

# WORLD TRADE ORGANIZATION

RESTRICTED

**WT/ACC/KAZ/37/Add.2**

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**Working Party on the  
Accession of Kazakhstan**

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## **ACCESSION OF KAZAKHSTAN**

### Additional Questions and Replies

#### Addendum

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

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Questions 5, 6 and 8 of WT/ACC/KAZ/37/Add.1

**Question 1**

**Members attach a lot of importance to the WTO justification of existing regulations. It would therefore be extremely useful that information be submitted about the WTO rationale of current measures, as asked in questions 5, 6 and 8 of WT/ACC/KAZ/37/Add.1.**

Answer:

On 5 December 1998 the Government of the Republic of Kazakhstan adopted the Resolution No. 1243 "On Enforcement of Limitations on Import and Export of Certain Goods". In accordance with this resolution, a quota of 3000 tons has been set on imports of open-die forged grinding balls (HS Codes: 7325 91 000, 7325 99, 7325 99 990, 7326 11 000, 7326 19, 7326 19 100, 7326 19 900). The introduction of this limitation was caused by the necessity to revive the production capacity of domestic enterprises, which stood idle due to uncontrollable import of these goods from abroad. There were three large enterprises and a number of smaller enterprises and mining companies that produced grinding balls in Kazakhstan. The research had shown that the production capacity of domestic enterprises allowed the production of 1.5-2 times the demand for grinding goods by domestic consumers. The measures undertaken by the Government as a result rendered significant support to the main manufacturers of these goods. Production of grinding goods in 1999 in comparison with 1998 has increased by 3.9 times and in addition provided more job positions.

This measure is provisional and expires on 31 December 2002.

On 14 November 2000 the Government of Kazakhstan has adopted the Resolution No. 1713 "On Measures for Regulation of Secondary Non-Ferrous and Ferrous Metals" with the view of regulating the market of ferrous and non-ferrous metals scrap and waste and provision of raw materials to the domestic producers of copper-based goods. This resolution contains provisions of export licensing of ferrous and non-ferrous metals scrap and waste and application of export duty to copper and raw aluminium scrap and waste.

The analysis of export of these products has shown the increase in the volume of exported ferrous and non-ferrous metals scrap and waste due to the insufficient control of the origins of the procured scrap and waste products, leading to increase in theft of parts and components, wires and cables containing nonferrous metals.

The establishment of export duty rates for copper and raw aluminium scrap and waste allowed to prevent the loss of state income resulting from export price understating. It also reduced the number of theft cases and limited the export of raw material from the Republic. The increase in consumption of these products on the domestic market caused growth in the processing of ferrous and non-ferrous metallurgy.

The undertaken measures led to the reduction in the number of theft cases and, as a result the Government of Kazakhstan adopted Resolution No. 894 of 19 August 2002 "On Amendments to the Government Resolution of 30 June 1997 No. 1037" which cancels the export licensing of ferrous and non-ferrous metals scrap and waste.

As we understand, this measure is in conformity with the WTO rules and disciplines (Article XI of GATT 1994).

Question 8 of WT/ACC/KAZ/37**Question 2**

**More precise information about the provision of the new draft Customs Code concerning customs fees for customs clearance would be welcomed. In particular, Members would appreciate to have a timetable with specific dates for implementation of measures to bring the 0.2 customs fee into conformity with Article VIII of GATT.**

Answer:

The draft Customs Code of the Republic of Kazakhstan (the Code), having the status of the law, which incorporates and systematizes the principles of law regulating relations in the field of customs, has been developed. Today, the Code has been submitted the Parliament of the Republic of Kazakhstan for consideration.

In accordance with this Code, the costs to the customs authorities for performing specified actions will serve as the basis for calculating the amounts of customs fees. This procedure is in conformity with Article VIII of GATT 1994. As shown in WT/ACC/KAZ/14, Kazakhstan plans, while preserving *ad valorem* rates, to apply the minimum and maximum cost of direct and indirect expenses so that the fees do not exceed the cost of customs clearance of imported goods.

Direct expenses include the expenses directly related to customs clearance of imported goods. Indirect expenses include the expenses for conduction of all kinds of customs activity, including customs clearance of import. Only direct expenses for customs clearance of import are used for the determination of the minimum fees. Time spent by the employee for carrying out customs procedures, and average expenses for each employee, are used. The maximum fees are determined by using direct and indirect expenses. Sixty per cent of the total expenses for the employee are taken into account as well as all other expenses for customs clearance.

At present preliminary calculations of the minimum and maximum cost of direct and indirect expenses for clearance of one cargo customs declaration have been made, where the sum of expenses for clearance of declarations depends on spent time for examination, specificity of official registration of papers and other operations.

Upon entry into force of the Code on customs territory of the Republic of Kazakhstan, customs fees for customs clearance will be set by the Government of Kazakhstan (in accordance with paragraph 1 of Article 319 of the Code) on the basis of the above-stated expenses of customs bodies.

Questions 13 and 15 of WT/ACC/KAZ/37 and 7 of WT/ACC/KAZ/37/Add.1**Question 3**

**An update on the process of harmonization of excise duties on domestic and imported goods and more precise information on the Plan of measures mentioned in response to question 2 of document WT/ACC/KAZ/37/Add.1 would be welcomed (i.e. date of adoption, content, etc.)**

**It would, in particular, be useful if information could be provided on measures envisaged to eliminate the elements of discrimination against imports in the application of excise duties. How will this be done?**

Answer:

At present the Republic of Kazakhstan is undertaking measures for a stage-by-stage unification of excise duty rates for domestic and imported goods. Thus, by the Government Resolution No. 1108 of 11 October 2002 "On Amendments to the Resolution of the Government of the Republic of Kazakhstan of 28 January 2000 No. 137", the excise duty rate on vodka produced in Kazakhstan has increased from 40 to 100 tenge per litre.

Moreover, the draft Government Resolution "On Amendments to the Resolution of the Government of the Republic of Kazakhstan of 28 January 2000, No. 137" is being prepared, which stipulates an increase in excise duty rates for beer and tobacco produced in Kazakhstan.

It should be pointed out that the Government of the Republic of Kazakhstan has taken a decision on the necessity to harmonise excise duties upon Kazakhstan's Accession to the WTO.

Question 9 of WT/ACC/KAZ/37 and Question 6 and Appendix 2 of WT/ACC/KAZ/37/Add.1

**Question 4**

**Replies to these questions do not indicate whether licensing is automatic or non-automatic. Precise information on this would be welcomed.**

Answer:

The licensing system of Kazakhstan regulates imports and exports of a limited number of goods (see Appendix 2 of WT/ACC/KAZ/37/Add.1). These are the goods to which licensing is applied for the reasons of security, protection of human, animal and plant life and health. Licensing for these products is non-automatic. The rules of the import licensing procedure of the goods (works, services) in Kazakhstan are approved by the Government Resolution No. 1037 of 30 June 1997.

Import licensing is carried out by the Ministry of Industry and Trade of the Republic of Kazakhstan with prior coordination with the corresponding ministries, except licenses for the import of ethyl alcohol and alcoholic products (except beer), which is carried out by the Ministry of Finance. The validity of the license does not exceed 12 months, which can be prolonged at the request of the applicant before the completion of contractual obligations, but by no more than one calendar year.

As we understand, this measure is in conformity with Article XXI of GATT 1994 and Agreement on Import Licensing Procedures.

Question 10 of WT/ACC/KAZ/37 and Question 7 of WT/ACC/KAZ/37/Add.1

**Question 5**

**The reply to question 7 of WT/ACC/KAZ/37/Add.1 does not specify whether the new Law on Customs Matters incorporates relevant provisions of the Customs Valuation Agreement, including its Annex 1. More details would be welcomed.**

**It would be useful for Members to have more precise information about the status of progress of implementing regulations.**

Answer:

The draft Customs Code of the Republic of Kazakhstan (the Code), having the status of the law, which incorporates and systematises the principles of law regulating relations in the field of customs, has been developed. Today, the Code has been submitted the Parliament of the Republic of Kazakhstan for consideration.

The draft Code is based on the general principles of customs valuation of GATT (Article VII of GATT), the Customs Valuation Agreement, including Annex 1.

In that regard there is no need for development of additional regulations, envisaging any changes and amendments in the existing customs legislation.

In accordance with Article 332 of the Code, the customs valuation of goods imported to the customs territory of Kazakhstan is based on the general principles of customs valuation under GATT, the Customs Valuation Agreement, including Annex 1 and is of direct application.

In order to harmonize implementation regulations on applying the Article VII of GATT, the Customs Valuation Agreement, including Annex 1, the Code includes the provision on determining customs value of goods imported to the customs territory of Kazakhstan by consequential use of 6 methods:

- Method for Determining the Customs Value Based on the Transaction Value of Imported Goods. The customs value of goods imported into the customs territory of the Republic of Kazakhstan shall be the price actually paid or payable when sold for export to the Republic of Kazakhstan;
- Method for Determining Customs Value Based on the Transaction Value of Identical Goods. When using the method for determining value based on the transaction value for determining value based on the transaction value for determining the customs value of goods, with identical goods as the basis, the transaction value of identical goods shall be used;
- Method for Determining Customs Value Based on the Transaction Value of Similar Goods. When using the method for determining the value based on the transaction value of similar goods as the basis for determining the customs value of the goods, a transaction value of goods similar to those being imported shall be used;
- Method of Determining Customs Value Based on Deduction of Costs. The customs value of goods shall be determined based on the deduction of costs method when identical or similar goods being valued are initially sold without changes in their original state;
- Method for Determining Customs Value Based on Composition of Costs. When using the composition of costs method as the basis for determining the customs value of goods, the cost of goods calculated by computing shall be used;
- Reserve Method for Determining Customs Value. The method is used when it is impossible to determine customs value of goods by the methods described, and is used in compliance with the principles and general provisions of the customs valuation of GATT and the Customs Valuation Agreement.

Question 10 of WT/ACC/KAZ/37/Add.1**Question 6**

**Information on regional subsidies would be welcomed (see second part of the question).**

Answer:

The Law of the Republic of Kazakhstan "On the Budget System" envisages the allocation of subventions to the regions. These subventions are official transfers from the upper to lower level budgets within the amounts approved by legislative acts or decisions of regional representative bodies.

Export regulation (question 18 of WT/ACC/KAZ/37)

**Question 7**

**Members would welcome information on the legal basis of the existing subsidies and specific proposals for their elimination. Members stressed the importance of such information to help discussions to move forward.**

Answer:

The Law of the Republic of Kazakhstan "On State Support of Direct Investment" envisages the state support of direct investment to the priority sectors of the economy. The form of granting privileges and preferences is as follows: grants in kind, exemption from the payment of land tax and property tax for up to five years after signing the contract, exemption from the payment of income tax for up to five years after receiving taxable income, but no more than eight years after signing the contract, full or partial exemption from import duties for import of equipment, raw materials and materials, necessary for carrying out the investment project.

Tax preferences are granted depending on the amount invested in fixed assets and priority sectors of the economy. The exemption from import duties is granted in the case of absence of production on the territory of Kazakhstan of such goods or their production in limited quantities, which does not allow conducting activity in accordance with investment project.

The granting of privileges and preferences is done by signing the contract with the investor and is regulated by the Decree of President of the Republic of Kazakhstan No. 349 of 6 March 2000 "On establishment of the rules of privileges and preferences granting upon signing of contract with investors, which carry out investment activity in the priority sectors of the economy". The privileges and preferences are granted on national treatment basis.

Moreover, the Order of the Chairman of the Agency of the Republic of Kazakhstan for Regulation of Natural Monopolies, Protection of Competition and Support of Small Business of 30 September 1999 No. 24-OD "On Establishing the Rules on Introduction and Cancellation of Discount Coefficients to the Tariffs on Transportation by Railroad, Subject to State Regulation" envisages granting natural monopolists discounts on tariffs. These rules are developed in accordance with the Laws of the Republic of Kazakhstan "On Transport in the Republic of Kazakhstan", "On Natural Monopolies", "On Development of Competition and Limitation of Monopoly Activity" for the purpose of establishing the unified system of introduction and cancellation of discount coefficients for tariffs on transportation by railroad, subject to state regulation.

In accordance with this Order, discount coefficients are established to the tariffs on transportation of products of some industry on the basis of economic efficiency of such measure for the state, economic expediency for transport company and client. The main criteria of expediency of the establishment of discount coefficients are: the maintenance of tax payments to the budget, attraction of the new transport flows, increasing of the transport flows, possibility of using unutilised or under-utilised sections, ecological danger of byproduct of industrial production.

The discount coefficients are applied under the condition that the client does not have debt accounts receivable or if they are settled in accordance with the adopted schedule, and under the condition of increasing (or maintaining) the volume of transport flows in comparison with the previous period. The discount coefficients are established for definite period of time. The criteria of expediency of the cancellation of discount coefficients are economic inefficiency of further application of the discount coefficients for the state and (or) for the transport company or disparity with the main criteria.

Also, in accordance with Article 222 Chapter 36 of the Law of the Republic of Kazakhstan "On Taxes and Other Obligatory Payments to the Budget" the turnover on exported goods, except export of ferrous and nonferrous metals scrap, is subject to zero VAT.

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