$$

where S_{12} is the share of the supplier (in percentage terms);

V_I is the supplier's volume for the first year of the previous period;

V_{II} is the supplier's volume for the second year of the previous period;

V'_I is the total supplier's volume to the Republic of Kazakhstan for the first year of the previous period;

V'_{II} is the total supplier's volume to the Republic of Kazakhstan for the second year of the previous period.

*Source: Resolution of the Government of Kazakhstan No.269 "On Certain Issues of Allocation of Tariff Rate Quotas Volumes for Importation of Certain Kinds of Meat" of 24 March 2011.

ANNEX 13

Methodology of Calculation of Fee Rates for Customs Escort

| No. | Number of kilometres | Number of days spent in customs escort (with average travelling of 300 km). | Quantity of fuel used (in litres), calculated pursuant to Rules on Standards for Use of Fuel (Order of Ministry of Transports of 20 July 2001) | Cost of fuel, in KZT (the average cost of 1 litre of fuel is taken as KZT 88 as of 3 November 2010) | Cost for customs escort including travel allowances (<i>per diem</i> and accommodation) and depreciation | Costs of the second officer conducting customs escort (<i>per annum</i> and accommodation allowances) | Costs for return travel (fuel + depreciation) KZT | The exchange rate – KZT per € as of 3 November 2010 | Total Costs (in €) |
|-----|----------------------|---|--|---|---|--|---|---|--------------------|
| 1. | 0-50 | - | 6 | 511 | 1,103 | - | 1,103 | 205.96 | 11 |
| 2. | 50-100 | - | 12 | 1,022 | 1,614 | - | 1,614 | 205.96 | 16 |
| 3. | 100-200 | - | 23 | 2,044 | 2,636 | - | 2,636 | 205.96 | 26 |
| 4. | 200-400 | 1.5 | 46 | 4,088 | 13,158 | 8,478 | 4,680 | 205.96 | 128 |
| 5. | 400-600 | 2.0 | 70 | 6,133 | 18,620 | 11,304 | 6,725 | 205.96 | 178 |
| 6. | 600-800 | 3.0 | 93 | 8,177 | 29,734 | 19,782 | 8,769 | 205.96 | 283 |
| 7. | 800-1,000 | 3.5 | 116 | 10,221 | 40,257 | 28,260 | 10,813 | 205.96 | 385 |
| 8. | 1000-1,500 | 5.0 | 174 | 15,332 | 55,029 | 36,738 | 15,924 | 205.96 | 523 |
| 9. | 1,500-2,000 | 7.0 | 232 | 20,442 | 78,279 | 53,694 | 21,034 | 205.96 | 743 |
| 10. | 2,000-2,500 | 8.5 | 290 | 25,553 | 92,459 | 62,172 | 26,145 | 205.96 | 878 |

Calculation of depreciation was based on the widely used "Niva" automobile:

- Average price of the car – KZT 1,440,000;
- *Per annum* depreciation rate – 15%;
- $1,440,000 \times 15 / 100 = 216,000$; and
- $216,000 / 365 \text{ days} = \text{KZT } 592 \text{ per day}$.

Pursuant to limits established in the 2006 Republican budget:

- *Per diem* = KZT 2,826; and
- Accommodation = KZT 5,652.

Source: Government Resolution No. 24 "On Adoption of Rates of Customs Fees Levied by Customs Bodies" of 21 January 2011.

ANNEX 14(A)**Goods / Works / Services with Sales Turnover Exempt from the Payment of VAT**

Sales turnover of the following goods, works and services shall be exempt from value-added tax:

1. State marks of postal payment;
2. Excise strip stamps (accounting and control stamps intended for marking excisable goods in accordance with Article 653 of the Tax Code);
3. Services rendered by authorized State bodies on which the State duty is collected;
4. Property purchased for public use in accordance with the legislation of the Republic of Kazakhstan;
5. Fixed assets, investments in real estate, intangible and biological assets granted to a State-owned institution or State-owned enterprise in accordance with the legislation of the Republic of Kazakhstan;
6. Ritual services of funeral bureaus, services of cemeteries and crematoria;
7. Lottery tickets, except for services of distribution thereof;
8. Services for providing information and technological communication between participants of settlements, including services of collecting, processing and information dissemination to participants of settlements related to transactions with payment cards;
9. Services related to processing and/or repair of goods imported to the customs territory of the EAEU in accordance with the customs procedure for processing on the customs territory;
10. Works and services related to international transportation in accordance with Article 244 of the Tax Code, namely: works and services of loading, unloading, re-loading (discharge-loading), forwarding of goods, including mails, exported from the territory of the Republic of Kazakhstan, imported into the territory of the Republic of Kazakhstan, as well as freights in transit; technical and air navigation services, airport activity; and services of sea ports related to servicing international lines;
11. Services related to management, maintenance and operation of residential property;
12. Banknotes and coins of the national currency;
13. Goods, works and services, except for sales turnover of goods, works and services of commercial and intermediary activities and production turnover from manufacture and sales of excisable goods, of public associations of disabled persons, as well as manufacturing organizations if such associations and organizations meet the following conditions:

Disabled persons represent not less than 51% of the total number of employees of such manufacturing organizations;

Employment costs of disabled persons are not less than 51% of total labour costs at specialised organizations at which disabled persons with hearing, speech or sight loss constitutes - not less than 35%;

14. Works, services related to free repair and/or technical maintenance of goods during the warranty period specified in the transaction, including costs of spare parts and their components, where terms of transaction provide for the quality assurance of goods, works and services sold by the taxpayer;
15. Refined precious metals - gold, platinum manufactured of raw materials of its own production;
16. Investment gold, provided the number of conditions specified in the Article are met;
17. Services specified in Articles 411 and 420 of the Tax Code;
18. As specified in Articles 249-254 of the Tax Code;
19. Services rendered when performing notarial acts, advocate activity;
20. Borrowing transactions in a monetary form on terms of chargeability, timeliness and repayment which are carried out as follows:
 - by a national managing holding company;
 - by juridical persons in which 100% of voting shares are held by a national managing holding company. The list of such juridical persons shall be approved by the Government of the Republic of Kazakhstan;
21. Goods placed under the duty free customs procedure; and
22. Services of a non-resident financed from the grant within the framework of inter-governmental agreement to which the Republic of Kazakhstan is a party, aimed at supporting (rendering the assistance to) low-income citizens in the Republic of Kazakhstan.

Source: Article 248 of the Tax Code of the Republic of Kazakhstan No. 99-IV of 10 December 2008.

ANNEX 14(B)

Applied Unified Excise Tax Rates, as of 1 January 2014

| No. | HS Code (EAEU) | Types of excisable goods | Rates of excise duties (in tenge per unit of measurement) |
|-----|----------------|--|---|
| 1. | ex. 2402 | Cigarettes with a filter | 3,000 tenge/1,000 pieces |
| 2. | ex. 2402 | Cigarettes without a filter, cigarettes with a cardboard holder | 3,000 tenge/1,000 pieces |
| 3. | ex. 2402 | Cigarillos | 3,700 tenge/1,000 pieces |
| 4. | ex. 2402 | Cigars | 475 tenge/piece |
| 5. | ex. 2403 | Tobacco for pipes, smoking, chewing, sucking, snuffing, for hookah and other, packed in a consumer pack and designated for final consumption, except for pharmaceutical products, which contain nicotine | 3,800 tenge/kilogram |

Note: According to the Tax Code excise rates for tobacco were to be increased annually up to 2016.

| No. | HS Code (EAEU) | Categories of excisable goods | Excise duty rates (tenge for each unit) |
|-----|----------------|---|---|
| 1. | ex. 2709 00 | Crude oil, gas condensate | 0 tenge/tonne |
| 2. | ex. 8702 | Motor vehicles carrying 10 or more passengers with engine capacity of more than 3000 cu cm, excluding minibuses, buses and trolley buses | 100 tenge/cm ³ |
| | ex. 8703 | Auto or other motor vehicles for carrying passengers with the engine capacity of more than 3000 cu cm (except for manually-operated automobiles or automobiles with manually-operated adapter designed for disabled people) | |
| | ex. 8704 | Motor vehicles on auto chassis with a platform for cargo and driver's cab separated from cargo module by a fixed partition, with engine capacity of more than 3000 cu cm | |

| No. | HS Code (EAEU) | Types of excisable goods | Rates of excise duties (in the tenge per unit of measurement) |
|-----|----------------|--|---|
| 1 | 2 | 3 | 4 |
| 1. | ex. 2207 | Ethyl alcohol non-denaturated with the alcohol concentration of 80 volume % or more (except for ethyl alcohol non-denaturated, which is sold to manufacture alcohol products, medical and pharmaceutical preparations, and also which is supplied to State medical institutions within the limits of established quotas), ethyl alcohol and other types of alcohol, denaturated, of any concentration (except for ethyl alcohol (ethanol) denaturated fuel (not colourless, coloured) to be consumed in the domestic market) | 600 tenge/litre |
| 2. | ex. 2207 | Ethyl alcohol (ethanol) denaturated fuel (not colourless, coloured) to be consumed in the domestic market | 1 tenge/litre |
| 3. | ex. 2208 | Ethyl alcohol non-denaturated, alcohol tinctures and other alcohol drinks with the alcohol concentration less than 80 volume % (except for ethyl alcohol non-denaturated, which is sold to manufacture alcohol products, medical and pharmaceutical preparations, and also which is supplied to State medical institutions within the limits of established quotas) | 750 tenge/litre of 100% alcohol |

| | | | |
|-----|--------------------------|--|----------------------------------|
| 4. | ex. 2207 | Ethyl alcohol non-denaturated with the alcohol concentration of 80 volume % or more which is sold to manufacture alcohol products | 60 tenge/litre |
| 5. | ex. 2208 | Ethyl alcohol non-denaturated, alcohol tinctures and other alcohol drinks with the alcohol concentration less than 80 volume %, which are sold to manufacture alcohol products | 75 tenge/litre of 100% alcohol |
| 6. | ex. 3003, 3004 | Alcohol-bearing products of medical designation registered in accordance with the legislation of the Republic of Kazakhstan as medical preparations | 500 tenge/litre of 100% alcohol |
| 7. | 2208 | Alcohol products (except for cognac, brandy, wines, wine material and beer) | 1000 tenge/litre of 100% alcohol |
| 8. | 2208 | Cognac, brandy | 250 tenge/litre of 100% alcohol |
| 9. | 2204, 2205, 2206 00 | Wines | 35 tenge/litre |
| 10. | from 2204, 2205, 2206 00 | Wine material (except for one which is sold to manufacture ethyl alcohol and alcohol products) | 170 tenge/litre |
| 11. | ex. 2204, 2205, 2206 00 | Wine material, which is sold to manufacture ethyl alcohol and alcohol products | 20 tenge/litre |
| 12. | 2203 00 | Beer | 26 tenge/litre |
| 13. | 2202 90 100 1 | Beer with the volume content of ethyl alcohol less than 0.5% | 0 tenge/litre |

| No. | | Excise duty rates for each tonne (tenge) | |
|-----|--|--|--|
| | | Petroleum (except aircraft motor gasoline) (HS Code EurAsEC 2710 11 410 0-2710 11 590 0) | Motor fuel(HS Code EurAsEC 2710 19 3100-2710 19 490 0) |
| 1 | 2 | 3 | 4 |
| 1. | Wholesale trade by petroleum producers (except aircraft motor gasoline) and motor fuel of domestic manufacture | 4,500 | 540 |
| 2. | Wholesale trade of petroleum and motor fuel (except aircraft motor gasoline) by individuals and legal entities | 0 | 0 |
| 3. | Retail sale by petroleum producers (except aircraft motor gasoline) and motor fuel for own production needs | 5,000 | 600 |
| 4. | Retail sale of petrol and motor fuel (except aircraft motor gasoline) by individuals and legal entities for own production needs | 500 | 60 |
| 5. | Import | 4,500 | 540 |

Note: The nomenclature of goods shall be determined with the code of the CN FEA EurAsEC and (or) name of goods.

ANNEX 15(A)

Cryptographic Devices Subject to Export and Import Control*

| Description | CET codes (HS 2012) |
|--|--|
| 1. Printers, copying machines, fax machines and their electronic modules that have encryption (cryptographic) functions | Ex. 8443 31; Ex. 8443 32 100 9; Ex. 8443 32 300 0; Ex. 8443 99 100 9. |
| 2. Handheld machines for recording, playback and visual presentation of data with calculating functions that have encryption (cryptographic) functions | Ex. 8470 10 000 9 |
| 3. Cash registers with encryption (cryptographic) functions | Ex. 8470 50 000 |
| 4. Handheld computers with encryption (cryptographic) functions | Ex. 8471 30 000 0; |
| 5. Computers and their parts with encryption (cryptographic) functions | Ex. 8471 30 000 0; Ex. 8471 41 000 0; Ex. 8471 49 000 0; Ex. 8471 50 000 0; Ex. 8471 90 000 0; Ex. 8473 30 200 9. |
| 6. Computer devices with encryption (cryptographic) functions | Ex. 8471 70 500 0; Ex. 8471 70 980 0; Ex. 8471 80 000 0. |
| 7. Electronic modules and parts of handheld devices with encryption (cryptographic) functions | Ex. 8473 21 100 0; Ex. 8473 21 900 0; Ex. 8473 30 200 9; Ex. 8473 30 800 9. |
| 8. Subscriber communication equipment with encryption (cryptographic) functions | Ex. 8517 11 000 0; Ex. 8517 12 000 0; Ex. 8517 18 000 0. |
| 9. Base stations with encryption (cryptographic) functions | Ex. 8517 61 000 1; Ex. 8517 61 000 2; Ex. 8517 61 000 8. |
| 10. Telecommunications equipment and its parts with encryption (cryptographic) functions | Ex. 8517 62 000 0; Ex. 8517 69 390 0; Ex. 8517 69 900 0; Ex. 8517 70 900 0. |
| 11. Programme encryption (cryptographic) devices regardless of information carrier | Ex. 8523 29 310 1; Ex. 8523 29 310 2; Ex. 8523 29 330 0; Ex. 8523 49 250 0; Ex. 8523 49 450 0; Ex. 8523 49 910 1; Ex. 8523 49 930 0; Ex. 8523 51 910 1; Ex. 8523 51 930 0; Ex. 8523 52; Ex. 8523 59 910 1; Ex. 8523 59 930 0; Ex. 8523 80 910 1; Ex. 8523 80 930 0. |
| 12. Broadcasting or television equipment and its parts with encryption (cryptographic) functions | Ex. 8525 50 000 0 Ex. 8525 60 000 0 Ex. 8529 90 200 1 Ex. 8529 90 650 0 Ex. 8529 90 970 0 |
| 13. Radio navigational receivers, remote control equipment and their parts with encryption (cryptographic) functions | Ex. 8526 91 200 0 Ex. 8526 91 800 0 Ex. 8526 92 000 0 Ex. 8529 90 650 0 Ex. 8529 90 970 0 |
| 14. Internet access equipment and television receivers/sets with communication function, their parts with encryption (cryptographic) functions | Ex. 8517 62 000 0 Ex. 8528 71 130 0 Ex. 8529 90 650 0 Ex. 8529 90 970 0 |

| Description | CET codes (HS 2012) |
|---|---|
| 15. Electronic integral schemes, storing devices with encryption (cryptographic) functions f or having encryption (cryptographic) devices | Ex. 8542 31 901 1 Ex. 8542 31 909 9 Ex. 8542 32 900 9 |
| 16. Other electric devices and equipment with individual functions that have encryption (cryptographic) devices | Ex. 8543 70 900 0 Ex. 8543 90 000 9 |

* In order to use this list, it is necessary to follow both the customs commodity code, and description of the goods.

ANNEX 15(B)

Special Technical Devices Subject to Export and Import Licensing*

| Description | CET codes (HS 2012) |
|--|---|
| 1. Special technical devices for disguised obtaining and registration of acoustic information: | |
| (a) wired connection systems intended for disguised obtaining and/or registration of acoustic information; | Ex. 8517 61 000 Ex. 8517 62 000 Ex. 8517 69 390 0 Ex. 8517 69 900 0 |
| (b) radio-electronic devices intended for disguised obtaining and/or registration of acoustic information; | Ex. 8517 70 900 1 Ex. 8518 30 950 0 Ex. 8518 40 Ex. 8523 49 450 0 Ex. 8525 50 000 0 Ex. 8525 60 000 0 Ex. 8527 Ex. 8529 10 390 0 |
| (c) electronic devices intended for disguised registration of acoustic information. | Ex. 8519 81 510 0 Ex. 8519 81 550 Ex. 8519 81 610 Ex. 8519 81 650 Ex. 8519 81 750 Ex. 8519 81 850 Ex. 8519 89 900 0 Ex. 8523 51 |
| 2. Special technical devices intended for disguised visual observation and recording: | |
| (a) pin-holelens | Ex. 9002 |
| (b) photo cameras having at least one of the following features: camouflaged under another items; having pin-hole lens | Ex. 9006 51 000 0 Ex. 9006 52 000 9 Ex. 9006 53 100 0 |
| (c) television and videocameras having at least one of the following features: camouflaged under another items; having pin-hole lens | Ex. 8525 80 |
| (d) wired connection systems intended for disguised obtaining and/or registration of video information; | Ex. 8517 61 000 Ex. 8517 62 000 |
| (e) radio-electronic devices intended for disguised obtaining and/or registration of video information; | Ex. 8517 69 390 0 Ex. 8517 69 900 0 Ex. 8523 49 450 0 Ex. 8525 50 000 0 Ex. 8525 60 000 0 Ex. 8527 Ex. 8529 10 390 0 |
| (f) electronic devices intended for disguised registration of acoustic information. | Ex. 8521 Ex. 8523 51 |
| 3. Special technical devices for disguised interception of telephone conversations: | |
| (a) wired connection systems intended for disguised interception of telephone conversations; | Ex. 8517 61 000 Ex. 8517 62 000 |
| (b) radio-electronic devices intended for disguised; | Ex. 8517 69 390 0 Ex. 8517 69 900 0 Ex. 8525 50 000 0 Ex. 8525 60 000 0 Ex. 8527 Ex. 8529 10 390 0 |
| (c) electronic devices intended for disguised registration of information on telephone conversations. | Ex. 8519 81 510 0 Ex. 8519 81 550 Ex. 8519 81 610 Ex. 8519 81 650 Ex. 8519 81 750 Ex. 8519 81 850 Ex. 8523 51 |

| Description | CET codes (HS 2012) |
|--|--|
| 4. Special technical devices for disguised eavesdropping and registration of information from technical channels of connection | Ex. 8471 Ex. 8517 61 000 Ex. 8517 62 000 Ex. 8517 69 390 0 Ex. 8517 69 900 0 Ex. 8523 29 310 1 Ex. 8523 29 310 2 Ex. 8523 49 250 0 Ex. 8523 49 910 1 Ex. 8523 51 910 1 Ex. 8523 59 910 1 Ex. 8523 80 910 1 Ex. 8527 |
| 5. Special technical devices for disguised control of messages received and sent by mail | Ex. 9022 19 000 0 |
| 6. Special technical devices for disguised research of objects and documents, including portable compact X-ray TV units, fluoroscopic and radiographic equipment. | Ex. 9022 19 000 0 |
| 7. Special technical devices for disguised entry and inspection of premises, vehicles and other objects: | |
| (a) means for disguised opening of closure devices; | Ex. 8301 70 000 0 |
| (b) portable compact X-ray TV units, fluoroscopic and radiographic equipment. | Ex. 9022 19 000 0 |
| 8. Special technical devices for disguised control over movement of vehicles | Ex. 8526 10 000 9 Ex. 8526 91 |
| 9. Special technical devices for disguised obtaining (modifying, deleting) of information from technical devices of information storage, processing and transmission | Ex. 8471 Ex. 8505 90 200 0 Ex. 8517 61 000 Ex. 8517 62 000 Ex. 8517 69 390 0 Ex. 8517 69 900 0 Ex. 8523 29 310 1 Ex. 8523 29 310 2 Ex. 8523 49 250 0 Ex. 8523 49 910 1 Ex. 8523 51 910 1 Ex. 8523 59 910 1 Ex. 8523 80 910 1 Ex. 8527 |
| 10. Special technical devices for disguised identification of persons. Special technical devices for disguised registration of psychophysiological reactions of humans | Ex. 9019 10 900 9 |

* In order to use this list, it is necessary to follow both the customs commodity code, and description of the goods.

ANNEX 15(C)**Categories of Goods which are Encryption (Cryptographic) Means or Containing thereof the Technical and Encryption Characteristics of which are Subject to Notification**

1. Goods containing encryption technology which consist of any of the following components:
- (a) a symmetric cryptographic algorithm employing a key length not exceeding 56 bits long; or
 - (b) an asymmetric cryptographic algorithm based on one of the following methods:
 - factorization of integers not exceeding 512 bits;
 - computation of discrete logarithms in multiplicative group of a finite field of a size not exceeding 512 bits; or
 - the discrete logarithm in group other than in item B hereof not exceeding 112 bits.

Remark: (1) Bites of parity are not included in the length of a key.
 (2) The term "cryptography" does not refer to fixed methods of compression or coding of data.

2. Goods containing encryption with the following limited functions:
- (a) authentication, including all the aspects of access control without encryption of files and texts, except encryption related to passwords and identification and other similar data protection from unauthorized access; and
 - (b) electronic digital signature.

Remark: Functions of authentication and electronic digital signature include connected with them function of keys distribution.

3. Encryption (cryptographic) means, which are the components of programme operations systems, cryptographic abilities of which cannot be altered by users, which are developed for installation by the user individually without further substantial support by the provider and technical documentations (the description of algorithms of cryptographic changes, protocols on interactions, description of interfaces, etc.) on which is available.

4. Personal smart-cards:
- (a) cryptographic abilities of which are limited by use in equipment and systems, referred to in paragraphs 5-8 of the present list; or
 - (b) for wide, publicly available use, cryptographic abilities of which are not available for use and which as a result of special development have limited abilities of protection of stored personal information on them.

Remark: If a smart-card can perform few functions, then the control status of each of them is defined separately.

5. Receiving equipment for radio-broadcasting and commercial TV broadcasting or analogue commercial equipment for broadcasting to limited audience without encryption of digital signal, except for the cases of use of encryption solely for management of video or audio-channels and sending of bills or return of information connected to the programme to the providers of broadcasting.

6. Equipment encryption functionality of which are not available to the user, specially developed or limited to the use with any of the following:

- (a) software is protected from copy;
- (b) access to any of the following:
 - data protected from copy stored on the medium available for read only; and

- information, stored in encrypted form on media, when these media are offered for sale to public in identical kits;
 - (c) control of copying of audio- and video-information protected by the copyrights.
7. Encryption (cryptographic) equipment specially designed and limited for banking use and financial operations.
- Remark: Financial operations include duties and charges for transport services and crediting.
8. Portable or mobile radio electronic devices for civil use (for example for use with commercial civil cellular radio communication systems) that are not capable of transmitting encrypted data directly to another radiotelephone or equipment.
9. Wireless radio equipment encrypting information only in radio channel with the maximum effective range of unboosted cordless operation is less than 400 meters according to the manufacturer's specifications.
10. Encryption (cryptography) means used for protection of technological channels of information-telecommunication systems and communication networks.
11. Goods whose encryption function is blocked by the manufacture.
12. "Mass market goods" are goods that meet all of the following:
- (a) Generally available to the public in the territory of the Republic of Kazakhstan by being sold, without restriction, from stock at retail selling points by means of any of the following:
 - 1. Over-the-counter transactions;
 - 2. Mail order transactions;
 - 3. Electronic transactions; or
 - 4. Telephone call transactions.
 - (b) The cryptographic functionality cannot easily be changed by the user;
 - (c) Designed for installation by the user without further substantial support by the supplier; and
 - (d) When necessary, details of the items are accessible and will be provided, upon request, to the appropriate authority in the regulator's country in order to ascertain compliance with conditions described in paragraphs (a) to (c) above.

ANNEX 15(D)

Format of Notification of Goods which contain Encryption Means

Registered in the Register "___" _____ 20__ . N _____

Place for Seal _____

(signature of a person of authorized body)

(Name)

NOTIFICATION

on characteristics of goods (products), which contain encryption means

1. Name of a good (product)

2. Use of a good (product)

3. Requisites of a producer of a good (product)

4. Used encryption algorithms:

N of a good category
from Annex 1

a) _____

b) _____

c) _____

5. Presence of functional ability in a good (product), which is not described in a provided exploitation documents to the user _____

6. Period of validity of notification till "___" _____ 20__.

7. Requisites of the applicant _____

8. Requisite of the document of a producer, who provided to the authority's representative the rights for drafting of notification (if necessary)

9. The date of adaptation of notification "___" _____ 20__ .

Place for Seal

(signature of applicant)

(Name)

ANNEX 16

Additional Information on Trade Remedy Measures Applied in Kazakhstan and the Eurasian Economic Union

(i) Prior to the date of the entry into force of the Agreement on Application of Safeguard, Anti-Dumping and Countervailing Measures to Third Countries of 25 January 2008, there were no trade remedy measures in place in Kazakhstan.

(ii) On the date of the entry into force of the Agreement on Application of Safeguard, Anti-Dumping and Countervailing Measures to Third Countries of 25 January 2008, there was one safeguard investigation in relation to accumulators in Kazakhstan, which had been initiated on 8 June 2010. The investigation had been completed without introduction of the safeguard measure due to the fact that the complainant did not satisfy the criteria of the 25% of the total production of the Customs Union.

(iii) Currently, Kazakhstan did not apply any safeguard measures at the national level.

There were two safeguard and eight anti-dumping measures applied on the common customs territory of the EAEU.

| No. | Product | Type of measure | Period of application |
|-----|---|--|-----------------------|
| 1. | Cold-worked seamless pipes and tubes of stainless steel | Anti-dumping measure with regard to imports of this product from China | 14 May 2018 |
| 2. | Enameled baths of cast iron | Anti-dumping measure with regard to imports of this product from China | 25 January 2018 |
| 3. | Light commercial vehicles | Anti-dumping measure with regard to imports of this product from Germany, Italy and Turkey | 14 June 2018 |
| 4. | Some types of steel pipes | Anti-dumping measure with regard to imports of this product from Ukraine | 18 November 2015 |
| 5. | Rolling-contact bearings | Anti-dumping measure with regard to imports of this product from China | 20 January 2018 |
| 6. | Steel forged rolls for rolling mills | Anti-dumping measure with regard to imports of this product from Ukraine | 27 February 2015 |
| 7. | Rolled metal with polymeric coating | Anti-dumping measure with regard to imports of this product from China | 30 June 2017 |
| 8. | Graphite electrodes | Anti-dumping measure with regard to imports of this product from India | 25 January 2018 |
| 9. | Tableware and kitchenware of porcelain | Safeguard measure | 28 September 2016 |
| 10. | Combine harvesters and modules thereof | Safeguard measure | 21 August 2016 |

(iv) At the moment, five anti-dumping investigations were being conducted by the EEC.

| No. | Product | Type of investigation | Date of initiation of investigation |
|-----|---|---|-------------------------------------|
| 1. | Seamless steel tubes used for the drilling and operation of oil and gas wells | Anti-dumping investigation with regard to imports of this product from China | 31 March 2014 |
| 2. | Rolling-contact bearings | Sunset review of anti-dumping measure with regard to imports of this product from Ukraine | 28 February 2014 |
| 3. | Lemon acid | Antidumping investigation with regard to imports of this product from China | 21 February 2014 |
| 4. | Kitchenware and tableware made of stainless steel | Antidumping investigation with regard to imports of this product from China | 31 January 2014 |
| 5. | Steel rods | Antidumping investigation with regard to imports of this product from Ukraine | 20 November 2013 |

ANNEX 17(A)

Rates of Export Duties Currently Applied by Kazakhstan

| HS Number | Description of Goods | Duty Rate |
|--|---|--|
| 4101 | Raw pelts of cattle (including buffalos) or animals of horse family (vaped or salted, dried, limed, pickled or conserved by other methods, but not tanned, not carried as parchment or without further processing), with hair or without hair, splitting or non-splitting. | 20%, but not less than €200 per 1,000 kg |
| 4102 | Raw pelts of sheep or lambs (vaped or salted, dried, limed, pickled or conserved by other methods, but not tanned, not carried as parchment or without further processing), woolly or non-woolly, splitting or non-splitting. | 20%, but not less than €200 per 1,000 kg |
| 4103 | Other raw skins (vaped or salted, dried, limed, pickled or conserved by other methods, but not tanned, not carried as parchment or without further processing), with hair or without hair, splitting or non-splitting. | 20%, but not less than €200 per 1,000 kg |
| 5101 - 5104 00 000 0 | Un-carded and uncombed wool. | 10%, but not less than €50 per 1,000 kg |
| 7204* | Iron-and-steel waste and scrap; ferrous metal ingots for re-melting (charging ingots). | 15%, but not less than €20 per 1,000 kg |
| 7302 | Ferrous metal products, used for railway lines and tram-lines: rails, flange rail and rack rails, switch blades, point frogs, regulating rods and other cross connections, crossties, splice bars and base-plates, wedges, bedplates, hood joint bolts, bad plates and bracing wires, foundation slabs, cross bars and other details for connection and bonding of rails. | 20%, but not less than €20 per 1,000 kg |
| 7404 00 | Copper waste and scrap. | 30%, but not less than €330 per 1,000 kg |
| 76 | Aluminium and aluminium products Aluminium and beryllium ligature. | 15%, but not less than €100 per 1,000 kg |
| 8607 | Parts of locomotives and motor-wags of trams and rolling-stocks. | 20%, but not less than €15 per 1,000 kg |
| 2709 00 900 9 | Crude Oil | Calculated with a specific formula |
| 2710 12 110 0 - 2710 12 900 9, 2710 20 900 0 | Light distillates and products | Calculated with a specific formula |
| 2710 19 110 0 - 2710 19 290 0, 2710 20 900 0 | Middle distillates: for specific re-treatment processes; for chemical conversions during processes; except for indicated in sub-position 2710 19 110 0 for other aims | Calculated with a specific formula |
| 2710 19 420 0 - 2710 19 480 0, 2710 20 110 0, 2710 20 150 0, 2710 20 190 0 | Hard distillates: gas oils | Calculated with a specific formula |
| 2710 19 510 1, 2710 19 510 9 - 2710 19 550 9 | Hard distillates: liquid fuels | Calculated with a specific formula |
| 2710 19 620 1 - 2710 19 680 9, 2710 20 310 1, 2710 20 310 9, 2710 20 350 1, 2710 20 350 9, 2710 20 370 1, 2710 20 370 9, 2710 20 390 1, 2710 20 390 9 | Hard distillates: liquid fuels | Calculated with a specific formula |
| 2713 20 000 0 - 2713 90 900 0 | Bitumen | Calculated with a specific formula |
| 2710 19 310 0 - 2710 19 350 0 | Hard distillates: gas oils | Calculated with a specific formula |

* Rates of export customs duties not applied with respect to goods exported to the customs territory of the European Union countries, which are the countries of destination in these cases. This treatment will be eliminated upon Kazakhstan's accession to the WTO.

ANNEX 17(B)**Results of Negotiations on Export Duties Referred to in paragraph 534 of this Report**

| HS category | From the date of Kazakhstan's accession to the WTO | After one year starting from Kazakhstan's accession to the WTO | After two years starting from Kazakhstan's accession to the WTO | After three years starting from Kazakhstan's accession to the WTO |
|--|--|--|---|---|
| 7204 Ferrous waste and scrap; remelting scrap ingots of iron or steel | 15%, but not less than €15 per tonne | 15%, but not less than €15 per tonne | 10%, but not less than €10 per tonne | 5%, but not less than €5 per tonne |

ANNEX 18

Unified List of Products for which Mandatory Requirements are Established in the Customs Union

- | | |
|---|---|
| 1. Machinery and equipment; | 36. Packaging; |
| 2. Low-voltage equipment; | 37. Personal protective equipment. |
| 3. High-voltage equipment; | 38. Means of fire safety. |
| 4. Devices operating on gaseous fuels; | 39. Fire extinguishing means; |
| 5. Equipment operating under excess pressure; | 40. Medical products; |
| 6. Vessels working under pressure; | 41. Sanitary products; |
| 7. Equipment for use in hazardous environments; | 42. Furniture products; |
| 8. Rides, equipment for children's playgrounds; | 43. Chemical products; |
| 9. Elevators; | 44. Synthetic detergents; |
| 10. Wheeled vehicles. | 45. Household chemical goods; |
| 11. Tractors. | 46. Paints and solvents; |
| 12. Agricultural machinery; | 47. Fertilizers; |
| 13. Machinery for forestry; | 48. Plant protection products; |
| 14. Tires; | 49. Petrol, diesel and marine fuel, jet fuel and heating oil; |
| 15. Rolling stock of railways, including high-speed; | 50. Lubricants, oils and special fluids; |
| 16. Metro Rolling Stock; | 51. Devices and systems of water, gas, heat, electricity; |
| 17. Light rail vehicles and trams; | 52. Devices and systems of oil and refined products; |
| 18. Objects of sea transport; | 53. Food products; |
| 19. Objects of inland waterway transport. | 54. Alcoholic products; |
| 20. Boats; | 55. Feed and feed additives |
| 21. Buildings and facilities; | 56. Grain; |
| 22. Building materials and products. | 57. Tobacco products. |
| 23. Rail transport infrastructure, including high-speed; | 58. Hunting and sporting weapons, ammunition; |
| 24. Underground railway (metro) infrastructure; | 59. Telecommunications facilities. |
| 25. Highways; | 60. Coal and its products; |
| 26. Pyrotechnic compositions and goods containing them; | 61. Liquefied petroleum gas used as fuel; |
| 27. Explosives for civilian use and products containing them; | 62. Materials contacting human skin; |
| 28. Production of light industry (ready-made piece-goods, carpets, knitted goods, clothing and leather goods, shoes, furs and fur products) ; | 63. Products intended for civil defence and protection of natural and man-made disasters; |
| 29. Toys; | 64. Oil, prepared for transportation and use; |
| 30. Products for children and adolescents; | 65. Combustible natural gas, prepared for transportation and use; |
| 31. Products for children care; | 66. Mainline pipelines for transportation of liquid and gaseous hydrocarbons. |
| 32. Cookware; | |
| 33. Products for sanitary and hygienic purposes; | |
| 34. Perfumes and cosmetics; | |
| 35. Oral hygiene products; | |

ANNEX 19

List of Goods Imported by Establishments not Subject to Inclusion in the Register of Establishments of Third Countries

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of establishments of third countries (yes/no) |
|-----|----------------|---|------------------------|------------------------|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 1 | from 0301 | Live fish intended for breeding in decorative purposes, including aquarium fish, and not intended for human consumption | veterinary certificate | yes | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 2 | from 0401 | Milk and cream, not concentrated nor containing added sugar or other sweetening matter (except raw milk and raw cream) | veterinary certificate | yes | The measure applies to goods imported from third countries into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation, inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 3 | 0402 | Milk and cream, concentrated or containing added sugar or other sweetening matter ¹ | veterinary certificate | yes | The measure applies to goods imported from third countries into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation, inclusion in the registry is not |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of establishments of third countries (yes/no) |
|-----|----------------|---|------------------------|------------------------|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | | | | required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 4 | 0403 | Buttermilk, curdled milk and cream, yogurt, kefir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavored or containing added fruit, nuts or cocoa ¹ | veterinary certificate | yes | The measure applies to goods imported from third countries into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation, inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 5 | 0404 | Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter ¹ | veterinary certificate | yes | The measure applies to goods imported from third countries into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation, inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of establishments of third countries (yes/no) |
|-----|----------------|---|------------------------|------------------------|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | | | | company that issued controlled goods into circulation |
| 6 | 0405 | Butter and others fats and oils derived from milk ¹ ; dairy spreads ¹ | veterinary certificate | yes | The measure applies to goods imported from third countries into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation, inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 7 | from 0406 | Cheese and curd ¹ other than processed cheese containing sausage, meat, meat offal, blood, fish, crustaceans, mollusks or other aquatic invertebrates, or the products of group 04 EAEU HS or any combination of these products ² | veterinary certificate | yes | The measure applies to goods imported from third countries into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation, inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of establishments of third countries (yes/no) |
|-----|------------------|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 8 | from 0406 | Processed cheese containing sausage, meat, meat offal, blood, fish, crustaceans, mollusks or other aquatic invertebrates, or the products of group 04 EAEU HS or any combination of these products ² | veterinary certificate - for goods, imported to the territory of the Republic of Belarus, for goods imported to the territory of the Republic of Kazakhstan and the Russian Federation, - veterinary certificate (except for products containing less than 50% components of animal origin) | The measure applies to goods imported into the territory of the Republic of Belarus | The measure applies to goods imported from third countries into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation, inclusion into the register is required, if company - manufacturer of sausage, meat, meat by-products, blood, fish, crustaceans, mollusks or other aquatic invertebrates, or products of group 04 of EAEU HS Code or any combination of these products is not included in the registry |
| 9 | 0407 | Birds' eggs, in shell, fresh, preserved ¹ or cooked ¹ | veterinary certificate | yes | The measure applies to goods imported from third countries into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation, inclusion into the register is required only for processed egg products |
| 10 | 0504 00 000 0 | intestines, bladders and stomachs of animals (other than fish), whole and lumped, fresh, chilled, frozen, salted, in brine, dried or smoked | veterinary certificate | yes | The measure applies to goods imported from third countries into the territory of the Republic of Belarus. In |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of establishments of third countries (yes/no) |
|-----|------------------|--|------------------------|------------------------|--|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | | | | respect of goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation, inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 11 | from 0507 | Ivory, tortoise shell, bone of a whale or other marine mammals, horns, antlers, hooves, nails, claws and beaks, unprocessed or exposed to primary processing (without shaping); powder and wastes thereof | veterinary certificate | yes | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 12 | 0510 00 000 0 | Ambergris, castor, civet and musk; Spanish fly; bile, including dried; glands and other products of original origin used in the manufacture of pharmaceutical products, fresh, chilled, frozen or otherwise provisionally preserved for short-term storage | veterinary certificate | yes | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 13 | 0511 | Products of animal origin, not included in other EAEU HS positions; dead animals of group 01 EAEU HS or 03 EAEU HS, unfit for human consumption | veterinary certificate | yes | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 14 | 0511 99 859 2 | Horsehair and wastes thereof, including in the form of wadding with or without substrate | veterinary certificate | yes | Inclusion in the registry is not required, but the |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of establishments of third countries (yes/no) |
|-----|---|---|---|--|--|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | | | | import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 15 | from 0511, from 9601, from 9705 00 000 0 | Hunter's trophies, stuffed animals, including exposed to taxidermy treatment or preserved | veterinary certificate (only for untreated (canned) hunting trophies) | No - for those past complete taxidermy treatment | Inclusion in the registry is not required, but the import permit and veterinary certificate (if necessary) should include the name of taxidermist workshop where primary processing of trophies was performed, or hunting entity |
| 16 | from 1001 19 000 0 | Hard wheat (only forage grain) ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 17 | from 1001 99 000 0 | Soft wheat (only forage grain) ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 18 | from 1002 90 000 0 | Rye (only forage grain) ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of establishments of third countries (yes/no) |
|-----|-----------------------|---|------------------------|------------------------|--|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 19 | from 1003 90 000 0 | Barley (only forage grain) ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 20 | from 1004 90 000 0 | Oat (only forage grain) ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 21 | from 1005 90 000 0 | Corn (only forage grain) ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 22 | from 1201 90 000 0 | Soybeans (only forage grain) ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 23 | from 1208 | flours, meals and pellets of oil seeds (except mustard seeds) intended for feeding animals ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of establishments of third countries (yes/no) |
|-----|-----------------------|---|---|--|--|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 24 | from 1211 | Plants and parts thereof (including seeds and fruits), used in veterinary, fresh or dried, whole or milled, crushed ³ | veterinary certificate – upon declaration the use of veterinary products, including animal feed | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 25 | from 1212 99 950 0 | Bee bread, pollen | veterinary certificate | The measure is applied to goods imported into the territory of the Republic of Belarus | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 26 | 1213 00 000 0 | Cereal straw and husks, unprepared, whether or not chopped, ground, pressed or in the form of pellets ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 27 | 1214 | Rutabagas, leaf beat (mangold), fodder roots, hay, alfalfa (lucerne), clover, sainfoin, forage kale, lupines, vetches and similar forage products, whether or not in the form of pellets ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 28 | from 1301 90 000 0 | Propolis | veterinary certificate | The measure is applied to goods imported into the territory of the Republic of Belarus | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of establishments of third countries (yes/no) |
|-----|----------------|---|--|--|--|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 29 | 1501 | Pig fat (including lard) and poultry fat, other than that of position 15 and 62 | veterinary certificate – only for controlled products of animal origin intended for food and feed purposes and not subjected to disinfection treatment | yes | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 30 | 1502 | Fats of bovine animals, sheep or goats, other than those of position 62 | veterinary certificate – only for controlled products of animal origin intended for food and feed purposes and not subjected to disinfection treatment | The measure is applied to goods imported into the territory of the Republic of Belarus | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 31 | 1503 00 | Lard stearin, lard oil, oleostearin, oleo-oil and tallow oil, not emulsified or mixed or otherwise prepared | veterinary certificate – only for controlled products of animal origin intended for food and feed purposes and not subjected to disinfection treatment | The measure is applied to goods imported into the territory of the Republic of Belarus | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 32 | 1504 | Fats and oils and their fractions, of fish or marine mammals, whether or not refined, but not chemically modified | veterinary certificate – only for controlled products of animal origin intended for food and feed purposes and not subjected to disinfection treatment | The measure is applied to goods imported into the territory of the Republic of Belarus | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 33 | 1505 00 | Grease and fatty substances derived therefrom (including lanolin) | veterinary certificate – only for controlled products of animal origin intended for food and feed purposes and not subjected to disinfection treatment | The measure is applied to goods imported into the territory of the Republic of Belarus | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of establishments of third countries (yes/no) |
|-----|----------------|--|---|--|--|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | | | | goods into circulation |
| 34 | 1506 00 00 0 | Other animal fats and oils and their fractions, whether or not refined, but not chemically modified | veterinary certificate – only for controlled products of animal origin intended for food and feed purposes and not subjected to disinfection treatment | The measure is applied to goods imported into the territory of the Republic of Belarus | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 35 | 1516 10 | Animal fats and oils and their fractions, partly or wholly hydrogenated, inter-esterified, re-esterified or elaidinized, whether or not refined, but not exposed to further processing | veterinary certificate – only for controlled products of animal origin intended for food and feed purposes and not subjected to disinfection treatment | The measure is applied to goods imported into the territory of the Republic of Belarus | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 36 | 1518 00 | Animal or vegetable fats and oils and their fractions, boiled, oxidized, dehydrated, sulfurized, blown, polymerized by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516; inedible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils | veterinary certificate (when declaring the use of products in veterinary, including in animal feed) – for goods imported into the territory of the Republic of Belarus, for goods imported to the territory of the Republic of Kazakhstan and the Russian Federation, - veterinary certificate (except for products containing less than 50% components of animal origin) | The measure is applied to goods imported into the territory of the Republic of Belarus, as well as upon import to the territory of the Republic of Kazakhstan and the Russian Federation of goods, specified in this position, except for the vegetable fats | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 37 | 1603 00 | Extracts and juices of meat, fish or crustaceans, mollusks or other aquatic invertebrates | veterinary certificate | yes | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of establishments of third countries (yes/no) |
|-----|----------------|---|---|---|--|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | | | | company that issued controlled goods into circulation |
| 38 | from 1902 20 | Stuffed pasta, whether or not cooked or otherwise prepared, containing fish, crustaceans, mollusks or other aquatic invertebrates, sausages, meat, meat offal, blood, or the products of heading 04, or any combination of these products ² | veterinary certificate (except for products containing less than 50% components of animal origin) | The measure is applied to goods imported into the territory of the Republic of Belarus (except for products containing less than 50% components of animal origin) | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 39 | from 1904 20 | Cereals (except corn) in the form of grain or flakes or otherwise treated (except flour, fine and meal), pre-cooked or otherwise prepared, containing fish, crustaceans, mollusks or other aquatic invertebrates, sausages, meat, meat offal, blood, or the products of heading 04, or any combination of these products ² | veterinary certificate (except for products containing less than 50% components of animal origin) | The measure is applied to goods imported into the territory of the Republic of Belarus (except for products containing less than 50% components of animal origin) | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 40 | from group 20 | Derivatives of vegetables, fruit, nuts or other parts of plants and mixtures thereof, containing sausage, meat, meat offal, blood, fish or crustaceans, mollusks or other aquatic invertebrates, or products of heading 04, or any combination of these products ² | veterinary certificate (except for products containing less than 50% components of animal origin) | The measure is applied to goods imported into the territory of the Republic of Belarus (except for products containing less than 50% components of animal origin) | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 41 | from 2104 | Soups and broths and preparations therefor; homogenized composite food preparations (except vegetable) homogenized composite food products containing sausage, meat, meat offal, blood, fish, crustaceans, mollusks or other aquatic invertebrates, or the products of heading 04 HS or any combination these products ² | veterinary certificate (except for products containing less than 50% components of animal origin) | The measure is applied to goods imported into the territory of the Republic of Belarus (except for products containing less than 50% components of animal origin) | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of establishments of third countries (yes/no) |
|-----|----------------|--|--|--|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 42 | from 2105 00 | Ice cream, except ice cream on fruits and berries basis, fruit and edible ice ² | veterinary certificate – for goods imported into the territory of the Republic of Belarus, for goods imported to the territory of the Republic of Kazakhstan and the Russian Federation, – veterinary certificate (except for products containing less than 50% components of animal origin) | The measure is applied to goods imported into the territory of the Republic of Belarus | The measure is applied to goods imported into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation, inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 43 | from 2106 | Food products not elsewhere specified or included ² | veterinary certificate – for goods imported into the territory of the Republic of Belarus, for goods imported to the territory of the Republic of Kazakhstan and the Russian Federation, – veterinary certificate (except for products containing less than 50% components of animal origin) | The measure is applied to goods imported into the territory of the Republic of Belarus | The measure is applied to goods imported into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation, inclusion in the registry is required, if company – manufacturer of sausage, meat, meat by-products, blood, fish, crustaceans, mollusks or other aquatic invertebrates, or products of group 04 of EAEU HS Code or any combination of these products is not included in the registry |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of establishments of third countries (yes/no) |
|-----|---------------------|--|------------------------|------------------------|--|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 44 | 2301 | Flours, meals and pellets, of meat or meat offal, of fish or of crustaceans, mollusks or other aquatic invertebrates, unfit for human consumption; greaves (cracklings) | veterinary certificate | yes | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 45 | from 2302 | Bran, sharps and other residues from sifting, milling or other working of cereals or legumes, granulated or non-granulated, used as animal feed ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 46 | from 2303 | Residues of starch manufacture and similar residues, beet-pulp, bagasse and other waste of sugar manufacture, brewing or distilling dregs and waste, whether or not in the form of pellets, used as animal feed ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 47 | from 2304 00 000 | Oilcake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of soybean oil, used as animal feed ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 48 | from 2306 | cake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of vegetable fats or oils, used as animal feed ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of establishments of third countries (yes/no) |
|-----|----------------|--|--|--|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 49 | 2308 00 | Vegetable materials and vegetable waste, vegetable residues and byproducts, whether or not in the form of pellets, of a kind used in animal feeding ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 50 | 2309 | Products used in animal feeding | veterinary certificate – for goods imported into the territory of the Republic of Belarus, veterinary certificate – for goods that contain ingredients of animal origin imported into the territory of the Republic of Kazakhstan and the Russian Federation | yes (except for feed for cats, dogs, ferrets, ferret mustela furo, mustela, rodents, water aquarium and terrarium animals in the original packaging, thermally processed) | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 51 | from group 30 | pharmaceutical products for veterinary medicine) | No | Measure is applied to goods imported from third countries into the territory of the Republic of Belarus, as well as unregistered goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation | Inclusion to the Register is not required, but for non registered pharmaceutical products names and/or numbers of the final establishments should be indicated in the import permit and in the quality certificate for additives of chemical or microbiological synthesis |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of establishments of third countries (yes/no) |
|-----|------------------|---|--|------------------------|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 52 | 3101 00 000 0 | Fertilizers of animal or vegetable origin, mixed or unmixed, chemically treated or untreated; fertilizers produced by mixing or chemical treatment of products of animal or vegetable origin | veterinary certificate - for goods imported into the territory of the Republic of Belarus, veterinary certificate - for goods that contain ingredients of animal origin imported into the territory of the Republic of Kazakhstan and the Russian Federation | Yes | Inclusion in the registry is not required, but import permit and veterinary certificate for controlled products containing ingredients of animal origin should specify number and (or) name of the company that issued controlled goods into circulation |
| 53 | from 3501 | Casein, caseinates and other casein derivatives; | veterinary certificate | yes | The measure is applied to goods imported into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation, inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 54 | 3502 | Albumins (proteins) (including concentrates of two or more whey proteins, containing by weight more than 80 percent whey proteins, calculated on the dry matter), albuminates and other albumin derivatives | veterinary certificate | yes | Inclusion in the registry is not required, but on the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of establishments of third countries (yes/no) |
|-----|----------------|---|------------------------|------------------------|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 55 | 3503 00 | Gelatin (including gelatin in rectangular (including square) sheets, whether or not surface-worked or colored) and gelatin derivatives; isinglass; other glues of animal origin | veterinary certificate | yes | The measure is applied to goods imported into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation, inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 56 | 3504 00 | Peptones and their derivatives; other protein substances and their derivatives, not elsewhere specified or included; hide powder, whether or not chromed | veterinary certificate | yes | Inclusion in the registry is not required, but on the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 57 | 4101 | Unprocessed raw hides of cattle (including buffalo) or equine animals (fresh or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or not exposed to further processing), with or without hair, whether or not split | veterinary certificate | yes | Inclusion in the registry is not required, but on the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 58 | 4102 | Unprocessed sheep and lamb hides (fresh or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or not exposed to further processing), with or without hair, whether or not split | veterinary certificate | yes | Inclusion in the registry is not required, but on the import permit and veterinary certificate should include number and (or) |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of establishments of third countries (yes/no) |
|-----|------------------|---|------------------------|------------------------|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | | | | name of the company that issued controlled goods into circulation |
| 59 | 4103 | Other processed hides (fresh or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or not exposed to further processing), with or without hair, whether or not split | veterinary certificate | yes | Inclusion in the registry is not required, but on the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 60 | 4206 00 000 0 | Products from gut (other than silkworm gut), of goldbeater's skin, of bladders or of tendons | veterinary certificate | yes | Inclusion in the registry is not required, but on the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 61 | 4301 | Down and fur raw materials (including heads, tails, paws and other parts or cuttings, suitable for the production of fur) | veterinary certificate | yes | Inclusion in the registry is not required, but on the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 62 | 5101 | Wool not exposed to carding and combing | veterinary certificate | yes | Inclusion in the registry is not required, but on the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 63 | 5102 | Fine or coarse animal hair, not carded or combed | veterinary certificate | yes | Inclusion in the registry is not |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of establishments of third countries (yes/no) |
|-----|-----------------------|--|------------------------|------------------------|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| | | | | | required, but on the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 64 | 5103 | Wastes of wool and fine or coarse animal hair, including textile wastes, but excluding pickled raw materials | veterinary certificate | yes | Inclusion in the registry is not required, but on the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 65 | from 9508 10 000 0 | Animals as part of traveling circuses and menageries | veterinary certificate | yes | Inclusion in the registry is not required, but on the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |

Note: In order to use this list, please use both name of goods and EAEU HS code.

¹ For epizootic well-being.

² Veterinary control in relation to finished food products containing no raw meat components or containing in its composition less than half of other processed product of animal origin, intended for the Republic of Kazakhstan and the Russian Federation, shall not be carried out, provided that such products are securely packaged or sealed in clean containers and can be stored at room temperature or were fully prepared in the manufacturing process or were entirely heat-treated till complete change of the natural properties of the raw product.

³ Veterinary control in respect of goods intended for the Republic of Kazakhstan and the Russian Federation shall not be carried out and none of the measures specified in columns 4 - 6 of this list shall apply.

ANNEX 20

List of Goods Subject to Veterinary Control

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of third countries enterprises (yes/no) |
|--|----------------|---|--|--|--|
| 1 | 2 | 3 | 4 | 5 | 6 |
| Measures applied upon accession of the Republic of Kazakhstan to the World Trade Organization | | | | | |
| 1 | 0101 | Live horses, asses, mules and hinnies | veterinary certificate or veterinary passport (for sport horses) | yes | no |
| 2 | 0102 | Live cattle | veterinary certificate | yes | no |
| 3 | 0103 | Live pigs | veterinary certificate | yes | no |
| 4 | 0104 | Live sheep and goats | veterinary certificate | yes | no |
| 5 | 0105 | Live poultry, i.e fowls (Gallus domesticus), ducks, geese, turkeys and guinea fowls | veterinary certificate | yes | no |
| 6 | 0106 | Live animals, except those specified in positions 1 - 5 of the present list | veterinary certificate or veterinary passport (for dogs and cats imported for personal use in the quantity no more than 2 heads) | Yes, except for dogs and cats imported for personal use in the quantity no more than 2 heads | no |
| 7 | 0201 | Meat of cattle, fresh or cooled | veterinary certificate | yes | yes |
| 8 | 0202 | Meat of cattle, frozen | veterinary certificate | yes | yes |
| 9 | 0203 | Pork fresh, cooled or frozen | veterinary certificate | yes | yes |
| 10 | 0204 | Lamb or chevon fresh, cooled or frozen | veterinary certificate | yes | yes |
| 11 | 0205 00 | Meat of horses, asses, mules or hinnies, fresh, cooled or frozen | veterinary certificate | yes | yes |
| 12 | 0206 | Edible offal of cattle, pigs, sheep, goats, horses, asses, mules or hinnies, fresh, cooled or frozen | veterinary certificate | yes | yes |
| 13 | 0207 | Meat and edible offal of poultry specified in position 5 of present list, fresh, cooled or frozen | veterinary certificate | yes | yes |
| 14 | 0208 | Others meat and edible offal, fresh, chilled or frozen, except specified in positions 7 - 13 of the present list | veterinary certificate | yes | yes |
| 15 | 0209 | Pig fat, free of lean meat, and poultry fat, not rendered or otherwise extracted, fresh, chilled, frozen, salted ¹ , in brine ² , dried ¹ or smoked ¹ | veterinary certificate | yes | yes |
| 16 | 0210 | Meat and edible meat offal, salted ¹ , in brine ¹ , dried ¹ or smoked ¹ ; edible flours of meat or meat offal | veterinary certificate | yes | yes |
| 17 | from 0301 | Live fish intended for human consumption | veterinary certificate | yes | yes |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of third countries enterprises (yes/no) |
|-----|----------------|---|------------------------|------------------------|--|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 18 | from 0301 | Live fish intended for breeding in decorative purposes, including aquarium fish, and not intended for human consumption | veterinary certificate | yes | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 19 | 0302 | Fish, fresh or chilled, excluding fish fillets and other fish meat specified in position 21 of present list | veterinary certificate | yes | yes |
| 20 | 0303 | Fish, frozen, excluding fish fillets and other fish meat specified in position 21 of present list | veterinary certificate | yes | yes |
| 21 | 0304 | Fish fillets and other fish meat (including minced), fresh, cooled or frozen | veterinary certificate | yes | yes |
| 22 | 0305 | Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process ¹ ; flours, meals and pellets of fish, fit for human consumption ¹ | veterinary certificate | yes | yes |
| 23 | 0306 | Crustaceans, whether in shell or not, live, fresh, chilled, frozen, dried ¹ , salted ¹ or in brine ¹ ; smoked crustaceans, whether in shell or not, whether or not cooked before or during the smoking process ¹ ; crustaceans, in shell, cooked by steaming ¹ or by boiling ¹ in water, whether or not chilled, frozen, dried ¹ , salted ¹ or in brine ¹ ; flours, meals and pellets of crustaceans, fit for human consumption ¹ | veterinary certificate | yes | yes |
| 24 | 0307 | Mollusks, whether in shell or not, live, fresh, chilled, frozen, dried ¹ , salted ¹ or in brine ¹ ; smoked mollusks, whether in shell or not, whether or not cooked before or during the smoking process ¹ ; flours, meals and pellets of mollusks, fit for human consumption ¹ | veterinary certificate | yes | yes |
| 25 | 0308 | Aquatic invertebrates other than crustaceans and mollusks, live, fresh, chilled, frozen, dried ¹ , salted ¹ or in brine ¹ ; aquatic invertebrates other than crustaceans and mollusks, smoked, whether or not cooked before or during smoking process ¹ ; flours, meals and pellets of aquatic invertebrates other than crustaceans and mollusks, fit for human consumption ¹ | veterinary certificate | yes | yes |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of third countries enterprises (yes/no) |
|-----|----------------|--|------------------------|------------------------|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 26 | from 0401 | Milk and cream, not concentrated nor containing added sugar or other sweetening matter (except raw milk and raw cream) | veterinary certificate | yes | The measure applies to goods imported from third countries into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation, inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 27 | from 0401 | Raw milk and raw cream | veterinary certificate | yes | yes |
| 28 | 0402 | Milk and cream, concentrated or containing added sugar or other sweetening matter ¹ | veterinary certificate | yes | The measure applies to goods imported from third countries into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation, inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of third countries enterprises (yes/no) |
|-----|----------------|---|------------------------|------------------------|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 29 | 0403 | Buttermilk, curdled milk and cream, yogurt, kefir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavored or containing added fruit, nuts or cocoa ¹ | veterinary certificate | yes | The measure applies to goods imported from third countries into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation, inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 30 | 0404 | Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter ¹ | veterinary certificate | yes | The measure applies to goods imported from third countries into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation, inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of third countries enterprises (yes/no) |
|-----|----------------|---|------------------------|------------------------|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 31 | 0405 | Butter and others fats and oils derived from milk ¹ ; dairy spreads ¹ | veterinary certificate | yes | The measure applies to goods imported from third countries into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation, inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 32 | from 0406 | Cheese and curd ¹ other than processed cheese containing sausage, meat, meat offal, blood, fish, crustaceans, mollusks or other aquatic invertebrates, or the products of group 04 EAEU HS or any combination of these products ² | veterinary certificate | yes | The measure applies to goods imported from third countries into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation, inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of third countries enterprises (yes/no) |
|-----|----------------|---|---|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 33 | from 0406 | Processed cheese containing sausage, meat, meat offal, blood, fish, crustaceans, mollusks or other aquatic invertebrates, or the products of group 04 EAEU HS or any combination of these products ² | veterinary certificate – for goods, imported to the territory of the Republic of Belarus, for goods imported to the territory of the Republic of Kazakhstan and the Russian Federation, – veterinary certificate (except for products containing less than 50% components of animal origin) | The measure applies to goods imported into the territory of the Republic of Belarus | The measure applies to goods imported from third countries into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation, inclusion into the register is required, if company – manufacturer of sausage, meat, meat by-products, blood, fish, crustaceans, mollusks or other aquatic invertebrates, or products of group 04 of EAEU HS Code or any combination of these products is not included in the registry |
| 34 | 0407 | Birds' eggs, in shell, fresh, preserved ¹ or cooked ¹ | veterinary certificate | yes | The measure applies to goods imported from third countries into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation, inclusion into the register is required only for processed egg products |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of third countries enterprises (yes/no) |
|-----|----------------|---|------------------------|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 35 | 0408 | Birds' eggs, not in shell, and egg yolks, fresh, dried, cooked by steaming ¹ or by boiling ¹ in water, molded ¹ , frozen or otherwise preserved ¹ , whether or not containing added sugar or other sweetening matter | veterinary certificate | yes | yes |
| 36 | 0409 00 000 0 | Natural honey | veterinary certificate | The measure applies to goods imported into the territory of the Republic of Belarus | no |
| 37 | 0410 00 000 0 | Food products of animal origin, not elsewhere specified or included | veterinary certificate | yes | no |
| 38 | 0502 | Pork or boar bristle, badger or other bristle used for brush making; their wastes | veterinary certificate | yes | no |
| 39 | 0504 00 000 0 | intestines, bladders and stomachs of animals (other than fish), whole and lumped, fresh, chilled, frozen, salted, in brine, dried or smoked | veterinary certificate | yes | The measure applies to goods imported from third countries into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation, inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 40 | 0505 | Hides and other parts of birds with feathers or down, feathers, parts of feathers (with trimmed or not trimmed edges) and down, cleaned, disinfected or treated for preservation, but not exposed to further processing; powder and wastes of feathers or parts thereof | veterinary certificate | yes | no |
| 41 | 0506 | Bones and horn pith, unprocessed, defatted, exposed to primary processing (without shaping), treated with acid or de-gelled; powder and wastes thereof | veterinary certificate | yes | no |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of third countries enterprises (yes/no) |
|-----|----------------|--|------------------------|------------------------|--|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 42 | from 0507 | Ivory, tortoise shell, bone of a whale or other marine mammals, horns, antlers, hooves, nails, claws and beaks, unprocessed or exposed to primary processing (without shaping); powder and wastes thereof | veterinary certificate | yes | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 43 | 0510 00 000 0 | Ambergris, castor, civet and musk; Spanish fly; bile, including dried; glands and other products of original origin used in the manufacture of pharmaceutical products, fresh, chilled, frozen or otherwise provisionally preserved for short-term storage | veterinary certificate | yes | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 44 | 0511 | Products of animal origin, not included in other EAEU HS positions; dead animals of group 01 EAEU HS or 03 EAEU HS, unfit for human consumption | veterinary certificate | yes | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 45 | 0511 99 859 2 | Horsehair and wastes thereof, including in the form of wadding with or without substrate | veterinary certificate | yes | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of third countries enterprises (yes/no) |
|-----|--|---|---|--|--|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 46 | from 0511, from 9601, from 9705 00 000 0 | Hunter's trophies, stuffed animals, including exposed to taxidermy treatment or preserved | veterinary certificate (only for untreated (canned) hunting trophies) | No - for those past complete taxidermy treatment | Inclusion in the registry is not required, but the import permit and veterinary certificate (if necessary) should include the name of taxidermist workshop where primary processing of trophies was performed, or hunting entity |
| 47 | from 1001 19 000 0 | Hard wheat (only forage grain) ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 48 | from 1001 99 000 0 | Soft wheat (only forage grain) ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 49 | from 1002 90 000 0 | Rye (only forage grain) ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of third countries enterprises (yes/no) |
|-----|--------------------|---|------------------------|------------------------|--|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 50 | from 1003 90 000 0 | Barley (only forage grain) ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 51 | from 1004 90 000 0 | Oat (only forage grain) ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 52 | from 1005 90 000 0 | Corn (only forage grain) ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 53 | from 1201 90 000 0 | Soybeans (only forage grain) ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 54 | from 1208 | flours, meals and pellets of oil seeds (except mustard seeds) intended for feeding animals ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of third countries enterprises (yes/no) |
|-----|--------------------|---|---|--|--|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 55 | from 1211 | Plants and parts thereof (including seeds and fruits), used in veterinary, fresh or dried, whole or milled, crushed ³ | veterinary certificate – upon declaration the use of veterinary products, including animal feed | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 56 | from 1212 99 950 0 | Bee bread, pollen | veterinary certificate | The measure is applied to goods imported into the territory of the Republic of Belarus | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 57 | 1213 00 000 0 | Cereal straw and husks, unprepared, whether or not chopped, ground, pressed or in the form of pellets ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 58 | 1214 | Rutabagas, leaf beat (mangold), fodder roots, hay, alfalfa (lucerne), clover, sainfoin, forage kale, lupines, vetches and similar forage products, whether or not in the form of pellets ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 59 | from 1301 90 000 0 | Propolis | veterinary certificate | The measure is applied to goods imported into the territory of the Republic of Belarus | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of third countries enterprises (yes/no) |
|-----|----------------|---|--|--|--|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 60 | 1501 | Pig fat (including lard) and poultry fat, other than that of position 15 and 62 | veterinary certificate – only for controlled products of animal origin intended for food and feed purposes and not subjected to disinfection treatment | yes | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 61 | 1502 | Fats of bovine animals, sheep or goats, other than those of position 62 | veterinary certificate – only for controlled products of animal origin intended for food and feed purposes and not subjected to disinfection treatment | The measure is applied to goods imported into the territory of the Republic of Belarus | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 62 | 1503 00 | Lard stearin, lard oil, oleostearin, oleo-oil and tallow oil, not emulsified or mixed or otherwise prepared | veterinary certificate – only for controlled products of animal origin intended for food and feed purposes and not subjected to disinfection treatment | The measure is applied to goods imported into the territory of the Republic of Belarus | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 63 | 1504 | Fats and oils and their fractions, of fish or marine mammals, whether or not refined, but not chemically modified | veterinary certificate – only for controlled products of animal origin intended for food and feed purposes and not subjected to disinfection treatment | The measure is applied to goods imported into the territory of the Republic of Belarus | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of third countries enterprises (yes/no) |
|-----|----------------|--|--|--|--|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 64 | 1505 00 | Grease and fatty substances derived therefrom (including lanolin) | veterinary certificate – only for controlled products of animal origin intended for food and feed purposes and not subjected to disinfection treatment | The measure is applied to goods imported into the territory of the Republic of Belarus | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 65 | 1506 00 000 0 | Other animal fats and oils and their fractions, whether or not refined, but not chemically modified | veterinary certificate – only for controlled products of animal origin intended for food and feed purposes and not subjected to disinfection treatment | The measure is applied to goods imported into the territory of the Republic of Belarus | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 66 | 1516 10 | Animal fats and oils and their fractions, partly or wholly hydrogenated, inter-esterified, re-esterified or elaidinized, whether or not refined, but not exposed to further processing | veterinary certificate – only for controlled products of animal origin intended for food and feed purposes and not subjected to disinfection treatment | The measure is applied to goods imported into the territory of the Republic of Belarus | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 67 | 1516 20 | Vegetable fats and oils and their fractions, partly or wholly hydrogenated, inter-esterified, re-esterified or elaidinized, whether or not refined, but not exposed to further processing ³ | veterinary certificate – only upon declaration the use of products in animal feed | yes | no |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of third countries enterprises (yes/no) |
|-----|----------------|--|---|--|--|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 68 | 1518 00 | Animal or vegetable fats and oils and their fractions, boiled, oxidized, dehydrated, sulfurized, blown, polymerized by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516; inedible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils | veterinary certificate (when declaring the use of products in veterinary, including in animal feed) – for goods imported into the territory of the Republic of Belarus, for goods imported to the territory of the Republic of Kazakhstan and the Russian Federation, - veterinary certificate (except for products containing less than 50% components of animal origin) | The measure is applied to goods imported into the territory of the Republic of Belarus, as well as upon import to the territory of the Republic of Kazakhstan and the Russian Federation of goods, specified in this position, except for the vegetable fats | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 69 | 1521 90 | Bee wax, other insect waxes and spermaceti, whether or not refined or colored | veterinary certificate | yes | no |
| 70 | 1601 00 | Sausages and similar products, of meat, meat offal or blood ¹ ; food preparations based on these products ¹ | veterinary certificate | yes | yes |
| 71 | 1602 | Other prepared or preserved products of meat, meat offal or blood ¹ | veterinary certificate | yes | yes |
| 72 | 1603 00 | Extracts and juices of meat, fish or crustaceans, mollusks or other aquatic invertebrates | veterinary certificate | yes | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 73 | 1604 | Prepared or preserved fish ¹ ; sturgeon roe and its substitutes prepared from fish eggs ¹ | veterinary certificate | yes | yes |
| 74 | 1605 | Crustaceans, mollusks and other aquatic invertebrates, prepared or preserved ¹ | veterinary certificate | yes | yes |
| 75 | from 1902 20 | Stuffed pasta, whether or not cooked or otherwise prepared, containing fish, crustaceans, mollusks or other aquatic invertebrates, sausages, meat, meat offal, blood, or the products of heading 04, or any combination of these products ² | veterinary certificate (except for products containing less than 50% components of animal origin) | The measure is applied to goods imported into the territory of the Republic of Belarus (except for products containing less than 50% components of animal origin) | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of third countries enterprises (yes/no) |
|-----|----------------|---|---|---|--|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 76 | from 1904 20 | Cereals (except corn) in the form of grain or flakes or otherwise treated (except flour, fine and meal), pre-cooked or otherwise prepared, containing fish, crustaceans, mollusks or other aquatic invertebrates, sausages, meat, meat offal, blood, or the products of heading 04, or any combination of these products ² | veterinary certificate (except for products containing less than 50% components of animal origin) | The measure is applied to goods imported into the territory of the Republic of Belarus (except for products containing less than 50% components of animal origin) | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 77 | from group 20 | Derivatives of vegetables, fruit, nuts or other parts of plants and mixtures thereof, containing sausage, meat, meat offal, blood, fish or crustaceans, mollusks or other aquatic invertebrates, or products of heading 04, or any combination of these products ² | veterinary certificate (except for products containing less than 50% components of animal origin) | The measure is applied to goods imported into the territory of the Republic of Belarus (except for products containing less than 50% components of animal origin) | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 78 | from 2102 20 | Inactive yeasts ³ ; other dead single-cell microorganisms used as animal feed ³ | veterinary certificate | yes | no |
| 79 | from 2104 | Soups and broths and preparations therefor; homogenized composite food preparations (except vegetable) homogenized composite food products containing sausage, meat, meat offal, blood, fish, crustaceans, mollusks or other aquatic invertebrates, or the products of heading 04 HS or any combination these products ² | veterinary certificate (except for products containing less than 50% components of animal origin) | The measure is applied to goods imported into the territory of the Republic of Belarus (except for products containing less than 50% components of animal origin) | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of third countries enterprises (yes/no) |
|-----|----------------|--|--|--|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 80 | from 2105 00 | Ice cream, except ice cream on fruits and berries basis, fruit and edible ice ² | veterinary certificate – for goods imported into the territory of the Republic of Belarus, for goods imported to the territory of the Republic of Kazakhstan and the Russian Federation, – veterinary certificate (except for products containing less than 50% components of animal origin) | The measure is applied to goods imported into the territory of the Republic of Belarus | The measure is applied to goods imported into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation, inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 81 | from 2106 | Food products not elsewhere specified or included ² | veterinary certificate – for goods imported into the territory of the Republic of Belarus, for goods imported to the territory of the Republic of Kazakhstan and the Russian Federation, – veterinary certificate (except for products containing less than 50% components of animal origin) | The measure is applied to goods imported into the territory of the Republic of Belarus | The measure is applied to goods imported into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation, inclusion in the registry is required, if company – manufacturer of sausage, meat, meat by-products, blood, fish, crustaceans, mollusks or other aquatic invertebrates, or products of group 04 of EAEU HS Code or any combination of these products is not included in the registry |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of third countries enterprises (yes/no) |
|-----|------------------|--|------------------------|------------------------|--|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 82 | 2301 | Flours, meals and pellets, of meat or meat offal, of fish or of crustaceans, mollusks or other aquatic invertebrates, unfit for human consumption; greaves (cracklings) | veterinary certificate | yes | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 83 | from 2302 | Bran, sharps and other residues from sifting, milling or other working of cereals or legumes, granulated or non-granulated, used as animal feed ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 84 | from 2303 | Residues of starch manufacture and similar residues, beet-pulp, bagasse and other waste of sugar manufacture, brewing or distilling dregs and waste, whether or not in the form of pellets, used as animal feed ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 85 | from 2304 00 000 | Oilcake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of soybean oil, used as animal feed ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 86 | from 2306 | cake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of vegetable fats or oils, used as animal feed ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of third countries enterprises (yes/no) |
|-----|----------------|--|--|--|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 87 | 2308 00 | Vegetable materials and vegetable waste, vegetable residues and byproducts, whether or not in the form of pellets, of a kind used in animal feeding ³ | veterinary certificate | yes | Inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 88 | 2309 | Products used in animal feeding | veterinary certificate – for goods imported into the territory of the Republic of Belarus, veterinary certificate – for goods that contain ingredients of animal origin imported into the territory of the Republic of Kazakhstan and the Russian Federation | yes (except for feed for cats, dogs, ferrets, ferret mustela furo, mustela, rodents, water aquarium and terrarium animals in the original packaging, thermally processed) | Inclusion in the registry is not required, but the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 89 | from group 29 | Organic chemical compounds (for veterinary medicine) ³ | no | yes | no |
| 90 | from group 30 | pharmaceutical products for veterinary medicine) | No | Measure is applied to goods imported from third countries into the territory of the Republic of Belarus, as well as unregistered goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation | Inclusion in the registry is not required, but the number of unregistered pharmaceutical products and (or) name of the company that issued controlled goods into circulation should be specified in the import permit and (or) quality certificate for additives of chemical or microbiological synthesis |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of third countries enterprises (yes/no) |
|-----|----------------|---|--|------------------------|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 91 | 3101 00 000 0 | Fertilizers of animal or vegetable origin, mixed or unmixed, chemically treated or untreated; fertilizers produced by mixing or chemical treatment of products of animal or vegetable origin | veterinary certificate – for goods imported into the territory of the Republic of Belarus, veterinary certificate – for goods that contain ingredients of animal origin imported into the territory of the Republic of Kazakhstan and the Russian Federation | Yes | Inclusion in the registry is not required, but import permit and veterinary certificate for controlled products containing ingredients of animal origin should specify number and (or) name of the company that issued controlled goods into circulation |
| 92 | from 3501 | Casein, caseinates and other casein derivatives; | veterinary certificate | yes | The measure is applied to goods imported into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation, inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 93 | 3502 | Albumins (proteins) (including concentrates of two or more whey proteins, containing by weight more than 80 percent whey proteins, calculated on the dry matter), albuminates and other albumin derivatives | veterinary certificate | yes | Inclusion in the registry is not required, but on the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of third countries enterprises (yes/no) |
|-----|----------------|--|------------------------|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 94 | 3503 00 | Gelatin (including gelatin in rectangular (including square) sheets, whether or not surface-worked or colored) and gelatin derivatives; isinglass; other glues of animal origin | veterinary certificate | yes | The measure is applied to goods imported into the territory of the Republic of Belarus. In respect of goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation, inclusion in the registry is not required, but the veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 95 | 3504 00 | Peptones and their derivatives; other protein substances and their derivatives, not elsewhere specified or included; hide powder, whether or not chromed | veterinary certificate | yes | Inclusion in the registry is not required, but on the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 96 | from 3507 | Ferments (enzymes) ³ ; ferment preparations (for use in veterinary) ³ | no | yes | no |
| 97 | from 3808 | Insecticides, rodenticides, disinfectants and similar products, put up in forms or packaging for retail sale or as preparations or articles (for the use in veterinary medicine) | no | measure applies to goods imported from third countries into the territory of the Republic of Belarus, as well as unregistered goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation | no |
| 98 | 3821 00 000 0 | Prepared culture media for development or maintenance of microorganisms (including viruses and the like) or of plant, human or animal cells ³ | no | yes | no |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of third countries enterprises (yes/no) |
|-----|--------------------|---|------------------------|--|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 99 | from 3822 00 000 0 | Diagnostic or laboratory reagents on a backing and prepared diagnostic or laboratory reagents, whether or not on a backing; certified reference materials (for the use in veterinary medicine) | no | The measure is applied to goods imported into the territory of the Republic of Belarus, in respect of goods imported from third countries to the territory of the Republic of Kazakhstan and the Russian Federation, measure is applied to the appropriate technical regulations | no |
| 100 | 4101 | Unprocessed raw hides of cattle (including buffalo) or equine animals (fresh or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or not exposed to further processing), with or without hair, whether or not split | veterinary certificate | yes | Inclusion in the registry is not required, but on the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 101 | 4102 | Unprocessed sheep and lamb hides (fresh or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or not exposed to further processing), with or without hair, whether or not split | veterinary certificate | yes | Inclusion in the registry is not required, but on the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 102 | 4103 | Other processed hides (fresh or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or not exposed to further processing), with or without hair, whether or not split | veterinary certificate | yes | Inclusion in the registry is not required, but on the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of third countries enterprises (yes/no) |
|-----|----------------|---|------------------------|------------------------|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 103 | 4206 00 000 0 | Products from gut (other than silkworm gut), of goldbeater's skin, of bladders or of tendons | veterinary certificate | yes | Inclusion in the registry is not required, but on the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 104 | 4301 | Down and fur raw materials (including heads, tails, paws and other parts or cuttings, suitable for the production of fur) | veterinary certificate | yes | Inclusion in the registry is not required, but on the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 105 | 5101 | Wool not exposed to carding and combing | veterinary certificate | yes | Inclusion in the registry is not required, but on the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 106 | 5102 | Fine or coarse animal hair, not carded or combed | veterinary certificate | yes | Inclusion in the registry is not required, but on the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |

| No. | Group, HS code | Description of goods | Supporting documents | Import permit (yes/no) | Register of third countries enterprises (yes/no) |
|-----|--|--|--|---|---|
| 1 | 2 | 3 | 4 | 5 | 6 |
| 107 | 5103 | Wastes of wool and fine or coarse animal hair, including textile wastes, but excluding pickled raw materials | veterinary certificate | yes | Inclusion in the registry is not required, but on the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 108 | from 9508 10 000 0 | Animals as part of traveling circuses and menageries | veterinary certificate | yes | Inclusion in the registry is not required, but on the import permit and veterinary certificate should include number and (or) name of the company that issued controlled goods into circulation |
| 109 | from 9705 00 000 0 | Collections and collectors' pieces of zoology, anatomy and paleontology (except for the museum exhibits) | veterinary certificate | yes | no |
| 110 | from 3923, from 3926, from 4415, from 4416 00 000 0, from 4421, from 7020 00, from 7309 00, from 7310, from 7326, from 7616, 8436 10 000 0, from 8436 21 000 0, from 8436 29 000 0, from 8436 80 900 0, from 8606 91 800 0, from 8609 00, from 8716 39 800 | Equipment and supplies for transportation, breeding, temporary overexposure of animals of all kinds, as well as equipment for the transportation of pre-used raw materials (products) of animal origin | No (document of the authorized body of the exporting country - in the case of complex epizootic situation) | yes (in the case of complex epizootic situation additional requirements are also specified) | no |

Note: In order to use this list, please use both name of goods and EAEU HS code.

¹ For epizootic well-being.

² Veterinary control in relation to finished food products containing no raw meat components or containing in its composition less than half of other processed product of animal origin, intended for the Republic of Kazakhstan and the Russian Federation, shall not be carried out, provided that such products are securely packaged or sealed in clean containers and can be stored at room temperature or were fully prepared in the manufacturing process or were entirely heat-treated till complete change of the natural properties of the raw product.

³ Veterinary control in respect of goods intended for the Republic of Kazakhstan and the Russian Federation shall not be carried out and none of the measures specified in columns 4 - 6 of this list shall apply.

ANNEX 21

SEZs Operating under Law No. 469-IV "On Special Economic Zones in the Republic of Kazakhstan" of 21 July 2011

| SEA/SEZ | Establishing Legislation | Time-frame | Purpose |
|--|---|------------------------|---|
| Astana – New City | Decree of the President No. 645 of 29 June 2001 | The period 2002-2027 | To facilitate the development of the capital of Kazakhstan by attracting investments, building public facilities, real estate and modern infrastructure based on advanced construction technologies, and creation of competitive industries |
| Aktau Seaport (in Mangistau oblast) | Decree of the President No. 853 of 26 April 2002 | The period 2003-2028 | To facilitate the development of the seaport infrastructure and its auxiliary services by attracting new investments, creating new jobs and introducing modern administration and management methods |
| Innovation Technologies Park (in Almaty oblast) | Decree of the President No. 1166 of 18 August 2003 | Until 2028 | To diversify the economy through the production of information technology (IT) products and the effective use of the country's scientific and technical innovation capacity |
| Ontustyk (in South-Kazakhstan oblast) | Decree of the President No. 1605 of 6 July 2005 | Until 1 July 2030 | To diversify the economy by creating jobs and attracting foreign investment through the development of the textile industry (cotton) in southern Kazakhstan |
| National Industrial Petrochemical Techno-Park (in Atyrau oblast) | Decree of the President No. 495 of 19 December 2007 | Until 31 December 2032 | To develop and implement "breakthrough" investment projects aimed at developing an internationally competitive deep hydrocarbon processing and high value-added petrochemical products |
| Burabai (in Akmola oblast) | Decree of the President No. 512 of 15 January 2008 | Until 1 December 2017 | to develop an efficient and competitive tourism infrastructure |
| Saryarka (in Karaganda oblast) | Decree of the President No. 181 of 24 November 2011 | Until 1 December 2036 | To develop metallurgical industry |
| Pavlodar (in Pavlodar oblast) | Decree of the President No. 186 of 29 November 2011 | Until 1 December 2036 | To develop chemical and metallurgical industries |
| Horgos-East Gates (in Almaty oblast) | Decree of the President No. 187 of 29 November 2011 | Until 2035 | To develop Kazakhstan's transport infrastructure and transit capacity through construction of logistics centre in the SEZ |
| Chemical Park Taraz (in Jambyl oblast) | Decree of the President No. 426 of 13 November 2012 | Until 2037 | To develop chemical industry |

ANNEX 22(A)**List of Goods, Works and Services Covered by Government Procurement by Auction**

1. Agricultural products, hunting products, agricultural and hunting services, other than live animals, products and services related to hunting, fishing and bird breeding;
2. Forest and logging products, forestry and logging services;
3. Fishing products, fish hatcheries and fish farms, services related to fishing;
4. Coal and lignite, peat
5. Crude oil and natural gas, services for their extraction, other than exploratory works;
6. Metallic ores;
7. Stone, clay, sand and other types of minerals;
8. Food products and beverage;
9. Tobacco and other products of the tobacco industry;
10. Textiles;
11. Clothing, fur and fur goods, except for children's clothing;
12. Leather and leather goods, saddler goods and footwear;
13. Wood, wood goods, cork, straw and plaiting materials, except for furniture;
14. Pulp, paper, paperboard and articles thereof;
15. Printed and published materials, except advertisements, drawings, designs, printed photos, souvenir and gift sets (pads and notebooks), election and referendum ballots;
16. Coke ovens products;
17. Refined petroleum products, petroleum-refinery and pyrolysis gas, products of gas processing plants;
18. Products of organic and inorganic synthesis;
19. Rubber and plastic products;
20. Other non-metallic mineral products, except for household and interior glass products, as well as non-structural non-refractory ceramic ware products;
21. Production of metallurgical industry;
22. Metal products, except for machinery and equipment (other than nuclear reactors);
23. Machinery and equipment not included in other groups, except for weapons, ammunition and their parts, explosive devices and explosives for household purposes;
24. Office, accounting and computing machinery;
25. Electric motors and electrical equipment, not included in other groups;
26. Equipment and instruments for radio, television and communication;
27. Medical equipment, measuring equipment, photo and video equipment, clocks;
28. Motor vehicles, trailers and semi-trailers, car bodies, parts and accessories for automobiles, garage equipment;
29. Other vehicles except for trade and passenger ships, warships, aircraft and space vehicles, equipment and parts of aircraft;
30. Finished products, except for jewelry, and related products, musical instruments, games and toys, equipment for training processes, textbooks and school equipment, craft products, artworks and collectibles, exposed film; human, animal and synthetic hair and articles thereof;
31. Waste and scrap used as raw materia;
32. Natural water and ice;
33. Construction services and construction projects, including major and minor repair, except for technically complicated construction projects (including major and minor repairs), a list of which is established in accordance with the legislation of the Republic of Kazakhstan on architecture, urban planning and construction activities;
34. Trade services, services for maintenance and repair of motor vehicles and motorcycles.
35. Wholesale and commission trade services, except for trade services of motor vehicles and motorcycles;
36. Retail trade services;
37. Hotel and restaurant services;
38. Land transport services, except for railway transport services, underground services, pipeline transportation services;
39. Water transport services;
40. Ancillary transport services and ancillary services in the sphere of tourism and excursion, except for travel and tourist agencies services, other assistance services to tourists.
41. Communications services, except for courier services, other than national post services, telecommunications services;

42. Financial intermediation services, except for insurance and pension funding, bond issue services;
43. Ancillary services to financial intermediation services, except for evaluation services;
44. Services related to real estate;
45. Services for the maintenance and repair of office equipment, electronic computers and other equipment used in conjunction with office equipment;
46. Cleaning services;
47. Packaging services;
48. Sewage and waste disposal services, sanitation and other like services;
49. Housing and communal services except for hairdressers, beauty salons and cosmetic medical institutions and funeral, burial and cremation services;
50. Services related to the activities in the manufacturing sector, except for coke production services, refined petroleum products and nuclear fuel, furniture production services, equipment maintenance services, not included in this list.

Source: Approved by Resolution of the Government of the Republic of Kazakhstan No. 339 of 19 March 2012.

ANNEX 22(B)

The List of Goods and Services for Daily or Weekly Needs which Are Purchased by Customers in Order to Ensure Non-Stop Activity, as well as Procurement from One Source for the Period until Results of a Tender Are Announced, and the Government Procurement Contracts Enter into Force

1. Food stuffs;
2. Fuels and lubricants;
3. Paper A-4, A-3;
4. Works on maintenance of roads in winter season;
5. Catering services;
6. Services of burial of lonely citizens and citizens without relatives;
7. Bath and laundry services;
8. Motor transport services;
9. Installation, assembly, repair and operation of means of traffic control;
10. Service on maintenance of office buildings:
 - (1) cleaning inside offices and facade of the building and in the surrounding area;
 - (2) urban land improvement and landscaping of surrounding area, and maintenance of plants inside the buildings;
 - (3) sanitation inside of the buildings and in the surrounding area;
 - (4) removal of garbage and snow from the surrounding area;
 - (5) custodial services, provision with signal systems and other devices for the protection of buildings, fire safety and in the surrounding areas of the buildings;
11. Communication services (including Internet, satellite, telephone, courier mail service);
12. Services in support of information systems;
13. Services on publication of information in the media;
14. Services for the maintenance of fire fighting systems and air conditioning of server rooms;
15. Services on hardware and software system-maintenance;
16. Services for conduction of a scientific expertise of draft laws, regulations and concepts of the draft laws;
17. Services for the production of Collected Acts of central executive and other state bodies of the Republic of Kazakhstan.

Source: Approved by Resolution of the Government of the Republic of Kazakhstan No. 341 of 19 March 2012.

ANNEX 22(C)**The List of Commodity Exchange Goods and Minimum Limits of Provided Lots of Goods, which Are Realized through Commodity Exchange**

| No. | Short name of commodity | HS Code of CU | Minimum limits of provided lots of goods |
|-----|--|---------------------------------|--|
| 1 | 2 | 3 | 4 |
| 1. | Fresh or refrigerated potato: others | 0701 90 900 0 | 60 tonnes |
| 2. | Wheat and meslin: other dinkel wheat, soft wheat and other meslin** | 1001 91 990 0, 1001 99 000 0 | 600 tonnes |
| 3. | Barley: others** | 1003 90 000 0 | 600 tonnes |
| 4. | Crashed or non-crashed soybean: others | 1201 90 000 0 | 600 tonnes |
| 5. | White sugar | 1701 99 100 | 60 tonnes |
| 6. | Portland cement, aluminous cement, slag cement, supersulphate and like hydraulic cements, either in manufactured form or in the form of clinkers | 2523 | 60 tonnes |
| 7. | Coal, briquettes, fuels pellet and similar solid fuels manufactured from stone coal* | 2701 | 3,000 tonnes |
| 8. | Lignite or brown coal, agglomerated or not agglomerated, except for jet* | 2702 | 3,000 tonnes |
| 9. | Petroleum gases and other gaseous hydrocarbons: LPG: propane | 2711 12 | 100 tonnes |
| 10. | Petroleum gases and other gaseous hydrocarbons: LPG: butanes | 2711 13 | 100 tonnes |
| 11. | Petroleum gases and other gaseous hydrocarbons: LPG: others | 2711 19 000 0 | 100 tonnes |
| 12. | Cotton fiber, carded or combed | 5203 00 000 0 | 600 tonnes |

* Applied for the procurement by municipal juridical persons since 1 January 2013

** The list is not applied to State resources of grain

Source: Approved by Resolution of the Government of the Republic of Kazakhstan No. 375 of 6 April 2011.

ANNEX 23

Prices for works and services of the Republican State Enterprise "National Institute of Intellectual Property" of the Ministry of Justice of the Republic of Kazakhstan

| 1. Activities in the field of protection of inventions, utility models and industrial designs | | | | |
|--|--|---------------------------|---------------------|---|
| No. | Names for works and services according to the Law of the Republic of Kazakhstan "Patent Law of the Republic of Kazakhstan" of 16 July 1999 | Price (KZT excluding VAT) | | |
| | | For juridical persons | For natural persons | For participants and invalids of the Great Patriotic War, invalids, students of secondary schools and university students |
| 1 | 2 | 3 | 4 | 5 |
| 1 | Receipt of applications and formal examination for invention: | | | |
| 1) | for paper application | 18143 | 5443 | 363 |
| 2) | for electronic application | 15421 | 4626 | 308 |
| 2 | Receipt of applications and examination for utility model: | | | |
| 1) | for paper application | 14688 | 4406 | 294 |
| 2) | for electronic application | 12484 | 3745 | 250 |
| 3 | Receipt of applications and formal examination for industrial design: | | | |
| 1) | for paper application | 16107 | 4832 | 322 |
| 2) | for electronic application | 13691 | 4107 | 274 |
| 4 | Processing, verification and transmission of international application | 9165 | 9165 | 9165 |
| 5 | Processing, verification and transmission of Eurasian application | 4018 | 4018 | 4018 |
| 6 | Substantive examination of application for invention | 59785 | 17936 | 1196 |
| 7 | Substantive examination additionally for each independent point of the formula | 47785 | 14335 | 956 |
| 8 | Substantive examination of application for industrial design | 32861 | 9858 | 657 |
| 9 | Substantive examination for each additional industrial design | 3913 | 1174 | 78 |
| 10 | Introduction of amendments into documents of application | 4665 | 1400 | 93 |
| 11 | Introduction of similar amendments into documents of application | 3714 | 1114 | 74 |
| 12 | Conversion of application for invention and /or utility model | 7795 | 2338 | 156 |
| 13 | Preparation of documents for issuance of protection document, publication of data on granting of protection document | 29691 | 8907 | 594 |
| 14 | Issuance of author certificate | 29691 | 8907 | 594 |

| 1. Activities in the field of protection of inventions, utility models and industrial designs | | | | |
|--|--|---------------------------|---------------------|---|
| No. | Names for works and services according to the Law of the Republic of Kazakhstan "Patent Law of the Republic of Kazakhstan" of 16 July 1999 | Price (KZT excluding VAT) | | |
| | | For juridical persons | For natural persons | For participants and invalids of the Great Patriotic War, invalids, students of secondary schools and university students |
| 1 | 2 | 3 | 4 | 5 |
| 15 | Issuance of author certificate duplicate | 10371 | 3111 | 207 |
| 16 | Issuance of duplicate annex to author certificate | 5362 | 1608 | 107 |
| 17 | Amendments to protection document, state registers of inventions, utility models, industrial designs | 13023 | 3907 | 260 |
| 18 | Similar amendments to protection document, state registers of inventions, utility models, industrial designs | 4111 | 1233 | 82 |
| 19 | Provision of an extract from the state registry of inventions, utility models, industrial designs | 4353 | 1306 | 87 |
| 20 | Extension of protection document and publication of information on extension: | | | |
| 1) | innovation patent for invention, provisional patent for invention and industrial design, patent for utility model and industrial design | 2935 | 880 | 59 |
| 2) | patent for invention | 7689 | 2307 | 154 |
| 21 | Restoration of validity term of protection document and publication of information on restoration of protection document | 10089 | 3027 | 202 |
| 22 | Receipt of applications claiming conventional priority after the deadline | 19753 | 5926 | 395 |
| 23 | Transformation of international application into national phase | 5853 | 1756 | 117 |
| 24 | Extension of deadline for submission of translation of application documents into Kazakh or Russian languages | 5853 | 1756 | 117 |
| 25 | Conduction of information search in order to define the state of art and assess patentability of an invention, utility model and industrial design | 43505 | 13051 | 870 |
| 26 | Extension of deadline for submission of required documents for each month up to twelve months from the date of expiry of the deadline | 7795 | 2338 | 156 |
| 27 | Restoration of the terms for submission of reply to examination request and provision of payment | 28156 | 8447 | 563 |

| 1. Activities in the field of protection of inventions, utility models and industrial designs | | | | |
|--|---|---------------------------|---------------------|---|
| No. | Names for works and services according to the Law of the Republic of Kazakhstan "Patent Law of the Republic of Kazakhstan" of 16 July 1999 | Price (KZT excluding VAT) | | |
| | | For juridical persons | For natural persons | For participants and invalids of the Great Patriotic War, invalids, students of secondary schools and university students |
| 1 | 2 | 3 | 4 | 5 |
| 28 | Examination of contract on assignment of protection documents and publication of information on registration of the contract | 40179 | 40179 | 40179 |
| 29 | Examination of contract on assignment of the right to receive protection documents and publication of information on registration of the contract | 9032 | 9032 | 9032 |
| 30 | Examination of licence (sublicence) contract, pledge contract, acceptance of application for registration of expertise of contract on provision of package business licence in respect of one or group of industrial property objects, publication of data on registration of contracts | 40179 | 40179 | 40179 |
| 31 | Acceptance of application for open licence | 11607 | 11607 | 11607 |
| 32 | Examination of supplementary contract and publication of information on its registration | 11607 | 11607 | 11607 |
| 33 | Search of patent documentation: | | | |
| 1) | numeric | 670 | 201 | 13 |
| 2) | nominal | 996 | 299 | 20 |
| 34 | Consideration of application with participation of the applicant | 1518 | 1518 | 1518 |
| 35 | Creation of copy of application (priority document) | 2438 | 731 | 49 |
| 36 | Creation of paper copies of documents: | | | |
| 1) | production of copy of application documents and of cited document (1 sided sheet) | 27 | 27 | 27 |
| 2) | production of copy of application documents and of cited document (1 double-sided sheet) | 36 | 36 | 36 |
| 37 | Transfer of payments (one payment) | 491 | 491 | 491 |
| 38 | Confirmation of payments (one payment) | 491 | 491 | 491 |

| 1. Activities in the field of protection of inventions, utility models and industrial designs | | | | |
|--|--|---------------------------------------|---------------------|---|
| No. | Names for works and services according to the Law of the Republic of Kazakhstan "Patent Law of the Republic of Kazakhstan" of 16 July 1999 | Price (KZT excluding VAT) | | |
| | | For juridical persons | For natural persons | For participants and invalids of the Great Patriotic War, invalids, students of secondary schools and university students |
| 1 | 2 | 3 | 4 | 5 |
| 39 | Databases of protection documents of the Republic of Kazakhstan: | | | |
| 1) | full-text database "Protection documents on inventions and utility models" (1 item, 1 year) | 30804 | 30804 | 30804 |
| | | for educational institutions - 21,565 | | |
| 2) | bibliographic database "Protection documents" (1 item, 1 year) | 21071 | 21071 | 21071 |
| 40 | Official bulletin "Industrial Property" Part 1 (1 issue) | 1491 | 1491 | 1491 |
| 41 | Official bulletin "Industrial Property" Part 2 (1 issue) | 2946 | 2946 | 2946 |
| 42 | Official Bulletin "Industrial Property" on CD-ROM (electronic version) (1 CD) | 2679 | 2679 | 2679 |

| 2. Activities in the field of selection achievements | | | | |
|---|--|---------------------------|---------------------|---|
| No. | Names for works and services according to the Law of the Republic of Kazakhstan "Patent Law of the Republic of Kazakhstan" of 16 July 1999 | Price (KZT excluding VAT) | | |
| | | For juridical persons | For natural persons | For participants and invalids of the Great Patriotic War, invalids, students of secondary schools and university students |
| 1 | 2 | 3 | 4 | 5 |
| 43 | Receipt of applications and preliminary examination of applications for selection achievement: | | | |
| 1) | for paper application | 10036 | 3011 | 201 |
| 2) | for electronic application | 8530 | 2559 | 171 |
| 44 | Introduction of amendments into documents of application | 4665 | 1400 | 93 |
| 45 | Preparation of protection documents, issuance of author certificate, publication of information on issuance of protection documents | 29691 | 8907 | 594 |
| 46 | Issuance of author certificate duplicate | 10371 | 3111 | 207 |
| 47 | Duplicate applications to the identity of the author | 5362 | 1608 | 107 |
| 48 | Introduction of amendments into protection document and state registers on protected plant varieties and animal breeds | 13023 | 3907 | 260 |
| 49 | Provision of an extract from state register on selection achievements | 4353 | 1306 | 87 |

| 2. Activities in the field of selection achievements | | | | |
|---|---|---------------------------|---------------------|---|
| No. | Names for works and services according to the Law of the Republic of Kazakhstan "Patent Law of the Republic of Kazakhstan" of 16 July 1999 | Price (KZT excluding VAT) | | |
| | | For juridical persons | For natural persons | For participants and invalids of the Great Patriotic War, invalids, students of secondary schools and university students |
| 1 | 2 | 3 | 4 | 5 |
| 50 | Extension of protection document and publication of information on extension | 2935 | 880 | 59 |
| 51 | Examination of contract on patent assignment and publication of information on registration of the contract | 40179 | 40179 | 40179 |
| 52 | Examination of contract on assignment of the right to receive patent for selection achievement and publication of information on registration of the contract | 9032 | 9032 | 9032 |
| 53 | Examination of licence (sublicence) contract, pledge contract, publication of data on registration of contract | 40179 | 40179 | 40179 |
| 54 | Receipt of application for open licence | 11607 | 11607 | 11607 |
| 55 | Examination of supplementary contract and publication of information on its registration | 11607 | 11607 | 11607 |
| 56 | Creation of paper copies of documents: | | | |
| 1) | production of copy of application documents (1-sided sheet) | 27 | 27 | 27 |
| 2) | production of copy of application documents (1 double-sided sheet) | 36 | 36 | 36 |
| 57 | Transfer of payments (one payment) | 491 | 491 | 491 |
| 58 | Confirmation of payments (one payment) | 491 | 491 | 491 |

| 3. Payments for maintenance of protection documents | | | | | | |
|--|---------------------------|---|---------------------|---|---|---|
| 1) protection document for invention (Eurasian patent) | | | | | | |
| One year of protection document maintenance from the date of application | Price (KZT excluding VAT) | | | | | |
| | For juridical persons | | For natural persons | | For participants and invalids of the Great Patriotic War, invalids, students of secondary schools and university students | |
| | | After the specified date, but not later than six months from the date of its expiration | | After the specified date, but not later than six months from the date of its expiration | | After the specified date, but not later than six months from the date of its expiration |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| First | 18143 | 27214 | 5443 | 8164 | 363 | 544 |
| Second | 18143 | 27214 | 5443 | 8164 | 363 | 544 |

| 3. Payments for maintenance of protection documents | | | | | | |
|--|--------|--------|-------|-------|------|------|
| Third | 18143 | 27214 | 5443 | 8164 | 363 | 544 |
| Fourth | 26920 | 40379 | 8076 | 12114 | 538 | 808 |
| Fifth | 26920 | 40379 | 8076 | 12114 | 538 | 808 |
| Sixth | 35071 | 52607 | 10521 | 15782 | 701 | 1052 |
| Seventh | 35071 | 52607 | 10521 | 15782 | 701 | 1052 |
| Eighth | 53835 | 80752 | 16150 | 24226 | 1077 | 1615 |
| Ninth | 53835 | 80752 | 16150 | 24226 | 1077 | 1615 |
| Tenth | 53835 | 80752 | 16150 | 24226 | 1077 | 1615 |
| Eleventh | 71384 | 107076 | 21415 | 32123 | 1428 | 2142 |
| Twelfth | 71384 | 107076 | 21415 | 32123 | 1428 | 2142 |
| Thirteenth | 107656 | 161484 | 32297 | 48445 | 2153 | 3230 |
| Fourteenth | 107656 | 161484 | 32297 | 48445 | 2153 | 3230 |
| Fifteenth | 107656 | 161484 | 32297 | 48445 | 2153 | 3230 |
| Sixteenth | 125205 | 187808 | 37562 | 56342 | 2504 | 3756 |
| Seventeenth | 125205 | 187808 | 37562 | 56342 | 2504 | 3756 |
| Eighteenth | 125205 | 187808 | 37562 | 56342 | 2504 | 3756 |
| Nineteenth | 142746 | 214118 | 42824 | 64235 | 2855 | 4282 |
| Twentieth | 142746 | 214118 | 42824 | 64235 | 2855 | 4282 |
| Twenty-first | 142746 | 214118 | 42824 | 64235 | 2855 | 4282 |
| Twenty-second | 142746 | 214118 | 42824 | 64235 | 2855 | 4282 |
| Twenty-third | 142746 | 214118 | 42824 | 64235 | 2855 | 4282 |
| Twenty-fourth | 142746 | 214118 | 42824 | 64235 | 2855 | 4282 |
| Twenty-fifth | 142746 | 214118 | 42824 | 64235 | 2855 | 4282 |
| 2) Patent for utility model | | | | | | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| First | 14688 | 22031 | 4406 | 6609 | 294 | 441 |
| Second | 14688 | 22031 | 4406 | 6609 | 294 | 441 |
| Third | 14688 | 22031 | 4406 | 6609 | 294 | 441 |
| Fourth | 42728 | 64092 | 12818 | 19227 | 855 | 1282 |
| Fifth | 42728 | 64092 | 12818 | 19227 | 855 | 1282 |
| Sixth | 42728 | 64092 | 12818 | 19227 | 855 | 1282 |
| Seventh | 42728 | 64092 | 12818 | 19227 | 855 | 1282 |
| Eighth | 42728 | 64092 | 12818 | 19227 | 855 | 1282 |
| 3) Protection document for industrial design | | | | | | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| First | 16107 | 24161 | 4832 | 7248 | 322 | 483 |
| Second | 16107 | 24161 | 4832 | 7248 | 322 | 483 |
| Third | 16107 | 24161 | 4832 | 7248 | 322 | 483 |
| Fourth | 23429 | 35143 | 7029 | 10543 | 469 | 703 |
| Fifth | 23429 | 35143 | 7029 | 10543 | 469 | 703 |
| Sixth | 27821 | 41732 | 8346 | 12520 | 556 | 835 |
| Seventh | 27821 | 41732 | 8346 | 12520 | 556 | 835 |
| Eighth | 29254 | 43882 | 8776 | 13165 | 585 | 878 |
| Ninth | 29254 | 43882 | 8776 | 13165 | 585 | 878 |
| Tenth | 33679 | 50518 | 10104 | 15155 | 674 | 1010 |
| Eleventh | 49786 | 74679 | 14936 | 22404 | 996 | 1494 |
| Twelfth | 49786 | 74679 | 14936 | 22404 | 996 | 1494 |
| Thirteenth | 49786 | 74679 | 14936 | 22404 | 996 | 1494 |
| Fourteenth | 49786 | 74679 | 14936 | 22404 | 996 | 1494 |
| Fifteenth | 49786 | 74679 | 14936 | 22404 | 996 | 1494 |
| Sixteenth | 73594 | 110391 | 22078 | 33117 | 1472 | 2208 |
| Seventeenth | 73594 | 110391 | 22078 | 33117 | 1472 | 2208 |
| Eighteenth | 73594 | 110391 | 22078 | 33117 | 1472 | 2208 |
| Nineteenth | 73594 | 110391 | 22078 | 33117 | 1472 | 2208 |
| Twentieth | 73594 | 110391 | 22078 | 33117 | 1472 | 2208 |
| 4) Patent for selection achievement | | | | | | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| First | 10036 | 15054 | 3011 | 4516 | 201 | 301 |
| Second | 10036 | 15054 | 3011 | 4516 | 201 | 301 |
| Third | 10036 | 15054 | 3011 | 4516 | 201 | 301 |
| Fourth | 14911 | 22366 | 4473 | 6710 | 298 | 447 |
| Fifth | 14911 | 22366 | 4473 | 6710 | 298 | 447 |
| Sixth | 19420 | 29129 | 5826 | 8739 | 388 | 583 |
| Seventh | 19420 | 29129 | 5826 | 8739 | 388 | 583 |
| Eighth | 29786 | 44679 | 8936 | 13404 | 596 | 894 |

| 3. Payments for maintenance of protection documents | | | | | | |
|--|--------|--------|-------|-------|------|------|
| Ninth | 29786 | 44679 | 8936 | 13404 | 596 | 894 |
| Tenth | 29786 | 44679 | 8936 | 13404 | 596 | 894 |
| Eleventh | 39509 | 59263 | 11853 | 17779 | 790 | 1185 |
| Twentieth | 39509 | 59263 | 11853 | 17779 | 790 | 1185 |
| Thirteenth | 59554 | 89330 | 17866 | 26799 | 1191 | 1787 |
| Fourteenth | 59554 | 89330 | 17866 | 26799 | 1191 | 1787 |
| Fifteenth | 59554 | 89330 | 17866 | 26799 | 1191 | 1787 |
| Sixteenth | 69286 | 103929 | 20786 | 31179 | 1386 | 2079 |
| Seventeenth | 69286 | 103929 | 20786 | 31179 | 1386 | 2079 |
| Eighteenth | 69286 | 103929 | 20786 | 31179 | 1386 | 2079 |
| Nineteenth | 79018 | 118527 | 23705 | 35558 | 1580 | 2371 |
| Twentieth | 79018 | 118527 | 23705 | 35558 | 1580 | 2371 |
| Twenty-first | 79018 | 118527 | 23705 | 35558 | 1580 | 2371 |
| Twenty-second | 79018 | 118527 | 23705 | 35558 | 1580 | 2371 |
| Twenty-third | 79018 | 118527 | 23705 | 35558 | 1580 | 2371 |
| Twenty-fourth | 79018 | 118527 | 23705 | 35558 | 1580 | 2371 |
| Twenty-fifth | 79018 | 118527 | 23705 | 35558 | 1580 | 2371 |
| Twenty-sixth - thirtieth | 88393 | 132589 | 26518 | 39777 | 1768 | 2652 |
| Thirty-first-thirty-fifth | 98214 | 147321 | 29464 | 44196 | 1964 | 2946 |
| Thirty-sixth -Fortieth | 108036 | 162054 | 32411 | 48616 | 2161 | 3241 |
| Forty-first- forty fifth | 117857 | 176786 | 35357 | 53036 | 2357 | 3536 |

Approved by Order of the Minister of Justice of the Republic of Kazakhstan No. 368 of 18 December 2014.

ANNEX 24

Preferential Trade Agreements

I. CIS Free Trade Area

Basic Agreements

- Agreement on the Creation of Free Trade Area of 15 April 1994;
- Protocol on Amending the Agreements on the Creation of Free Trade Area of 15 April 1994 (2 April 1999);
- Protocol on the Rules for Conducting of Consultations on Phasing-Out of Exemptions from Free Trade Regime of the Parties to the Agreement on the Creation of Free Trade Area of 24 December 1999;
- Agreement on Free Trade Area of 18 October 2011, signed by the following CIS countries: Armenia, Belarus, Kazakhstan, the Kyrgyz Republic, Moldova, the Russian Federation, Tajikistan and Ukraine; and,
- Protocol on Application of the Agreement on Free Trade Area of 18 October 2011 between Parties to the Agreement and the Republic of Uzbekistan of 31 May 2013.

Bilateral Free Trade Agreements Concluded under the CIS

- Free Trade Agreement between the Government of the Republic of Kazakhstan and the Government of Republic of Azerbaijan 10 June 1997 - effective;
- Protocol on Exemptions from Free Trade Regime to the Free Trade Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Azerbaijan 10 June 1997 - not effective, new Protocol signed;
- Protocol on Amending the Free Trade Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Azerbaijan 10 June 1997 (24 May 2005) - effective;
- Free Trade Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Armenia of 20 September 1999 – effective;
- Protocol on Exemptions from Free Trade Regime to the Free Trade Agreement between the Government of the Republic of Kazakhstan and the Government of Republic of Armenia of 20 September 1999 - not effective, terms ended;
- Free Trade Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Belarus (23 September 1997) – effective;
- Free Trade Agreement between the Government of the Republic of Kazakhstan and the Government of the Kyrgyz Republic of 22 June 1997 – effective;
- Protocol on Exemptions from Free Trade Regime to the Free Trade Agreement between the Government of the Republic of Kazakhstan and the Government of the Kyrgyz Republic of 22 June 1997 – effective;
- Free Trade Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Moldova of 26 May 1995 – effective;
- Protocol on Exemptions from Free Trade Regime to the Free Trade Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Moldova of 26 May 1995 – effective;
- Free Trade Agreement between the Government of the Republic of Kazakhstan and the Government of the Russian Federation of 22 October 1992 – not effective;
- Protocol on Exemptions from Free Trade Regime to the Free Trade Agreement between the Government of the Republic of Kazakhstan and the Government of the Russian Federation of 22 October 1992 - not effective;
- Protocol on Establishment of Free Trade Regime without Exemptions and Restrictions - not effective;
- Amendment of 23 December 1998 to the Protocol on Establishment of Free Trade Regime without Exemptions and Restrictions between the Republic of Kazakhstan and the Russian Federation of 20 January 1995 – not effective;
- Free Trade Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Tajikistan of 22 November 1995 - effective;
- Protocol on Exemptions from Free Trade Regime to the Free Trade Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Tajikistan of 22 November 1995 – effective;

- Free Trade Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Uzbekistan of 2 June 1997 - effective;
- Protocol on Exemptions from Free Trade Regime to the Free Trade Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Uzbekistan of 2 June 1997 - effective;
- Free Trade Agreement between the Government of the Republic of Kazakhstan and the Government of Ukraine of 17 September 1994 – effective;
- Protocol on Exemptions from Free Trade Regime to the Free Trade Agreement between the Government of the Republic of Kazakhstan and the Government of Ukraine of 17 September 1994 – effective;
- Free Trade Agreement between the Government of the Republic of Kazakhstan and the Government of Georgia of 11 November 1997 - effective;
- Protocol on Exemptions from Free Trade Regime to the Free Trade Agreement between the Government of the Republic of Kazakhstan and the Government of Georgia of 11 November 1997 – not effective, new Protocol signed; and,
- Protocol on Amending the Free Trade Agreement between the Government of the Republic of Kazakhstan and the Government of Georgia of 11 November 1997 (11 November 2004) - effective.

Most Important Agreements Adopted within the CIS FTA:

- Decision of the Council of the Heads of the Governments of the Commonwealth of Independent States on Rules of Origin of 30 November 2000 - not effective;
- Agreement on Rules of Origin in the Commonwealth of Independent States of 20 November 2009 - effective;
- Agreement on Re-export of Goods and the Procedure of Licensing of Re-export of 15 April 1994;
- Agreement on Uniform Goods Nomenclature of CIS Foreign Economic Activity of 3 November 1995;
- Protocol on Amendments into Uniform Goods Nomenclature of CIS Foreign Economic Activity of 4 June 1999;
- Protocol on Amendments into Uniform Goods Nomenclature of CIS Foreign Economic Activity of 8 October 1999;
- Protocol to the Agreement on Uniform Goods Nomenclature of CIS Foreign Economic Activity of 20 June 2000; and,
- Agreement on Measures for Prevention and Restraint of Fictitious Trade Marks and Geographical Indications of 4 June 1999.

II. The Customs Union of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation within the Eurasian Economic Community (EurAsEC)

EurAsEC Agreements that Form Legal Basis for the Customs Union:

- Agreement on the Customs Union between the Republic of Belarus and the Russian Federation of 6 January 1995; and,
- Agreement on the Customs Union between the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation of 20 January 1995;

Customs Union Agreements that Finalized the Creation of the CU:

- Agreement on Export Customs Duties with regard to the Third Countries of 25 January 2008;
- Agreement on Common Rules for Determining the Country of Origin of 25 January 2008;
- Agreement on Determination of Customs Valuation of Goods Transferred Across the Customs Border of the Customs Union of 25 January 2008;
- Protocol on Common System of Tariff Preferences of the Customs Union of 12 December 2008;
- Agreement on Rules of Origin of Goods Originating from Developing and Least-developed Countries of 12 December 2008; and,
- Treaty on the Customs Code of the Customs Union of 27 November 2009;

Agreement establishing the Legal Basis for the Single Economic Space between the Republic of Kazakhstan, the Republic of Belarus and the Russian Federation:

- Agreement on Coordinated Principles on Counteraction to Illegal Labor Migration from Third Countries of 19 November 2010.

III. Other Bilateral FTAs

- Free Trade Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Serbia of 7 October 2010 (entered into force on 10 January 2012).

APPENDIX

DRAFT DECISION

ACCESSION OF THE REPUBLIC OF KAZAKHSTAN

Decision of [X Month 2015]

The General Council,

Having regard to paragraph 2 of Article XII and paragraph 1 of Article IX of the Marrakesh Agreement Establishing the World Trade Organization (the "WTO Agreement"), and the Decision-Making Procedures under Articles IX and XII of the WTO Agreement agreed by the General Council (WT/L/93),

Conducting the functions of the Ministerial Conference in the interval between meetings pursuant to paragraph 2 of Article IV of the WTO Agreement,

Taking note of the application of the Republic of Kazakhstan for accession to the WTO Agreement dated 29 January 1996,

Noting the results of the negotiations directed toward the establishment of the terms of accession of the Republic of Kazakhstan to the WTO Agreement and having prepared a Protocol on the Accession of the Republic of Kazakhstan,

Decides as follows:

1. The Republic of Kazakhstan may accede to the WTO Agreement on the terms and conditions set out in the Protocol annexed to this Decision.
-

**DRAFT PROTOCOL
ON THE ACCESSION OF THE REPUBLIC OF KAZAKHSTAN**

Preamble

The World Trade Organization (hereinafter referred to as the "WTO"), pursuant to the approval of the General Council of the WTO accorded under Article XII of the Marrakesh Agreement Establishing the World Trade Organization (hereinafter referred to as the "WTO Agreement"), and the Republic of Kazakhstan (hereinafter referred to as "Kazakhstan"),

Taking note of the Report of the Working Party on the Accession of the Republic of Kazakhstan to the WTO Agreement reproduced in document WT/ACC/KAZ/93, dated 23 June 2015 (hereinafter referred to as the "Working Party Report"),

Having regard to the results of the negotiations on the accession of Kazakhstan to the WTO Agreement,

Agree as follows:

PART I - GENERAL

1. Upon entry into force of this Protocol pursuant to paragraph 8, Kazakhstan accedes to the WTO Agreement pursuant to Article XII of that Agreement and thereby becomes a Member of the WTO.
2. The WTO Agreement to which Kazakhstan accedes shall be the WTO Agreement, including the Explanatory Notes to that Agreement, as rectified, amended or otherwise modified by such legal instruments as may have entered into force before the date of entry into force of this Protocol. This Protocol, which shall include the commitments referred to in paragraph 1175 of the Working Party Report, shall be an integral part of the WTO Agreement.
3. Except as otherwise provided for in paragraph 1175 of the Working Party Report, those obligations in the Multilateral Trade Agreements annexed to the WTO Agreement that are to be implemented over a period of time starting with the entry into force of that Agreement shall be implemented by Kazakhstan as if it had accepted that Agreement on the date of its entry into force.
4. Kazakhstan may maintain a measure inconsistent with paragraph 1 of Article II of the General Agreement on Trade in Services (hereinafter referred to as "GATS") provided that such a measure was recorded in the list of Article II Exemptions annexed to this Protocol and meets the conditions of the Annex to the GATS on Article II Exemptions.

PART II - SCHEDULES

5. The Schedules reproduced in the Annex to this Protocol shall become the Schedule of Concessions and Commitments annexed to the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as the "GATT 1994") and the Schedule of Specific Commitments annexed to the GATS relating to Kazakhstan. The staging of the concessions and commitments listed in the Schedules shall be implemented as specified in the relevant parts of the respective Schedules.
6. For the purpose of the reference in paragraph 6(a) of Article II of the GATT 1994 to the date of that Agreement, the applicable date in respect of the Schedules of Concessions and Commitments annexed to this Protocol shall be the date of entry into force of this Protocol.

PART III - FINAL PROVISIONS

7. This Protocol shall be open for acceptance, by signature or otherwise, by Kazakhstan until 31 October 2015 or such later date as may be decided by the General Council.

8. This Protocol shall enter into force on the thirtieth day following the day upon which it shall have been accepted by Kazakhstan.

9. This Protocol shall be deposited with the Director-General of the WTO. The Director-General of the WTO shall promptly furnish a certified copy of this Protocol and a notification of acceptance by Kazakhstan thereto pursuant to paragraph 7 to each Member of the WTO and to Kazakhstan.

10. This Protocol shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

Done at [...] this [...] day of [...] in a single copy in the English, French and Spanish languages, each text being authentic, except that a Schedule annexed hereto may specify that it is authentic in only one of these languages, and the Working Party Report is authentic in English only.

ANNEX

SCHEDULE CLXXII – THE REPUBLIC OF KAZAKHSTAN

Authentic only in the English language.

(Circulated in document WT/ACC/KAZ/93/Add.1)

SCHEDULE OF SPECIFIC COMMITMENTS ON SERVICES

LIST OF ARTICLE II EXEMPTIONS

Authentic only in the English language.

(Circulated in document WT/ACC/KAZ/93/Add.2)
