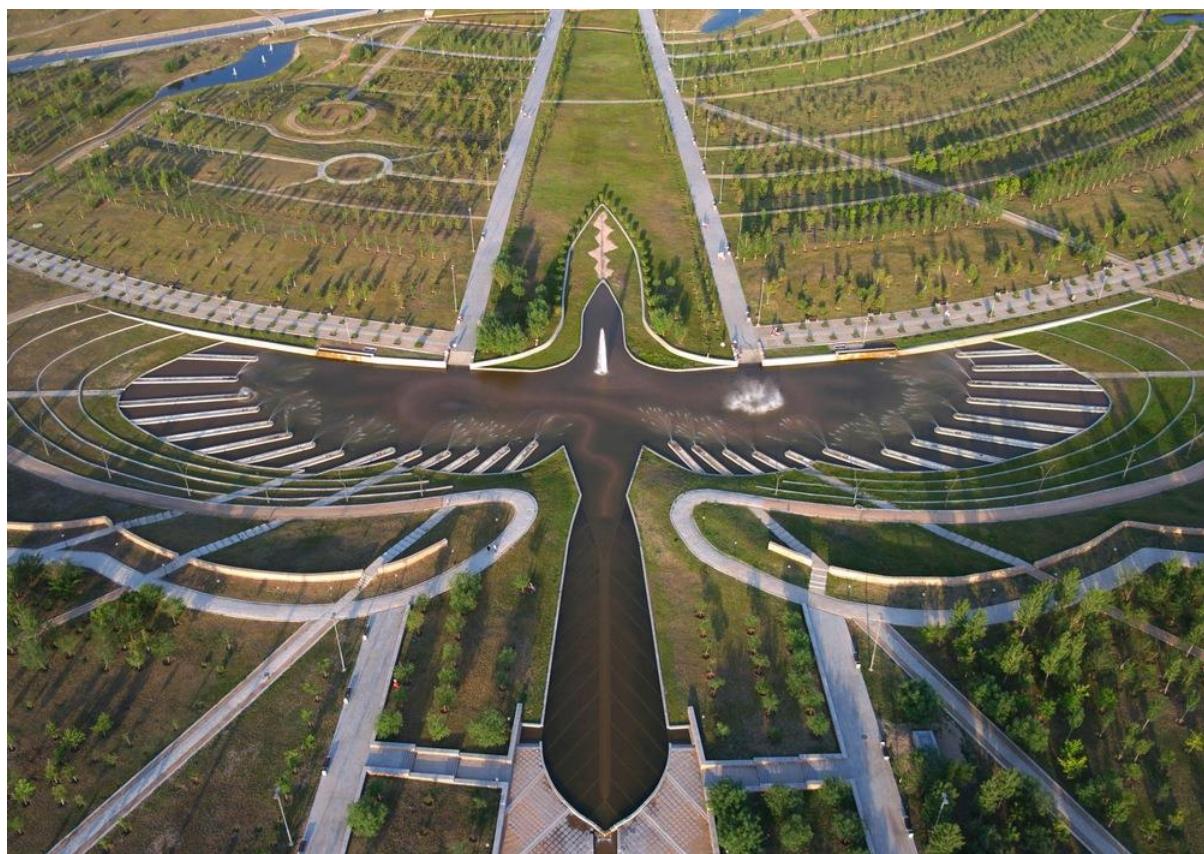


Accession to the World Trade Organization



This issue includes commentary on Kazakhstan's recent accession to the World Trade Organization (WTO) and changes to Eurasia Economic Union (EEU) legislation

Accession to the WTO

General information

The final package of documents on Kazakhstan's accession to the WTO was

approved by the member states of the working group in Switzerland on 22 June 2015. The package contains the:

- draft report of the Working Party outlining the country's reformed trade regime and its commitments as the WTO member;
- draft Schedule of Concessions and Commitments on Goods;
- draft Schedule of Specific Commitments on Trade in Services.

WTO members, including the USA, the EU, Russia, China, India, Japan and South Korea (Kazakhstan's main trade partners), positively evaluated the reforms adopted by Kazakhstan in order to align its laws with WTO regulations. Changes were made to more than 50 laws, including those on currency regulation, price formation and competition development; fiscal policy; customs regulation; import licensing; and the application of product safety measures, including technical regulations, as well as sanitary and veterinary measures; and the protection of intellectual property rights.

Complexity lies in the negotiations on tariff adjustments due to Kazakhstan's membership of the EEU (Armenia, Belarus, Kazakhstan and Russia). Tariff adjustments included resolving differences between bilateral market access agreements negotiated by Kazakhstan with the WTO members, Russia's schedule of commitments and the common external tariff of the EEU. These differences were the principal issue in completing Kazakhstan's market access negotiations.

After almost 20 years of negotiations Kazakhstan will become a full member of the WTO in December 2015.¹

Terms of Kazakhstan's accession

In July the National Chamber of Entrepreneurs "Atameken" published a package of documents on Kazakhstan's accession to the WTO.² Kazakhstan committed to harmonize its legislation with the WTO Accession Protocol provisions, and accepts obligations on 10 service sectors (including 116 subsectors out of 155 subsectors prescribed by the WTO classification³). The WTO Agreement will be valid over all Kazakhstan, including regions involved in cross-border trade, special economic zones (SEZ) and other areas with special regimes for tariffs, taxes and regulation. Companies with state shareholding involved in commercial activities will also act in accordance with the WTO requirements. .

Kazakhstan will adopt the General System of tariff preferences for developing and the least developed countries of the WTO.⁴ The changes will affect monetary, fiscal and economic policies and mechanisms for their formulation and implementation; trade policy and the trade-related intellectual property regime; services trade policies; and transparency in trade agreements. Specific changes include:

- changes in currency regulations and control:
 - adoption of measures aimed at improvement in risk management effectiveness of banks, pension funds and insurance companies;
 - increase in control over volatility of the tenge;
 - simplification of requirements for foreign exchange operations by residents, including transactions with foreign assets;
- provision of transparent and non-discriminatory access to the transportation of crude oil and gas via pipelines and use of tariffs for foreign and domestic investors on a non-discriminatory basis;

- revision of anti-dumping, countervailing and safeguard measures in accordance with the agreements approved by the WTO;
- implementation of transparency of privatization process, as regulated by members of the WTO;
- elimination of technical barriers to trade, including:
 - regulation of prices on goods and services in accordance with the WTO Agreement, with the interests of the exporting WTO members taken into account;
 - regulation of customs fees and charges for services related to the import and export of goods, including those related to restrictions on the introduction and/or use of export (quantitative) restrictions, e.g. quotas, bans, permits, prior approval requirements;
 - cancellation and/or modification of subsidy programs to limit subsidies provided for export and for import phase-out;
 - limiting use of sanitary and phytosanitary measures to ensure safety of health of people, animals and plants, but not for restrictions to trade;
- standardization of technical regulations, sanitary and phytosanitary measures, intellectual property rights protection, import licensing, etc. to be in compliance with WTO rules;
- introduction of a transitional period (until 1 January 2017) for goods of entities which are registered and operate in SEZs and free warehouses, and apply tax and customs privileges.

Some of the above changes are adopted. Adoption of the rest requires additional time and harmonization at the EEU level.⁴

Round table discussions on accession to the WTO

In July the National Chamber of Entrepreneurs “Atameken” held a ‘round table’ discussions where the Minister for Economic Integration Zhanar Aitzhanova explained some conditions associated with Kazakhstan’s commitments:

- the state’s right to subsidize the agriculture sector at 8.5% out of gross agricultural output (standard rate for other WTO members is 5%);
- the state’s right to provide unlimited support measures aimed at institutional development of the agriculture sector and infrastructure construction in rural areas;
- elimination of the state subsidies related to export marketing activities and import phase-out;
- approval of a transitional period until 1 January 2017 for customs incentives for SEZ participants and free warehouses’ owners registered before 1 January 2012. The government plans to develop alternative supporting measures, which will be in accordance with the WTO requirements.⁵

Harmonization of import duties across the EEU

In June at the St. Petersburg International Economic Forum Mr. Andrei Slepnev, the Eurasian Economic Commission (EEC) Minister for Trade, stated that it can take 6-7 years for Kazakhstan to harmonize its import duties with other EEU member states after Kazakhstan joins the WTO. The reason is that Kazakhstan’s commitments as a WTO member were approved before the EEU was created. Import tariffs will be lower for certain items than tariffs in Russia and the EEU for some period. The EEC plans to

determine measures to prevent goods imported under lower tariffs from coming into the rest of the EEU.⁶

Eurasian Economic Union

Free trade zone agreement between Vietnam and the EEU

The agreement signed on 29 May 2015 contemplates a decrease in import customs duties, obligations to protect intellectual property, collaboration in electronic commerce and state procurement and unified principles for competition. The agreement will take effect 60 days after being ratified by all EEU members and Vietnam.⁷

Free trade zone agreement between the India and the EEU

In June The EEU and India signed a statement to consider a free trade zone agreement. The EEU has received proposals to sign FTAs from over 30 countries and regional associations.⁸

Mutual access to national stock exchanges in the EEU

In June Mr. Timur Suleimenov, the Minister of Economy and Financial Policy of the EEC, stated that participants of the EEU will provide mutual access to national stock exchanges in 2016. This should encourage integration of financial markets and encourage new joiners.⁹

Tax and customs administration

Introduction of antidumping and countervailing measures for import of goods

Law № 315-V on special protective, antidumping and countervailing measures in relation to third party countries introduced measures to protect the economic interests of Kazakhstan during import of goods. In case when importing of certain goods harms the relevant industry in the EEU the following measures will be applied:

- antidumping measures are applied to imported goods with a declared value below their usual market value;
- countervailing measures are applied to imported goods benefitting from a specific subsidies from the exporting country;

The Law does not apply to services, transfer of intellectual property, investments, currency and export control that are regulated by separate legislation. The changes are effective from 11 June 2015.¹⁰

Adoption of tax and customs forms and registers

The following tax and customs forms and rules were adopted:

- manner of showing VAT paid by offset method in VAT return (effective from 13 June 2015);
- limits on tax deduction for living and education costs paid to a studying person (effective from 12 June 2015);
- penalties for not exporting/importing products transferred for processing (effective from 12 June 2015);

- general rules in regards to payment, refund and offset of customs duties, taxes and penalties (effective from 12 June 2015);
- standard forms of certain tax registers and rules of their filing with minor changes (effective from 21 June 2015).¹¹

Unified identification system for participants in international trade

In July the EEC discussed a unified identification system for participants of international trade. Benefits envisaged include:

- unique identification of participants of international trade within the EEU;
- improvement of risk management through supply chain analysis;
- simplification of customs document resulting in their increased reliability.

This will reduce the amount of processed data and simplify electronic interaction between the customs and other state authorities of the EEU member countries.¹²

Unified list of good exporting companies of Kazakhstan and China

In July the customs authorities of Kazakhstan and China discussed a project named “Trust” to create conditions for easier movement of goods of certain companies on the Kazakhstan-Chinese border. Participants will be those associated with low risk of violation of customs legislation. The project would improve cross-border security, reduce delivery times and optimize business costs.¹³

Other

Kazakhstan joined Asian Infrastructure Investment Bank (AIIB)

In June Kazakhstan signed the articles of the agreement on establishment of the AIIB. 50 countries signed the articles of the agreement and seven more plan to sign the document by the end of 2015. China has the largest share (20%) in the bank's equity (USD 100 bln.) and a right of veto. The bank will be headquartered in Beijing. The bank will become operational in 2016.¹⁴

Astana International Financial Center

In May a long-term action plan for the creation of the Astana International Financial Center was adopted by the government and National Bank. According to a Presidential Decree (№24, 19 May 2015) the National Bank will relocate from Almaty to Astana by 1 January 2017. The new center will have the following features:

- regulation of relations between participants of the center will be based on standards of the world's leading financial centers;
- legislative regulations will be based on the principles and rules of English law;
- use of English in all document flow of the center, including legal proceedings.
- foreign judges to hear economic and investment disputes;
- exemption from corporate income tax on the revenue generated within the center, from personal income tax at source on dividends and personal income for all participants for ten years;
- foreign staff will not require work permits.

The National Bank has also established a regulatory committee for the Astana International Financial Center.¹⁵

Changes in auction rules on privatization of assets

In June Mr. Kalymzhan Ibraimov, deputy chair of the State Property and Privatization Committee announced changes in rules for privatization auctions. The changes are to encourage privatization and simplify bidding:

- an upper limit for guarantee fees of approximately KZT 60 million USD 317,000 (30,000 MCI);
- bids accepted until two hours before the auction (previously 72 hours);
- the Dutch auction method will be possible.¹⁶

Request for the Mining Code

In June Mr. Nikolai Radostovets, Executive Director of the Association of Mining and Metal Enterprises stated that a separate Mining Code will increase investment in the mining industry. He'd like a new Code to contain some SSU terms specifically for the mining industry as current definitions are too general and cause misunderstanding between taxpayers and the tax authorities. He believes that the state's pre-emptive right to acquire exploration and mining licenses should be abolished. A Code "On subsurface and subsurface use" is under development.¹⁷

Extension of visa-free entry regime countries' list

In July Kazakhstan introduced a visa-free regime for citizens of Australia, Hungary, Italy, Monaco, Belgium, Spain, the Netherlands, Norway, Sweden, Malaysia, the United Arab Emirates, Singapore, the UK, the USA, Germany, Finland, France, Switzerland and Japan. Citizens of these countries are exempt from visa requirements for 15 calendar days in Kazakhstan.¹⁸

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