

# WORLD TRADE ORGANIZATION

RESTRICTED

**WT/ACC/KAZ/40**

30 April 2003

(03-2311)

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**Working Party on the  
Accession of Kazakhstan**

Original: English

## **ACCESSION OF KAZAKHSTAN**

### Survey of the Foreign Trade Regime of the Republic of Kazakhstan

The following "Survey of the Foreign Trade Regime" has been received from the delegation of the Republic of Kazakhstan with the request that it be circulated to members of the Working Party.

The Survey provides updated information on the economic, trade and legislative regime. It will serve as background information for the next meeting of the Working Party.

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## TABLE OF CONTENTS

-	<b>Introduction.....</b>	<b>1</b>
-	<b>Documents .....</b>	<b>1</b>
-	<b>Economic Policies.....</b>	<b>3</b>
-	<b>System of Currency Exchange and Payments.....</b>	<b>3</b>
-	<b>Investment Regime .....</b>	<b>6</b>
-	<b>Pricing Policies .....</b>	<b>7</b>
-	<b>Policies on Competition .....</b>	<b>8</b>
-	<b>Mechanisms of Development and Implementation of Policies, Influencing Trade in Goods and Services.....</b>	<b>9</b>
-	<b>Executive, Legislative, and Judicial .....</b>	<b>9</b>
-	<b>Legislative .....</b>	<b>10</b>
-	<b>Judicial.....</b>	<b>11</b>
-	<b>Governmental Bodies Responsible for the Development and Implementation of Policies, Affecting Foreign Trade .....</b>	<b>11</b>
-	<b>Local administration and self-government bodies.....</b>	<b>12</b>
-	<b>International Treaties.....</b>	<b>12</b>
-	<b>Provisions Affecting Trade in Goods .....</b>	<b>13</b>
-	<b>Registration .....</b>	<b>13</b>
-	<b>Customs Duties.....</b>	<b>14</b>
-	<b>Import Customs Duties .....</b>	<b>14</b>
-	<b>Other Import Duties and Fees Levied for Provided Services .....</b>	<b>15</b>
-	<b>Other duties levied on imported (not domestic) goods, except for duties levied on provided services.....</b>	<b>17</b>
-	<b>Application of Taxes to Imported Goods.....</b>	<b>17</b>
-	<b>Value Added Tax .....</b>	<b>18</b>
-	<b>Excises .....</b>	<b>18</b>
-	<b>Quantitative Restrictions on Import .....</b>	<b>22</b>
-	<b>Import Licensing.....</b>	<b>22</b>
-	<b>Customs Valuation.....</b>	<b>22</b>
-	<b>Rules Relating to the Determination of Origin of Goods .....</b>	<b>23</b>
-	<b>Pre-shipment Inspection.....</b>	<b>24</b>
-	<b>Anti-Dumping, Countervailing, and Safeguard Measures.....</b>	<b>25</b>
-	<b>Export Customs Duties.....</b>	<b>25</b>
-	<b>Export Restrictions .....</b>	<b>25</b>
-	<b>Export Licensing .....</b>	<b>26</b>
-	<b>Export Subsidies .....</b>	<b>26</b>

-	<b>Internal Policies, Affecting Trade in Goods .....</b>	<b>27</b>
-	<b>Policies on Support of Industry .....</b>	<b>27</b>
-	<b>Technical Barriers to Trade.....</b>	<b>28</b>
-	<b>Sanitary and Phytosanitary Measures .....</b>	<b>31</b>
-	<b>Investment Measures in Trade .....</b>	<b>37</b>
-	<b>Provisions on State Trade .....</b>	<b>37</b>
-	<b>Free Zones .....</b>	<b>38</b>
-	<b>State Procurement Practices .....</b>	<b>39</b>
-	<b>Transit.....</b>	<b>39</b>
-	<b>Provisions Influencing Trade in Agricultural Goods .....</b>	<b>40</b>
-	<b>Policies in Agriculture .....</b>	<b>40</b>
-	<b>TRADE-RELATED INTELLECTUAL PROPERTY REGIME.....</b>	<b>44</b>
-	<b>Policies on Intellectual Property.....</b>	<b>44</b>
-	<b>Bodies for Administration of Intellectual Property Rights.....</b>	<b>44</b>
-	<b>Participation in International Conferences on Intellectual Property .....</b>	<b>44</b>
-	<b>Participation in international conferences on intellectual property and regional or bilateral agreements.....</b>	<b>45</b>
-	<b>Application of National Treatment and Most Favorable Treatment to Foreign Citizens.....</b>	<b>45</b>
-	<b>Independent Protection Standards, including Procedures for Acquisition and Enforcement of Intellectual Property Rights .....</b>	<b>46</b>
-	<b>Independent Protection Standards, including Procedures for Acquisition and Enforcement of Intellectual Property Rights .....</b>	<b>46</b>
-	<b>Copyright and relating rights, including rights of performers, phonogram producers, and broadcasting organizations .....</b>	<b>46</b>
-	<b>Rights of authors.....</b>	<b>46</b>
-	<b>Rights of performers.....</b>	<b>46</b>
-	<b>Rights of phonogram producers.....</b>	<b>46</b>
-	<b>The right of broadcasting organizations.....</b>	<b>46</b>
-	<b>Protection of performers, phonogram producers, and broadcasting organizations .....</b>	<b>47</b>
-	<b>Trademarks, including Service Marks .....</b>	<b>47</b>
-	<b>Geographical Indications, Including Countries of Origin .....</b>	<b>47</b>
-	<b>Patents.....</b>	<b>47</b>
-	<b>Industrial Designs .....</b>	<b>48</b>
-	<b>Plant Protection.....</b>	<b>48</b>
-	<b>Layout Design of Integrated Microcircuits .....</b>	<b>49</b>
-	<b>Closed Information, including Commercial Secret and Test Results .....</b>	<b>49</b>

-	<b>Control relating to Infringement of Intellectual Property Rights .....</b>	<b>49</b>
-	<b>Measures for Enforcement of Intellectual Property Rights.....</b>	<b>49</b>
-	<b>Court Legal Procedures and Decisions .....</b>	<b>49</b>
-	<b>Provisional measures .....</b>	<b>50</b>
-	<b>Administrative mechanisms and procedures .....</b>	<b>50</b>
-	<b>Special Border Measures.....</b>	<b>50</b>
-	<b>Criminal Procedures.....</b>	<b>50</b>
-	<b>Legislative Acts .....</b>	<b>51</b>
-	<b>POLICIES AFFECTING TRADE IN SERVICES.....</b>	<b>51</b>
-	<b>Transparency .....</b>	<b>53</b>
-	<b>INSTITUTIONAL BASE FOR TRADE AND ECONOMIC RELATIONS WITH THIRD COUNTRIES .....</b>	<b>53</b>
-	<b>Regional Agreements .....</b>	<b>53</b>



## - **Introduction**

On 29 January 1996 the Government of the Republic of Kazakhstan applied for accession to the World Trade Organization (WTO). The meeting of the General Council of 6 February 1996, resulted in the establishment of the Working Party for consideration of the accession application of the Republic of Kazakhstan under Article XII and development of recommendations for the General Council, including the Schedule of Accession. All WTO members have been allowed to become members of the Working Party. Requirements for participation in the Working Party are set out in WT/ACC/KAZ/2 Par.1 and 2).

The first meeting (10 March 1997), and the second meeting (9 October 1997) of the Working Party were chaired by B. Ekblom (Finland); the third meeting (9 October 1998), the fourth meeting (12-13 July 2001), and the fifth meeting (13 December 2002) of the Working Party were chaired by P. Huhtaniemi (Finland).

## - **Documents**

Discussions of the Working Party have been based on the Memorandum on Foreign Trade Regime of the Republic of Kazakhstan B (WT/ACC/KAZ/3 and App.1), answers to the questions, submitted by members of the Working Party on the foreign trade regime of the Republic of Kazakhstan (WT/ACC/KAZ/6. App.1 and 2; 10; 14; 18; 20; 21; 22; 23; 24; 25; 26; 27; 28; 29; 30; 31; 32; 33; 34; 35; WT/ACC/SPEC/KAZ/2), and other information made available by the authorized bodies of the Republic of Kazakhstan. The Government of the Republic of Kazakhstan provided the Working Party with the following legislative acts:

- the Constitution of the Republic of Kazakhstan;
- the Civil Code of the Republic of Kazakhstan;
- the Code of the Republic of Kazakhstan "On Taxes and Other Mandatory Payments to the Budget";
- "On Implementation of the Statutory Order of the President of the Republic of Kazakhstan 'On Customs in the Republic of Kazakhstan'";
- "On the National Bank of the Republic of Kazakhstan";
- "On Licensing";
- "On Securities and Currency Exchange";
- "On Economic Partnerships";
- "On Medical Insurance";
- "On Oil";
- "On Banks and Banking";
- "On Implementation of the Statutory Order of the President of the Republic of Kazakhstan 'On Banks and Banking in the Republic of Kazakhstan'";
- "On Insurance";
- "On Use of Air Space and Aviation in the Republic of Kazakhstan";
- "On Land";
- "On Special Economic Zones in the Republic of Kazakhstan";
- "On Excises Levied on Certain Goods Imported to the Republic of Kazakhstan";
- "On Procedures for Export and Import of Goods (Works, Services) in the Republic of Kazakhstan";
- Schedule of Goods Exempt from the Customs Treatment of Provisional Import (Export)
- Temporary Provision on Non-Cash Transactions in the Republic of Kazakhstan Reflecting Changes and Amendments of Protocol 4 of 11 February 1994, and Protocol 5 of 31 March 1995
- "On Ban on Export and Import Barter Operations";

- "On Changes and Amendments to the Resolution of the Cabinet of Ministers of the Republic of Kazakhstan No. 984 of 17 July 1995 'On Ban on Export and Import Barter Operations'";
- "On Procedures for Application of VAT and Excises Levied on Goods, Imported to the Customs Territory of the Republic of Kazakhstan. Decree of the Customs Committee of the Cabinet of Ministers of the Republic of Kazakhstan No. 131-II of 29 September 1995";
- "On Rules for Public Presentation of Cinematographic and Video Works in the Republic of Kazakhstan";
- "On Establishment of the Public Agency on Copyright and Relating Rights";
- "On Adoption of the Provision on the National Patent Agency of the Cabinet of Ministers of the Republic of Kazakhstan";
- "On Adoption of Procedures for Issuing of Safeguard Documents of the Republic of Kazakhstan for Inventions, Industrial Designs, Trademarks, and Service Marks, Protected under Safeguard Documents Issued by the Former USSR";
- "On Adoption of the Provision on Procedures for Realization (Communication, Exchange, Sale) of Information on Subsurface of the Republic of Kazakhstan";
- "On Excises Levied on Certain Excisable Goods, Imported to the Republic of Kazakhstan, Limits for Natural Persons Relating to the Quantity of Excisable Goods, Exempt from Excises, Allowed to Be Carried Across the Customs Border of the Republic of Kazakhstan";
- "On Excises Levied on Excisable Goods Produced in the Republic of Kazakhstan and Gambling";
- "On Adoption of the List of Countries Using the Structure of Preferences of the Republic of Kazakhstan";
- "On Adoption of the Schedule of Stock Goods";
- "On Customs Duties Levied on Imported Goods";
- "On Changes and Amendments to the Resolution of the Cabinet of Ministers of the Republic of Kazakhstan No. 74";
- "On Issues Relating to Administration of National Insurance in the Republic of Kazakhstan";
- "On Implementation of the Statutory Order of the President of the Republic of Kazakhstan 'On Licensing'";
- "On the Committee on Standardization, Metrology, and Certification of the Republic of Kazakhstan. Decree No. 478 of the Government of the Republic of Kazakhstan of 19 April 1996";
- "On Changes to the Decree of the Government of the Republic of Kazakhstan No. 299 of 12 March 1996. Decree of the Government of the Republic of Kazakhstan No. 810";
- "On Customs Control Over Products Under Obligatory Certification";
- "On Customs Duties";
- "On Adoption of the Decree on Destruction or Reprocessing of Products Declared as Non-Marketable and Non-usable";
- "On Adoption of Provisions on the State Environmental Expertise in the Republic of Kazakhstan";
- "On Cheques in the Republic of Kazakhstan";
- Rules for Exchange Transactions in the Republic of Kazakhstan
- "On Duties and Procedures for Payment to be Effected by Foreign Applicants for Legal Actions, Relating to Protection of Property of Industrial Sites in the Republic of Kazakhstan";
- "On the National Patent Agency of the Cabinet of Ministers of the Republic of Kazakhstan";



- "On Procedures of Payment and Rates of Duties Payable for Patenting of Inventions, Industrial Designs and Models of Utilities, Registration of Trademarks and Service Marks, Registration and Right to Use Appellations of Origin";
  - "On State Procurement of Goods (Works, Services) in the Republic of Kazakhstan";
  - "On Regulation of Prices on Products of Economic Agents, Representing Natural Monopolies";
  - "On Changes and Amendments to the Resolution of the Government of the Republic of Kazakhstan No. 1035 of 28 July 1995";
  - "On Stage-by-Stage Introduction of Mandatory Certification of Goods (Works, Services) in the Republic of Kazakhstan";
  - "On Environmental Protection in the Republic of Kazakhstan";
  - "On Protection of Consumer Rights";
  - "On Auditing in the Republic of Kazakhstan";
  - "On Currency Regulation";
  - "On Trademarks, Service Marks, and Appellations of Origin";
  - "On Transport in the Republic of Kazakhstan";
  - "On Foreign Investments";
  - Law of the Republic of Kazakhstan "On Copyright and relating rights";
  - "On Development of Competition and Restriction of Monopolies";
  - "On Oil";
  - "On State Registration of Legal Entities";
  - "On Export Control over Weapons, Armament Technologies, and Double Purpose Products
  - Patent Law";
  - "On Subsurface and Subsurface Use";
  - "On Changes and Amendments to the Statutory Order No. 2196 of the President of the Republic of Kazakhstan 'On the National Bank of the Republic of Kazakhstan', Incorporating Changes and Amendments of 20 July 1995, and 5 August 1995";
  - Draft Law of the Republic of Kazakhstan "On Removal of Waste" (1 September 1997);
  - Draft Law of the Republic of Kazakhstan "On Safeguards";
  - Law of the Republic of Kazakhstan "On Subsidies and Countervailing Duties";
  - Articles 184, 199, and 200 of the Criminal Code "On Intellectual Property";
  - "On Administrative Offences";
  - "On Payments and Money Transfers";
  - "On Unfair Competition";
  - "On Anti-Dumping Measures";
  - "On Certification";
  - "On Protection of Selection Achievements";
  - "On Standardization";
  - "On Legal Protection of Layout Design of Integrated Microcircuits";
  - "On Plant Protection"; and
  - "On Measures for Protection of Domestic Market".
- **Economic Policies**
- **System of Currency Exchange and Payments**

Under the Law of the Republic of Kazakhstan "On Currency Regulation" of 24 December 1996 (amended by the Laws of the Republic of Kazakhstan No. 154-1 of 11 July 1997; No. 277-1 of 9 July 1998; No. 431-1 of 16 July 1999; No. 154-II of 30 January 2001), exchange transaction are subdivided into current currency operations and operations connected with the movement of capital.

Current currency operation comprise: transfers for the settlement of accounts relating to the export and import of goods, works, and services allowing for the deferral of payment or advance payment for a period of not more than 120 days; granting and receipt of official credits for a period of not more than 120 days; transfer and receipt of dividends, interest, and other revenues on contributions (deposits), investments, loans, and other operations; transfers not relating to trade, including grants, inheritance, wages, pensions, alimony, etc.; any other currency operations not listed under operations connected with the movement of capital in the Law "On Currency Regulation".

Operations connected with the movement of capital comprise: investments; transfers for settlement of accounts relating to operations provided for complete transfer of exclusive rights to intellectual property; transfers as a form of payment for economic rights to real estate; transfers for the settlement of accounts relating to the export and import of goods, works, and services allowing for the deferral of payment or advance payment for a period of more than 120 days; granting and receipt of official credits for a period of more than 120 days; allocation of contributions (deposits) in foreign banks, authorized to perform banking operations by the legislation of their countries of registration; international transfers for operations, relating to accumulated pension assets; international transfers under accumulation insurance and re-insurance agreements.

International bank payments and transfers, effected in the course of current operations between residents and non-residents, shall be performed by authorized banks without any limitations. International bank payments and transfers, effected in the course of operations connected with the movement of capital in the currency of the Republic of Kazakhstan and foreign currencies, shall be performed following procedures set by the National Bank of the Republic of Kazakhstan.

Under the Law of the Republic of Kazakhstan "On Licensing" of 17 April 1995, the following types of operations with currency valuables shall be subject to licensing: retailing and provision of services for foreign currency in cash; opening of accounts by residents (including accounts in the currency of the Republic of Kazakhstan) in foreign banks and other financial bodies, authorized to engage in corresponding activities by the legislation of the country of registration; investments of residents placed abroad (excluding brokerage and dealing bank operations); transfers of residents to non-residents as a form of payment for economic rights to real estate; transfers of residents to non-residents for the settlement of accounts relating to import of goods, works, and services allowing for advance payment for a period of more than 120 days, as well as for extension of the period for receipt of earnings in a foreign currency as a payment for the export of goods (works, services) by residents for a period of more than 120 days after the date of export of goods (works, services); granting by residents of loans to non-residents for a period of more than 120 days; crediting of foreign currency, received by a resident as a loan granted by a non-resident, to an account of a third-party.

Under Article 3 of the Law of the Republic of Kazakhstan "On Currency Regulation", the President of the Republic of Kazakhstan has the right to restrict or freeze any currency operations for purposes of fulfillment of international obligations and in emergency situations. Also, under the Law, the National Bank of the Republic of Kazakhstan is authorized to impose restrictions on the currency of payment used in export operations of residents, on surrender requirements applied to export receipts in a foreign currency, and on the form of payment of specific import and export contracts in order to ensure economic safety of the Republic of Kazakhstan.

Under the Rules of Registration of Currency Operations Connected with the Movement of Capital, adopted by the Decree of the Board of the National Bank of the Republic of Kazakhstan No. 88 of 31 March 2001, registration with the National Bank shall be required for the following currency operations, connected with the movement of capital resulting in receipts of property (funds) in the Republic of Kazakhstan in the amount exceeding the equivalent of US\$100,000:

- borrowing from non-residents for a term of more than 120 days, including financial leasing;
- crediting by non-residents of import and export operations;
- investments of non-residents into the Republic of Kazakhstan in the form of direct and portfolio investments; and
- transfers of non-residents as payment for complete assignment of exclusive rights to intellectual property works, effected by residents; transfers of non-residents as payment for economic rights to real estate.

Capital payments, effected by non-residents to residents in excess of US\$100,000, relating to attraction of investments to the Republic of Kazakhstan, shall be registered with the National Bank of the Republic of Kazakhstan.

Capital payments effected by residents to a foreign country shall require a license of the National Bank of the Republic of Kazakhstan. Norms, restricting export of currency by natural persons and legal entities from the Republic of Kazakhstan, shall be set by the National Bank of the Republic of Kazakhstan.

Registration of currency operations connected with the movement of capital is not restrictive, and shall be conducted for statistical purposes for the balance of payments. Under the Rules on Currency Operations in the Republic of Kazakhstan, adopted by the Resolution of the Board of the National Bank of the Republic of Kazakhstan No. 115 of 20 April 2001, payments and money transfers for operations between residents and non-residents may be conducted in any currency, the parties have agreed upon. Payments and money transfers for operations between residents and non-residents may be conducted only through their bank accounts, except for cases provided for in the normative acts of the National Bank. Prior to carrying out currency operations, a resident and/or a non-resident shall file documents, required under the currency legislation of the Republic of Kazakhstan, with the authorized bank. The authorized bank may not effect payments and money transfers of a resident and/or a non-resident if one of the above failed to file the required documents. If a resident intends to effect a payment and/or money transfer which require a license and/or a registration certificate of the National Bank of the Republic of Kazakhstan, he shall file with the authorized bank originals and copies of the required license and/or registration certificate.

Residents and non-residents shall have the right to import to the Republic of Kazakhstan currency valuables listed under Article 1.1 of the Law of the Republic of Kazakhstan "On Currency Regulation" of 24 December 1996 without any restrictions provided that all requirements set out in the legislation of the Republic of Kazakhstan have been met.

No restrictions shall apply to export of the national currency from the Republic of Kazakhstan by residents and non-residents. Coins of precious metals issued by the National Bank and recognized as a legal circulating medium, shall be imported to or exported from the Republic of Kazakhstan without any restrictions. Resident natural persons shall have the right to export from the Republic of Kazakhstan foreign currency in cash in the amount not exceeding the equivalent of US\$10,000, unsupported by documents proving its legal origin. If the exported amount exceeds the equivalent of US\$10,000, the exporting party shall file with the customs bodies of the Republic of Kazakhstan a number of documents, listed in the Rules of Currency Operations in the Republic of Kazakhstan, adopted by the Regulation of the National Bank of the Republic of Kazakhstan No. 115 of 20 April 2001, to prove legal origin of the amount exceeding the equivalent of US\$10,000.

Non-resident natural persons shall have the right to export from the Republic of Kazakhstan foreign currency in cash and payment documents with their face value in a foreign currency, in accordance with the customs declaration completed for the import of the above. If the exported amount exceeds the amount stated in the customs declaration, a non-resident shall file with the

customs bodies of the Republic of Kazakhstan a number of documents, listed in the Rules of Currency Operations in the Republic of Kazakhstan, adopted by the Regulation of the National Bank of the Republic of Kazakhstan No. 115 of 20 April 2001, to prove legal origin of the exceeding amount.

- **Investment Regime**

Reforms of legislative and normative regulation of the investment environment have been targeted at (i) transition from the centralized to market economy; and (ii) attraction of necessary investments to enable expansion of production capacities, modernization of the infrastructure, and restructuring of the industrial base. At present, the laws of the Republic of Kazakhstan create conditions favorable for investments. These have been adapted to implement international norms and standards, and include:

- the Law "On Investments" No. 373-II 3PK of 8 January 2003;
- the Code of the Republic of Kazakhstan of 12 June 2001 "On Taxes and Other Mandatory Payments to the Budget";
- the Law "On Customs in the Republic of Kazakhstan" No. 2368 of 20 July 1995;
- the Law "On Insurance" of 18 December 2000;
- the Law "On Unfair Competition" of 9 June 1998;
- the Law "On Natural Monopolies" of 9 July 1998;
- laws on banking and currency exchange regulation, laws on intellectual property;
- the Law "On Land" No. 152 of 24 January 2001;
- the Statutory Order of the President of the Republic of Kazakhstan No. 2350 of 28 June 1995 "On Oil"; and
- the Statutory Order of the President of the Republic of Kazakhstan No. 2828 of 27 January 1996 "On Subsurface and Subsurface Use".

The current legislative acts guarantee protection of rights and interests of investors and creation of the favorable environment for investment activities in the Republic of Kazakhstan in accordance with the legislation on investments, and international treaties of the Republic of Kazakhstan.

The Law of the Republic of Kazakhstan "On Investments" gives an explicit definition of investments and investment activities, ensures equal conditions for operation of domestic and foreign investors, including a number of guarantees. Thus, the Law guarantees legal protection for activities of investors in the Republic of Kazakhstan, use of incomes, transparency of actions of public bodies targeted at investors, as well as the rights of investors in cases of nationalization and requisition. Enforced seizure of property of investors (nationalization, requisition) for national needs shall be performed only in exceptional cases, stipulated in the legislative acts of the Republic of Kazakhstan. In cases where the property of an investor is nationalized, he shall receive his losses, incurred by the legislative acts of the Republic of Kazakhstan on nationalization, shall be compensated in full. In cases where the property of an is subject to requisition, he shall receive its market value.

Gross direct foreign investments to the Republic of Kazakhstan for a term between 1993 and the third quarter of 2002 equalled US\$19.7 billion. As of the fourth quarter of 2002, the bulk of direct foreign investments has been allocated to the mining industry and comprised 67.3 per cent of the total amount of direct foreign investments, while under state support for attraction of private investments to the national economy, the volume of investments allocated to the processing industry comprised 56 per cent.

In 2002, the breakdown of the investment structure by countries showed the dominating position of investors from the United States (26 per cent of the gross foreign direct investments),

Great Britain (16 per cent), Italy (13 per cent), the Netherlands (9 per cent), and the Russian Federation (5 per cent).

Legislative acts of the Republic of Kazakhstan may specify areas, where investment activities of foreign investors or enterprises with foreign participation shall be restricted or prohibited, for reasons of national security.

#### **- Pricing Policies**

National policies on pricing have the following tasks and objectives:

- regulation of prices and tariffs for services of natural monopolies;
- regulation of prices and tariffs for services supplied by enterprises enjoying sole or exclusive rights;
- regulation of payments for services supplied by public bodies in accordance with the legislative acts of the Republic of Kazakhstan; and
- introducing countermeasures to fight unfair competition practices, used by some producers in the markets of goods.

The liberalization of prices in the Republic of Kazakhstan has been initiated by the Decree of the President of the Republic of Kazakhstan No. 569 of 3 January 1992 "On Measures for Liberalization of Prices" with the view to stabilize the social and economic situation in the Republic of Kazakhstan and create conditions for the development of market relations in the economic sectors. Hence, at present the state regulation extends only to natural monopolies.

Relations arising in the market of services (goods, works), relating to presence and operation of natural monopolies, are regulated by the Law of the Republic of Kazakhstan No. 272-II of 9 July 1998 "On Natural Monopolies" (hereafter-the Law). Among the objectives of the Law are:

- determination of the legal platform for state control and regulation of activities of natural monopolies; and
- balancing interests of consumers against interests of natural monopolies.

Natural monopolies comprise the following activities:

- transportation of oil and/or oil products along main pipe-lines;
- storage, transportation of gas or gas condensate along main and/or distribution pipe-lines, operation of gas-distribution units and connected gas distribution pipe-lines;
- transmission and/or distribution of electricity and/or heat;
- production of heat by heating boilers using combined production methods;
- services in technical dispatching of release and consumption of electric energy;
- services of the main railroad network;
- services of access roads, in cases where there are no other competing access roads, and where construction of one is technically impossible or economically impractical;
- air navigation services, services of sea- and airports;
- telecommunication services using local networks;
- services of waterworks and/or sewerage networks; and
- public mail services.

Provisions of the Law shall not extend to individual entrepreneurs and legal entities, engaged in activities classified as natural monopolies, but relating to construction and operation of objects, used for their own needs.

A market entity, engaged in activities classified as natural monopolies, shall be regulated and controlled by the state only to the extent of such activities.

Natural monopolies shall be entered in the State Register of Natural Monopolies comprising two sections: the Republican section (covers natural monopolies operating in the market extending beyond the border of one oblast), and the local section (covers natural monopolies operating in local markets confined to one oblast, city, rayon, settlement, other local zones). Procedures for entering to and removal of entries from the State Register of Natural Monopolies shall be set by the authorized body.

State regulation of activities of natural monopolies shall be implemented by the following mechanisms:

- approval of tariff rates (prices, fee rates);
- approval of tariff estimates;
- setting of the provisional decreasing coefficient; and
- special order for cost formation.

Tariffs (prices, fees) for services of a natural monopoly, approved by the authorized body, shall not be below the value of costs required to provide services (produce goods, perform works), and shall allow for the adequate level of profits necessary to ensure its efficient operation. Tariffs (prices, fees) for services (goods, works) of a natural monopoly may be changed no more than one time every two quarters. New tariffs (prices, fees) shall be implemented starting from the first of the quarter.

To ensure flexibility of tariff regulation mechanisms, protects interests of consumers and natural monopolies, tariffs (prices, fees) for services of natural monopolies may be corrected by provisional decreasing coefficients, implemented in accordance with procedures set by the authorized body.

#### **- Policies on Competition**

Competition policies of the Republic of Kazakhstan are aimed to create conditions for efficient operations of markets of goods, ensure free competition, and protect legitimate interests of consumers.

Tasks and objectives of competitive policies comprise:

- support of entrepreneurship, development of competition in the market of goods (works, services);
- suppression and prevention of coordinated actions of market entities and public bodies, aimed at levelling of prices, market sharing, elimination of the market or limiting access to the market for other entities;
- suppression and prevention of monopolistic activities, resulting in misuse of the dominating position in the market;
- control over economic concentration; and
- prevention ungrounded intervention of public bodies in economic activities of market entities.

The monopoly legislation is based on the Constitution of the Republic of Kazakhstan and comprises norms of the Civil Code of the Republic of Kazakhstan, the Law of the Republic of Kazakhstan No. 144 of 19 January 2001 "On Competition and Restriction of Monopolies" and other normative acts of the Republic of Kazakhstan, containing provisions on prevention, restriction, and

elimination of monopolistic activities, unfair competition, and regulation of natural monopolies. In cases where provisions of an international agreement to which the Republic of Kazakhstan is party differ from the Law, these provisions shall have priority over the Law.

Agreements (coordinated activities) of competing and non-competing market agents, as well as agreements concluded between public bodies, or between a public body and a market agent shall be invalidated and prohibited in cases where they result in restriction of competition and/or infringe rights of legal entities and natural persons.

Mechanisms of state regulation of prices on goods (works, services) of market agents of monopolistic standing on certain markets shall be implemented by the decision of the authorized body only in cases where the market agent holding a monopolistic standing in a certain market violated norms set out in the monopoly legislation, aimed at restriction of competition, and misuses its powers of the dominating participant in the market relations.

**- Mechanisms of Development and Implementation of Policies, Influencing Trade in Goods and Services**

**- Executive, Legislative, and Judicial**

The Republic of Kazakhstan is a unitary state with a presidential form of government. The state power in the Republic of Kazakhstan has three branches: legislative, executive, and judicial.

The President is the Head of State. Legislative power in the Republic of Kazakhstan is performed by the President and the Government of the Republic of Kazakhstan. The President shall be elected by universal, equal and direct suffrage under a secret ballot for a seven-year term. The President shall have the right to appoint and relieve of positions, both individual members and groups of members of the Government, including the Prime-Minister (approved by the Parliament), and Ministers. Also, the President shall appoint three of seven members of the Constitutional Council, and seven of 39 members of the Upper Chamber of the Parliament, heads of local executive bodies in oblasts, cities of Republican significance, and the capital, all heads of diplomatic representative offices of the Republic of Kazakhstan, top officials of the Armed Forces, the Chairman and two members of the Committee for Control over Execution of the Republican budget, and the State Secretary of the Republic of Kazakhstan. Upon approval of both chambers of the Parliament, the President shall appoint the Chairman of the National Bank. The General Prosecutor and the Chairman of the National Security Committee shall be appointed by the President upon approval of the Senate. The President shall form the Security Council, and the Supreme Court Council.

The President of the Republic of Kazakhstan has the right to set priorities for consideration of draft laws, and assign a top-priority status to any draft law. A draft law with a top-priority status shall be considered by the Parliament of the Republic of Kazakhstan within 1 month following its submission. The President of the Republic of Kazakhstan shall sign laws, submitted by the Senate, within 15 days with subsequent promulgation or return the law in full or separate articles thereof to the Parliament of the Republic of Kazakhstan for further consideration to be completed within a term of one month. After the law or separate articles thereof have been re-considered, or upon receipt of the confirmation of the Parliament of the Republic of Kazakhstan on its earlier decision, the President of the Republic of Kazakhstan shall sign the law within seven days. In cases where the Parliament failed to incorporate President's comments in the Law, the Law shall be viewed as not adopted or adopted in the form proposed by the President of the Republic of Kazakhstan. The Laws of the Republic of Kazakhstan shall come into force in a term of ten calendar days following their first publication, unless the laws or acts on implementation of these laws specify different terms for enactment. The veto may be overridden by the vote of two thirds of all members of both chambers of the Parliament. The Parliament may delegate its legislative powers to the President for a term of no

more than one year. The President may dissolve the Parliament in the following cases: if disputes between the chambers of the Parliament or between the Parliament and other branch of state power result in a political crisis; if the Parliament presents the vote of non-confidence to the Government and if the Parliament refuses to authorize the candidature of the Prime-Minister of the Republic of Kazakhstan two times. Based on and in pursuance of the Constitution and laws of the Republic of Kazakhstan, the President of the Republic of Kazakhstan shall have the right to issue decrees and resolutions binding in the entire territory of the Republic of Kazakhstan. In the case, stipulated in Sub-Paragraph 4 Article 53 of the Constitution of the Republic of Kazakhstan, the President of the Republic of Kazakhstan shall issue laws, and statutory orders (under conditions, set out in Paragraph 2 Article 61 of the Constitution), and take decisions on holding of the Republican referendum.

The Government is responsible before the President of the Republic of Kazakhstan and accountable before the Parliament of the Republic of Kazakhstan in cases, stipulated in Sub-Paragraph 6 Article 53 of the Constitution of the Republic of Kazakhstan. Members of the Government are accountable before the Chambers of the Parliament in cases, stipulated in Sub-Paragraph 6 Article 57 of the Constitution of the Republic of Kazakhstan. The Prime-Minister organizes and leads activities of the Government and is personally responsible for its operation. The Government develops and implements main issues relating to social and economic national policies, tenability, national security, and protection of public order; provides for and organizes state property management; develops measures on foreign trade of the Republic of Kazakhstan. The Government of the Republic of Kazakhstan shall, within its competence, enact resolutions binding in the entire territory of the Republic of Kazakhstan, submit draft laws to the Majilis of the Republic of Kazakhstan, and enforce adopted laws. The Prime-Minister of the Republic of Kazakhstan issue decrees binding in the entire territory of the Republic of Kazakhstan. The President may invalidate or suspend, in part or in full, acts of the Government and Akims of oblasts, cities of Republican significance, and the capital of the Republic of Kazakhstan. The authority of the Government shall expire at the moment of expiration of the term of service of the President, unless terminated earlier by the President of the Republic of Kazakhstan.

#### - **Legislative**

The Parliament is a bicameral body, represented by the Upper Chamber – the Senate, and the Lower Chamber – the Majilis. The Majilis consists of 77 deputies, 67 of which represent one mandate constituencies, while the remaining ten are elected based on party lists by universal, equal and direct suffrage under a secret ballot for a term of five years. The deputies of the Senate are elected for a term of six years, while a half of them is re-elected every three years, excluding seven deputies appointed by the President. Joint meetings of deputies of all representative bodies shall be required for election of two representatives per each oblast, city of Republican significance, and the capital.

In the course of joint bicameral meetings, the Parliament of the Republic of Kazakhstan may introduce changes and amendments, suggested by the President, to the Constitution of the Republic of Kazakhstan. Also, the Parliament may adopt constitutional laws, introduce changes and amendments; approve, change and amend the Republican budget, and initiate the Republican referendum. On unicameral meetings the Parliament may: adopt laws "regulating fundamental social relations", and set framework principles and norms in the process of their subsequent consideration by the Majilis and the Senate. The Parliament shall ratify and denounce international treaties and settle issues on state loans and provision of economic or other forms of support by the Republic of Kazakhstan; adopt and cancel taxes and charges.

The Senate is, *inter alia*, the only body responsible for election and dismissal, at the initiative of the President of the Republic of Kazakhstan, of the Chairman of the Supreme Court, chairmen of chambers, and judges of Supreme Court of the Republic of Kazakhstan. The Majilis is, *inter alia*, the



only body responsible for consideration of draft laws, declare elections of the President of the Republic of Kazakhstan and bring charges against the President of the Republic of Kazakhstan for high treason.

- **Judicial**

The judicial power in the Republic of Kazakhstan is enforced by proceedings ensuing from civil, criminal, and other legislation. The Supreme Court of the Republic of Kazakhstan is the supreme body on civil, criminal and other cases, exercising supervisory powers in relation of subordinate courts of general jurisdiction, including supervision of their activities within limits set by the legislation and provision of explanations and clarifications on issues relating to court practices. The Supreme Court act as a *nisi prius* for cases stipulated by the legislation; as a court of appeal for cases examined in the first instance by oblast courts; considers cases for supervisory purposes, and cases relating to new evidence, previously processed by lower level courts and the Supreme Court; studies and compiles practices relating to application of laws and other normative legislative acts of the Republic of Kazakhstan; enacts normative decrees containing clarification on issues of court practices; develops proposals on improvement of laws and other normative legislative acts; manages and analyzes forensic statistical data. The Supreme Court includes the Chairman, chairmen of chambers, and judges, and consists of the Plenum, Presidium, chambers on civil, economic, and criminal cases, as well as the military chamber and the Consultative Council.

Oblast courts, Astana and Almaty Municipal Court, and Court Martial represent the next level below the Supreme Court. Oblast courts, Astana and Almaty Municipal Courts shall consider cases within their competence as *nisi prius* courts, courts of appeal, courts of cassation; cases of supervisory nature and cases involving new evidence; supervise rayon (city) courts; keep and analyze forensic data; study and structure results of court practices, and perform other functions stipulated by the legislation. On the analogy of the Supreme Court, Oblast courts include the presidium and chambers. Rayon courts shall act as *nisi prius* courts for consideration of all cases, excluding cases within competence of other courts under the law. Unlike the Supreme Court and Oblast courts, rayon courts are not subdivided into chambers. Finally, Courts Martial consider cases within their competence under the law.

The Republic of Kazakhstan does not have the Constitutional Court *per se*. However, if the court comes to a decision that a particular law or other normative legislative act infringes human rights and freedoms set out in the Constitution of the Republic of Kazakhstan, it shall suspend court proceedings, and inform the Constitutional Council of the unconstitutionality of the above. The Constitutional Council may declare the law or bylaw unconstitutional and, as such, void of legal force, and adopt a final and unappealable normative resolution enacted on the day of adoption to be enforced in the entire territory of the Republic of Kazakhstan.

- **Governmental Bodies Responsible for the Development and Implementation of Policies, Affecting Foreign Trade**

The Government is responsible for the development of economic policies of the Republic of Kazakhstan, including policies on foreign trade, codified in draft laws, regulations, and decrees, prepared by the governmental "Working Groups", which as a rule consist of representatives of the Ministry of Justice, Ministry of Industry and Trade, Ministry of Finance, Ministry of Energy and Mineral Resources, Agency of the Republic of Kazakhstan for Regulation of Natural Monopolies and Protection of Competition, etc.. General policies in the sphere of foreign relations shall be developed by the Ministry of Foreign Affairs of the Republic of Kazakhstan. General economic policies of the Government, include foreign economic policies, shall be developed and coordinated through the Ministry of Industry and Trade of the Republic of Kazakhstan, while foreign economic policies

relating to the CIS member-countries shall be coordinated with the Committee on Economic Issues of the CIS Economic Council.

The Ministry of Industry and Trade of the Republic of Kazakhstan is the chief public body, responsible for the development of national policies in the sphere of international trade, including proposals on customs duties and tariffs for subsequent implementation by the Agency of the Republic of Kazakhstan for Customs Control. Also, the Ministry of Industry and Trade of the Republic of Kazakhstan is responsible for issuing of import and export licenses. The national monetary policy is determined by the Ministry of Finance of the Republic of Kazakhstan. Regulation of exchange transactions is the responsibility of the National Bank of the Republic of Kazakhstan, implemented by means of licensing of exchange operations. The Investment Committee of the Ministry of Foreign Affairs of the Republic of Kazakhstan is responsible for attraction and distribution of foreign investments.

**- Local administration and self-government bodies**

The Constitution of the Republic of Kazakhstan recognizes local self-government bodies in the Republic of Kazakhstan, responsible for independent management of local issues based on vox populi. The decentralization of power is performed on several levels: from central level to oblast level to rayon level. Local state administration is performed by local representative bodies (Maslikhats) and executive bodies (Akims). Akims of oblasts, cities of the Republican significance, and the capital are appointed by the President of the Republic of Kazakhstan. Akims of other administrative units are appointed under procedures, determined by the President of the Republic of Kazakhstan. Deputies of Maslikhats shall be elected for a term of four years based on universal, equal, direct suffrage by secret ballot. Maslikhats shall:

- adopt plans, economic, and social programs for the development of controlled areas, local budget, and budget execution reports;
- settle arising local administrative issues within their competence;
- analyze reports submitted by heads of local executive bodies on issues within the competence of Maslikhats;
- establish permanent committees and other structural sections of Maslikhats, hear their operating statements; settle other issues arising from organizational activities of Maslikhats; and
- exercise other authorities, stipulated in the legislation of the Republic of Kazakhstan, aimed to protect rights and legitimate interests of the population.

Local executive bodies shall:

- prepare plans, economic, and social programs for the development of controlled areas, develop the local budget, and ensure its execution;
- manage communal property;
- appoint and relieve heads of local executive bodies, settle other issues relating to organization of activities of local executive bodies; and
- exercise other authorities relating to local public administration, stipulated by the legislation of the Republic of Kazakhstan.

**- International Treaties**

Under the Vienna Convention on Rights of International Treaties and the legislation of the Republic of Kazakhstan, an international treaty of the Republic of Kazakhstan is an international agreement, concluded between the Republic of Kazakhstan and a foreign country (foreign countries) or an international organization in writing, and covered by provisions of the international law,

irrespective of whether the agreement is contained in one document or in a series of related documents, and irrespective of its title.

International treaties ratified by the Republic of Kazakhstan shall have priority over its national legislation and shall apply directly, except for instances where implementation of the provisions of the international treaty requires prior publication of the law. The WTO Accession Schedule of the Republic of Kazakhstan, containing the list of obligations of the Republic of Kazakhstan, shall have the status of an international treaty. Hence, it shall be viewed as the law in force in the Republic of Kazakhstan subject to ratification by the Parliament of the Republic of Kazakhstan.

International treaties, to which the Republic of Kazakhstan is party, shall be fulfilled in full. The President of the Republic of Kazakhstan acts as a guarantor of fulfillment of treaties concluded by the Republic of Kazakhstan, and undertaken obligation. The Government of the Republic of Kazakhstan takes steps to enforce fulfillment of enacted international treaties of the Republic of Kazakhstan, while general supervisory functions are exercised by the Ministry of Foreign Affairs of the Republic of Kazakhstan.

- **Provisions Affecting Trade in Goods**

- **Registration**

Under the Decree of the President of the Republic of Kazakhstan No. 2021 of 11 January 1995 "On Liberalization of Foreign Economic Activities", all economic agents of the Republic of Kazakhstan shall have the right to engage in foreign trade.

Registration of legal entities in the Republic of Kazakhstan is regulated by the Statutory Order of the President of the Republic of Kazakhstan No. 2198 of 17 April 1995 "On State Registration of Legal Entities", and other legislative acts. The state registration of legal entities comprises checks of consistency of charter and other documents submitted under the registration procedures with the legislation of the Republic of Kazakhstan; issue of a certificate of registration and assignment of a registration number; entry of data on legal entities in the integrated State Register. Article 2 of the Statutory Order defines tasks and objectives of the state registration. Article 3 of the Statutory Order requires state registration of all legal entities, established in the Republic of Kazakhstan, irrespective of purposes of establishment, type of performed activities, and parties involved. Affiliates and representations of legal entities located in the Republic of Kazakhstan shall be subject to registration for record purposes, not resulting in the acquisition of the status of a legal entity.

The state registration is performed by justice authorities. The state registration and re-registration of legal entities, as well as registration and re-registration of affiliates and representative offices of legal entities for record purposes shall be performed within 15 days following filling of the application and all required documents.

Under Article 5 of the Order, reduced procedures of state registration, licensing, and product certification shall apply to small businesses. The state registration and re-registration of small businesses shall be performed within three days, while the term for registration and re-registration of public associations shall not exceed ten working days, following submission of the application and all required documents.

Natural persons shall have the right to engage in business activities without establishing a legal entity. Under the Law of the Republic of Kazakhstan "On State Support of Small Businesses", natural persons of the above category shall be recognized as small businesses. Natural persons

engaged in business activities without establishing a legal entity shall be registered as individual entrepreneurs with the local tax body, responsible for areas of their residence.

Under Paragraph 2 of the Resolution of the Government of the Republic of Kazakhstan No. 1660 of 19 December 2001 "On Adoption of Rates of the Charge on State Registration of Legal Entities", the following charges on the state registration of legal entities shall apply to the establishment of:

- legal entities, their affiliates, and representative offices – 20 monthly calculation indexes, effective on the date of payment;
- budgetary institutions, public enterprises, and condominium owners association, their affiliates and representative offices - one-monthly calculation index, effective on the date of payment;
- children's and youth public associations, their affiliates, and representative offices - two-monthly calculation indexes, effective on the date of payment; and
- legal entities - small businesses, their affiliates, and representative offices – five-monthly calculation indexes, effective on the date of payment.

The charge applied to the state re-registration of legal entities, their affiliates, and representative offices, as well as the state re-registration of the above for record purposes, shall be equal to 50 per cent of the corresponding effective rate of the registration charge.

The charge for the issue of copies of certificates of state registration (re-registration), including state registration (re-registration) for record purposes, to legal entities, listed above, their affiliates, and representative offices shall be equal to 25 per cent of the corresponding effective rate of the registration charge.

The charge applied to the state registration of disestablishment of legal entities, their affiliates, and representative offices, shall be equal to one monthly calculation index, effective on the date of payment. The listed rates shall invariable throughout the entire territory of the Republic of Kazakhstan.

#### **- Customs Duties**

The Republic of Kazakhstan uses the Trade Nomenclature of Foreign Economic Activities – HS CIS (HS CIS has been adopted by the Agreement on the uniform Trade Nomenclature of Foreign Economic Activities of CIS countries of 3 November 1995), based on the Harmonized System, developed by the World Customs Organization. Presently, the EurAzEs members are working on transition from the nine digit to ten digit trade nomenclature of the foreign economic activities.

In order to enable tariff and non-tariff regulation of goods transported across the customs border of the Republic of Kazakhstan, and set rules for the customs classification of goods in accordance with the HS CIS, the Decree of the Customs Committee of the Ministry of State Revenue of the Republic of Kazakhstan (at present, the Agency for Customs Control of the Republic of Kazakhstan) No. 22 of 22 January 2001 adopted the Rules for classification of goods in accordance with the Trade Nomenclature of Foreign Economic Activities.

#### **- Import Customs Duties**

The import customs tariff rate has been set by the changed and amended Resolution of the Government of the Republic of Kazakhstan No. 1389 of 14 November 1996 "On Rates of Import Duties Levied on Imported Goods", covering 10.5T of items.

Setting of the effective import tariff incorporates the following factors: the level of scarcity of a good, its social impact, possibilities for domestic production, the competitive power of domestic products, etc.. Implemented tariff policies are also influenced by international obligations and the part taken by the Republic of Kazakhstan in important political and economic integration processes in place within the EurAzEs and the CIS. Applications for the review of rates of import customs duties shall be filed with the Ministry of Industry and Trade of the Republic of Kazakhstan and shall be written in a form set by the Resolution of the Government of the Republic of Kazakhstan No. 1389. Rates of customs duties levied on imported goods shall be set by Government of the Republic of Kazakhstan based on proposals of the Ministry of Industry and Trade, submitted upon coordination with all interested ministries and agencies, and shall come into force within 30 days after their official publication.

Effective customs tariff rates vary between 0 and 30 per cent, except for two categories relating to ethyl alcohol (HS 2207 10 000 and 2207 20 000), subject to the customs duty of 100 per cent, but not below €1 and €2 per litre, respectively. Based on the method of collection, customs duties are subdivided into *ad valorem* duties set for 9,382 items (87 per cent of the total), specific duties set for 164 items (2 per cent), and complex set for 1,217 items (11 per cent).

Base rates are applied to countries enjoying most favorable treatment in the Republic of Kazakhstan, while with respect to goods of an unknown country of origin, base rates are doubled.

The rate of customs duties levied on goods imported from developing countries, covered by the structure of preferences of the Republic of Kazakhstan, shall be equal to 75 per cent, while goods imported from least developed countries, covered by the structure of preferences of the Republic of Kazakhstan, shall be imported at a zero rate of customs duties.

Under bilateral agreements concluded between the Republic of Kazakhstan and CIS countries (excluding Turkmenistan), goods originating in these countries imported to the Republic of Kazakhstan shall be exempt from customs duties, except for instances, excluded from the free trade regime. These exceptions shall be based on a coordinated nomenclature, and fixed in a Protocol to the Agreement. In general, the list of exceptions includes alcoholic products, tobacco goods, sugar, etc. Exceptions from the free trade regime are set for Azerbaijan, Armenia, Georgia, Moldova, Uzbekistan, and Ukraine.

The list of goods, imports of which to the Republic of Kazakhstan is not covered by the preferential treatment, is limited and includes salmonidae and sturgeon, caviar; fruit juices; mineral and aerated water; alcoholic products; tobacco goods; certain types of clothes made of natural skin, clothes for children, footwear; jewellery, cars, etc.

#### **- Other Import Duties and Fees Levied for Provided Services**

The Republic of Kazakhstan has developed the draft Customs Code of the Republic of Kazakhstan (hereafter - the Code), which incorporates and codifies legal norms, regulating relations in the customs sphere. At present, the Code is under discussion in the Parliament of the Republic of Kazakhstan.

Under the Code, customs clearance fees shall be calculated based on the cost of services provided by customs bodies. The Republic of Kazakhstan intends to introduce the minimum and maximum rate, reflecting direct and indirect costs, while maintaining the *ad valorem* rate.

The minimum rate reflecting direct costs includes costs directly connected with customs clearance of imported goods, namely: wages, bonus payments, and benefits for customs officers.

Indirect costs include all forms of costs, including communal services (electricity, phone communications, heating, etc.), computer software, and automation procedures, etc..

Table 1 below includes all charges related to customs services.

Table 1

Payment Description	Amount Charged	Regulation
Charges for customs clearance of goods carried across the customs border by natural persons and legal entities	0.2 per cent of customs value	Resolution of the Government of the Republic of Kazakhstan No. 1479 of 7 November 1995.
Charges for customs clearance of goods and vehicles performed in places other than those specifically designed for customs clearance and at a time other than official working hours of customs bodies	0.4.per cent of customs value	Resolution of the Government of the Republic of Kazakhstan No. 1479 of 7 November 1995.
Charges for customs clearance of goods in transit by rail transport	US\$14	Resolution of the Government of the Republic of Kazakhstan No. 1479 of 7 November 1995.
Charges for customs clearance of goods for presentation in exhibitions, fairs, contests, assemblies, workshops, seminars, international meetings and other gatherings of the same nature (excluding expositions held in industrial sites or sites of other commercial activities with the view to sell imported (exported) goods), as well as of accessories and materials intended for use in the course of presentations of goods, international meetings, conferences, and congresses	€5 per consignment	Resolution of the Government of the Republic of Kazakhstan No. 1479 of 7 November 1995.
Customs charges for storage of goods in warehouses for temporary storage, established by the customs bodies, except for goods under HS (CIS) 1001-1109 – 0.2 per cent of customs value per 24 hours	€0.04 per 1 kg. gross weight per 24 hours	Resolution of the Government of the Republic of Kazakhstan No. 1479 of 7 November 1995.
Charges for storage of vehicles, transported as goods	€3 per unit per 24 hours	Resolution of the Government of the Republic of Kazakhstan No. 1479 of 7 November 1995.
Customs charges for storage of goods in customs warehouses, established by customs bodies	€0.02 per 1 kg. gross weight per 24 hours	Resolution of the Government of the Republic of Kazakhstan No. 1479 of 7 November 1995.
including:		Resolution of the Government of the Republic of Kazakhstan No. 1479 of 7 November 1995.
- storage in specialized quarters (involving use of specific equipment, maintenance of temperature levels, etc.)	€0.03 per 1 kg. gross weight per 24 hours	
- storage of vehicles, transported as goods	€ 3 per unit per 24 hours	

Payment Description	Amount Charged	Regulation
Customs charges for customs escort of goods	5 calculation indexes for up to 50 km. 10 calculation indexes for 50 to 200 km. 15 calculation indexes for 200 to 400 km. 20 calculation indexes for 400 to 600 km. 25 calculation indexes for 600 to 800 km. 30 calculation indexes for 800 to 1,000 km. 35 calculation indexes for 1,000 to 1,500 km. 40 calculation indexes for 1,500 to 2,000 km. 50 calculation indexes for a distance above 2,000 km.	Resolution of the Government of the Republic of Kazakhstan No. 1479 of 7 November 1995.
Charges for the issue of a licenses for establishment of a customs warehouse of: up to and including 1,000 square meters from 1,000 up to and including 2,000 sq. meters - above 2,000 sq. meters	€9,000 €14,000 €19,000	Resolution of the Government of the Republic of Kazakhstan No. 1479 of 7 November 1995.
Charges for the issue of a license for establishment of a duty-free store	€20,000	Resolution of the Government of the Republic of Kazakhstan No. 1479 of 7 November 1995.
Charges for the issue of a license for establishment of a free warehouse of: up to 1,000 sq. meters - above 1,000 sq. meters	€19,000 €28,000	Resolution of the Government of the Republic of Kazakhstan No. 1479 of 7 November 1995.
Charges for the issue of a license for establishment of a temporary warehouse	€8,000	Resolution of the Government of the Republic of Kazakhstan No. 1479 of 7 November 1995.
Charges for the issue of a license of a customs broker	€5,000	Resolution of the Government of the Republic of Kazakhstan No. 1479 of 7 November 1995.
Charges for the issue of a license of a customs carrier	€5,000	Resolution of the Government of the Republic of Kazakhstan No. 1479 of 7 November 1995.
Charges for the issue of a certificate of a qualified expert on customs clearance	€200	Resolution of the Government of the Republic of Kazakhstan No. 1479 of 7 November 1995.
Charge for a preliminary decision	€50	Resolution of the Government of the Republic of Kazakhstan No. 1479 of 7 November 1995.

- **Other duties levied on imported (not domestic) goods, except for duties levied on provided services**

The Republic of Kazakhstan does not levy duties and fees on imported goods other than import customs duties currently in place, approved by the Resolution of the Government of the Republic of Kazakhstan No. 1389 of 14 November 1997, and fees for provided services.

- **Application of Taxes to Imported Goods**

Indirect taxes applied to imported goods are a value added tax (VAT) and an excise tax.

- **Value Added Tax**

Under the Code of the Republic of Kazakhstan "On Taxes and Other Mandatory Payments to the Budget" No.209-II of 12 June 2001, VAT shall be levied on goods produced in the Republic of Kazakhstan and imported to the Republic of Kazakhstan. The "country of destination" principle used for collection of indirect taxes is currently applied to all countries, excluding natural gas, oil and gas condensate, imported from the Russian Federation.

The VAT rate is equal to 16 per cent and applied to the volume of taxable turnover. Export turnover, except for export of ferrous and non-ferrous scrap, shall be taxed at a zero rate. A taxable import value shall include the customs value of imported goods, determined in accordance with the customs legislation of the Republic of Kazakhstan, as well as amounts of taxes and other mandatory payments to the budget effected for imports of goods to the Republic of Kazakhstan, except for VAT. The following shall be exempt from VAT:

- imported national currency, and foreign currencies (except for cases where currencies are imported for numismatic purposes), and securities;
- goods, imported by natural persons within norms for duty-free import, set by the Government of the Republic of Kazakhstan;
- goods, except for excisable goods, imported as a humanitarian aid in accordance with procedures, set by the Government of the Republic of Kazakhstan;
- goods, except for excisable goods, imported as charity on the initiative of the State, national governments, international organizations, including for purposes of technical assistance;
- goods imported for use by foreign diplomatic representative offices and offices of the same status, as well as for personal use by foreign diplomats and general staff of representative offices, including family members, residing with them; exempted from excises under international agreements to which the Republic of Kazakhstan is party;
- imported goods, subject to declaration in accordance with the customs legislation of the Republic of Kazakhstan, under customs treatments providing for tax exemptions;
- imports of drugs, including medical substances; medical (veterinary) products, including prosthetic appliances, devices for the deaf-blind, medical and veterinary equipment; materials and components required for production of drugs and diabetic products, medical (veterinary) products, including prosthetic appliances, and medical (veterinary) equipment. The list of products listed in this Sub-Paragraph shall be approved by the Government of the Republic of Kazakhstan;
- imports of mail stamps (except for imports for collection purposes);
- imports of raw materials for production of paper currency performed by the National Bank of the Republic of Kazakhstan and by its subordinate bodies; and
- goods, imported under grants, provided by the State, national governments, and international organizations.

- **Excises**

At present, goods produced in the Republic of Kazakhstan and goods imported to the customs territory of the Republic of Kazakhstan are subject to different rates of excises. Tables 2 and 3 list excise rates levied on excisable goods produced in the Republic of Kazakhstan and imported to the customs territory of the Republic of Kazakhstan.



Table 2

For the Resolution of the Government of the Republic of Kazakhstan No. 137 of 28 January 2000 (incorporating the latest changes and amendments) Excises Levied on Excisable Goods Produced in the Republic of Kazakhstan and Imported to the Republic of Kazakhstan

HS Code	Description	Tax Base	Excise Rates Levied on Produced Goods	Excise Rates Levied on Imported Goods
Of 2207 2208 <sup>1</sup>	All kinds of spirits (excluding spirits, sold for the purposes of manufacturing of alcoholic products; drugs and pharmaceutical goods by authorized holders of licenses issued by the Republic of Kazakhstan, and spirits provided for public medical institutions within limits of set quotas)	phys. volume	KZT 300 per litre	<sup>2</sup> €3 per litre
	Spirits, sold for the purposes of manufacturing of alcoholic products; drugs and pharmaceutical goods by authorized holders of licenses issued by the Republic of Kazakhstan	phys. volume	KZT 30 per litre	€0.3 per litre
2208 <sup>1</sup>	Vodkas and special vodkas	phys. volume	KZT 100 per litre	€1.7 per litre
	Strong liqueurs and cordials and other strong alcoholic beverages (excluding balms, registered in accordance with requirements set out in the legislation of the Republic of Kazakhstan as drugs)	phys. volume	KZT 80 per litre	€1.7 per litre
	Weak liqueurs and cordials and other weak alcoholic beverages, 12 to 30 per cent by volume	phys. volume	KZT 70 per litre	€1.7 per litre
	Other weak alcoholic beverages, below 12 per cent by volume	phys. volume	KZT 30 per litre	€0.4 per litre
	Cognacs, brandy	phys. volume	KZT 20 per litre	€1.7 per litre
	Balms, registered in accordance with requirements set out in the legislation of the Republic of Kazakhstan as drugs	phys. volume	KZT 10 per litre	€0.4 per litre
Of 2204, 2205, 220600	Wine beverages (vinous beverages?)	phys. volume	KZT 30 per litre	€0.4 per litre
	Wines (excluding champagne, sparkling wines, aerated (pearly) wines)	phys. volume	KZT 10 per litre	€0.4 per litre
	Champagne, sparkling wines, aerated (pearly) wines	phys. volume	KZT 20 per litre	€0.4 per litre
	Wine material, processed	phys. volume	KZT 10 per litre	€0.4 per litre
2203 00 <sup>3</sup>	Beer	phys. volume	KZT 7 per litre	€0.2 per litre
2402 <sup>3</sup>	Tobacco goods with filter	phys. volume	KZT 180 per 1,000 units	€2 per 1,000 units
	Tobacco goods without filter, other goods containing tobacco	phys. volume	KZT 100 per 1,000 units	€2 per 1,000 units
Of 0301, 0302, 0303, 0304, 0305, 1604 <sup>3</sup>	Caviar of sturgeon and salmonidae	value – for produced goods, customs value – for imported goods	100 per cent	100 per cent

<sup>1</sup> The nomenclature of products shall be defined both by their HS codes, and descriptions.

<sup>2</sup> The amount in Euro terms shall be converted to KZT at the exchange rate of the National Bank of the Republic of Kazakhstan on the day set by the customs laws for payment of customs charges.

<sup>3</sup> The nomenclature of products shall be defined both by their HS codes, and descriptions.

HS Code	Description	Tax Base	Excise Rates Levied on Produced Goods	Excise Rates Levied on Imported Goods
Of 7113, 7102 39 000, 7114, 7116 <sup>3</sup>	Jewelry of gold, platinum or silver	value – for produced goods, customs value – for imported goods	10 per cent	10 per cent
2710002 70- 2710003 60 <sup>3</sup>	Gasoline (excluding aviation mix)	phys. volume	based on Table 3	€31 per ton
2710 00610, 2710 00650, 2710 00690 <sup>3</sup>	Diesel fuel	phys. volume	based on Table 3	0
Of 2709 00 <sup>3</sup>	Crude oil, including gas condensate	phys. volume	0	0
8703	Cars	customs value or engine volume		10 per cent, but not below €0.5 per cubic cm. (only for cars with engine volume above 3,000 cubic cm)
Of 9303, 9304, 9305 <sup>3</sup>	Firearms and blank guns_(excluding firearms and blank guns purchased for use by officials of public bodies)	value – for produced goods, customs value – for imported goods	0	0
Gambling (excluding lotteries)		per table	130-740 monthly calculation indexes (MCI)	
		Gambling machine with money gains	5-25 MCI	
		Betting Cash Desk	80-200 MCI	
		Bookmaking Cash Desk	20-100 MCI	
<u>Organization and holding of lotteries</u>		Declared receipts minus amounts allocated as prize money without excises	10 per cent	

Table 3

Excise rates for gasoline (excluding aviation mix) and Diesel fuel, produced in the Republic of Kazakhstan, sold by legal entities and natural persons, engaged in wholesaling and retailing in gasoline (excluding aviation mix) and Diesel fuel

	Excise rate per ton (KZT)	
	Gasoline (excluding aviation mix) (HS - 2710 00270, 2710 00360)	Diesel fuel (HS - 2710 00610, 2710 00650, 2710 00690)
Wholesaling of oil refineries in gasoline (excluding aviation mix) and Diesel fuel of their own production	4,500	540
Wholesaling in gasoline (excluding aviation mix) and Diesel fuel performed by legal entities and natural persons	0	0
Retailing in gasoline (excluding aviation mix) and Diesel fuel performed by oil refineries; use for own production needs	5,000	600
Retailing in gasoline (excluding aviation mix) and Diesel fuel performed by legal entities and natural persons, use for own operating needs	500	60

Excisable goods imported by natural persons within limits set by the Government of the Republic of Kazakhstan shall be exempt from excises.

Imports of the following goods shall be exempt from excises:

Excisable goods required for operation of vehicles, involved in international transportation, *en route* and in the intermediate locations, as well as excisable goods, purchased abroad for repairs of damages caused by a road accident (breakdown);

Goods damaged prior to being transported across the customs border of the Republic of Kazakhstan and rendered non-usable as products and materials;

Goods imported for use by foreign diplomatic representative offices and offices of the same status, as well as for personal use by foreign diplomats and general staff of representative offices, including family members, residing with them; exempted from excises under international agreements to which the Republic of Kazakhstan is party;

Goods, transported across the customs border of the Republic of Kazakhstan, exempted under customs treatment set by the customs legislation of the Republic of Kazakhstan, excluding for the "Issue of goods for free use"; and

Alcohol containing products used in medicine (excluding balms) in containers of no more than 0.1 litre and registered in accordance with the requirements set out in the legislative acts of the Republic of Kazakhstan.

At present, the Republic of Kazakhstan is undertaking measures for a stage-by-stage unification of excise rates for domestic and imported goods. Unification of excise rates levied on domestic goods and goods imported to the Republic of Kazakhstan will inevitably result in the

reduction of legal production volumes and increase in the share of the "shadow" turnover. This, in turn, will require development of improved mechanisms for administering excises levied on alcoholic products. At present, the Ministry of Finance of the Republic of Kazakhstan works on the implementation of account labels. The completion of the implementation procedures is projected for 1 January 2006. Excises levied on domestic goods and goods imported to the Republic of Kazakhstan shall be harmonized by 1 January 2006.

- **Quantitative Restrictions on Import**

Under the Resolution of the Government of the Republic of Kazakhstan No. 1031 of 27 June 1997 "On Licensing of Import of Ethyl Alcohol and Alcoholic Products (Excluding Beer) in the Republic of Kazakhstan", the share of imported ethyl alcohol and alcoholic products (excluding beer) shall not exceed 20 per cent of the annual volume of their production in the customs territory of the Republic of Kazakhstan. This measure has been implemented to regulate the increased imports flow, ensure collection of all tax receipts to the budget, and protect the rights of domestic producers and consumers. The Republic of Kazakhstan intends to remove this restrictions by the time of accession to the WTO.

- **Import Licensing**

The licensing system of the Republic of Kazakhstan regulates import and export of a limited number of goods. These include goods in respect of which licensing has been introduced to ensure protection of human life and health, environmental protection, protection of public order, as well as for reasons of national security.

The list of goods and procedures for import licensing of goods (works, services) in the Republic of Kazakhstan, have been adopted by the Resolution of the Government of the Republic of Kazakhstan No. 1037 of 30 June 1997.

Import licensing shall extend to chemical products for plant protection; veterinary drugs and equipment; narcotic, psychotropic products, and precursors; poisons; civil and in-service firearms and cartridges, explosives, detonation, and pyrotechnical devices; industrial waste; x-ray units, devices and equipment using radioactive substances and isotopes; raw opium; wine; ethyl alcohol; complex alcoholic half-finished products, excluding perfume based products, used in beverages; white spirit; other light distillates, average distillates for specific processing and chemical transformations.

Import licenses for the above products shall be issued by the Ministry of Industry and Trade of the Republic of Kazakhstan upon preliminary coordination with corresponding ministries and agencies, except for import licensing for ethyl alcohol and alcoholic products (excluding beer), performed by the Ministry of Finance of the Republic of Kazakhstan. Licenses shall be valid for a term of no more than 12 months, but may be renewed at the request of an applicant to allow fulfillment of contractual obligations for a term of no more than one calendar year.

- **Customs Valuation**

Under the Law of the Republic of Kazakhstan "On Customs in the Republic of Kazakhstan", customs valuation of imported goods shall be based on:

- cost of a contract on imported goods;
- cost of a contract on identical goods;
- cost of a contract on homogenous goods;
- deduction of costs;
- addition of costs; and

- reserve.

As a general rule, customs valuation is based on the cost of a contract on imported goods. Where application of this method is impossible, other methods shall be used in the order shown above until determination of the customs value becomes possible. Customs valuation of goods imported to the customs territory of the Republic of Kazakhstan is based on the principles of customs valuation set out in Article VII of GATT and the Agreement on Implementation of Article VII of GATT.

To trigger further improvement of customs valuation procedures applied to imported goods and implementation in the Republic of Kazakhstan of an independent examination system, the Government of the Republic of Kazakhstan adopted the Rules for Independent Examination of Consistency of Customs Value, Quality, and Quantity of Imported Goods (the Resolution of the Government of the Republic of Kazakhstan No. 782 of 16 July 2002). These Rules determine procedures for independent examination of consistency of the customs value, quality, and quantity of goods imported to the Republic of Kazakhstan.

The Decree of the Customs Committee of the Ministry of State Revenue of the Republic of Kazakhstan No. 42 of 6 February 2001 "On Customs Value of Goods, Imported to the Customs Territory of the Republic of Kazakhstan" adopted:

- guide-lines on customs valuation procedures, control over correctness of a determined customs value; procedures and conditions for declaration and correction of the customs value of goods; and
- rules for completion of the declaration of customs value and forms for correction of customs value, payment of customs duties, and taxes.

To trigger further improvement of customs valuation procedures applied to imported goods and implementation in the Republic of Kazakhstan of an independent examination system, the Government of the Republic of Kazakhstan adopted the Rules for Independent Examination of Consistency of Customs Value, Quality, and Quantity of Goods Imported to the Republic of Kazakhstan (the Resolution of the Government of the Republic of Kazakhstan No. 782 of 16 July 2002). These Rules determine procedures for independent examination of consistency of the customs value, quality, and quantity of goods imported to the Republic of Kazakhstan.

#### **- Rules Relating to the Determination of Origin of Goods**

The Republic of Kazakhstan uses a uniform system for determination of the country of origin of all goods for tariff and non-tariff measures, applied to imported and exported goods. The existing system has been developed by the World Customs Organization and is covered by the Kyoto Convention.

The legislative acts containing rules for determination of the country of origin of goods include: the Rules for Determination of the Country of Origin of Goods, the Agreement on Rules for Determination of Origin of Goods of Developing Countries when Granting Tariff Preferences under the General System of Preferences'; the Resolution of the Government of the Republic of Kazakhstan No. 333 of 17 March 1997 "On Adoption of the Agreement on Rules for Determination of Origin of Goods of Developing Countries when Granting Tariff Preferences under the General System of Preferences"; the Decree of the Customs Committee of the Ministry of State Revenue of the Republic of Kazakhstan "On Procedures for Determination of Origin of Goods of Developing Countries when Granting Tariff Preferences under the General System of Preferences"; the Decree of the Committee on Standardization, Metrology, and Certification of the Ministry of Industry and Trade of the Republic of Kazakhstan No. 322-a of 7 September 2001 "Guidelines on Determination of the Country of Origin of Goods Exported from the Republic of Kazakhstan"; the Resolution of the Government of

the Republic of Kazakhstan No. 1783 of 29 November 2000 "On Approval of Guidelines on Quality and Safety of Food Materials and Food Products".

The country of origin shall be determined for purposes of tariff and non-tariff measures of regulation of imports to and exports from the Republic of Kazakhstan. The country of origin is the country where a good was produced in full or underwent significant processing, in accordance with criteria set out in the Law of the Republic of Kazakhstan "On Customs in the Republic of Kazakhstan" for cases where a good produced jointly by two or more countries. Goods produced in one country include natural products, e.g. live animals, mineral resources, fruits, etc., while goods processed to a significant degree comprise goods produced jointly by two or more countries. In the latter case, the degree of processing is determined by numerous criteria, e.g. changes in tariff heading, added value, and listed operations involved in processing procedure.

Several countries, customs unions, regions, or parts of countries may be viewed as the country of origin, provided that this is justifiable for purposes of determination of the country of origin.

Imports of goods to the customs territory of the Republic of Kazakhstan shall require a certificate of origin only for instances where:

- preferences are granted in respect of the customs tariff on goods, transported across the territory of the Republic of Kazakhstan;
- the customs body of the Republic of Kazakhstan has sufficient grounds to believe that goods originate in a country, imports of which shall be subject to non-tariff measures; and
- such requirement is stipulated by international agreements to which the Republic of Kazakhstan is party, as well as by the legislation of the Republic of Kazakhstan on sanitary and epidemiological safety, environmental protection, protection of human health, consumer rights, public order, national security, and other fundamental interests of the Republic of Kazakhstan.

A certificate of origin shall not be required for any other cases.

A certificate of origin shall state that the good in question originates in a given country, and contain:

- a written declaration of the applicant certifying that the good conforms with the corresponding criteria of origin;
- a written certification, issued by the competent body of the country of export, to the effect that the information contained in the certification of origin is correct and reliable.

The customs body of the Republic of Kazakhstan shall have the right to prohibit transportation of the good across the customs body of the Republic of Kazakhstan only where it has sufficient grounds to believe that the good originates in a country, whose goods may not be allowed for transportation under international agreements to which the Republic of Kazakhstan is party, or under the legislation of the Republic of Kazakhstan. The grounds for the above action shall be made available to the applicant in writing.

Failure to provide a correctly drafted certificate (hygiene certificate) or information on the origin of a good shall not be viewed as a sufficient reason for denial of transportation of the good across the customs border of the Republic of Kazakhstan.

- **Pre-shipment Inspection**

The Republic of Kazakhstan does not employ pre-shipment inspections.

- **Anti-Dumping, Countervailing, and Safeguard Measures.**

The use of anti-dumping, safeguard, and countervailing measures in the Republic of Kazakhstan is regulated by the Laws of the Republic of Kazakhstan "On Anti-Dumping Measures" No. 421-1 of 13 July 1999, "On Measures for the Protection of Domestic Markets in the Process of Imports of Goods" No. 337-1 of 28 December 1998, "On Subsidies and Countervailing Measures" of No. 441-1 of 16 July 1999.

The above laws define rules and procedures for use of anti-dumping, safeguard, and countervailing measures for purposes of protection of the domestic market against adverse effects of the increased share of imports or supplies of dumped or subsidized goods.

Under the above laws, anti-dumping, safeguard, and countervailing duties may only be introduced when there is evidence that serious damages have been incurred by or are highly possible for domestic producers, resulting from the increased share of imports, dumping, or subsidized imports. These measures shall be implemented for a limited term, sufficient for remedial actions relating to incurred damages and adaptation of domestic producers to the competitive environment.

These Laws implement norms and requirement set out in the corresponding WTO Agreements.

- **Export Customs Duties**

Export customs duties have been introduced for a limited number of goods and shall be applied based on the principle of the most favorable treatment, except for goods, exported to the countries of the Customs Union. Any changes in rates of export customs duties shall be officially published.

In order to balance domestic demand on wool, the Resolution of the Government of the Republic of Kazakhstan No. 841 of 5 June 2000 sets export customs duties on goods exported to countries, other than member-countries of the Customs Union, including: cattle hides or hides of animals of the family *Equidae* (10, but not below €90 per 1,000kg), sheepskins or lambskins (10, but not below €70 per 1,000kg), other raw hides and skins (10, but not below €60 per 1,000kg), uncarded and uncombed wool, restored wool (10, but not below €50 per 1,000kg).

In order to normalize the market of ferrous and non-ferrous scrap and waste, ensure supply of raw materials to domestic enterprises, the Resolutions of the Government of the Republic of Kazakhstan No. 1713 of 14 November 2000, No. 841 of 5 June 2000 (amended) set export customs quotas on iron-and-steel scrap and waste (20, but not below €15 per ton), iron-and-steel products (18, but not below €15 per ton), copper scrap and waste (20, but not below €210 per ton), secondary unprepared aluminum (10, but not below €80 per ton), parts of railway and tram locomotives (18, but not below €15 per ton).

Rates of customs duties levied on exported goods shall be set by the Government of the Republic of Kazakhstan based on proposal of the Ministry of Industry and Trade, submitted upon coordination with all interested ministries and agencies, and shall enter in force in 30 days after their official publication.

- **Export Restrictions**

For the purposes of preservation of forests, reduction of instances of illicit lumbering, the Resolution of the Government of the Republic of Kazakhstan No. 785 of 16 July 2002 prohibits

export from the Republic of Kazakhstan of lumber, sawed timber, and wood materials, listed under groups 4401, 4404, 4406-4409, and 4418.

In pursuance of the Agreement concluded between the Republic of Kazakhstan and the European Union on trade in products of steel, a number of quantitative restrictions have been introduced on specific types of steel products exported from the Republic of Kazakhstan to the European Union countries.

- **Export Licensing**

The licensing system of the Republic of Kazakhstan regulates import and export of a limited number of goods. These include goods in respect of which licensing has been introduced to ensure protection of human life and health, environmental protection, protection of law and order, as well as for reasons of national security.

The list of goods and Procedures for Export Licensing of Goods (Works, Services) in the Republic of Kazakhstan, have been adopted by the Resolution of the Government of the Republic of Kazakhstan No. 1037 of 30 June 1997.

Export licenses for the above products are issued by the Ministry of Industry and Trade of the Republic of Kazakhstan upon preliminary coordination with corresponding ministries and agencies. Licenses shall be valid for a term of no more than 12 months, but may be renewed at the request of an applicant to allow fulfilment of contractual obligations for a term of no more than one calendar year.

Goods, exports of which shall be subject to licensing, include: wild animals; wild growing plant; veterinary drugs and equipment; ivory, horns, hoofs, antlers of Siberian stags, corals; vegetable and animal raw materials of recognized medical value; narcotic, psychotropic products, and precursors; poisons; yellow phosphorus; civil and in-service firearms and cartridges; explosives, detonation, and pyrotechnical devices; semi-precious stones and products thereof.

Apart from the above list of goods subject to licensing, there is another list of goods, export of which is subject to licensing in pursuance of the international obligations of the Republic of Kazakhstan. These include several types of textile and steel products.

- **Export Subsidies**

The Republic of Kazakhstan is a land-locked country. Its remoteness from major commodity markets, lack of direct access to major commercial seaports, and the vastness of its territory, all result in a very high share of transportation costs in the products value. This situation requires implementation of support measures aimed at reduction of transportation costs relating to exports of Kazakhstani products.

In this connection, the Agency of the Republic of Kazakhstan for Regulation of Natural Monopolies, Protection of Competition, and Support of Small Businesses has developed and implemented the mechanism for the regulation of setting and cancellation of decreasing coefficients for tariffs on cargo transportation by rail transport providing for certain railway tariff relief.

In 2001-2002, relief has been granted for exported iron ore products, rolled products, coal, sulfuric acid, copper ore, and fuel oil.

Also, the Development Bank of the Republic of Kazakhstan have granted soft loans for export of non-ferrous products and gold.



- **Internal Policies, Affecting Trade in Goods**

- **Policies on Support of Industry**

The Law of the Republic of Kazakhstan No. 373-II of 8 January 2003 "On Investments" stipulates state support of private investments to top-priority activities under contracts concluded with the authorized body for provision of the following types of investment preferences: investment tax preferences, exemption from customs duties, state natural grants.

Investment preferences are granted to investors operating in top-priority sectors of the national economy, for a term calculated based on the amount of investments into fixed assets of legal entities.

Investment preferences are granted if:

- investment activities of the investor are listed among the top-priority forms of activities,
- the investor places investments in fixed assets of a legal entity of the Republic of Kazakhstan in order to enable establishment of new enterprises, expansion and modernization of existing enterprises involving implementation of advanced technologies; and
- the investor submits a complete set of required documents, proving his financial, technical, and organizational capacities for the implementation of his investment project.

The Development Bank of the Republic of Kazakhstan provides for soft loans for the implementation of investment projects in the priority sectors of the national economy, including machine building, metallurgical industry, textile industry, tanneries, manufacturing of electric and electronic devices, as well as soft loans secured by the guarantee of the State.

Also, the Decree of the Chairman of the Agency of the Republic of Kazakhstan for the Regulation of Natural Monopolies, Protection of Competition, and Support of Small Businesses No. 24-ОД of 30 September 1999 "On Approval of Procedures for the Regulation of Setting and Cancellation of Decreasing Coefficients for Tariffs on Cargo Transportation by State Regulated Rail Transport" provides for allowances on tariffs applied to services provided by natural monopolies.

In accordance with the Decree, decreasing coefficients are set for tariffs on transportation of products of a particular economic sector based on the calculation of economic efficiency of this measure for the State, as well as economic practicability for the carrier and the client. The main criteria, determining practicability of setting decreasing coefficients are: preservation of tax payments to the budget, attraction of new cargo flow – increase of the volume of freight traffic, possibility to use unutilised or under-utilised segments, and the level of environmental safety of by-products of the industrial production.

Set decreasing coefficients are applied if the client has no accounts receivable or if they are settled in accordance with the schedule of payments, and if the volume of freight traffic increased (remained at the same level) as compared with the preceding period. Decreasing coefficients are set for a certain period of time. The criteria determining practicability of cancellation of decreasing tariffs are: economic inefficiency of further use of decreasing tariffs for the State and/or the carrier, or inconsistency with the main criteria.

In 2001-2002 decreasing coefficients have been set for tariff applied to the railroad transportation of products of ferrous and non-ferrous metallurgical industry (iron ore products, rolled products, coal, sulfuric acid, copper ore) performed within the Republic of Kazakhstan or for export purposes.

- **Technical Barriers to Trade**

The Committee for Standardization, Metrology, and Certification of the Ministry of Justice of the Republic of Kazakhstan (hereafter – the Gosstandart) is the authorized public body in the sphere of standardization, metrology, and certification.

The Gosstandart is the authorized body responsible for adoption, cancellation, and alteration of standards; record of standards and dissemination of the information on standards; accreditation of domestic and foreign certification bodies, operating in the Republic of Kazakhstan; control over fulfilment of obligatory requirements set out in standards, issue of orders (on remedial actions relating to discovered violations, prohibition to supply, sell, or use tested products, suspension of production); establishment of the national systems of standardization, unification of measures, and certification; representation of the Republic of Kazakhstan in international organizations for issues relating to standardization, metrology, and certification.

Any legal entity or foreign legal entity irrespective of its property category shall have the right to apply for accreditation to provide certification and certification testing services. Accreditation procedures shall be the same both for foreign and local legal entities.

In accordance with existing intergovernmental agreements on standardization, metrology, and certification, the Republic of Kazakhstan recognizes certificates issued by certification agencies of Azerbaijan, Armenia, Georgia, Kyrgyzstan, Russia and Ukraine, Tajikistan, Belarus, Uzbekistan, Moldova, and Turkmenistan.

The Gosstandart includes subordinate state enterprises: the 'Standardization and Certification Institute of the Republic of Kazakhstan', and the 'Institute of Metrology of the Republic of Kazakhstan'.

The Gosstandart manages the registers of the national systems of standardization, certification, and unification of measures.

Basic legal norms on regulation of relations in the sphere on standardization, metrology, and certification are contained in the following legislative acts:

- the Law of the Republic of Kazakhstan No. 433-1 of 16 July 1999 "On Standardization";
- the Law of the Republic of Kazakhstan No. 434-1 of 16 July 1999 "On Certification" (changed and amended under the Laws of the Republic of Kazakhstan No. 141-II of 15 January 2001; No. 230-II of 11 July 2001; No. 272-II of 15 December 2001);
- the Resolution of the Government of the Republic of Kazakhstan No. 1787 of 29 November 2000 "On Control over Product Conformity in the Republic of Kazakhstan" (changed and amended by the Resolutions of the Government of the Republic of Kazakhstan No. 407 of 5 April 2002; No. 888 of 8 August 2002);
- the Resolution of the Government of the Republic of Kazakhstan No. 904 of 2 July 2001 "On Issues Relating to the Committee on Standardization, Metrology, and Certification of the Ministry of Industry and Trade of the Republic of Kazakhstan";
- the Resolution of the Government of the Republic of Kazakhstan No. 1891 of 29 December 1995 "On Adoption of Procedures for the Destruction or Reprocessing of Products and Goods Declared as Non-Marketable and Non-usable";
- the Resolution of the Government of the Republic of Kazakhstan No. 1113 of 15 July 1997 "On Transition of the Republic of Kazakhstan to International Systems of Classification and Coding of Technical and Economic Information";

- the Resolutions of the Government of the Republic of Kazakhstan No. 1229 of 7 August 1997 "On Establishment, Development, and Administration of the National Fund of Standards of the Republic of Kazakhstan"; and
- No. 1839 of 26 December 1997 "On the National Fund of Standards of the Republic of Kazakhstan".

The Law of the Republic of Kazakhstan "On Standardization" 16 of June 1999 determines the legal and organizational base for standardization activities in the Republic of Kazakhstan. It defines a "technical regulation", and lists categories of documents classified as technical regulations. The list of normative documents valid in the Republic of Kazakhstan has been expanded to include international and national standards of foreign countries applied under the set procedures.

The Law addresses the main requirements of the TBT Agreement, including the provision that regulatory documents should not be a technical barrier to trade, which requires to ensure, at the stage of their development, consideration of international regulations and standards; producers have been granted the right to apply international, regional, and domestic standards of foreign countries directly; data on standards under development, adopted standards, and technical regulations, as well as regulatory documents *per se* should be made available for the public; in order to ensure cooperation with international bodies and submission of documents and data on standards and procedures of conformity evaluation to all interested parties, an enquiry point is being established.

The Law "On Standardization" provides for the development and use of the following categories of standards: intergovernmental standards (GOST) and national standards (ST RK), as well as international, regional, and foreign national standards used under the set procedures. Intergovernmental standards (GOSTs) are developed by the CIS Intergovernmental Council on Standardization, Metrology, and Certification (EASC). The Republic of Kazakhstan is a member of the EASC. Development, adoption, and registration of intergovernmental standards is performed in accordance with procedures stipulated in intergovernmental agreements concluded between the CIS countries. The Republic of Kazakhstan is party to the intergovernmental agreement of the CIS countries 'On Coordinated Policies in the Sphere of Standardization, Metrology, and Certification' of 13 March 1992. Article 1 of this Agreement provides for the harmonization of requirements set out in new GOSTs in accordance with international, regional, and the most advanced national standards of foreign countries. At present, the bulk of standards used in the industrial sector is represented by intergovernmental standards.

Article 11 of the Law 'On Certification' provides for two types of certification: obligatory certification and voluntary certification. The latter is performed on the initiative of an applicant (producer, vendor) or consumer of a good, in order to determine its conformity with existing standards, while the former is absolutely required for safety reasons, to ensure protection of human life and health, as well as property and environment.

The Resolution of the Government of the Republic of Kazakhstan No. 1787 of 29 November 2000 "On Control over Product Conformity in the Republic of Kazakhstan" (changed and amended by the Resolutions of the Government of the Republic of Kazakhstan No. 407 of 5 April 2002; No. 888 of 8 August 2002) contains a list of all categories of goods under mandatory certification for safety reasons and to protect human health, property, and environment, including: medical equipment, medical devices, and devices designed for sanitation purposes or the purposes of hygiene; fertile elements; domestic chemical products; personal protection products; vehicles; industrial plumbing fittings and sluice valves; steel pipes; machine tools and woodworking machinery; in-service firearms, civil firearms, sports firearms, and cartridges; equipment for industrial laundries and chemical cleaning; manufacturing equipment for food industry, trade, and catering; electroinsulating materials; cabling; electric, radio, and electronic devices; communication devices; heating equipment using solid, liquid, and gaseous fuel; equipment for high-risk production (works);

compression tanks; toys; commodities, contacting with human skin, foods, and water; packages; word working products; construction materials and structures; products of light industry; drugs; cosmetic products; agricultural products and food industry products; fodder and feedstuff; mineral fertilizers and chemical products; products of the metallurgical industry; nomenclature of services under mandatory certification in the Republic of Kazakhstan; agricultural machinery; highway engineering equipment; passenger elevators. Sale of the above products, whether domestic or imported, in the Republic of Kazakhstan shall be prohibited if performed by parties other than holders of certificates.

Under Article 12 of the Law "On Certification", the sale of goods and services under mandatory certification shall be prohibited if performed by parties, other than holders of certificates of conformity. Also, goods under mandatory certification may not be imported without prior obtaining of a certificate of conformity. Certificates of conformity shall be issued based on positive conclusions of test centers, accredited in accordance with the set procedures. Procedures and rules of mandatory certification shall be non-discriminating.

Under the Procedures for the Import of Goods under Mandatory Certification to the Republic of Kazakhstan, goods under mandatory certification, imported to the Republic of Kazakhstan shall be subject to customs control. Documents certifying product safety include certificates issued by certification bodies of the Republic of Kazakhstan, Azerbaijan, Armenia, Belarus, Georgia, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan, and Ukraine.

Under the Resolution of the Government of the Republic of Kazakhstan No. 1891 of 29 December 1995 'On Adoption of Procedures for the Destruction or Reprocessing of Products and Goods Declared as Non-Marketable and Non-usable', in cases where imported goods are proved to be violating existing standards and, consequently, to be potentially dangerous, a special committee shall be created, whose work shall result in one of the following decisions:

- goods shall be reprocessed;
- goods shall be destroyed; or
- goods shall be repatriated to the country of origin. Decisions of the committee may be contested by the importing party. Imported goods shall remain under control of customs bodies throughout the entire period of consideration of the case, while the importing party shall be liable for all charges for storage. It should be noted, that the decision may require immediate destruction of goods if proven that storage of goods in question is hazardous for the reasons of sanitation, or if customs bodies do not have special warehouses available, or if the goods have a short shelf-life.

In pursuance of the Resolution of the Government of the Republic of Kazakhstan No. 1113 of 15 July 1997 "On Transition of the Republic of Kazakhstan to International Systems of Classification and Coding of Technical and Economic Information", the Republic of Kazakhstan currently develops a system of interconnected national classifiers of technical and economic information, harmonized with their international analogues; resolves issues relating to coordination of intergovernmental information flows and incompatibility of different nomenclatures and classifiers employed by various public administration bodies and legal entities.

Resolutions of the Government of the Republic of Kazakhstan No. 1229 of 7 August 1997 "On Establishment, Development, and Administration of the National Fund of Standards of the Republic of Kazakhstan" and No. 1839 of 26 December 1997 "On National Fund of Standards of the Republic of Kazakhstan" provide for the establishment of the National Fund of Standards, whose functions comprise: storage of standards and technical conditions, acquisition and storage of international and regional standards, resolutions, and recommendations on standardization, metrology, and certification; acquisition of national standards of other countries; provision of access to the information on Kazakhstani and foreign standards. The Fund contains over 36,000 titles, including

documents specifying obligatory norms relating to the safety of goods, works (processes), and services.

Article 17 of the Law on Standardization provides for the establishment of an enquiry point to provide natural persons, legal entities, and countries with normative documents in standardization, metrology, and certification, and to interact with the WTO Secretariat and WTO member-countries.

Subordinate enterprises issue periodic publications, including the magazines "Memstandard News", "Metrolog", and "Monthly Informational Index of Standards", which contain draft standards, news, articles and normative documents regulating standardization, metrology, and certification.

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**- Sanitary and Phytosanitary Measures**

The legislation of the Republic of Kazakhstan regulating sanitary measures required to protect human life and health, comprises the Law of the Republic of Kazakhstan No. 361-II of 4 December 2002 "On Sanitary and Epidemiological Safety of Population", the Law of the Republic of Kazakhstan No. 111-1 of 19 May 1997 "On Protection of Human Health in the Republic of Kazakhstan", the Decree of the President of the Republic of Kazakhstan No. 4153 of 16 November 1998 "On National Program "Health of the People", the Resolution of the Government of the Republic of Kazakhstan No. 126 of 3 February 2002 "On Measures for Implementation of the Law of the Republic of Kazakhstan 'On Sanitary and Epidemiological Safety of Population'", the Resolution of the Cabinet of Ministers of the Republic of Kazakhstan No. 547 of 25 April 1995 "On Adoption of the Provision on the National Sanitation and Epidemiological Service in the Republic of Kazakhstan", the Resolution of the Government of the Republic of Kazakhstan No. 1716 of 16 November 1999 "On Adoption of the Protocol on the Unified Procedures for Implementation of Technical, Medical, Pharmaceutical, Sanitary, Veterinary, Phytosanitary, and Ecological Standards, Norms, Rules, and Requirements to Goods, Imported to the Customs Union Member-Countries", the Resolution of the Government of the Republic of Kazakhstan No. 1783 of 29 November 2000 "On Adoption of Guidelines on Quality and Safety of Food Materials and Food Products", the Resolution of the Government of the Republic of Kazakhstan of 10 January 2002 "On the Committee for State Sanitation and Epidemiological Control of the Ministry of Health of the Republic of Kazakhstan", the Resolution of the Government of the Republic of Kazakhstan No. 1283 of 5 October 2001 "On Prevention of Iodine Deficit Disorder of the Population of the Republic of Kazakhstan in 2001-2005", the Resolution of the Government of the Republic of Kazakhstan No. 878 of 9 June 2002 "On Adoption of the National Action Plan for Environmental Hygiene in the Republic of Kazakhstan", the Order of the Prime-Minister of the Republic of Kazakhstan No.181-p of 30 December 1999 "On Measures for the Improvement of Sanitation and Epidemiological Inspections in the Republic of Kazakhstan", the joint Resolution of the Agency on Metrology and Certification of the Ministry of Economy and Trade of the Republic of Kazakhstan, the Customs Committee of the Republic of

Kazakhstan, and the Chief State Sanitation Expert of the Republic of Kazakhstan No. 225/07 of 9 June 1997 "On Safety of Products (Goods, Processes, Services) for Human Health", the Agreement on Cooperation in the Sphere of Sanitary Protection of Territories of the CIS member-countries' (Minsk, 31 May 2001), the Agreement on Implementation of Technical, Medical, Pharmaceutical, Sanitary, Veterinary, and Phytosanitary Norms, Rules, and Requirements to Goods, Imported into the CIS member-countries' (Moscow, 28 September 2001), the Agreement on Prevention of Iodine Deficit Disorders of the Population of the CIS member-countries' (Minsk, 31 May 2001), the Agreement on Sanitary and Phytosanitary Measures, the Codex Alimentarius, the Resolution of the Government of the Republic of Kazakhstan No. 1787 of 29 November 2000 "On Control over Products Conformity in the Republic of Kazakhstan", as well as other requirements and provisions set out in the legislative acts of the Republic of Kazakhstan, relating to safety of trade goods for human health and environment. Under the above legislative acts, bodies for sanitation and epidemiological control are responsible for ensuring safety of foods, conformity of food materials and other products with sanitary rules, norms, and hygienic standards.

The Committee for State Sanitation and Epidemiological Control of the Ministry of Health of the Republic of Kazakhstan is the authorized body responsible for sanitation and epidemiological safety of the population. The sanitary and epidemiological service includes the following structural components: the Committee for State Sanitary and Epidemiological Control of the Ministry of Health of the Republic of Kazakhstan; bodies and agencies of state sanitary and epidemiological control in corresponding areas of the Republic of Kazakhstan; bodies and agencies engaged in state sanitary and epidemiological control in transportation means, public bodies performing sanitary and epidemiological inspections as a structural part of bodies and agencies engaged in state sanitary and epidemiological control in transportation means; bodies and agencies attached to the Ministry of Internal Affairs of the Republic of Kazakhstan, and engaged in state sanitary and epidemiological control in its sites; agencies of state sanitary and epidemiological control in sites of ministries, companies, group of companies, and corporations; bodies and agencies responsible for organization and implementation of preventive actions aimed at protection against dangerous and quarantinable infections; research centers providing scientific support to bodies of the state sanitary and epidemiological service.

The state sanitary and epidemiological service performs state sanitary and epidemiological control; takes actions aimed at the sanitary protection of the territory against penetration and spreading of infectious and parasitic diseases; develops national sanitary rules, hygienic regulations, other normative legislative acts on sanitary and epidemiological safety of the population, as well as record and accounting forms under procedures set out in the legislation of the Republic of Kazakhstan; organizes and implements within its competence a set of sanitary and epidemiological (preventive) actions in cases of food poisoning, outbreaks of infectious, parasitic, and other diseases, including idiopathies; performs sanitary and epidemiological monitoring, manages statistical data and keeps records; coordinates activities of research organizations and other bodies, engaged in activities relating to sanitary and epidemiological safety of the population; interacts with other public bodies and agencies on sanitary and epidemiological safety of the population; conducts research on sanitary and epidemiological safety of the population; organizes and implements social hygienic monitoring; provides timely instructions to the population on diseases, environmental conditions, and implemented sanitary and epidemiological (preventive) measures.

Regional bodies and agencies on state sanitary and epidemiological control perform evaluation of risks in the course of sanitary and hygienic and anti-epidemic measures for the protection of human health. Scientific principles of evaluation of risks and application of measures required for the protection of human health are set out in the legislation of the Republic of Kazakhstan on protection of human health and sanitary and epidemiological safety of the population. Sanitary and hygienic activities, as well as anti-epidemic actions implemented by bodies on state sanitary and

epidemiological control comprise the entire range of measures incorporating regional specific requirements and other factors.

Sanitary and epidemiological inspections are one of the components, required for ensuring sanitary and epidemiological safety of the population. Performed by bodies and agencies for the sanitary and epidemiological control, inspections are based on the comprehensive evaluation of the influence on sanitary and epidemiological conditions, and human health of members of the habitat; studies of causes and conditions for outbreaks of diseases and human intoxication; ensuring conformity of decisions taken for implementation of certain economic activities with requirements set out in sanitary and hygienic rules and norms, and hygienic regulations. Inspection procedures and issue of a sanitary report of conformity (non-conformity) of inspected products with sanitary rules and standards, and hygienic regulations shall be performed in accordance with the Decree of the Prime-Minister of the Republic of Kazakhstan No.181-p of December 30, 1999 'On Measures for the Improvement of Sanitary and Epidemiological Inspections in the Republic of Kazakhstan', and the Order of the Chief State Sanitary Expert of the Republic of Kazakhstan No.26 of January 13, 2001 'On Measures for the Improvement of Sanitary and Epidemiological Inspections in the Republic of Kazakhstan'.

All norms and provisions of the current legislation, regulating protection of human health, are scientifically justified, while new norms and provisions are developed based on proposals of research institutes. Sanitary rules and standards, as well as hygienic regulations are developed by research institutes, sanitary and epidemiological centers, and other specialized institutions, and reviewed at regular intervals based on the new scientific and practical data (Article 22 of the Law of the Republic of Kazakhstan No.III-XIII of 8 July 1994). Development of new normative acts incorporates principles set out in the Codex Alimentarius relating to the hygiene of foods; directives of the European Union, as well as agreements on sanitary and epidemiological issues, and product safety.

Sanitary rules and standards are legislative acts specifying sanitary and epidemiological requirements (including safety and/or harmlessness of environmental factors for a human), while failure to fulfill them creates a threat for human life and health, as well as a potential danger of the outbreak and spreading of diseases. Under Article 18 of the Law of the Republic of Kazakhstan "On Normative Legislative Acts", normative legislative acts shall be published and disseminated on a free basis. Under Article 24 of the Law of the Republic of Kazakhstan "On Sanitary and Epidemiological Safety of the Population", sanitary rules and standards, as well as hygienic regulations shall be published and disseminated on a free basis.

The state sanitary and epidemiological control system of the Republic of Kazakhstan has a database regularly updated with data submitted by regional branches. This information is accessible for all interested parties. Also, the Republic of Kazakhstan publishes a monthly bulletin entitled 'Environment and Human Health'.

Overall, the sanitary measures of the Republic of Kazakhstan do not run counter to international standards, regulations, and recommendations, contained in provisions of the SPS Agreement and the GATT 1994.

The legislation of the Republic of Kazakhstan regulating application of plant quarantine measures includes:

- the Law of the Republic of Kazakhstan No. 344-I of 11 February 1999 "On Plant Quarantine";
- Rules on Protection of the Republic of Kazakhstan from Quarantined Objects and the List of Quarantinable Objects, adopted by the Resolution of the Government of the Republic of Kazakhstan No. 1960 of 30 December 2000; and

- the Code of the Republic of Kazakhstan on Administrative Offences No. 155-II of 30 January 2001.

The list of quarantinable products subject to phytosanitary control under plant quarantine procedures, including HS Codes, is presented in the Nomenclature of the basic quarantinable products, which may be imported to or exported from the Republic of Kazakhstan only upon authorization of the body, responsible for plant quarantine and its regional branches, adopted by the Decree of the Minister of Agriculture of the Republic of Kazakhstan No. 166 of 30 May 2002, upon coordination with the Customs Control Agency of the Republic of Kazakhstan and after registration with the Ministry of Justice of the Republic of Kazakhstan.

The Law of the Republic of Kazakhstan 'On Plant Quarantine' determines legal base and principles of implementation of state mechanisms of plant quarantine, comprising an integral part of the national security system of the Republic of Kazakhstan. The Law stipulates that the authorized body on plant quarantine shall develop jointly with research organizations a set of quarantine measures based on international norms and recommendations, and exercise control over their fulfillment by natural persons and legal entities, irrespective of their form of property.

The authorized body of the Republic of Kazakhstan responsible for shaping policies on plant quarantine is represented by the Ministry of Agriculture of the Republic of Kazakhstan (the Department on Plant Protection and Quarantine). At the local level, the quarantine control functions are performed by sections on plant protection and quarantine of the oblast branches of the Ministry of Agriculture of the Republic of Kazakhstan, as well as by border centers and stations.

Apart from the Department on Plant Protection and Quarantine, the state quarantine system of the Republic of Kazakhstan also includes:

- State quarantine bodies established by the decision of the Government of the Republic of Kazakhstan, including the Republican, zonal, and border quarantine centers, and introduction quarantine nurseries.
- Public enterprises, responsible for plant quarantine, enforced by phytosanitary laboratories and fumigation squads.

The quarantine service implements uniform national policies, covering a wide range of agencies and sectors, including agriculture, forestry, transport, trade, international cooperation, etc. The service provides phytosanitary certification of agricultural, wood, and other quarantinable exported goods in accordance with international norms and requirements of national quarantine services of importing countries. Conditions of import of quarantinable goods and their use in the country are determined based on the international data. This practice implements the Convention developed by the UN Food and Agricultural Organization (FAO), to which the Republic of Kazakhstan is party.

Import sanitary certificates are issued by the Department of Plant Protection and Quarantine, namely, by the its Director, who is the Chief State Inspector of the Republic of Kazakhstan on Plant Quarantine. Phytosanitary and sanitary certificates are issued by regional branches of the Ministry of Agriculture of the Republic of Kazakhstan.

Plant quarantine centers located on the state border and in transportation means perform primary examination of quarantinable products, prepare sanitation reports to the regional branch of the Ministry of Agriculture of the Republic of Kazakhstan located in the area of destination, and check quarantine documents.



After the primary plant quarantine inspection, performed in border phytosanitary centers and stations, imported quarantinable products (freights), and vehicles shall undergo the secondary plant quarantine inspection. That includes an inspection performed in the place of destination of quarantinable goods involving laboratory testing.

In order to bring the Law of the Republic of Kazakhstan 'On Plant Quarantine' in line with international standards, the Republic of Kazakhstan has adopted the Law of the Republic of Kazakhstan No. 293-II of 18 February 2002 "On Changes and Amendments to the Law of the Republic of Kazakhstan 'On Plant Quarantine'". Changes and amendments have been developed to reflect the current phytosanitary environment, incorporate requirements set out in phytosanitary norms, practices of international organizations, and important trade-affecting WTO rules, and are aimed to enhance efficiency of state quarantine activities.

In accordance with the national legislation, import, export, and transit of quarantinable goods of vegetable origin shall be regulated by the principles set out in the Agreement on Sanitary and Phytosanitary Measures (SPS), including transparency, scientific justification, equal application of adopted measures on plant quarantine, harmonization of norms based on international standards and recommendations.

The legislation of the Republic of Kazakhstan regulating application of veterinary measures includes the Law of the Republic of Kazakhstan No. 339-II 3PK of 10 July 2002 "On Veterinary". The Law is completely harmonized with the international standards and the WTO Agreement on Sanitary and Phytosanitary Measures. Under this Law, the national policies in the sphere of veterinary have the following tasks and objectives:

- state veterinary control of production, storage, and sale of products within competence of state veterinary control bodies;
- reduction of the state monopoly on certain types of veterinary activities;
- protection of the Republic of Kazakhstan from penetration and spreading of infectious and rare animal diseases from other countries;
- protection of independence of the state veterinary control service;
- scientific development of veterinary rules and standards based on the comprehensive evaluation of epizootic conditions and international veterinary norms;
- raising the level of veterinary activities, as compared with the international recommendations, if done on sufficient scientific grounds; and
- prevention of unjustified restrictions on sale of products subject to control of state veterinary bodies imposed as a result of veterinary activities aimed at veterinary and sanitary safety.

Norms, relating to publication of proposed measures, provisions on information for economic operators and possibilities for comments and suggestions, as well as other issues, not reflected in the Law "On Veterinary", shall be covered in subordinate legislative acts.

To ensure safety of products and raw materials of animal origin, a particular importance is attached to enforcing state veterinary control on imported and exported goods subject to control of state veterinary bodies, as well as on such goods in transit across the territory of the Republic of Kazakhstan. Also, safety of animal products and raw materials is ensured by veterinary and sanitary tests performed in trade markets. The authorized body, responsible for veterinary control of imported animal products is represented by the Ministry of Agriculture of the Republic of Kazakhstan (the Veterinary Department).

The veterinary control system is vertically structured. It comprises veterinary control sections at the oblast, rayon, and city levels, veterinary inspectors at the level of rural districts, as well as

veterinary inspection stations and centers located on the state border and in transportation means. Apart from the Veterinary Department, the state veterinary system of the Republic of Kazakhstan also includes:

- zonal branches of the state veterinary service located on the state border and in transportation means with veterinary check stations;
- oblast (capital, city of Republican significance) branches of the authorized public body on veterinary;
- rayon (city) branches of the authorized public body on veterinary and veterinary inspectors operating in rural districts, markets, and organizations engaged in production, slaughtering, storage, processing, and sale of products under control of state veterinary bodies;
- the Public Institution "National Center for Monitoring, Referencing, Laboratory Diagnostics, and Methodology in Veterinary";
- the Republican State Enterprise "Republican Veterinary Laboratory";
- the Republican State Enterprise "Republican Epizootic Squad";
- the public institution 'Republican Veterinary Center';
- the Republican State Enterprise "Central Veterinary Laboratory" and its oblast, city, and rayon branches; and
- the Republican State Enterprise "VetDez" and its oblast branches.

As a member of the International Epizootic Bureau (from 1993), the Ministry of Agriculture of the Republic of Kazakhstan takes steps to harmonize the national legislation with the requirements set out in the International Veterinary Code.

The public veterinary bodies exercise permanent control over growing, slaughtering, and processing of animals and poultry. Under the system of identification (codification) of enterprises engaged in processing of goods and raw materials of animal origin, developed by the Veterinary Department, these enterprises are assigned special codes required for use in product designations. This practice ensures, that products remain constantly under rigid veterinary control starting from their release by the enterprise to places of sale or storage. All products of these enterprises is subject to veterinary control performed by public veterinary inspectors, employed by structural subdivisions.

Furthermore, the Veterinary Department has stipulated that organizations engaged production, slaughtering, storage, processing, and sale of animals, goods, and raw materials of animal origin, veterinary drugs, feedstuff, and feed supplements, establish their own laboratories for veterinary control purposes.

To control infectious animal diseases, the Republic of Kazakhstan has developed a special national program on "Veterinary Activities", incorporating preventive veterinary measures (vaccinations against infectious diseases of animals and birds, performed by licensed veterinary experts, as well as sanitation and disinfection activities in focuses of epizootic infections performed by public bodies licensed by the authorized body in the sphere of veterinary medicine).

With the view to ensure reliable forecasting of outbreaks of dangerous diseases of animals and poultry, as well as timely measures aimed at their prevention, or, if already in place, at their localization and elimination, the specialized vet center performs epizootic monitoring of wild animals in the entire territory of the Republic of Kazakhstan.

To ensure an adequate level of transparency in pursuance of the Resolution of the Government of the Republic of Kazakhstan No. 1627 of 30 October 2000, the Ministry of Agriculture of the Republic of Kazakhstan takes active measures to implement the Informational Marketing System of the Ministry of Agriculture, designed to ensure sharing of analytical marketing information

between agricultural producers, public bodies, and other agents of the market of agricultural goods; give access to the mechanisms for efficient regulation of the sectoral development, and for purposes of cooperation with international organizations.

The project of the Informational marketing system also includes the web [www.minagri.kz](http://www.minagri.kz) and the informational bulletin Agroinform, published by the Ministry of Agriculture of the Republic of Kazakhstan, which contains all legislative acts adopted by the Ministry of Agriculture of the Republic of Kazakhstan, including acts on veterinary, plant protection, and quarantine.

#### **- Investment Measures in Trade**

The Laws of the Republic of Kazakhstan "On Subsurface and Subsurface Use" and "On Oil" regulate operations related to subsurface use and oil operations in the view to protect interests of the Republic of Kazakhstan and its natural resources; ensure rational use and protection of the subsurface of the Republic of Kazakhstan; protect interests of subsurface users and contractors engaged in oil operation.

The above Laws require the use of equipment, raw materials, and products, manufactured in the Republic of Kazakhstan, as well as involvement of enterprises and organizations of the Republic of Kazakhstan in performance of works and provision of services, including air, railroad, water and other transport provided that it meets the standards and other set requirements, following bidding conducted in the Republic of Kazakhstan in accordance with the procedures defined by the Government of the Republic of Kazakhstan.

These measure have been dictated by the ongoing crisis of the industry of the Republic of Kazakhstan, which is a very important sector of the national economy accounting for approximately 25 per cent of the GDP.

The structure of the industrial production continues to change towards the pronounced domination of sectors relating to extraction and primary treatment of hydrocarbon and mineral products. Existing problems with the industrial structure are also partially rooted in the incomplete technological integration of all stages of the production chain from extraction of raw materials to manufacturing of products, ready for subsequent use or final consumption.

In the medium-term perspective, any radical structural changes in the industrial sector are highly improbable. The bulk of the growing volumes of the industrial production will be accounted for primarily by the extractive industry, represented by export-oriented enterprises dependent on foreign markets.

However, the industrial policies being currently developed for a term ending in 2015 are intended, apart from the further development of the technical and technological potential in the energy and mining sectors, and generating effective demand, to develop production and services in other sectors of the national economy, including consumer goods, production diversification, implementation of scientific achievements into the production process, establishment of new high-tech enterprises.

#### **- Provisions on State Trade**

The Republic of Kazakhstan does not have enterprises described in Article XVII of GATT. The Government of the Republic of Kazakhstan has never granted any private or public enterprise, including marketing agencies, exclusive or special rights or benefits, including charter or constitutional powers, that could be used, through purchase or sale, to influence the level or direction of import and export operations. Both private and public commercial enterprises operate in the same

(non-discriminating) competitive market conditions. There are no enterprises whether public or private to own special trade and distribution rights.

- **Free Zones**

Issues on establishment, legal regulation, and operation of special economic zones are covered by the Statutory Order of the President of the Republic of Kazakhstan "On Special Economic Zones in the Republic of Kazakhstan", the Laws of the Republic of Kazakhstan 'On Taxes and Other Obligatory Payments to the Budget', "On Customs in the Republic of Kazakhstan", banking regulations and other legislative acts of the Republic of Kazakhstan.

At present, the Republic of Kazakhstan hosts only 2 special economic zones, namely "Astana – New City", established by the Decree of the President of the Republic of Kazakhstan No. 645 of 29 June 2001 for a term between 1 January 2002 and 2007, and the 'Aqtau Seaport'.

The special economic zone "Astana – New City" (hereafter the SEZ) has been established to invigorate development of the left bank area of the river Ishym by means of the attraction of investments and use of advanced technologies in construction, as well as the development of the modern infrastructure. The Law of the Republic of Kazakhstan of 5 July 2001 "On Changes and Amendments to Legislative Acts of the Republic of Kazakhstan on the Special Economic Zone 'Astana – New City' Through Introduction of Changes and Amendments to the Laws of the Republic of Kazakhstan on Taxes and Other Obligatory Payments to the Budget and on Customs in the Republic of Kazakhstan" provides for tax and customs benefits for construction of infrastructural assets, administrative and residential sectors in the territory of the established SEZ. Tax benefits shall be granted for:

- VAT levied on the turnover of goods, (works, services) sold in the territory of the SEZ if consumed in full in the process of construction and starting of infrastructural assets, administrative and residential sectors (hereafter – objects);
- land tax levied on land lots located in the territory of the SEZ used as construction sites or containing constructed buildings within the term of operation of the SEZ;
- property tax, levied on objects constructed within the term of operation of the SEZ. Customs benefits in respect of customs duties and VAT shall be granted for the imports of machinery and equipment, required for construction works and works required to put constructed objects into service in accordance with project records and cost estimates.

With respect to zones whether currently existing or established in the future, the legislation of the Republic of Kazakhstan sets no restrictions on access for foreign parties, except for the restriction on the place of registration of parties – recipients of benefits, which is a generally recognized standard in place in the major part of free economic zones all over the world. In particular, as per the SEZ "Astana – New City", customs and tax benefits for VAT shall extend to legal entities of the Republic of Kazakhstan, non-residents of the Republic of Kazakhstan operating through a permanent body registered in the city of Astana, natural persons engaged in entrepreneurship without establishment of a legal entity, and residing permanently in the city of Astana.

The special economic zone "Aqtau Seaport" has been created by the Decree of the President of the Republic of Kazakhstan No. 853 of 26 April 2002 for a term between 1 January 2003 and 2007 for the invigoration of the development of the region, establishment of high-tech enterprises, assimilation of new products, attraction of investments, implementation of modern methods of administration and economic management, and settlement of social issues. It is located in the territory of a seaport within boundaries of the city of Aqtau. The SEZ 'Aqtau Seaport' is a free customs zone. Taxation in the SEZ is based on the tax legislation of the Republic of Kazakhstan and does not provide for any additional tax benefits.

## **- State Procurement Practices**

The legislation of the Republic of Kazakhstan regulating state procurement comprises the Law of the Republic of Kazakhstan 'On State Procurement' No. 321-II 3PK of 16 May 2002; the Rules for Organization and Performance of State Procurement of Goods, Works, and Services, approved by the Resolution of the Government of the Republic of Kazakhstan No. 1158 of 31 October 2002; the Resolution of the Government of the Republic of Kazakhstan No. 1163 of 3 November 2000 "On Special Procedures for State Procurement", the standard bidding documents, approved by the Decree of the Chairman of the Agency of the Republic of Kazakhstan on State Procurement No. 8 of 31 October 2002, registered in the Ministry of Justice of the Republic of Kazakhstan No. 2041 of 14 November 2002. The Agency of the Republic of Kazakhstan on State Procurement is the authorized body in the sphere of state procurement.

The Agency of the Republic of Kazakhstan for State Procurement is responsible for the development and implementation of state policies in the sphere of state procurement. The Agency generalises and develops proposals aimed at the improvement of legislative acts regulating state procurement, adopts legislative acts within its competence in accordance with the legislation of the Republic of Kazakhstan; coordinates and monitors state procurement activities; controls fulfillment of the requirements set out in the legislation of the Republic of Kazakhstan on state procurement; develops accounting forms relating to state procurement, including procedures for their completion and filing; develops and adopts methodological materials, standard bidding documents; provides consulting services to organizers of biddings relating to state procurement; takes decisions on the review or cancellation of decisions of organizers of biddings, contractors, and bid evaluation committees, violating the requirements set out in the legislation of the Republic of Kazakhstan regulating state procurement, prior to conclusion of state procurement contracts; initiates court procedures to invalidate contracts concluded with violations of the legislation of the Republic of Kazakhstan on state procurement; examines cases of administrative offences in the sphere covered by the legislation of the Republic of Kazakhstan on state procurement, and imposes administrative punishments in accordance with the legislation of the Republic of Kazakhstan on administrative offences.

Under the Law of the Republic of Kazakhstan on State Procurement of 16 May 2002, state procurement is the procurement of goods, works, and services effected by public bodies and agencies, public enterprises, and joint stock companies with the controlling share owned by the State, as well as by their affiliated legal entities, using available funds. A certain portion of goods, works, and services procured by public bodies and agencies, public enterprises, and joint stock companies with the controlling share owned by the State, as well as by their affiliated legal entities, is used for their own production purposes.

Main mechanisms of state procurement are represented by: public bidding, limited bidding (public and limited bidding may consist of two stages), procurement from one source, selection of a supplier based on requests of price offers, and market procurement.

The Law "On State Procurement" determines norms for the support of domestic producers, small businesses, and public associations of disabled. Procedures and conditions for prioritized treatment of domestic producers of goods are determined by the Government of the Republic of Kazakhstan.

## **- Transit**

Under the current legislation of the Republic of Kazakhstan, goods in transit are exempt from fees, customs duties, VAT, and excises. The Republic of Kazakhstan guarantees free transit of goods across its territory, in pursuance of requirements set out in Article V of GATT 1994, as well as

agreements to which the Republic of Kazakhstan is party. The only fee levied on goods in transit is the shipment fee equal to the amount comparable with administrative costs or costs of provided services.

- **Provisions Influencing Trade in Agricultural Goods**

- **Policies in Agriculture**

The agro-industry of the Republic of Kazakhstan lived through a period of deep crisis rooted in the deterioration of old industrial relations and emerging of new ones and now preserves a number of negative tendencies in its development. The level of agricultural production in 1991-2000 decreased by more than 2 times. The share of agriculture in the GDP for the same period plummeted from 29.5 to 8.1 per cent. The share of investments in the agricultural sector is a mere 1.4 per cent of the total volume of investments in the national economy. Critical financial conditions for agricultural businesses persevere. Thus, while in 1993 the share of lame-duck agricultural enterprises in the Republic of Kazakhstan equalled 50.4 per cent, in two years' time it soared to the mark of 78.2 per cent.

Among the main reasons of declining production volumes in the agricultural sector is the decreasing amount of available machinery, its physical and moral obsolescence. The break-up of former large kolkhozes, and sovkhozes into smaller economic agents and farms resulted in the distribution of machinery, and shutdown of tractor plants. As far back as 1994, supply of new machinery to the agricultural sector practically ceased.

The Republic of Kazakhstan belongs to the area of high-risk agriculture. In general, the bioclimatic potential of the agricultural area of Kazakhstan is 2.7 times lower as compared with the North America and the Western Europe. A distinct zoning of the agriculture of Kazakhstan should also be noted as it is characterized by a strong dependence on environmental and climatic factors. The quality of arable lands is also relatively low: Annually, some 10.5 million hectares of arable lands are sowed with wheat, 73.5 thousand hectares – with rice, 20,000 hectares – with sugar-beet, and 78,000 hectares – with corn. On the whole, the Republic of Kazakhstan has a significant potential for crop cultivation. For instance, in 1990 the area used for wheat comprised 14 million hectares, for rice – 124.5 thousand hectares, for sugar-beet – 43.6 thousand hectares, and for corn – 128.6 thousand hectares.

Given the situation in the agricultural sector, it may be stated with a fair degree of confidence that in the next decade the national agriculture will operate in worse conditions and demonstrate less efficiency than that of countries shaping the world market. This is the reason why implementation of steps designed to solve strategic issues in the sphere of agriculture, including establishment of competitive domestic agricultural enterprises and ensuring of food safety of the country, requires elimination of existing problems and invigoration of both medium-term and long-term measures.

The medium-term policies of the Republic of Kazakhstan in the agricultural sector are set out in the 2003-2005 National Program for Agricultural Production, approved by the Decree of the President of the Republic of Kazakhstan No. 889 of 5 June 2002. It has been developed primarily to ensure food safety of the Republic of Kazakhstan based on an efficient system of the agro-industry and production of goods with high competitive power.

Implementation of the Program covers the following tasks and objectives:

- ensuring food safety of the country;
- development of the efficient agro-industry system;

- increase of the volume of sales of agricultural goods and goods processed from agricultural primary products both on domestic and foreign markets through enhancing their competitive power; and
- rationalization of measures of the government control of agricultural production.

Operational specifics of the agro-industrial sector as well as issues relating to the national food safety require that the implemented agricultural policies incorporate a larger number of mechanisms of state regulation and control than any other sector of the national economy.

Measures of state support implemented in the Republic of Kazakhstan include general services, creation of state reserves for purposes of the national food safety, insurance programs, various soft loan programs, preferential tax treatments, etc..

General services include scientific research; research aimed at the development of new kinds of seeds; programs aimed to provide producers with high-quality seeds and transplanting stock to increase yield and ensure national food security; expertise services; product testing services; training services; pest control and control of animal diseases (prevention, quarantine, elimination); communication of experience and consulting services; establishment and development of information systems, services in the sphere of infrastructure.

Also, state support may be effected in the form of forgiven and restructured debts of agricultural producers.

Under Article 179 of the Law of the Republic of Kazakhstan 'On Taxes and Other Mandatory Payments to the Budget' No. 2235 of 24 April 1995, the terms for payment of taxes and penalties, accumulated as of 1 January 2000, by agricultural producers, both legal entities and natural persons, have been extended for three years without accrual of fines.

Given the insufficient level of working capital and the strategic significance of the products of livestock breeding stations and seed breeding stations, payment of taxes in full is hardly feasible.

In this connection, the 2003 Republican budget allocates KZT 1479.3mln. as a nonrecurring financial aid to enterprises, engaged in seed and livestock breeding, for repayment of deferred tax arrears payable to the budget as of January 1, 2000.

Furthermore, the Republic of Kazakhstan took a favorable decision on deferred tax arrears payable to the budget as of 1 January 2000. The repayment period has been prolonged to 1 January 2008, while the arrears are required to be repaid in equal installments within a term of five years (the Law of the Republic of Kazakhstan No. 358-II of 23 November 2002 "On Changes and Amendments to Legislative Acts of the Republic of Kazakhstan on Taxation").

State financial support of the agricultural sector is also effected through the CJSC "Fund for Financial Support of Agriculture". Its functions, determined by the Resolution of the Government of the Republic of Kazakhstan No. 650 of 9 July 1998, comprise:

- participation in the development and implementation of state loan programs and programs for financial support of the agriculture;
- functions of a creditor, including recovery of debts under financial obligations of agricultural producers relating to centralized, deferred, and other debts before the Fund and ensure their settlement;
- functions of the agent of the Ministry of Agriculture of the Republic of Kazakhstan in the course of provision of nonrecurring financial support of restructuring in the agricultural

- sector, development of selection, seed breeding, measures for protection of flora and fauna;
- accounting and collection of debts of agricultural producers transferred by the Ministry of Finance of the Republic of Kazakhstan in accordance with the resolutions of the Government of the Republic of Kazakhstan and
- provision of loans to organizations engaged in production and processing of agricultural goods.

Also, agricultural producers shall have the right to a number of benefits.

Thus, in accordance with the Tax Code of the Republic of Kazakhstan, agricultural producers may effect payments to the budget under general procedures, or under special tax treatment based on tax patents for legal entities, and on the single land tax – for farms.

A special tax treatment has been developed for legal entities – agricultural producers which includes the following taxes: social tax (21 per cent of the wage bill), corporate income tax (10 per cent of the taxable annual income), property tax (1 per cent of the average annual value of capital assets), vehicle tax (rates based on the engine volume), land tax (rates based on the degree of quality per 1 hectare), VAT (16 per cent of the taxable base).

After calculation of the cost of the patent, the amount of taxes payable to the budget shall be reduced by 80 per cent.

Tax payers, using the above special tax treatment, shall not be required to submit declarations reflecting taxes included in the calculation of the cost of the patent, except for VAT.

Legal entities – agricultural producers shall have the right to choose between the special tax treatment and general taxation procedures.

Legal entities, producing agricultural goods, are granted a special patent-based tax treatment if they are engaged in production of:

- agricultural goods using land, as well as processing and sale of these of their own production;
- agricultural products of the full-cycle animal husbandry and aviculture (incl. selection breeding), including growing young stock and growers, apiculture, as well as processing and sale of these of their own production .

Farmers, engaged in production of agricultural goods, processing and sale of agricultural goods of their own production, who own land lots or are land users, shall be covered by a special tax treatment based on a single tax on land (0.1 per cent of the estimated value of a land lot).

Farmers shall compute the amount of the social tax at the rate of 20 per cent of the MCI per worker, including the head and all members of a farm on a monthly basis.

Farmers shall be exempt from the following taxes and charges:

- individual income tax levied on income from activities, covered by the above reduced tax treatment;
- VAT levied on turnover from activities, covered by the above reduced tax treatment;
- land tax levied on activities, covered by the above reduced tax treatment;
- tax on vehicles within set norms;
- property tax within set norms;



- charge for use of water resources;
- charge for use of forests; and
- charge for environmental pollution.

Also, under the Law "On Farms", farms with the average annual number of workers not exceeding 50, and the average annual total value of a business not exceeding 60,000 calculation indexes shall :

- be exempt from charges for the registration of rights to real estate for a term of 3 years following the date of the state registration, while the state registration is performed free of charge upon appearance of the farmer in the responsible body;
- under procedures and conditions set in the legislation, be exempt from charges for electric energy, heating, water supply, and water-waste treatment capacities through mechanisms of regulation of activities of natural monopolies;
- open free of charge bank accounts in second-tier banks with state participation;
- submit accounting and statistical data following the same reduced procedures developed for individual entrepreneurs;
- in accordance with the tax legislation, have the right to pay income tax based on a tax patent, or fixed tax value, or following the reduced procedures for calculation of the tax base and tax accounting;
- have a priority right to place orders for national needs under conditions set by the Government of the Republic of Kazakhstan;
- receive statistical and informational services, as well as know-how and technologies on favorable terms within limits set in the state budget for a corresponding year for the state financial support of small businesses;
- attend training, retraining, and advanced training courses covered by funds, allocated for the support of small businesses.

Under procedures and conditions set out in the national legislation on state support of investments, investors in the agricultural sector may be granted the following benefits and preferences:

- state natural grants;
- investment tax preferences for a term of no more than five years for the corporate income tax, property tax, and land tax;
- full or partial exemption from customs duties levied on imported equipment and component parts for the implementation of an investment project.

The value of benefits and preferences shall be calculated based on the volume of investments to high-priority activities..

The 2003-2005 National Program for Agricultural Production also provides for:

- preferential railway tariff for the transportation of grain; subsidies for domestic suppliers to compensate transportation costs incurred as a result of the transportation of grain in the territory of the Russian Federation;
- construction of an additional terminal in Aqtau;
- development of trade in grain in existing commodity exchanges for quoting and prevention of price dumping; and
- corrections of activities of the CJSC 'State Products Contract Corporation' to enhance the share of exports.

## **- TRADE-RELATED INTELLECTUAL PROPERTY REGIME**

### **- Policies on Intellectual Property**

Policies of the Republic of Kazakhstan in the sphere of protection of intellectual property rights are targeted at the fulfillment of the following three objectives:

- to bring the legislation regulating administration of intellectual property rights in line with the international standards;
- to develop mechanisms ensuring enforcement of provisions of the laws on protection of intellectual property rights; and
- to train experts for every specific sector of protection of intellectual property.

The fundamentals of the state policy aimed to ensure legitimate use and protection of intellectual property subject matter in the Republic of Kazakhstan are set forth in the Concept of Protection of Intellectual Property Rights, approved by the Resolution of the Government of the Republic of Kazakhstan No. 1249 of 26 September 2001.

### **- Bodies for Administration of Intellectual Property Rights**

The Committee on Intellectual Property Rights of the Ministry of Justice of the Republic of Kazakhstan (hereafter – the Committee) is the authorized body of the Republic of Kazakhstan in the sphere of protection of intellectual property. The Committee has been established by the Resolution of the Government of the Republic of Kazakhstan No. 411 of 29 March 2001 "On Issues Relating to the Committee on Intellectual Property Rights of the Ministry of Justice of the Republic of Kazakhstan". The Committee performs specific executive, monitoring, and supervisory functions, as well as general administration in the sphere of protection of intellectual property rights. The Committee took over the functions and authority for estate administration, as well as functions, being previously within competence of the now abolished Committee on Copyright of the Ministry of Justice of the Republic of Kazakhstan and the Republican State Enterprise on Patents and Trademarks "Kazpatent" of the Ministry of Justice of the Republic of Kazakhstan.

In order to improve the state system of protection of intellectual property rights, the Republic of Kazakhstan established the Republican State Enterprise "National Institute on Intellectual Property of the Committee on Intellectual Property Rights of the Ministry of Justice of the Republic of Kazakhstan" by the Resolution of the Government of the Republic of Kazakhstan of 11 July 2002. Its main functions comprise scientific activities relating to intellectual property issues.

### **- Participation in International Conferences on Intellectual Property**

In accordance with the "Declaration of the Republic of Kazakhstan on International Agreements on Protection of Industrial Property" of 5 February 1993, the Republic of Kazakhstan is party to a number of basic treaties, agreements, and conventions, operating under the aegis of the WOIP, including:

- the Convention on Establishment of the World Organization of Intellectual Property (WOIP);
- the Paris Convention for the Protection of Industrial Property;
- the Madrid Agreement on International Registration of Trademarks; and
- the Patent Cooperation Treaty (PCT).

Presently, the Republic of Kazakhstan has become party to the following conventions in the sphere of intellectual property:

- the Berne Convention for the Protection of Literary and Artistic Works;
- 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;
- the Eurasian Patent Convention; and
- the Convention for the Protection of Interests of Phonogram Producers against Illicit Reproduction of Phonograms.

The visit of the Director General of the WIPO, Camil Idris, resulted in the signing of the Program for the Cooperation between the Government of the Republic of Kazakhstan and the World Intellectual Property Organization, approved by the Resolution of the Government of the Republic of Kazakhstan No. 303 of 28 February 2001.

The Republic of Kazakhstan continues its work on accession to the agreements of the World Intellectual Property Organization on copyright, performances, and phonograms.

**- Participation in international conferences on intellectual property and regional or bilateral agreements**

At present, the Republic of Kazakhstan has joined the following bilateral agreements, providing for cooperation between Parties in the sphere of intellectual property:

- the Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Azerbaijan on Cooperation in the Sphere of Protection of Industrial Property;
  - the Agreement between the Government of the Republic of Kazakhstan and the Government of Georgia on Cooperation in the Sphere of Protection of Industrial Property;
  - the Agreement between the Government of the Russian Federation and the Government of the Republic of Kazakhstan on Cooperation in the Sphere of Protection of Industrial Property;
  - the Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Azerbaijan on Cooperation in the Sphere of Protection of Copyright and Relating Rights;
  - the Agreement on Cooperation in the Sphere of Protection of Copyright and Relating Rights (Moscow, 24 September 1993)
  - the Agreement on Cooperation for Prevention of Violations in the Sphere of Intellectual Property.
- Application of National Treatment and Most Favorable Treatment to Foreign Citizens**

Under the Constitution of the Republic of Kazakhstan, the Civil Code of the Republic of Kazakhstan, foreign legal entities and natural persons shall have the right to national treatment and most favorable treatment granted in accordance with international agreements to which the Republic of Kazakhstan is party, or on mutuality binding principles. The corresponding provisions are set out in Article 38 of the Patent Law of the Republic of Kazakhstan of 16 July 1999, and Article 48 of the

Law of the Republic of Kazakhstan of 26 July 1999 "On Trademarks, Service Marks, and Appellations of Origin".

Also, under Article 5 of the Law of the Republic of Kazakhstan of 10 June 1996 "On Copyright and Relating Rights", foreign natural persons and legal entities may be granted national legal treatment.

Protection of intellectual property in the Republic of Kazakhstan implements requirements set out in Articles 3 and 4 of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement).

- **Independent Protection Standards, including Procedures for Acquisition and Enforcement of Intellectual Property Rights**

- **Copyright and relating rights, including rights of performers, phonogram producers, and broadcasting organizations**

The definitions of the copyright subject matter, including cinematographic works and computer programs, contained in Articles 6-8 of the Law of the Republic of Kazakhstan of 10 June 1996 "On Copyright and Relating Rights" have been significantly extended to incorporate all forms of copyright covered by Articles 9-12 of the TRIPS Agreement and Articles 2 and *2bis* of the Berne Convention.

- **Rights of authors**

In pursuance of the corresponding provisions of the Berne Convention and the TRIPS Agreement, the Law of the Republic of Kazakhstan of 10 June 1996 "On Copyright and Relating Rights" provides authors and their successors to the right of ownership an exclusive right to reproduction, broadcasting, public performance, cinematographic versions and other adaptations, introduction of alterations, and conclusion of agreements for public performance of their works. In pursuance of Articles 12-14 of the TRIPS Agreement and Article 7 of the Berne Convention, works shall be protected during the lifetime of the author and for a term of 50 years following his death.

- **Rights of performers**

In pursuance of Article 14(1) of the TRIPS Agreement, Article 37 of the Law of the Republic of Kazakhstan of 10 June 1996 "On Copyright and Relating Rights" gives priority to the protection of the right of performers against recording of performances or theatre productions that were not previously recorded, as well as against broadcasting or other form of transmission of their works.

- **Rights of phonogram producers**

In pursuance of Article 14(2) of the TRIPS Agreement, Articles 34-38 of the Law of the Republic of Kazakhstan of 10 June 1996 "On Copyright and Relating Rights" stipulate that producers of phonograms shall have the right, *inter alia*, to prohibit unauthorised production, reproduction, sale, and import of phonograms.

- **The right of broadcasting organizations**

In pursuance of Article 14(3) of the TRIPS Agreement, Articles 34-37 and 39-41 of the Law of the Republic of Kazakhstan of 10 June 1996 "On Copyright and Relating Rights" stipulate that broadcasting organizations shall have the right to prohibit the following actions: performance, reproduction of performances and broadcasts using wireless communication devices.

- **Protection of performers, phonogram producers, and broadcasting organizations**

In pursuance of Article 14(5) of the TRIPS Agreement, Article 42 of the Law of the Republic of Kazakhstan of 10 June 1996 "On Copyright and Related Rights" stipulates that performers, phonogram producers, and broadcasting organization shall have the right to protection for a period of 50 years following the first performance (theatre production), publication of a phonogram, or broadcast, respectively.

- **Trademarks, including Service Marks**

The Law of the Republic of Kazakhstan "On Trademarks, Service Marks, and Appellations of Origin" (hereafter – the Law on Trademarks) has been adopted on 26 July 1999. The Law implements all requirements set out in Articles 15-24 of the TRIPS Agreement. Thus, Article 5 of the Law stipulated that trademarks may be represented by figurative, alphanumeric, 3D and other signs or combinations thereof serving to distinguish goods and services of one person from similar goods and services of other persons. Trademarks shall be protected for a period of ten years following filling of the application. The term shall be subject to subsequent renewal for ten years, and shall be renewable infinitely. Under the Law of Trademarks, the owner of the trademark shall use it on goods or for designation of services. Furthermore, the Law stipulates that interested parties may require cancellation or revocation of the registered trademark after an uninterrupted period of five years of non-use following registration, or after an uninterrupted period of five years immediately preceding the initiated opposition procedures. Thus, protection of trademarks also covers provisions of Articles 5(3) and 19 of the TRIPS Agreement.

- **Geographical Indications, Including Countries of Origin**

Under Article 22 of the TRIPS Agreement, geographical indications which identify a good as originating in some territory, or a region or locality in that territory, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin, may be registered in the patent office. Procedures for registration of geographical indications or appellations of origin shall be identical to procedures set for the registration of trademarks.

- **Patents**

According to the Patent Law of the Republic of Kazakhstan, the provisions of the Law shall extend to industrial property subject matter, comprising inventions, industrial designs, and utility models. The subject matter of an invention may be a device, a process, a substance, a micro-organism strain or a culture of plant or animal cells, and also the use of a known device, process, substance or strain for a new purpose. An invention shall be granted legal protection if it is new, involves an inventive step and is industrially applicable (this provision implements Article 27(1) of the TRIPS Agreement). In pursuance of Article 27(2) and (3) of the TRIPS Agreement, the Patent Law stipulates that the following shall not be recognized as patentable inventions: discoveries, scientific theories, mathematical methods; methods of economic organization and management; symbols, schedules, and rules; rules and methods of mental activities; algorithms *per se* and computer programs; projects and plans of buildings and structures, and land development; proposals concerning solely the outward appearance of manufactured goods; and proposals, the prevention of the commercial exploitation of which is necessary to protect *ordre public* or morality.

An application for a provisional patent shall be examined after a term of two months following the date of receipt within which time the applicant shall have the right to amend or correct the elements of the application on his own initiative, provided that the amendments or corrections do not modify the subject matter of the claimed industrial property subject matter. In case where the

preliminary examination resulted in a decision to issue a provisional patent and following payment of set fees, the details shall be published in the Gazette of the patent office. The substantive examination of the subject matter shall be carried out by the patent office at the request of the applicant or the owner of the provisional party, filed within three years after the receipt of the application or within five years in case of renewal of the term of the provisional patent. Where the substantive examination reveals that the subject matter complies with the conditions of patentability, the patent office shall grant a patent for a term of 20 years starting on the date when the application was filed (this provision implements requirements of Article 33 of the TRIPS Agreement).

Where the applicant wishes to contest a decision refusing the grant of a title of protection, he may do so by lodging an appeal with the Board of Appeal, prior to initiating any court proceedings. Also, the Law allows the applicant to appeal decisions of the Board of Appeal of the Committee in the court of law, which provision implements requirements of Article 32 of the TRIPS Agreement.

Under the Patent Law, the owner of a provisional patent or a patent shall have an exclusive right to use the industrial property subject matter at his own discretion (this provision implements Article 28 of the TRIPS Agreement). Under the Law, the following actions shall be deemed as infringing exclusive rights of the patent owner manufacturing, utilisation, sale, stocking, and any other form of distribution for commercial purposes of goods produced by means of the unauthorised use of the protection invention. Any party, other than the patent owner, shall have the right to use the protected invention only upon authorization of the patent owner and under the licensing agreement subject to registration with the Committee on Intellectual Property Rights, while any interested party shall have the right to file with the court of law an application for an obligatory license to use the invention, if supported by evidence of an uninterrupted period of four years of non-use, immediately preceding the date of the filing of an application, after the first publication of particulars of the issued title of protection. If the court decides to issue the obligatory license, it shall be non-exclusive, while the amount of payment shall not be lower than the market value of the license to be determined by the court in accordance with the established practice.

#### **- Industrial Designs**

Rights to industrial designs are also regulated by the Patent Law of the Republic of Kazakhstan and certified by provisional patents and patents, if industrial designs meet the patentability requirements, including novelty, inventive steps, and industrial applicability (this provision implements Article 25(1) of the TRIPS Agreement). Provisional industrial design patents shall be valid for five years, industrial design patents – for ten years, following filling of an application, and may be extended at the request of the patent owner for a period not exceeding five years. The owner of the industrial design patent shall have an exclusive right to use the industrial design. Any other party, other than the patent owner, shall have the right to use the protected industrial design only upon authorization of the patent owners and under the licensing agreement subject to registration with the Committee.

Rights to utility models shall be certified by utility model patents, if utility models meet the patentability requirements, including novelty and industrial applicability. Utility model patents shall be 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 covered infringements are identical with the rights and infringements determined for protected inventions and industrial designs.

#### **- Plant Protection**

New plant varieties and breeds of animals are granted protection in pursuance of procedures stipulated in the Law of the Republic of Kazakhstan of 13 July 1999 "On Protection of Selection

Achievements". The Law has received a positive evaluation of the International Union for the Protection of New Plant Varieties (UPOV) certifying its conformity with the International Convention for the Protection of New Plant Varieties of 2 December 1961. The adoption of this Law has implemented requirements of Article 27(3) of the TRIPS Agreement, which requires that the legislation provide for the protection new plant varieties.

- **Layout Design of Integrated Microcircuits**

The legal protection of layout designs of integrated microcircuits in the Republic of Kazakhstan is covered by the Law of the Republic of Kazakhstan "On Legal Protection of Layout Design of Integrated Microcircuits", which implements the requirements set out in the TRIPS Agreement.

- **Closed Information, including Commercial Secret and Test Results**

At present, the legislation of the Republic of Kazakhstan does not include a separate law for the protection of commercial secrets. However, Article 126 of the Civil Code of the Republic of Kazakhstan provides for the protection of information of real or commercial value under the civil legislation provided that it is unknown to third parties, that confidentiality is strictly preserved, and that the free access to such information is denied in pursuance of the current legislation. Thus, corresponding provisions of the Civil Code implement requirements of Article 39(2) of the TRIPS Agreement. Furthermore, the Civil Code of the Republic of Kazakhstan provides for non-disclosure of data or information received in the course of market authorization or sale of chemical, pharmaceutical or agricultural products, which provision also implements Article 39(3) of the TRIPS Agreement.

- **Control relating to Infringement of Intellectual Property Rights**

In general, intellectual property rights are protected by the civil legislation in the course of common court procedures (procedures initiated in the form of a lawsuit). Also, the legislation of the Republic of Kazakhstan provides for criminal, administrative, and civil liabilities for the infringement of intellectual property rights, stipulated in Articles 184, 199 of the Criminal Code of the Republic of Kazakhstan, Articles 128, 129, 145 of the Code of the Republic of Kazakhstan on Administrative Offences, requirements of the Law of the Republic of Kazakhstan on Copyright and Related Rights, on Trademarks, the Patent Law and other legislative acts.

- **Measures for Enforcement of Intellectual Property Rights**

- **Court Legal Procedures and Decisions**

Under Article 33 of the Patent Law, Article 42 of the Law on Trademarks, provisions of the Civil and Criminal Code of the Republic of Kazakhstan, an owner of intellectual property rights shall have the right settle disputes arising from the following in the court of law:

- authorship of industrial property subject matter or legality of the grant of a title of protection for industrial property;
- infringements of the exclusive right to use the protected industrial property subject matter and of other economic rights of the owner of the title of protection;
- identification of the patent owner;
- grant of a compulsory license;
- conclusion and execution of license contracts for the use of the protected industrial property subject matter;

- payment of compensation and damages incurred as a result of infringement of exclusive rights; and
- other disputes on protection of rights arising from the title of protection.

The owner of the title of protection to the industrial property subject matter shall have the right to apply for the protection of his economic rights to local authorities or administration, which shall not be viewed as an action preventing his applying to the court of law, unless there are provisions to the contrary set out in the legislation of the Republic of Kazakhstan.

- **Provisional measures**

Provisions set out in Article 50 of the TRIPS Agreement are implemented in the new draft Customs Code.

- **Administrative mechanisms and procedures**

The Civil Code and the Law 'On Development of Competition and Restriction of Monopolies' define legal liabilities for actions restricting competition; actions, classified as unfair competition, and actions relating to misuse of the dominating position.

- **Special Border Measures**

At present, the normative base regulating relations in this sphere is represented by Articles 218-1 – 218-5 of the Law of the Republic of Kazakhstan "On Customs in the Republic of Kazakhstan". They define main elements of the mechanism of customs control applied to goods containing works of intellectual property, transported across the border of the Republic of Kazakhstan. Also, they provide for adoption of a number of legislative acts targeted at the control enforcement.

- **Criminal Procedures**

Under Part I Article 184 of the Criminal Code of the Republic of Kazakhstan, illicit use of copyrighted works and works covered by relating rights, and illicit use of an invention, industrial design or model, disclosure without consent of an author or an applicant of the subject matter of a scientific discovery, invention, industrial design or model prior to its official publication, as well as usurpation of the authorship or coercion into joint authorship shall result in fines equal to 100-500 monthly calculation indexes, or to the amount of wages or other income received by the convict for a period of one to five months, or in public works for 180 to 240 hours, or in a prison term of up to two years, if the action was performed with the view to receive profits and resulted in severe damages.

Actions covered by Part I Article 184, if repeated or committed by a group of persons upon preliminary agreement or by an organized group shall result in fines equal to the amount of wages or other income received by the convict for a period of five to nine months, or in detention for four to six months, or in a prison term of up to 5 years, while the property of the convict may be confiscated.

Also, Article 199 of the Criminal Code determines responsibility for illicit use of trademarks. Thus, illicit use of a trademark, service mark, brand name, appellation of origin or other designations goods or services of the same nature shall result in fines equal to 200-500 monthly calculation indexes, or to the amount of wages or other income received by the convict for a period of two to five months, or in public works for 180 to 240 hours, or in detention for up to 6 months, or in a prison term of up to two years, if the action was performed repeatedly and resulted in severe damages.



Illicit use of labels with respect to trademarks and appellations of origin that are not registered in the Republic of Kazakhstan shall result in fines equal to 100-200 monthly calculation indexes, or to the amount of wages or other income received by the convict for up to two months, or in public works for 120 to 180 hours, or in detention for up to three months, or in a prison term of up to one year, if the action was performed repeatedly and resulted in severe damages.

**- Legislative Acts**

- Civil Code of 24 December 1994 (General Part);
- Civil Code of 1 July 1999 (Specific Part);
- Law of the Kazak Soviet Socialist Republic of 5 June 1991 "On Protection of Consumer Rights";
- Law of the Republic of Kazakhstan of 19 January 2001 "On Competition and Restriction of Monopolies";
- Law of the Republic of Kazakhstan of 19 June 1997 "On Individual Entrepreneurship";
- Patent Law of the Republic of Kazakhstan of 16 July 1999;
- Law of the Republic of Kazakhstan of 26 July 1999 "On Trademarks, Service Marks, and Appellations of Origin";
- Law of the Republic of Kazakhstan of 10 June 1996 "On Copyright and Relating Rights";
- Law of the Republic of Kazakhstan of 13 July 1999 "On Protection of Selection Achievements";
- Law of the Republic of Kazakhstan of 29 June 2001 "On Legal Protection of Design Layout of Integrated Microcircuits";
- Resolution of the Government of the Republic of Kazakhstan No.411 of March 29, 2001 'On Issues Relating to the Committee on Intellectual Property Rights of the Ministry of Justice of the Republic of Kazakhstan';
- Resolution of the Government of the Republic of Kazakhstan No. 756 of 11 July 2002 "On Establishment of the Republican State Enterprise 'National Institute on Intellectual Property of the Committee on Intellectual Property Rights of the Ministry of Justice of the Republic of Kazakhstan'";
- Resolution of the Government of the Republic of Kazakhstan No. 1249 of 26 September 2001 "On Approval of the Concept of Protection of Intellectual Property Rights"; and
- Resolution of the Government of the Republic of Kazakhstan No. 591 of 29 May 2002 "On Approval of the Program for Implementation of the Concept of Protection of Intellectual Property Rights".

**- POLICIES AFFECTING TRADE IN SERVICES**

The service sector is one of the most dynamic sectors of the economy, and its role is expected to grow in the future. Starting from 1990, the share of services in the GDP kept growing to reach the highest level of 60 per cent in 1998, while the average level for the last decade constituted 50 per cent. The dynamics of the import of services is considerably higher than the dynamics of export. The resulting imbalances in the sphere of international service have a pronounced influence on the deficit in current operations, registered in the balance of payments of the Republic of Kazakhstan in 2001 and 2002.

In the sphere of trade in services, enterprises with foreign direct investments (FDI) account for more than 90 per cent of the turnover in construction and business services. Among services provided by foreign suppliers are geological prospecting and product certification, legal and other consulting services, electronic data processing, engineering and technical services.

The growth of the share of services in GDP is rooted in the development of the market infrastructure of the Republic of Kazakhstan and the development of new types of services – consulting, auditing, advertising, etc.. Noting the growing role of services in the national economy, it should be emphasized that at this stage the legislation of the Republic of Kazakhstan is rather poorly developed for certain service sectors, and is practically non-existent for others.

The statistical base of service sectors is also at the initial stage of development. At present, it cannot ensure adequate reflection of the dynamics of service sectors, and provide reliable information on the level of presence of foreign service suppliers in any given service sector. Taken together, all of the above set serious complications for determination of exact criteria for further liberalization and undertaking by the Republic of Kazakhstan of commitments to this effect. Hence, the Republic of Kazakhstan intends to apply provisional measures of state regulation of trade in services in order to ensure development of competition, based on well-balanced levels of development of the market of services and labour so as to prevent adverse economic and social effects in the national economy.

The last five years showed some progress in the development and adoption of laws regulating some service sectors, based on which the Republic of Kazakhstan undertook commitments for market access in services. The last version of the Schedule of Commitments in Services of the Republic of Kazakhstan, incorporating the maximum number of comments and requests of WTO member based on economic practicability, has been submitted to the WTO Secretariat in June 2002.

In a number of service sectors, liberalization has had adverse effects on the level of employment, in particular, in the sector of construction services, where the bulk of large projects is implemented by foreign contractors using foreign workforce.

Developed industrial infrastructure in place in a number of service sectors, qualified workforce, existing conditions for training, retraining, and advanced training of employees, all create a favorable environment for the development of the domestic service market. Based on the above, and in order to develop competition in the sphere of services, the Republic of Kazakhstan intends to introduce appropriate changes and amendments to the laws, regulating service sectors. One of the mechanisms for regulation of trade in services is represented by licensing. Under the Schedule of Commitments of the Republic of Kazakhstan in Services, providing for licensing of certain types of activities, foreign natural persons and legal entities shall obtain licenses under the same procedures as those set for natural persons and legal entities of the Republic of Kazakhstan.

The Law of the Republic of Kazakhstan "On Culture" (hereafter – the Law) defines national policies in the sphere of culture, regulates public relations arising from creation, revival, preservation, development, use, and dissemination of the national culture. The Law stipulates a special treatment for sites of the national cultural heritage, under which all forms of negotiations with sites entered in the State Register including their demolition, relocation, alteration, reproduction, and restoration shall be prohibited unless authorized by the responsible body. All forms of exploitation of sites of the national cultural heritage for purposes inconsistent with their historical, artistic, and religious value shall also be prohibited. Sites of special cultural value owned by religious organizations may be used for religious purposes. Cultural institutions shall have priority in exercising their rights to use architectural monuments. Owners and users of sites of the national cultural heritage shall be responsible for their maintenance and preservation. Rights of owners of sites of the national cultural heritage shall be exercised under control and following procedures, determined by the legislation, while the State shall have a priority right to buy sites of the national cultural heritage of the Republic of Kazakhstan in cases where they should be offered for sale.

Ministries and agencies involved shall monitor activities of foreign service suppliers, to ensure that they fulfill requirements stipulated in concluded contracts on the attraction of foreign investments, including:

- use of modern technologies and machinery;
- attraction of Kazakhstani experts;
- implementation of environmental protection measures (land recultivation, construction of treatment facilities, waste utilisation); and
- development of the social sphere and local infrastructure, etc.

The Republic of Kazakhstan will need to implement measures for regulation of currency transactions as well as other operations relating to monitoring of the internal debt of the Republic of Kazakhstan and attractions of credits or loans of international financial markets to enable issue and placement of bonds and other securities outside the Republic of Kazakhstan in cases where emerging risks of external obligations are too high.

#### **- Transparency**

Under Article 3 of the Constitution of the Republic of Kazakhstan, all laws, international treaties, to which the Republic of Kazakhstan is party, shall be published. Official publication of normative legislative acts affecting rights, freedoms, and responsibilities of the population, shall be a pre-requisite for their application. Under Article 30 of the Law of the Republic of Kazakhstan of 24 March 1998 "On Normative Legislative Acts", official publications comprise the Journal of the Parliament of the Republic of Kazakhstan and the Corpus of the acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

Normative legislative acts may also be published officially in periodicals, granted this right based on the results of bidding, in accordance with procedures set by the Government of the Republic of Kazakhstan.

Legislative acts of the President of the Republic of Kazakhstan, resolutions of the Government of the Republic of Kazakhstan, central executive and other central public bodies of the Republic of Kazakhstan may be officially published only in periodicals, circulated in the entire territory of the Republic of Kazakhstan. Decrees of the President of the Republic of Kazakhstan, resolutions of the Government of the Republic of Kazakhstan shall be officially published in the Corpus of the Acts of the President of the Republic of Kazakhstan and the Government of the Republic of Kazakhstan.

Normative legislative acts of Maslikhats, normative legislative resolutions of Akimats, and normative resolutions of Akims shall also be officially published in periodicals, circulated in the territory of the corresponding administrative units.

### **- INSTITUTIONAL BASE FOR TRADE AND ECONOMIC RELATIONS WITH THIRD COUNTRIES**

#### **- Regional Agreements**

At present, trade relations of the Republic of Kazakhstan with other CIS countries (excluding Turkmenistan) develop in the free trade environment, under which imported or exported goods are exempt from customs duties, except for a number of goods included in the Schedule of Exemptions. This Schedule is covered by the protocols on exemptions from the free trade environment under bilateral agreements on free trade.

The Republic of Kazakhstan is party to a number of agreements with Belarus, Kyrgyzstan, Russia, and Tajikistan, providing for a stage-by-stage establishment of the Customs Union.

The Agreement on the Unified Customs Tariff (UCT) in force since 1 January 2001 within the Customs Union of Belarus, Kazakhstan, Kyrgyzstan, Russia, and Tajikistan sets unified rates of import customs duties. The unified customs tariff shall be formed within five years following the date of enactment of the Agreement, which term may be extended under an agreement reached by parties.

On 10 October 2000 the Heads of the Customs Union member-countries signed the Agreement on Establishment of the Eurasian Economic Association (EurAzEs), which provides for invigoration of the processes aimed at the establishment of the Customs Union and the Single Economic Space.

The EurAzEs is designed to help solve the issues relating to a full-scale implementation of the free trade environment; development of common procedures of foreign trade regulation; creation of the common customs territory governed by the common mechanism of functioning of the common customs territory.

The Heads of Kazakhstan, Russia, Ukraine, and Belarus, have signed a Joint Declaration on the New Stage of Economic Integration and Opening of Negotiations on Creation of the Single Economic Space.

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