

Report No. 96863

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# Kazakhstan Trade Report

## Improving the Regulatory Framework for Non-Tariff Measures

### Trade Policy Note 3

January 2015

Poverty Reduction and Economic Management Unit  
Europe and Central Asia Region



Document of the World Bank

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## KAZAKHSTAN - GOVERNMENT FISCAL YEAR

January 1 – December 31

### CURRENCY EQUIVALENTS

(Exchange Rate Effective as of May 29, 2015)

Currency Unit Tenge

US\$1 = 185.50 Tenge

### WEIGHTS AND MEASURES

Metric System

### ACRONYMS AND ABBREVIATIONS

ADR	Alternative Dispute Resolution
AFTA	Association of Southeast Asian Nations Free Trade Area
AFTA-CER	Association of Southeast Asian Nations Free Trade Area- Closer Economic Relations
AKTISA	Association of Southern Asian Nations - Korea Agreement on Trade in Services
ASEAN	Association of Southeast Asian Nations
BEC	Broad Economic Classification
BKR-CU	Belarus-Kazakhstan-Russia Customs Union
CEM	Country Economic Memorandum
CER	Closer Economic Relations (Trade Agreement Between Australia and New Zealand)
CES	Common Economic Space
CET	Common External Tariff
CGE	Computable General Equilibrium
CIS	Commonwealth of Independent States
CTPD	Center of Trade Policy Development
CU	Customs Union
DFTR	Department of Foreign Trade Regulations
DIEI	Department of International Economic Integration and Regulations
EAC	East African Community
ECA	Europe and Central Asia
EEC	Eurasian Economic Commission
EU	European Union
EU 27	All EU member states except Croatia
FTA	Free Trade Agreement
GDP	Gross Domestic Product
GMO	Genetically Modified Organism
GOST	<i>Gosudarstvennyy Standart</i> (State Standard)
HS	Harmonized System
ITC	International Trade Center
MEBP	Ministry of Economy and Budget Planning
MES	Ministry of Education and Science
MFA	Ministry of Foreign Affairs
MINT	Ministry of Industry and New Technologies
MLT	Maximum Tolerance Limit
NACEKs	National Center of Certification and Expertise
Non-CU CIS	Non-Customs Union Commonwealth of Independent States
NTM	Non-Tariff Measure
OECD	Organisation for Economic Cooperation and Development
PSI	Pre-Shipment Inspection

PTA	Preferential Trade Agreement
QC	Quantity Control
ROO	Rules of Origin
RTA	Regional Trade Agreement
SEZ	Special Economic Zone
SME	Small and Medium Enterprises
SPS	Sanitary and Phyto-Sanitary
TBT	Technical Barriers to Trade
UNCTAD	United Nations Conference on Trade and Development
USTR	Office of the United States Trade Representative
WTO	World Trade Organization

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## I. WHY LOOK AT NON-TARIFF MEASURES?

1. **With accession to the World Trade Organization (WTO), Kazakhstan will finalize its first generation trade reforms (tariff and trade tax simplification and reduction).** The government's attention will need to shift to "behind the border constraints" that affect Kazakhstan's competitiveness and diversification efforts. Among these, the non-tariff measures (including standards) and poor trade facilitation are serious constraints. A large literature finds that non-tariff measures (NTMs) - also known as non-tariff regulations - are now often found to be more important impediments to trade than traditional barriers (Annex 2). For instance, Kee et al (2009) find that, for 34 out of the 78 countries in their study, the contribution of NTMs to the overall level of restrictiveness is higher than the contribution of tariffs.

2. **In fact, the relative importance of trade barriers resulting from non-tariff measures will continue to increase in Kazakhstan in the medium term.** Joining the Belarus-Kazakhstan-Russia Customs Union (BKR-CU) has led to new and complex regulatory changes that will take time to clarify, analyze, and address adequately (either implement with proper consultation or revise). Furthermore, WTO membership will add new legal frameworks that will affect the national and CU regulations, with associated needs for analysis and adequate legal, regulatory and implementation adjustments. Adapting to all these changes and ensuring their proper and least cost implementation will take several years, and will call for the government to pay special attention to NTMs at this juncture.

### Box 1: The Early Effects of Joining the Customs Union

Kazakhstan's accession to the customs union marked a major change in its trade policy. Kazakhstan's unweighted average tariff nearly doubled from 6.72 percent to 11.51 percent, and tariff dispersion increased. A recent World Bank report predicted that the increase in the external tariff level would cost 0.2 percent in real income per year. Accession to the WTO is expected to reduce this tariff spike substantially. Besides the impact on tariffs, the CU has also had important effects on NTMs, aligning its trade policy to the more restrictive Russian standards and technical regulations. The regulatory framework, such as procedures on declaring goods, customs valuations, and import licensing as well as sanitary and phyto-sanitary (SPS) and technical barriers to trade (TBT) measures, are mostly being revised to mirror the Russian approach. The key to offsetting the negative net impact of the CU is to make substantial progress in the areas of and easing of non-tariff barriers and trade facilitation. Progress in reforming these barriers could bring up to 1.5 percent in real income (as percent of consumption) per year to Kazakhstan.

*Source: World Bank, 2012.*

3. This note presents an overview of Kazakhstan's NTM profile and typology as of April 2013. It then identifies the five most constraining NTMs in the system to the private sector. Finally, it provides suggestions to address priority NTM issues and to strengthen institutional framework to manage NTMs adequately.

### **In summary, the report finds that:**

4. **While Kazakhstan has an intermediate level of NTM coverage and frequency ratios, there is risk of burdensome administrative procedures.** Currently, Kazakhstan compares well to EU and China in terms of coverage and frequency ratio. However, 50 percent of products are affected by two or more NTMs. There is need to simplify the most prominent NTMs as they are also the most difficult to comprehend and comply with, especially for small and medium-sized enterprises (SMEs): sanitary and phyto-sanitary (SPS), technical barriers to trade (TBT), pre-shipment inspection, and quality control measures. The most burdensome of NTMs appear to be conformity assessment measures and technical requirements.

5. **Joining the CU has led to a large number of regulatory changes, with five new NTM challenges standing out.** These are: (i) issuance of more stringent regulations; (ii) additional mandatory

certifications; (iii) new state product registration requirements; (iv) new requirement of registering third country suppliers; and (v) prevalence of quantitative controls. Compliance with these requirements may be very costly for both companies seeking to export and those that source their inputs abroad, especially in emerging and developing countries. Countries imposing them may end up hurting their own competitiveness by making it difficult for domestic producers and exporters to access critical inputs in a timely fashion.

**6. To relieve the overall burden of regulation, this note suggests review and – when deemed advisable - reform of the NTM system.** The authorities should consider simplifying/reducing the conformity assessment measures and the numerous related forms that are required to demonstrate compliance with SPS measures. Also they should review the need for and consider alternative instruments to the state product registration requirements, third country supplier requirements, pre-shipment inspections and quantity controls. Finally, strengthening the overall standard quality enforcement in Kazakhstan will help create a system that will help protect consumers without being overly burdensome on the private sector activities.

**7. This effort should include institutional capacity building and increased information sharing.** This effort should include capacity building to understand the complex regulatory framework, including training on regulatory impact assessments, and design and implementation of trade regulations. Ensuring transparency and information availability is also a key component of a functional regulatory system: the launch a trade information portal can help with this effort. Engaging in a public-private dialogue where the private sector is more systematically involved helps design regulations that are more efficient and less burdensome.

**8. In the short to medium term, 5 priority actions can improve the regulatory framework governing NTMs:**

- Review and, when appropriate, reduce or replace regulations related to the pre-shipment inspection requirements, the quantity control measures, the state product registration requirements and the number of standards.
- Simplify procedures for compliance. Consider using mutual recognition of standards or voluntary conformity assessments instead of mandatory assessments. Simplify the procedures / the number of forms for conformity assessment requirements for SPS and TBT measures.
- Include private sector more fully in the regulatory process: inform and consult the private sector systematically during the process of developing and implementing new regulations. Setting up a public-private committee and a trade websites would good initial steps.
- Build the national quality infrastructure capacity to better develop and manage NTMs: Train technical staff to undertake regulatory impact assessment before the regulation is adopted; build laboratories and the technical capacity to run them properly.
- The NTM database should be kept updated and used for further analysis to shed light on the impacts of regulatory measures on the economy. A natural next step is to estimate the effects of NTMs on consumer prices and determine how this varies across regions and different NTM chapters.<sup>1</sup>

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<sup>1</sup> For this analysis, firm or product level price data are needed. The NTM analysis can also assess the poverty impact of streamlining NTMs. For this analysis, information from the national household surveys will be necessary.

### Box 2: Good Regulatory Practices

Good regulatory practices encompass principles of transparency, efficiency and increased competition. These good practices are recommended by the WTO and implemented by Organization for Economic Co-operation and Development (OECD) countries. Regulatory transparency has been at the forefront of the international trade agenda at the multilateral, bilateral, and regional levels. The WTO addresses the NTM agenda through both the transparency obligation and the guidelines to reconcile governments' policy objectives with the requirement that the regulations do not restrict trade unnecessarily or are used purposely for protectionist measures. The OECD Efficient Regulation Principles provide guidance to policy makers designing and implementing rules and regulations, including those that may impact trade and firms' competitiveness. In this perspective, regulatory impact analysis is a key instrument at the disposal of regulators. The OECD also recognizes the benefits of regulatory reform, which is about improving regulation, not necessarily through less regulation. Increasing competition should be recognized as a goal of regulatory reform so that there should be mechanisms to identify anticompetitive practices and to address complaints from consumers and new or potential firm entrants.

The "Efficient Regulation Principles of the OECD" are summarized in the following nine points:

1. Transparency and openness.
2. Non-discrimination.
3. Avoidance of unnecessary trade restrictiveness.
4. Use of performance-based regulations (rather than design or descriptive characteristics). It is easier and less costly when firms have flexibility to meet requirements as this allows for innovation and improved efficiency.
5. Use of regulatory impact analysis.
6. Administrative simplification to minimize the administrative burdens on firms in complying with regulations.
7. Use of internationally harmonized measures to minimize the burdens on firms that come from having to comply with different standards and regulations for like products in international trade.
8. Appropriateness of the quality of conformity assessment procedures.
9. Incorporation of competition principles into regulatory practices.

Source: OECD.

## II. ALLEVIATE THE BURDEN OF NTMS

9. **This analysis is based on a unique NTM database for Kazakhstan, developed during 2012-13 in collaboration with the national authorities.** The NTM database is built on 31 normative documents and 61 regulations enforced at the CU or national levels, consists of 17965 'product x NTM' pairs and accounts for 50 various NTMs.<sup>2</sup> Kazakhstan trade regulations are transitioning from mostly national soviet-type regulations to CU regulations. The CU regulations represent 95 percent of the regulations captured in the database and therefore they *underestimate* the extent of national regulations in place.<sup>3</sup> The current version of the database does not include technical requirement stipulated in the 87 national technical regulations on manufacturing products which are still valid in Kazakhstan. The reason for their exclusion from the database is the difficulty in reading and understanding them as they are codified in *Gosudarstvennyy standart*, or State Standard (GOST). In addition, these national regulations will be replaced in the next three years by the requirements of the CU technical regulations.<sup>4</sup>

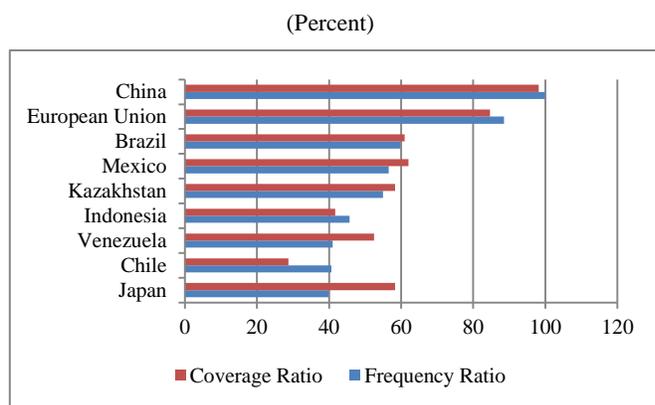
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<sup>2</sup> More precisely, it is based on sanitary and phyto-sanitary, veterinary and non-technical regulations enforced at the CU level, mandatory conformity assessment enforced at the CU and national levels and 7 CU technical regulations.

<sup>3</sup> The data used for this analysis was collected in collaboration with the Center of Trade Policy Development (CTPD) of the MEBP of Kazakhstan.

<sup>4</sup> The conformity assessment measures stipulated by the national technical regulations are listed in the database.

**Figure 1: NTM Coverage and Frequency Ratios**



Source: Official data. World Bank staff calculations, 2013.

10. **Kazakhstan has an intermediate level of NTM frequency and coverage ratios.**<sup>5,6</sup> The frequency ratio of NTMs captures the percentage of products that are subject to one or more NTMs. The Coverage Ratio captures the percentage of imports that are subject to one or more NTMs. Roughly 55 percent of tariff lines in Kazakhstan are currently affected by NTMs, representing around 60 percent of overall import value in 2012. By comparison, China and the European Union have the highest values of frequency and coverage ratios (more than 80 percent), while Chile and Japan have the lowest values of both indicators (Figure 1).<sup>7</sup>

11. **The frequency and coverage ratios vary noticeably across sectors but this variation is typical compared to other countries.** These ratios exceed 90 percent for agri-food industries and chemicals, while they are the lowest for mineral products (Figure 2). The difference between frequency and coverage ratios is high in metals, footwear, transportation and raw skins, hides, furs and leather indicating the large difference between imports values of the affected products and their numbers. For instance, NTMs affect a quarter of the metal products but 58 percent of their import volume. Kazakhstan’s large sectorial variation of frequency ratio is similar to that of comparator countries (Figure 3). In general, the frequency ratio is quite high in the agri-food and chemical industries in comparator countries. This reflects a broad application of SPS and TBT measures to control for safety and quality of the products and low in metals and stone and glass sectors that contain a lot of intermediate products. The EU has the lowest variation of frequency ratios among sectors, which implies the high overall protection of products in all sector.

<sup>5</sup> Annex 1 provides the formula for frequency and coverage.

<sup>6</sup> The use of frequency and coverage ratios comes with a number of caveats. First, the frequency ratio measures the proportion of products (at the harmonized system’s HS6 level of detail) covered by one or more NTMs. Because products have all equal weights, this measure tends to over-emphasize small ones. The coverage ratio measures the proportion of imports covered by one or more NTMs. Unlike the previous one, it does not overemphasize small products, but because products affected by restrictive measures are imported in lower quantities and, therefore, get a lower weight in the calculation, it tends to under-estimate overall restrictiveness. Secondly, the correlation between the frequency and coverage ratios is not perfect. Some NTMs may cover few product lines but affect large import volume, while other NTMs may cover a large number of product lines, and either do not have a significant impact on the volume of trade or are more trade restrictive. Finally, these ratios do not indicate whether NTMs are targeted to protect domestic industries or whether NTMs in Kazakhstan are less trade restrictive than in other countries. Two factors may explain a relatively higher coverage ratio: First, import composition, especially in low income countries that often import larger volumes of products where NTMs are more extensively used (agriculture). Second, a high coverage ratio may reflect a larger use of NTMs policies on most traded products (e.g. for consumer protection), as it is often the case in developed countries. Also, the trade restrictiveness of most NTMs can only be assessed on a case by case, depending on their justification but also their implementation procedures.

<sup>7</sup> NTM data is not available for all countries. The data base contains data on approximately 40 countries. The comparators were chosen this database, based on data availability.

**Box 3: What are Non-Tariff Measures?**

Non-tariff measures are policy measures, other than ordinary customs tariffs, that can potentially have an economic effect on international trade in goods, changing quantities traded, or prices or both (United Nations Conference on Trade and Development (UNCTAD, 2010). As such, NTMs do not necessarily have trade protectionist intent and can be introduced to achieve other policy objectives such as to preserve human health or the environment.

Imports	Technical Measures	A. Sanitary and phyto-sanitary measures B. Technical barriers to trade C. Pre-shipment inspection and other formalities
	Non-Technical Measures	D. Contingent trade-protective measures E. Non-automatic licensing, quotas, prohibitions and quantity control measures other than for SPS or TBT reasons F. Price-control measures, including additional taxes and charges G. Finance measures H. Measures affecting competition I. Trade-related investment measures J. Distribution restrictions K. Restrictions on post-sales services L. Subsidies (excluding export subsidies under p7) M. Government procurement restrictions N. Intellectual property O. Rules of origin
	Exports	P. Export-related measures

This classification does not judge on legitimacy, adequacy, necessity or discrimination of any form of policy intervention used in international trade. This definition of NTMs is slightly different from the one adopted by the CU Commission according to which only the non-technical measures are considered “non-tariff measures”, while the technical measures are called “measures of supervision and control of the safety of products (goods)”.

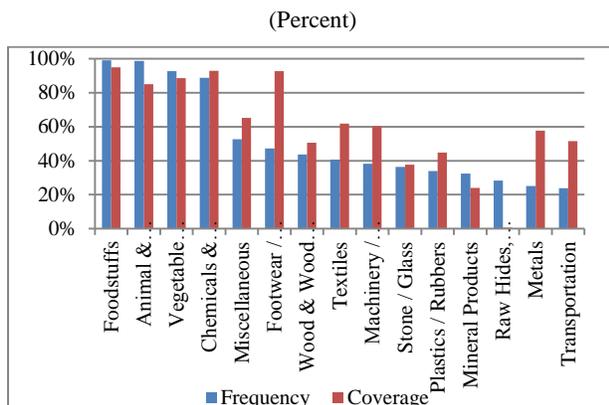
The WTO recognizes the need for governments to introduce regulations to achieve non-trade legitimate objectives such as consumers’ protection and food safety. The WTO provides guidelines though: (1) Measures should be transparent; (2) Measures should be non-discriminatory; (3) measures should be the least trade restrictive; and (4) SPS measures should be scientifically based. However, NTMs can be hijacked as protectionist tools or as weapons in trade wars. Finally, NTMs that have clear trade protectionist intent and are then called Non-Tariff Barriers.

*Source: World Bank.*

12. **Most of Kazakhstan’s current NTMs are concentrated under four ministries, which is comparable to other countries.** Four government agencies are responsible for 94 percent of NTM measures: The Ministry of Health (35 percent), the Ministry of Agriculture (35 percent), the Ministry of Economics and Budget Planning (13 percent) and Ministry of Industry (10 percent). In most countries, four or five ministries are responsible for most NTMs. International experience suggests that the fewer ministries are responsible for NTMs in a country, the less cumbersome the regulation process. More ministries would increase the need for strong coordination and inter-ministerial consultation.

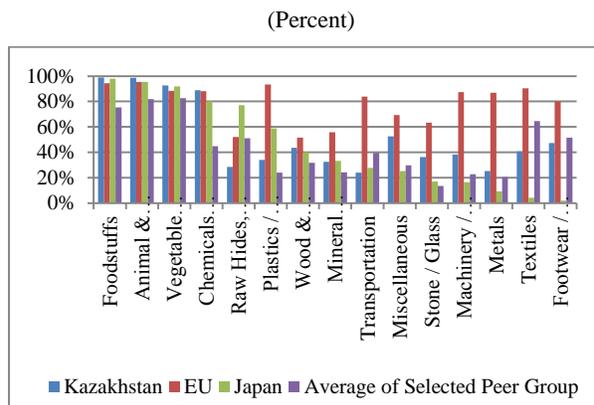
13. **However, the risk of duplication and burdensome administrative procedures are high in Kazakhstan.** In Kazakhstan, half of the products for which an NTM applies are affected by a single type of NTMs, 30 percent are affected by two types of NTMs, and about 20 percent by three or four types. By comparison, in higher income economies such as the EU and Japan, more than 90 percent of the products for which an NTM applies are affected by one to two NTMs, with more than 70 percent affected by only one NTM (Figure 5).

**Figure 2: Frequency and Coverage Ratios of NTMs Vary across Sectors**



Source: World Bank staff calculations, 2013.

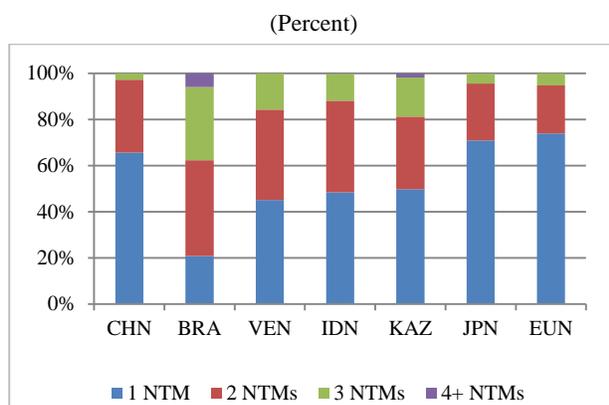
**Figure 3: Variation in Frequency Ratios of NTMs is Similar to Comparator Countries in Major Sectors**



Source: World Bank staff calculations, 2013.

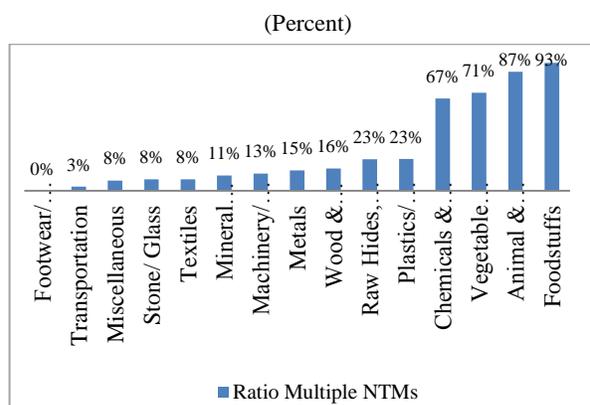
14. **The greater the different types of NTMs applied to the same product, the more regulated the trade of that product is.** The rationale is that measures within the same chapter are similar in nature and thus often impose relatively less burden than measures from different chapters. For instance, food stuff has the highest ratio of multiple NTMs because its products can be subject to phyto-sanitary and veterinary measures set up by SPS regulations and technical requirements set by technical regulations (Figure 5).<sup>8</sup>

**Figure 4: NTMs are Potentially More Burdensome in Kazakhstan**



Source: World Bank staff calculations, 2013.

**Figure 5: Four Sectors Have the Highest Shares of Products Affected by Multiple NTMs**



Source: World Bank staff calculations, 2013.

15. **Business perceptions of burdensome regulations and the findings of the NTM database are closely correlated.** A 2012 International Trade Commission (ITC) firm survey assesses the perception of the private sector about NTMs (Figure 6). It is based on 387 phone screen interviews, 61 in depth interviews of Kazakhstani companies that trade (export and/or import) as well as 11 interviews with business associations. In this survey, NTMs faced by the Kazakhstani exporters include domestically applied measures and NTMs applied by partner countries to Kazakhstani exports. The ITC perception

<sup>8</sup> Annex 2 shows the list of products (Harmonized System 6 digit) subject to seven NTMs together with the 2-digit NTM codes. For instance, grain products (HS6=100110, 100190, 100200, 100300, 100590) are subject to seven non-tariff measures.

survey is complementary to the NTM database used for the present analysis.<sup>9</sup> The ITC results help identify the NTMs perceived to be the most burdensome and the reasons why they are burdensome. For each product-partner trade flow, companies provide information on the burdensome NTMs, which are then categorized according to the slightly revised UNCTAD NTM classification. Moreover companies are asked to distinguish between NTMs that are difficult due to procedural obstacles associated with them and those which are burdensome by their nature.

16. **In the ITC survey finds that NTMs affects both exporters and importers.** Kazakh exporters cite technical measures (39%), certificates and rules of origin (19%) and quantity control measures (8%) as the most burdensome measures. Burdensome NTMs applied domestically were mainly composed of mandatory export certifications (43%) and quantitative restrictions (24%). The common procedural obstacles associated with burdensome NTMs are time delays (29%) large number of documents (27%), limited or inappropriate testing facilities (11%) and informal payments to officials (9%). Procedural obstacles are encountered both in Kazakhstan and in partner countries. On average, interviewed exporters face burdensome NTMs in two out of three destination markets. Kazakh importers consider technical requirements (21%), conformity assessment (66%) and price controls (6%) as the most burdensome NTMs. More specifically, Kazakh importers viewed mandatory certification of imported products and a state product registration requirement as duplicating and unnecessarily increasing compliance costs. In 93% of cases, NTMs are perceived to be burdensome by Kazakh importers due to associated procedural obstacles. Most frequently cited procedural obstacles are excessive paperwork (30%), limited or inappropriate testing facilities (28%), time delays (11%) and the lack of domestic recognition of foreign certificates (10%).

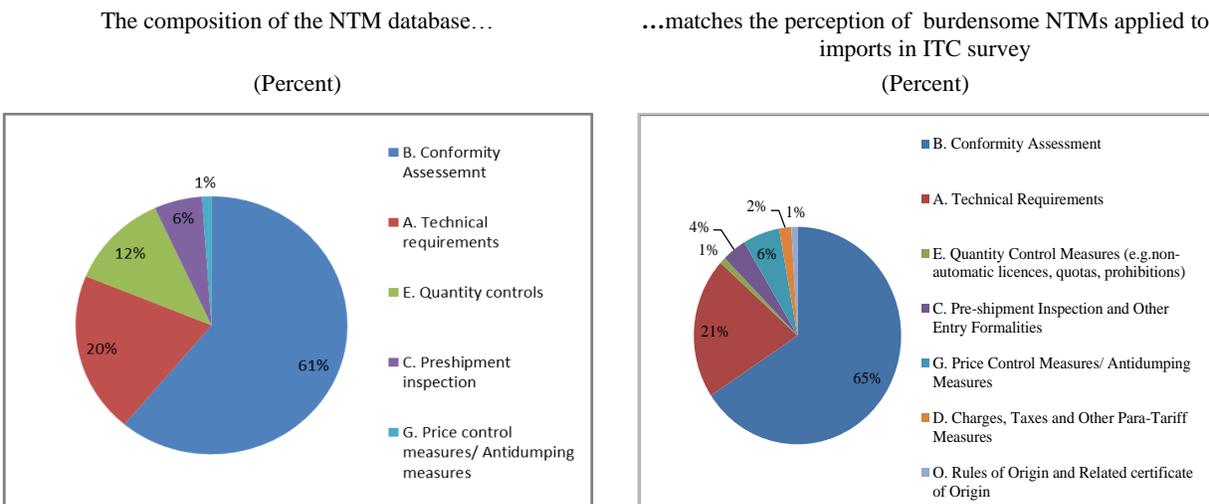
17. **Currently conformity assessment measures and technical requirements are the most pervasive types of NTMs in the database, and the most burdensome from the perspective of companies surveyed.** Interestingly, for now, quantity controls measures are perceived as not burdensome in the ITC survey. Different factors may explain this result from the ITC survey. First, the constraint related to conformity assessment measures may be so binding that the other constraints are not relevant. Second, the majority of products covered by quantitative controls measures are sensitive products such as ozone depleting and poisonous substances, nuclear wastes, weapon and high frequency equipment which are rarely used in day to day operation of a representative producing company in Kazakhstan. Finally, charges and taxes and rules of origin are likely administrated at the national level and were not included in the World Bank NTM database, as explained above.

18. **The most prominent NTMs are also the most difficult to understand and comply with, especially for SMEs.** These are sanitary and phyto-sanitary regulations (SPS), technical barriers to trade (TBT), pre-shipment inspections (PSI) and quality control measures. Kazakhstan applies extensively SPS, and TBT measures. Also, Kazakhstan has the highest frequency of pre-shipment inspections (PSI) and high quantity control measures in agro-based sectors compared to comparators (Annex 3). Chemical, metals and mineral products are affected by quantity control measures while other manufacturing products are covered mostly by TBT measures. The frequency ratio of TBT for manufacturing industries (nonfood sectors) is comparable to China and Japan and significantly lower than the EU. Nevertheless caution must be taken in interpreting these results. In fact, while SPS, veterinary and sanitary regulations, are already enforced by the CU countries, technical regulations have not yet fully enforced. Therefore the scope of TBT measures as well as their intensity will likely change with the introduction of all the new CU technical regulations.

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<sup>9</sup> The NTM database is based on the review of the NTM regulations. The NTM database is built on 31 normative documents and 61 regulations enforced at the CU or national levels, consists of 17965 'product x NTM' pairs and accounts for 50 various NTMs.

**Figure 6: Business Perceptions of Burdensome Regulations Correlate with the Findings of the NTM Database<sup>10</sup>**



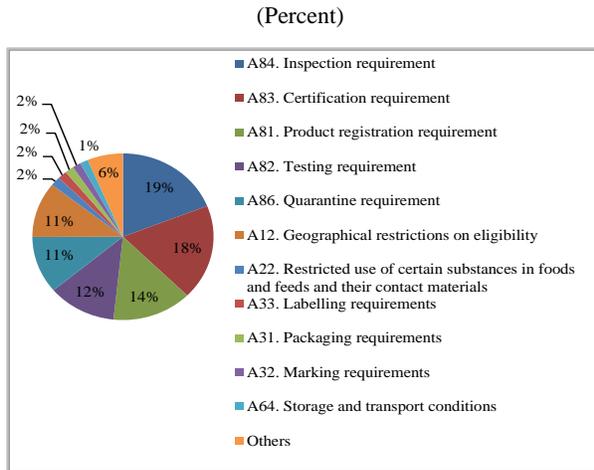
Source: World Bank staff calculations, 2013 and ITC 2013 (forthcoming).

19. **The authorities should consider simplifying conformity assessment measures and the plethoric number of related forms that are required to demonstrate compliance with SPS measures.** The conformity assessment measures represent about half of the measures under Technical Barriers to Trade measures. These requirements arise from the application of several regulations governing different aspects of product safety. The safety of goods is governed by four categories of measures: technical regulations, SPS, veterinary and sanitary measures. In Kazakhstan, about half of the conformity assessments may include simultaneously inspection, certification requirement, and product registration (Figure 7). Some of these measures such as inspection, quarantine and some testing requirements stem from the application of common sanitary, phyto-sanitary and veterinary controls at the border of the CU. Others such as certification requirements come from mandatory certification requirements enforced at the CU or national level.<sup>11</sup> Kazakhstan also appears to be using these measures extensively compared to the EU and Japan for which comparable data is available. Both economies seem to be relying on less burdensome requirements such as labeling and traceability requirements (Table 1).

<sup>10</sup> Some measures which exist in the ITC survey are not represented in our composition. Also, In addition, some NTMs may be wrongly attributed to a specific type because companies' descriptions are not always precise. Further, note: The right panel presents the composition of NTMs of our NTM database which gives a general idea of prevalence of NTMs in Kazakhstan. The right panel shows the burdensome NTMs applied to Kazakhstan imports according to the ITC survey. The composition is based on relative frequency of different type of NTMs in the database and not at the coverage of frequency ratio as with the WB survey. In this figure we just combined SPS and TBT measure into one group and subtracted from it the conformity assessment measures (A8 and B8). We also exclude P measures from our analysis since the ITC survey results was for domestic NTMs applied to import.

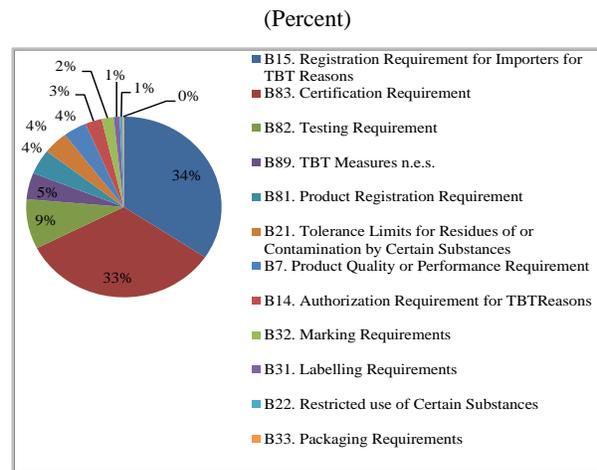
<sup>11</sup> At the moment the national mandatory conformity assessment and national technical regulations are valid for the products for which the CU technical regulations have not been yet developed. For further information please refer to chapter 2 of this paper.

**Figure 7: The Composition of SPS Measures Points to the Variety of Regulations Affecting Goods**



Source: World Bank staff calculations, 2013.

**Figure 8: The Composition of Various TBT Measures Highlights Registration and Certification Requirements**



Source: World Bank staff calculations, 2013.

20. **The authorities should consider a two pronged approach in addressing the state product registration requirement.**<sup>12</sup> On the one hand, they should review the need for this requirement and consider alternative instruments. This may help reduce the number of products subject to state product registration. On the other hand, for the products where state product registrations must remain a requirement, the authorities should consider streamlining the prerequisites for state product registration to ease the impact of their prevalence as a regulatory tool. The state product registration is related to the application of licenses for sensitive products such as alcohol and drugs. While state product registration constitutes 14 percent of Kazakhstan’s SPS measures, they don’t even place as one of the top SPS measures in the EU and Japan (Table 1). In order to get import licenses for these products, product state registration is required in addition to the common list of documents. The common list of documents for import/export licenses includes an application; a certificate of state registration as a legal entity or an individual entrepreneur, a certified copy of the applicant's registration with the tax authority, a document confirming payment of license fee for the right to engage in certain activities; additional information and documents in accordance with the qualification requirements.

21. **The authorities should consider reviewing and, when appropriate, reducing or replacing PSI and quantity control measures.** Quantity Control (QC) and PSIs are clearly trade restrictive and particularly prevalent in Kazakhstan. The PSI finding is related to one subcategory of NTMs: a requirement to pass through specified port of customs. This measure refers to application of sanitary controls at the border. It covers 716 products (HS6) which results in its relative pervasiveness. Generally, PSIs can also be implemented to fight corruption, to facilitate and accelerate custom procedures and ultimately to help in the correct evaluation and proper taxation of imports. PSIs can usually be replaced with customs control in Kazakhstan and within the CU, and require capacity building of customs officials. Quantity controls should be replaced by more transparent tariffs, even if these latter are set very high to start with, and then reduced over time.

<sup>12</sup> State product registration is one of the most demanding forms of conformity assessment given the requirements. There is also the issue of duplication of conformity assessment requirements, lengthy and cumbersome procedures and limited capacity. State product registration is required by EU/US for some products - but they have higher capacity and faster procedures so the burden is not as biting

**Table 1: Kazakhstan Uses More Burdensome SPS Measures Compared to EU and Japan**

(Top five SPS measures in percent)

Kazakhstan	EU	Japan
A84, Inspection requirement. 19	A85, Traceability requirements. 22	A11, Temporary geographic prohibition for SPS reason. 11
A83, Certification requirement. 18	A21, Tolerance limits for residues of or contamination by certain (non-microbiological) substances. 9	A64, Shortage and transport condition. 11
A81, Product registration requirement. 14	A31, Labeling requirements. 9	A21, Tolerance limits for residues of or contamination by certain (non-microbiological) substances. 9
A82, Testing requirement. 12	A22, Restricted use of certain substances in foods and feeds and their contact materials. 8	A22, Restricted use of certain substances in foods and feeds and their contact materials. 9
A86, Quarantine requirement. 11	A13, Systems approach. 5	A31, Labeling requirements. 9

Source: World Bank staff calculations, 2013.

22. **The most used quantitative measures are non-automatic import licenses for non-economic reasons and import bans/quotas.** Both measures are enforced at the CU level. The majority of products covered by licensing for non-economic reason are sensitive products such as poisonous and ozone depleting substances, psychotropic substances and precursors, weapons cryptographic equipment, rare animals and plants, human blood and tissues. Also, Kazakhstan applies exclusive authorization requirements for the import of raw sugar.<sup>13</sup> Overtime, the authorities should consider replacing non-automatic import licenses by automatic ones, which are more transparent and predictable and reduce discretionary decisions. In addition, import bans apply mostly to chemicals, wood products, mineral products and plastic and rubbers. They address poisonous and ozone depleting substances, dangerous wastes, crop protecting substances, wood products and weapons.<sup>14</sup> Import quotas are also applied to products of animal origin such as beef meat, swine meat and poultry (Figure 9 and Figure 11). While the share of affected products represents only 11 percent of the available product lines in this sector, these measures affect 35 percent of imports in value terms. Import bans are the most prohibitive measures, reducing the choice of products available and affecting prices in the domestic market. They should be implemented only where there is a strong justification of their danger for the society if the goods were introduced, and there is no least trade restrictive measure to achieve the stated policy objective.

23. **Twelve percent of NTMs in the database affect exports.** These measures affect 1033 products at the six digit of the Harmonized System (HS-6). The majority of export related measures in fact mirror the application of licensing and bans for non-economic reasons applied to imports.<sup>15</sup> Basically licensing scheme on sensitive products concern both imports and exports. For example, there are both export and import licensing on drugs and or export and import licensing on toxic substances. However, these goods are not necessarily imported or exported. According to the definition of products, these measures are introduced for TBT and SPS purposes. The only exception is export certification and export licenses on mineral products, precious metals and stones and glass. Specifically, export certification of precious metals and stones refers to the Kimberly certificate requirements applied to exports of natural diamonds.

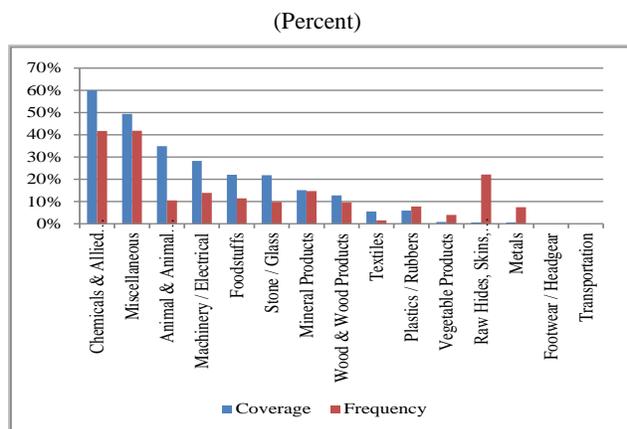
<sup>13</sup> The previous application of imports bans on raw sugar makes us think that authorisation requirement on sugar imports acts as an import licence linked to local production.

<sup>14</sup> The full list of products subject to prohibitions or restrictions by the CU countries can be found in section 6 of this paper.

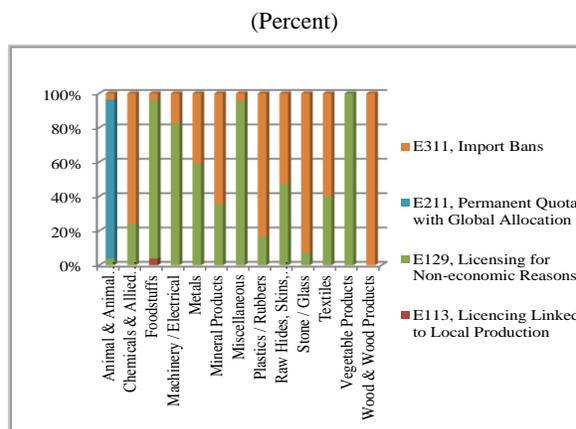
<sup>15</sup> Quantitative restriction measures were enforced by the Decision of CU Commission N134 and the Law on Licensing of the Republic of Kazakhstan to control trades of sensitive products.

In addition, export restrictions also apply to collections of mineralogy and paleontology and precious metals and stones (see Annex Figure A1).

**Figure 9: Frequency and Coverage Ratio of Quantity Control Measures Varies Widely across Sectors<sup>16</sup>**



**Figure 10: Import Bans/Quotas and Licensing are the Preferred Regulatory Tools to Control Quantity**



Source: World Bank staff calculations, 2013.

### III. JOINING THE CUSTOMS UNION HAS LED TO FIVE NEW CHALLENGES IN ADDRESSING NTMS

24. **Kazakhstan is currently managing a complex transition from a national trade regime to a supranational regulatory framework.** As of April 2013, 87 national technical regulations and 15 CU technical regulations were enforced in Kazakhstan. It is expected that 35 of the CU technical regulations will be enforced by 2015. The responsibility of developing regulations is shared among the three CU countries. Each country can submit regulations. However, it is not clear to what extent Kazakhstan is involved in the design of the regulations led by Belarus and Russia. Furthermore, the regulations submitted by Kazakhstan do not seem to be sufficiently based on impact analysis or broad consultation at home. The private sector complains that regulations are often adopted with little consultation with the private sector or an adequate phase-in period. Many of the regulations have also translated into important procedural complications. This has led to compliance difficulties and higher costs for the private sector, especially as this latter complains about lack of communications on these changes. This section provides a qualitative assessment of the five most challenging changes introduced by the CU and the consequent problems the private sector faces.<sup>17</sup> The five changes that we review are:

- Issuance of more stringent regulations.
- Additional mandatory certifications.
- New state product registration requirements.
- The new requirement of registering third country suppliers.
- The prevalence of quantitative controls.

<sup>16</sup> Type E measures include licensing, quotas and other quantity control measures, including tariff rate quotas.

<sup>17</sup> The qualitative assessment relies mostly on interviews with policy makers and the private sector in 2012 and 2013.

**i) The authorities should carefully assess the effects of more stringent new regulations on the private sector**

25. **When adopting a new regulation, policy motivation, regulatory impact assessment, international experience and local capacity should be considered.** In this context, some new CU regulations are considered too stringent and badly adapted to the technical capacity of Kazakhstani local producers. A current example is the new draft CU regulation for milk and dairy products.<sup>18</sup> The proposed technical requirement was developed by Russia based on the Russian national technical regulation on dairy products. The point of contention of this proposed regulation is a labeling requirement on liquid milk that is produced from powdered milk. According to the proposed regulation, the liquid milk that is produced from powdered milk must be labeled as “milky drink”. The new technical regulation does not stipulate specific requirement on labeling on other dairy products that contain powdered milk such as yoghurt and cheese.

26. **This new regulation on milk products may lead to a restructuring of the Kazakhstani milk industry and affect consumer food safety.** Currently, more than 50 percent of the liquid milk processed in Kazakhstan is produced from the powdered milk (Annex 5). The reasons for this are high seasonality and low quality of raw milk produced in small farms that hold more than 80 percent of the livestock in Kazakhstan. 195 dairy processing companies operate on the territory of Kazakhstan, the majority using less than 50 percent of their production capacities due to increasing cheap dairy imports from Belarus and Russia. The Milk Union of Kazakhstan, the association of dairy producers, argues that the proposed new labeling regulation will harm the domestic dairy industry as it would likely result in the loss of a large share of the dairy market as Kazakhstani consumers switch to imported homogenized milk.<sup>19</sup> This switch could endanger the food safety of the country as it makes it even more heavily reliant on imports of food items. The Union also argues that this regulation will increase the poverty in the rural area as local farmers who supply raw milk to the processing companies will likely lose their main buyers. Russian counterparts are reported to agree that the introduction of the proposed technical regulation would lead to consolidation of the dairy industry of Kazakhstan, which would increase the productivity and competitiveness of domestic companies.<sup>20</sup> Furthermore, they argue that the absence of such labeling would mislead consumers about the quality of purchased products.

27. **Such new regulations need to also consider technical implementation capacity.** Although the new requirements may be justified, existing laboratory methods for detection of powdered milk in the liquid milk are rather expensive. Furthermore, as of April 2013 there was no laboratories in Kazakhstan that possessed these technologies. So clearly, time, investment and training will be needed to prepare the Kazakhstani industry for such a major change.

28. **For a regulation to be successful, it should take into account the structure of the industry and consumers’ habit when adopting new regulations.** The adoption of international standards or harmonization policy is sometimes unnecessary or an inadequate policy response to address a specific policy objective. The experience of East Africa in adopting international standards in milk products is a good example of what not to do. Jensen and Keyser (2012) make this point with regard to the

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<sup>18</sup> For example, the technical regulation on furniture is considered as unnecessarily stringent even compared to international standards. The requirement on the emission of Volatile Organic Compounds for wood particle plates used by the furniture industry was set at half the maximum tolerance limit set by the EU countries. According to the Association of Furniture Producers of Kazakhstan, there is no enterprise on the territory of the CU that can comply with this requirement (World Bank 2012).

<sup>19</sup> Milk Union of Kazakhstan is an association of milk processing companies.

<sup>20</sup> Liquid milk constitutes more than 50 percent of the market of dairy products in Kazakhstan, currently imports of liquid milk accounts for 13 percent of the domestic consumptions whereas the share of imports in the segment of concentrated form of milk amounts to 78 percent.

harmonization of eight dairy products with Codex Alimentarius in East Africa Community (Kenya, Uganda, Tanzania, Rwanda and Burundi -EAC). EAC Member countries adopted international standards to increase regional trade. However, the standard was designed for a context widely different from that of East Africa. Indeed, the dairy industry in East Africa is based on long atomistic supply chains; dominated by small farmers and catering largely to poor consumers that consume milk after boiling it (different consumption habits). Intra-EAC dairy trade is very limited mostly due to burdensome procedures (a permit from the National Dairy Board or other relevant dairy authority to authorize the transaction; veterinary certificates, certificates of origin, national quality seals, and quality test results for each batch are required). In such a context, international standards would be prohibitively expensive for most East Africans and would not be significantly safer given local consumer habits. A more suitable solution consisted in establishing East African Dairy Regulatory Authorities Council set up in 2006 to help solve trade frictions.

**ii) The authorities can ease the burden and cost of the mandatory certification system**

29. **The requirement for mandatory certifications linked to technical regulations is a source of inefficiency.** The CU is working towards harmonization of technical regulation and certification in the medium term. This choice itself is a relatively stringent approach to technical regulations and certification for the medium term. Many countries have first adopted mutual recognition in the medium term as a way to ease trade between partners. This is less administratively burdensome and economically costly to the private sector and gives it more opportunities to export. It also allows both the public and private sectors to build knowledge and capacity to deal with the changing regulatory framework. In the longer term, moving to harmonization is usually accompanied by impact analysis and capacity building, allowing both private sector and public institutions to adjust to this major change.

30. **Currently, the lack of harmonization or mutual recognition among CU national conformity certificates is causing additional burden to Kazakhstani companies trading regionally.** The national conformity certificates of the CU partners are not recognized within the CU framework. The list of products subject to mandatory conformity assessment exists at the national and supranational levels, with some overlap.<sup>21</sup> Therefore, when companies intend to sell their products to Russia and Belarus, they need to apply for either the CU conformity certificate/declaration of conformity or the national conformity certificate of the CU partner countries.<sup>22</sup> Kazakhstani and CU conformity certificates have different coverage, leading to additional paperwork and costs for the private sector. Kazakhstani conformity certificates are issued for broad product categories (HS-4) and therefore cover at once more product lines, the CU conformity certificates are issued at more disaggregated level (HS-6) and, thus, lower number of product lines can be included in one certificate. Therefore, companies need to apply for several CU certificates of conformity for the same number of product lines. Also, the price of the CU conformity

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<sup>21</sup> According to the NACEKS, as soon as all technical regulations are developed, the national technical regulations will be abandoned the redundancy in the national conformity assessment disappears automatically.

<sup>22</sup> According to the National Centre of Expertise and Certification, different certification schemes can be used for certification/declaration of conformity of products. The most common are the serial conformity certificate and the certificate of conformity per shipment. The certificate of conformity for serial production is issued by an accredited certification agency for whole series of products produced within specific period of time, generally, one year. Such a scheme requires analysis of production process as well as laboratory tests of the product. In general, this requires physical inspection of production facilities of a company. The conformity certificate per shipment is simpler and requires submission of technical documentations, laboratory analysis of the sample, and if available previously obtained conformity certificates for the same products or foreign conformity certificates. The majority of producers apply for serial conformity certificate of production for their products while importing companies use mostly conformity certificate per shipment for imported products since this scheme does not require inspection of production facilities of their suppliers.

certificates are higher than national conformity certificates of the CU countries, thus, companies that serve only one market apply for the national conformity certificate of that country.<sup>23</sup>

31. **Duplication of the mandatory certification and overall burdensome administration of certification affects the cost and competitiveness of products in Kazakhstan.** As in the case of the CU partner countries, Kazakhstani certification authorities do not automatically recognize foreign conformity certificates. Companies that import products which are subject to mandatory conformity assessment must apply for the domestic conformity certificate or apply for recognition of the foreign certificates to Kazakhstani certification agencies. According to the private sector, before the formation of the CU, the application for the national conformity certificate or recognition of foreign conformity certificate could be done after customs clearance. Currently the conformity certificate of the CU/Kazakhstan is included in the list of required documents for customs clearance.<sup>24</sup> This will increase transaction costs for importing companies since they have to apply for declaration of conformity or certificate of conformity in advance.<sup>25</sup> Furthermore, the main procedural obstacles for the certification are the short duration of the national serial conformity certificate and the lack of automatic recognition of foreign certificates including the national certificates of the CU partners. Finally, some companies that import intermediate products from abroad have to apply for certification of both the intermediate products and of the final goods.<sup>26</sup> These requirements and duplications of regulations affect the cost of both imported products and locally produced goods that rely on imported intermediate products.

32. **New Customs Union conformity assessments are replacing national conformity assessments, increasing the cost for producers.** According to the single list of products subject to mandatory assessment of the Customs Union,<sup>27</sup> about 704 products (HS6) are subject to mandatory conformity assessment within the CU framework, of which 428 are subject to mandatory certification requirements, 228 subject to declaration of conformity based on evidence obtained from a third party and 48 can use declaration of conformity based on their own evidence.<sup>28</sup> According to statistical data in 2011, 90 percent certificates are granted within mandatory conformity assessment (800 000) and 10 percent on voluntary basis. As soon as new technical regulations of the CU are enforced, the national technical regulations will not be valid anymore, and the list of products subject to mandatory certification and voluntary certification is changed. These changes imply increased cost for the companies. For example, Kazakhstani exporters of animal and vegetable fats used to pay 40,000 Tenge (or about US\$270) to obtain a Kazakhstani certificate of conformity. Starting in July 2013, these exporters will pay about double this amount to obtain a mandatory CU certificate of conformity. These measures are generally adopted to ensure product quality, protect consumer health and food safety, environmental protection and promote social responsibility. However, it is important for Kazakhstan to determine the balance between the objectives of consumer and environmental protection, and the objectives of promoting innovation, diversification, and trade competitiveness.

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<sup>23</sup> It concerns only products for which the technical regulation of the CU has not yet enforced. Also, the validity CU serial conformity certificate/declaration of conformity is up to five years, compared to three years for Kazakhstan's conformity certificates, closing some of the cost difference.

<sup>24</sup> According to the interviewed companies, they could take the goods upon submission of a claim that application for conformity assessment will be done in due time.

<sup>25</sup> It implies that samples of products must be sent before actual arrival of shipments so that importers can make required laboratory analysis and tests for certificates/declarations of conformity.

<sup>26</sup> For instance pharmaceutical companies or clothing manufacturers need to apply for certification of imported intermediate goods and final goods.

<sup>27</sup> Decision of the Commission of the Customs Union N 620 (07/04/2011), N859 (09/12/2011), N17 (05/04/ 2012) and N80 (13/06/2012).

<sup>28</sup> Authors' computation using the list provided in the single list of products subject to mandatory conformity assessment, referring to Harmonized System 6-digit codes. The difference between mandatory certification and declaration of conformity with participation of third party is not clear. The latter implies that tests and analyses are done by third party (another laboratory, not necessary that issues declaration of conformity).

33. **The new CU technical regulations introduce more requirements and specific analysis and tests for which many private certification agencies do not have the required equipment.** So far only National Center for Certification and Expertise (NACEKS) and international certification agencies have sufficient technical capacity to meet the new requirements on laboratory tests.<sup>29</sup> The price of certification and declaration of conformity for some products (for instance food) may further increase in the future due to lack of the required testing equipment. At the same time, it seems that the accreditation of new private certification agencies has not been sufficiently rigorous, leading to an increase in the number of agencies without a proper code of conduct in the industry.<sup>30</sup> Established certification agencies complain that the newcomers are offering low prices for services but without the proper equipment and expertise to issue certificates of conformity, bringing down the enforcement of quality standards in the domestic market.

34. **Voluntary certification is less burdensome than mandatory certification.** Under mandatory certification government regulates the quality of products through accredited certification agencies. They do testing and inspection of products and production facilities before products can be released to the market. Voluntary certification system (declaration of conformity) is simpler to implement and more efficient from an economic point of view. Under voluntary certification of products, producers are responsible for the quality of their products, they can use their own laboratory tests to prove conformity of their products with the technical regulations; also under voluntary certification there is no production inspection, the role of certification agency is limited to verification of documents and registration of declarations of producers. Voluntary certification reduces the costs of products and delivery time.

35. **Best practice suggests converting mandatory certification (certificate of conformity) to voluntary certification (declaration of conformity) will bring direct benefits to producers and consumers of Kazakhstan.** Voluntary certification is more conducive to innovation and diversification by firms than strict mandatory conformity assessments and certification requirements. Voluntary certification combined with efficient market surveillance can reduce production costs and ensure the required level of safety of products. It will make the system of conformity assessment more transparent and efficient. This, in turn, will lead to lower prices of products along with the expansion of product choices. Duplication of requirements for approval of products will no longer exist in the product certification and enforcement of security procedures. And finally, increasing the practice of voluntary certification will cut bureaucratic costs and free up valuable state resources, which are currently used on the provision of mandatory certification. A stronger accreditation process to ensure the quality of services rendered by certification agencies is also necessary.

36. **This transition should be accompanied by a stronger enforcement of the Consumer Protection Law.** The government rightly worries about the quality of the products sold on the domestic already taken some measures to encourage more responsibility from the private sector. For instance, government plans to use government contracts to push local producers to apply for voluntary certification. This option may not be an effective instrument. A more viable alternative could be strengthening the enforcement of the Consumer Protection Law to better control the domestic sale of final products on the shelf in the shops. These controls can be very effective because they can decrease corruption. Also, as in

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<sup>29</sup> NACEKS refers to the National Centre of Certification and Expertise. It is the biggest certification agency in Kazakhstan. It was controlled by the Committee of Technical Regulation and Metrology until 2005, then it was privatized, but keeping strong government links.

<sup>30</sup> Accreditation is the assurance by an authoritative body (the accreditation body) that an organization or person is competent to conduct specific tasks. Conformity assessment bodies undertaking testing, inspection and certification can seek accreditation on a voluntary basis as proof of competence in a given area. The accreditation may be a domestic or a foreign entity. More developed countries often have a single national accreditation body responsible for all areas of accreditation.

Russia (*Rospotrebnadzor*), Kazakhstani government has created the agency for consumer protection on the basis of sanitary epidemiological and veterinary controls.<sup>31</sup>

#### **Box 4: Technical Standards Harmonization Framework Within the Customs Union**

**Upon formation of the Customs Union, member countries signed an agreement on common principles and rules that stipulates a harmonized policy in the field of technical regulation.** The main provisions of the agreement are listed below:

- CU technical regulations are applicable on the whole territory of the CU.
- Products covered by technical regulations are released into circulation under condition that they have passed the necessary conformity assessment procedures set by technical regulations.
- The mandatory conformity assessment on requirements of technical regulations are executed in the form of declaration of conformity or certification.
- Products that pass conformity assessment procedures should be marked by a single (unified) mark of circulation of products on the territory of the CU countries.
- If products meet the technical regulations of the CU, member countries cannot impose any additional requirements (assessment procedures) for circulation of these products in their territory.

**The CU member countries formed a common list of products for which they agreed to have mandatory requirements within the CU with issuance of the common documents of conformity.**<sup>32</sup> The list includes 61 broad product categories<sup>33</sup>. In addition, the member states agreed on the number of technical regulations to be developed by each country. Each technical regulation is developed by one country, the other participate in the discussion and provide the comments and recommendation. The CU countries created the Single Register of Certification Bodies and Testing Laboratories to implement the mandatory conformity assessment of the products subject to mandatory conformity assessment<sup>34</sup> and the list of standards that must be applied to conduct conformity assessment. At present, 105 certification and 479 testing laboratories of Kazakhstan are included in the Single Register of Certification Bodies and Testing Laboratories (Centers) of the CU. As soon as the CU technical regulation for a specific product is developed, the mandatory conformity assessment will be done according to the standards outlined in the new technical regulation for that product.

**The CU agreement on sanitary measures stipulates a coordinated policy in sanitary control.** With respect to the trade of goods, the CU countries set up the following regulations:

- Common sanitary-epidemiological and hygienic requirements on goods.
- A list of goods subject to sanitary epidemiological supervision at the border and on the territory of the CU maximum tolerance limit (MTL), (Annex 4 Part A).
- A list of the goods subject of the state registration, (Annex 4, Part A).
- Common form of documents confirming the safety of products.

*Source:* Customs Union documents.

**37. OECD countries apply a variety of approaches to the enforcement of consumer protection legislation.** Some jurisdictions involve almost no administrative intervention, but rely predominantly on consumer initiative and alternative dispute resolution (ADR). Some confer penalty-imposing powers on administrative agencies. Others are largely dependent on civil justice or criminal justice proceedings for the infliction of significant sanctions. It would be rash to assume that these differences have arisen haphazardly. They reflect varying circumstances and, in particular, different legal traditions and cultures (OECD 2006).

<sup>31</sup> The difference between the EU and other developed countries are that this agency is a state agency.

<sup>32</sup> Declaration of conformity or conformity certificate.

<sup>33</sup> The list of the product categories subject of the mandatory conformity assessment at the CU can be found in Annex 4.

<sup>34</sup> Decision of the Commission of the Customs Union of 07.04.2011 No. 620.

**iii) The authorities should facilitate obtaining the newly adopted CU state product registration**

38. According to the firm survey on NTMs (ITC 2013), the CU level state product registration requirement of imports, enforced since 2012, is one of the most burdensome regulations within the groups of conformity assessment measures (for both SPS and TBT). Prior to the establishment of the CU, the state product registration requirement covered new products that are imported or produced for the first time in the territory. It applied only to a limited number of products in Kazakhstan such as baby food and food additives. In contrast, the new CU state product registration covers a broader range of products such as cosmetics products, soft drinks and alcoholic beverages, household products, personal care items, baby food, paints, varnish, equipment and other technical means intended for use in water supply and chemicals products.<sup>35</sup> In general, this measure is still supposed to apply only to new products produced or imported into the territory of the CU the first time. However, when CU became effective, even products that were imported previously to Kazakhstan had to be registered as the majority of the products did not possess state product registrations. Also, the state product registration is linked to a country of origin of the manufacturer. Thus, if a company wants to buy a product from the same manufacturer but produced in another country it needs to apply for a new registration.

**Box 5: Procedures Related to State Product Registration**

The state product registration must be done upon arrival of a shipment. The list of required documents includes technical documentations from producers, packages, labels, protocols (tests), scientific reports and expert reports. Some products such as baby food, food additives, Genetically modified organism (GMO) products, biologically active food supplements, mineral water, disinfection and disinfestation materials, materials and articles in contact with water, and food products must pass through laboratory analysis which must be done at the accredited laboratories.

The package of documents must be submitted to the subdivisions of the Committee of the State Sanitary and Epidemiological Surveillance of the Ministry of Health or other accredited agencies responsible for the state product registration. After verification of the documents and laboratory analysis, the application is sent to the Committee of the State Sanitary and Epidemiological Surveillance in Astana for the final registration

*Source:* Government of Kazakhstan.

39. **Firms reported 3 main sources of difficulties related to the state product registration.** These difficulties were essentially due to insufficient information dissemination, limited capacity of testing laboratories and, lack of coordination between the regional subdivisions and the Committee of the State Sanitary and Epidemiological Surveillance (ITC 2013). The information about the regulatory changes could have been disseminated in more timely and efficient fashion to the private sector. Many companies were did not know that the state product registration could only be applied for upon arrival of products, causing delays and sometimes loss of merchandise. Companies still complain that the state product registration is applied to products also subject to mandatory certification or declaration of conformity, implying a duplication of conformity assessment measures.<sup>36</sup> Also, the testing laboratories did not receive instruction in advance about laboratory analysis and tests required for the state product registration, leading to additional time delays. Finally, the procedure of the state product registration was not initially organized in the most efficient manner: the initial screening of the documents was under the responsibility of the region subdivisions while the final decision and registration were done by the Committee of the State Sanitary and Epidemiological Surveillance. Since February 2013 the

<sup>35</sup> The state product registration requirement was stipulated at the Decree of CU Commission 299, 28/06/2010.

<sup>36</sup> The Committee of the State Sanitary and Epidemiological Surveillance points out that the state product registration is a one-time measure; therefore duplication arises only once when product is introduced to the market. Also, laboratory tests for the state product registration are more detailed and specific since they are designed to control the products safety. Finally, the Committee clarifies that since its introduction there have not been cases of application rejection and repeated application.

administrative process has improved, with the regional subdivisions of the Committee responsible for the whole registration process, which should decrease the time delay associated with this procedure.

40. **Regulatory measures should be implemented with the least burden and trade restriction possible.** Measures that are designed or administrated without adequate analysis, education and lead-time will likely increase unnecessarily the cost of imports. It may also deter imports and decrease the variety of products available in the local market. Indeed, many small importers would prefer to imports products that are already in the state product registration to avoid burdensome administration of the product registration. This is particularly pertinent for Kazakhstan since it relies intensively on imported goods not only for final consumption but also for production of final goods.

**iv) The authorities should facilitate the registration of third country suppliers.**

41. **The CU countries introduced a register of third country suppliers (the list of third country establishments) for imports of animal product.** According to the Ministry of Agriculture the measure was introduced to better control the safety and quality of the animal based products that are produced in or imported to the territory of the Customs Union. It was inspired by the EU practice of a similar regulation. The veterinary and phyto-sanitary supervision inside the country include documentary control and physical inspections of production, storage, transport and distribution, and sale facilities. Only companies from this list are authorized to export products to the CU countries. There are three ways to be included in the register:

- 1) Physical inspections of production facilities of commission made up of representatives of the CU member countries.<sup>37</sup>
- 2) Guarantee provided by third country government.<sup>38</sup>
- 3) Audit of veterinary control of the third country.<sup>39</sup>

42. **The launch of the new third country register could have been planned better by preparing a temporary registry of existing suppliers and informing the private sector appropriately.** Kazakhstan did not possess a registers of suppliers when this reform went into effect while Russia and Belarus did. Instead of building up a temporary list of third country suppliers from the existing suppliers of Kazakhstani companies, the authorities relied on the Belarus and Russia registers, which did not necessarily include suppliers of Kazakhstani companies. This led to Kazakhstani companies to experience a sudden interruption of imports, loss of established business contacts and cost of urgently searching for and establishing business relations with new suppliers from the companies included in the register. The situation was aggravated by insufficient information on the procedure of inclusion into the register. Many importing companies tried to apply on behalf of their suppliers while the procedure stipulates that third country suppliers must initiate the request themself. As of April 2013, the Kazakhstan register was still not accessible to the general public in Kazakhstan. On the site of the Commission, there were only the lists of third country suppliers from Russia and Belarus. The Ministry of

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<sup>37</sup> According to a private sector representative, the plan of inspection is formed one year in advance and the process of application for the inspection takes about two months. In the case of positive decision of the commission, it takes about three months to be included in to the register. Once a firm is included in the register, inspections take place every three years, while the Kazakhstani government effectuated such controls twice a year before.

<sup>38</sup> According to the Ministry of Agriculture, more than 80 percent of the companies were included in the register through the government guarantee. The Veterinary authority of a 3th country suppler should issue a guarantee on behalf of the company that products exported to the CU will comply with the sanitary-veterinary requirements of the CU

<sup>39</sup> This procedure will be introduced in connection with the CU members' efforts to establish procedures compliant with WTO SPS & TBT Agreements. It stipulates the audit of the whole system of the veterinary control in the third country including agencies responsible for veterinary and sanitary controls, testing laboratories and methods applied by the third country to ensure veterinary safety.

Agriculture recognized the disturbance caused during the transition, and claimed that the database was being updated and was almost ready. It clarified that currently the whole registration process does not exceed six months, and the physical inspection of production facilities is done within a month of request and is free of charge.

#### **Box 6: EU Third Country Suppliers**

The third country must be approved to export a specific category of food of animal origin and must be in the list of approved third countries for that specific category of food. Before a country is approved and can start export a category of food of animal origin, an evaluation of the country and its competent authority will be carried out by the Commission inspection service of the Health and Consumers Directorate general (FVO- Food and Veterinary Office located in Grange – Ireland).

The requirements for each category of food products are specified in Annex 3 to the Regulation (EC) No 853/2004. These requirements must be checked and guaranteed by the competent authorities of the third country before an establishment can be listed as an EU approved establishment. The competent authorities of the third country also must inform the Commission if an establishment is no longer fulfilling the above mentioned requirements.

The third country must have a residue monitoring plan (in accordance with Council Directive 96/23/EC) for the category of food of animal origin and must appear in the list of countries with an approved residue monitoring plan (Commission Decision 2011/163/EU as amended). For food products concerned, the third country must have a salmonella control program in animal population in accordance with Regulation (EC) No 2160/2003. The competent authority is responsible to keep the lists of establishments up to date and to inform the Commission of any changes necessary.

*Source:* [http://ec.europa.eu/food/food/biosafety/establishments/third\\_country/requested\\_guarantees\\_en.htm](http://ec.europa.eu/food/food/biosafety/establishments/third_country/requested_guarantees_en.htm).

43. **Such regulatory changes when implemented without proper quality infrastructure can affect market cost and structure and lead to trade diversion.** For many small importers it has been difficult to convince their old suppliers to bear the administrative costs associated with applying to the register. Some have sought suppliers or intermediaries from CU members to circumvent the import barrier, but at a higher cost. One example is a Kazakhstani meat processing company which used to import meat from a Canadian firm was forced to halt imports for a long period and at the end loose its business partner. It currently purchases meat from Russian intermediaries which import meat from Canada, paying an additional intermediary cost. Alternatively, if importers cannot secure a registered company as their supplier at a reasonable cost, they may go out of business, affecting market structure.

44. **The efficiency of such a registry depends on the implementation modalities and the quality infrastructure in each country.** According to CU procedures, a company remains in the database for an infinite period of time once included in the register; nevertheless, it can be temporarily excluded from the list on the basis of the inspection effectuated at the border or the random inspection of production facilities. Moreover, every two years 20 percent of companies included into the register are inspected randomly. Currently, Kazakhstan is committed to increase the number and technical capacity of the testing laboratories. Starting from 2007, 150 new laboratories were built. The Ministry of Agriculture intends to build a network of 180 modern laboratories across the country in the next few years. In addition, the Ministry provides various training to the technical staff of laboratories. The impact of these capacity building programs depends on the type and sophistication of laboratory units put in place. Some may be limited to units that can only implement a couple of simple tests, while others may be full-fledged, accredited and modern laboratories.

#### **v) Easing the Prevalence of Quantitative Controls Will Help Reduce Trade Distortions**

45. **Non-technical measures applied by the CU primarily consist of quantity controls measures, export related measures and contingent protective trade measures.** Quantity control measures include import bans, import quota, temporary prohibition, import authorization, licenses. Export related

measures include export quota, temporary export prohibition, licenses. Contingent protective trade measures include safeguard quantitative restrictions. Some of the measures are applied by the countries on unilateral basis. For instance, Belarus applied exclusive rights for imports of some products. In contrast, Russia and Kazakhstan do not apply such a measure. Discussion with importing companies reveals that while official timeline for issuing authorization is supposed to be two to four weeks, the actual delay can be more than two months.

46. **Export and import regulations have been used commonly.** The CU countries form the list of product important for domestic consumptions for which they can exceptionally apply temporary export bans. For instance during 2010-12 Kazakhstan applied temporary exports bans on oil seeds, buckwheat, vegetable oils and fats and some petroleum products for HS group 2710. As of April 2013, there was a six-month ban on the export of light distillates and light petroleum products (HS 271012). Import bans were regularly used by Kazakhstan on raw sugar between 2010 and 2011 years. As of April 2013, the import ban on sugar was replaced by an authorization requirement. Import quota is applied by the states on beef and pork meat (either chilled or frozen) and poultry, and on whey (HS 040410). Also, the CU countries apply safeguard quantitative restriction on imports of pipes made of corrosion-resistant steel. Finally, CU Member countries apply licensing on the exports and imports of the 18 product categories.<sup>40</sup>

47. **Some of the new CU regulations have had a distortionary effect on trade.** Case in point is the trade diversion Kazakhstan experienced in its meat imports due to import bans (Figure 11). Due to structural problems in its livestock sector; Kazakhstan relies increasingly on imported meat. In order to stimulate development of the domestic livestock industry the CU countries decided to introduce import quota on meat. As a consequence of these quotas, the share of CU countries drastically increased with respect to the share of non CU countries starting from 2010, indicating strong diversion effect on trades of frozen meat. The quota received negative feedback from Kazakhstani meat processing companies (Annex 5).

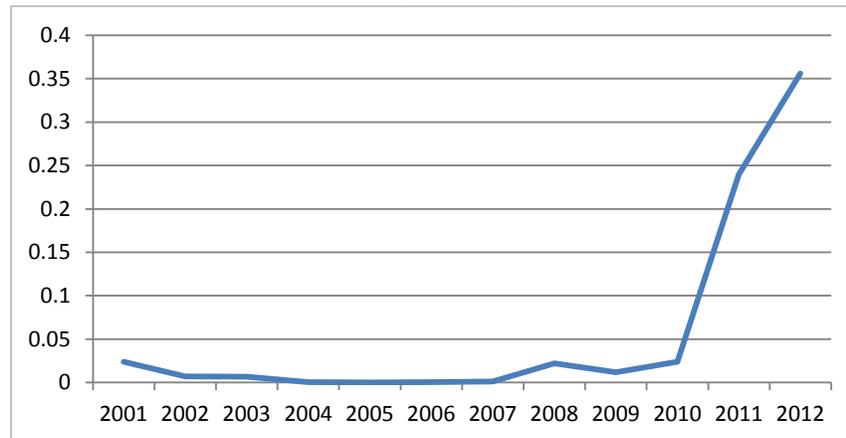
48. **The government may wish to review these trade regulations to gain economic efficiency and make them WTO compatible.** Export bans are usually considered damaging to the national producers and discouraged on economic principals. Some import measures (import bans, import quota, temporary prohibition, import authorization), are considered necessary on health, safety and security issues. Even in such cases, it is recommended that quotas be dropped in favor of adopting high tariffs. Tariffs and their impacts on the economy are much more quantifiable and predictable. Generally, most of these import measures only lead to national production inefficiencies and consumption welfare losses in the countries that apply them. Licensing requirements for exports and import should be reviewed carefully and eliminated if possible. Furthermore, many of these regulations are considered trade distorting and discouraged by the WTO, unless they affect health, safety or security of the nation. In light of Kazakhstan's upcoming accession to the WTO, a review and reform of these quantitative controls now would ease the implementation of WTO agreements.

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<sup>40</sup> Single list of goods subject to bans or restrictions on the importation or exportation of the CU members within the Eurasian Economic Community in trade with third countries is enforced by the Decision of the CU Commission N 134, 16/08/2012: Ozone depleting substances; Plant protection; Dangerous wastes; Mineralogy and paleontology; Rare species of plants and animals; Precious metals and stones (raw and processed); Narcotic drugs, psychotropic substances; Toxic substances that are not precursors of narcotic drugs and psychotropic substances; Medicinal and pharmaceutical substances, limited movement across the customs border of the Customs Union on importation; Veterinary drugs; Radio electronic frequency devises (or) high frequency devices civilian use, including built-in or are a part of other goods ; Special equipment intended for collection information; Ethyl alcohol and alcoholic beverages; Encryption (cryptographic) means; National archives documents, the originals of archival documents (cultural values); Human organs and tissues, blood and its components ; Service and civilian weapons, their main (components) of and ammunition, through the customs territory of the Customs Union and Information on mineral resource.

**Figure 11: Kazakhstan's Import of Meat Products**

(The share of imports from CU versus non-CU Countries rose sharply after imposing CU level import ban, in percent)



Source: Trade Map data, International Trade Centre, 2012. World Bank calculations, 2013.

#### **IV. DESIGN AND ADMINISTER NTMS TO SUPPORT TRADE AND ECONOMIC DIVERSIFICATION**

49. **In light of the complexity of the NTM agenda, the on-going integration into the CU and the upcoming accession to the WTO, the government could achieve its regulatory objectives with better designed and administered NTMs.** In the long run, the existing NTM system should be reformed with a view to better define the regulations and streamline their procedures. It is beneficial for Kazakhstan's economy to have a regulatory framework that matches internationally accepted practices. The framework should be WTO compatible. The *"Efficient Regulation Principles of the OECD"* (introduced in Box 1) can provide the over-arching framework for such an approach. This reform will need to go hand in hand with acquiring a better understanding of the potential impact of the regulations being developed by the CU members. In the short to medium term, copying best practice examples without taking into account local production conditions or institutional capacity may have a negative impact on domestic production without bringing benefits in terms of safety to consumers. Instead, the government could address this complex agenda as follows.

##### **i) Reform the Existing NTM System**

50. **In the short to medium term, reducing the most restrictive NTMs and simplifying the procedural constraints will help the private sector.** According to the NTM survey, about 90 percent of the burdensome NTMs applied to imports are accompanied by procedural obstacles.

*Reduce the number of the trade restrictive and costly NTMs prevalent in Kazakhstan.*

51. **The government should review the justification and the cost and benefit of some of the current quantitative restrictions and licenses, and the important number of export licenses.** These measures should be eliminated or replaced by more transparent and less discretionary alternative measures such as tariffs. This effort could be led by the ministry issuing and administering these measures, or by a more neutral structure such as the public-private consultation committee. The latter would provide recommendations to the responsible ministry based on data analysis and consultations with

the private sector. If it is deemed that the regulations are necessary, the focus of the reform should be on simplifying the processes and procedures to complete them.

*Limit the number of mandatory standards*

52. **The adoption of mandatory standards and certification of conformity should be strictly limited.** Stringent technical measures can bring benefits to the consumers in terms of safety and quality of products. However, they can have negative effect on local production if the capacity of local enterprises is incompatible with new requirements and local technical quality infrastructure cannot support them. Before a new technical regulation is adopted, its effects should be carefully analyzed and –if necessary, mitigative measures identified. This will also allow the authorities to see whether these effects can be addressed and solved at the national level or they require a solution at the CU level. The technical solutions should be sought through careful analysis and negotiation with the CU partner countries.

*Simplify the conformity assessment requirements for SPS and TBT measures*

**Kazakhstan uses multiple forms of conformity assessments requirements that translate in increased cost and delays for the private sector, hurting their trade competitiveness.** The government should rationalize the requirements, avoid duplicative procedures and controls. Conformity assessment procedures can facilitate trade by increasing consumer confidence if done without excessive time and cost. But conformity assessment procedures can raise barriers when there is a duplication of costs in different markets for essentially identical tests against the same or equivalent standards. Options include mutual recognition agreements, recognition of supplier’s declaration of conformity, unilateral recognition of conformity assessment results from other countries, and voluntary agreements between conformity assessment bodies in different countries.

ii) ***Strengthen the capacity for analysis and management of NTMs, including the quality infrastructure.***

53. **In the short to medium term, more resources should be directed to build up the capabilities of the quality infrastructure to improve the administrative efficiency of the regulations.** Coherence with the newly established CU regulations and conformity assessment procedures. This includes laboratories with the necessary technical equipment and better human capacity to implement the new regulations efficiently. The capacity to undertake regulatory impact assessment will be especially valuable to the national experts to help guide the regulatory environment towards less burdensome formulations.

54. **Given the government’s concern to ensure that the private sector complies with quality standards, it should strengthen the market surveillance in the domestic market.** This could be achieved through the expert review of the Consumer Protection Law and the enforcement mechanisms in place. In many developing countries the limited number of field inspectors across the country jeopardizes the effectiveness of the law. The government could also review the legal environment and requirements for certification agencies to become accredited and issue conformity assessment certificates.

iii) ***Include private sector more fully in the development and implementation process***

*Adopt a Decree to set-up a public-private committee to improve coordination and governance on trade regulations or NTMs*

55. **Kazakhstan policy makers should set up a public-private committee to formally consult with all concerned parties from the private sector and consumers.** This committee should be supported by a Secretariat staffed with technical staff that could lead the analysis of issues raised by the

private sector and adopt a work program to review the impact of new and existing regulations. Different analytical approaches could be considered: for existing regulations, one it is easier to quantify the impact of the measure; for new regulations, the analysis will need to weight the potential impact versus potential benefits of the measure. The Review might lead to the non-adoption of the regulation (Cadot, Malouche and Saez, 2012).

56. **Inform and educate the private sector systematically on any new regulation being adopted and implemented.** Public information campaigns, availability of website information, and focused training sessions are some of the tools that can help the private sector adjust more easily to the regulatory changes. Launching a trade information portal can help with this effort.

## V. CONCLUSION

57. **Once Kazakhstan joins the WTO, it will finalize its first generation trade reforms and will need to focus on non-tariff measures that affect its competitiveness and diversification efforts.** This is especially relevant as membership in the CU has led to new and complex regulatory changes and WTO membership will add new legal frameworks that will affect the national and CU regulations. While Kazakhstan's NTMs has average coverage and frequency ratios, there is risk of burdensome administrative procedures. Currently, 50 percent of products are affected by two or more NTMs. Furthermore, joining the CU has led to a large number of regulatory changes, with five new NTM challenges standing out. These are: (i) issuance of more stringent regulations; (ii) additional mandatory certifications; (iii) new state product registration requirements; (iv) new requirement of registering third country suppliers; and (v) prevalence of quantitative controls.

58. **This note suggests review and – when deemed advisable - reform of the regulatory framework on NTMs.**

- The authorities should consider simplifying/reducing the conformity assessment measures and the numerous related forms that are required to demonstrate compliance with SPS and TBT measures. Also they should review the need for and consider alternative instruments to the state product registration requirements, third country supplier requirements, pre-shipment inspections and quantity controls.
- Strengthening the overall standard quality enforcement in Kazakhstan will help create a system that will help protect consumers without being overly burdensome on the private sector activities.
- This reform effort should include capacity building to understand the complex regulatory framework, including training on regulatory impact assessments, and design and implementation of trade regulations.
- Ensuring transparency and information availability is also a key component of a functional regulatory system: the launch a trade information portal can help with this effort.
- Engaging in a public-private dialogue where the private sector is more systematically involved helps design regulations that are more efficient and less burdensome.

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## Annex 1: NTMs Classification, Data Collection, and Pervasiveness

### NTM Classifications

Until recently the data on NTMs was scarce, moreover, there was not unique definition of NTMs which significantly complicate the analysis. Several international organizations including the WTO, UNCTAD, ITC and World Bank have pulled their efforts in developing the NTM classification and collection of NTM data worldwide.

**Table A1: Non-Tariff Measure Classification (1st Tier - Chapters)**

Imports	Technical measures	A. Sanitary And Phyto-Sanitary Measures B. Technical Barriers to Trade C. Pre-Shipment Inspection and Other Formalities
	Non-technical measures	D. Contingent Trade-Protective Measures E. Non-Automatic Licensing, Quotas, Prohibitions and Quantity Control Measures Other Than For SPS or TBT Reasons F. Price-Control Measures, Including Additional Taxes and Charges G. Finance Measures H. Measures Affecting Competition I. Trade-Related Investment Measures J. Distribution Restrictions K. Restrictions on Post-Sales Services L. Subsidies (Excluding Export Subsidies Under P7) M. Government Procurement Restrictions N. Intellectual Property O. Rules of Origin
	Exports	P. Export-Related Measures

*Source:* UNCTAD 2012.

In contrast with the traditional trade policy instrument like tariff, NTMs encompasses instruments as different as quotas, technical regulations, sanitary and phyto-sanitary (SPS) measures, pre-shipment inspection, or forced channels. The motivation and effects of such different instruments are very different, and so are the tools that should be used to understand them. Measures from A till C represent the group of technical measures. They may have legitimate objectives of consumer safety and environmental protection, but may create barriers to trade especially for companies from developing markets. For instance, compliance to the technical requirement of destination countries can necessitate investment in production facilities, in design and packaging of the final product. Demonstration of compliance to the technical requirements often call for certification either because exporting countries do not have internationally recognized certification bodies and laboratories or because the destination countries do not recognize international certificates. The pre-shipment inspection and other formalities are frequently associated with time delay which can be substantial in the developing countries due to lack of infrastructure and qualified personnel. Suppliers of fresh vegetables and fruits are particular vulnerable to such delays. Therefore, the design of the conformity assessment measures may impact the country's competitiveness in the long run. Measures from D to O are called non-technical measures, since they do not deal with properties of products. In spite of their variety and scope, their effect on trade is easier to understand and quantify.

## Data Collection

NTM data is currently available for 40 developing countries as well as for the European Union and Japan. Data collection requires the classification of legal documents (regulations, directives, rules, etc.) to appropriate pre-defined NTMs codes.

This above NTM classification is currently used to collect data around the world, and therefore is part of the core training material used to instruct those assigned with the data-collection job within the framework of the Transparency in Trade Initiative. This program was launched in 2011 by UNCTAD, the African Development Bank, the International Trade Centre and the World Bank. It will use this classification and collect data worldwide using the same principles and procedures, so as to ensure coherence as much as possible in the treatment of the data. Its objective is to provide better information on trade measures. It is hoped to contribute to better and more lasting international trade agreements, both multilateral and regional. Finally, yet importantly, this program can be expected to spur a new wave of policy relevant research on non-tariff measures and their consequences for economic development.

The classification of non-tariff measures encompasses 16 chapters (A to P), and each individual chapter is divided into groupings with depth up to three levels (one, two and three digits, following the same logic of the Harmonized System classification for products). Although a few chapters reach the three-digit level of disaggregation, most of them stop at two digits. All chapters reflect the requirements of the importing country on its imports, with the exception of measures imposed on exports by the exporting country (Chapter P).

Chapter A deals with sanitary and phyto-sanitary measures, which are generally referred to as SPS. It gathers measures such as restriction for substances and ensuring food safety, and those for preventing dissemination of disease or pests. Chapter A also includes all conformity-assessment measures related to food safety, such as certification, testing and inspection, and quarantine.

Chapter B collects technical measures, also called TBT. It refers to measures such as labeling, standards on technical specifications and quality requirements, and other measures protecting the environment. As in the case for SPS, Chapter B also includes all conformity-assessment measures related to technical requirements, such as certification, testing and inspection.

The last chapter in the technical measures section is Chapter C, which classifies the measures related to pre-shipment inspections and other customs formalities.

Chapter D groups the contingent measures, i.e. those measures implemented to counteract particular adverse effects of imports in the market of the importing country, including measures aimed at unfair foreign trade practices. They include antidumping, countervailing, and safeguard measures.

Chapters E and F are the “hard” group of measures, traditionally used in trade policy. Chapter E includes licensing, quotas and other quantity control measures, including Tariff rate quotas. Chapter F lists price-control measures implemented to control or affect the prices of imported goods. Among the examples are those to support the domestic price of certain products when the import prices of these goods are lower; to establish the domestic price of certain products because of price fluctuation in domestic markets, or price instability in a foreign market; or to increase or preserve tax revenue. This category also includes measures other than tariffs measures that increase the cost of imports in a similar manner (para-tariff measures).

Chapter G lists the finance measures. It refers to measures restricting the payments of imports, for example when the access and cost of foreign exchange is regulated. It also includes measures imposing restrictions on the terms of payment.

Chapter H includes those measures affecting competition – those that grant exclusive or special preferences or privileges to one or more limited group of economic operators. They refer mainly to monopolistic measures, such as State trading, sole importing agencies or compulsory national insurance or transport.

Chapter I deals with trade-related investment measures, and groups the measures that restrict investment by requiring local content or requesting that investment be related to export in order to balance imports.

Chapters J and K relate to the way products, or services connected to the products, are marketed after imports. They are considered non-tariff measures because they could affect the decision of being imported. Chapter J, on distribution restrictions, refers to restrictive measures related to the internal distribution of imported products.

Chapter K deals with restrictions on post-sales services, for example, restrictions on the provision of accessory services.

Chapters L, M, N and O relate to behind-the-border policies. Chapter L contains measures that relate to the subsidies that affect trade. Chapter M, on government procurement restriction measures, refers to the restrictions bidders may find when trying to sell their products to a foreign government. Chapter N gathers restrictions related to intellectual property measures and intellectual property rights.

Chapter O, on rules of origin, groups the measures that restrict the origin of products or its inputs.

The last chapter, Chapter P, is on export measures. It groups the measures a country applies to its exports. It includes export taxes, export quotas and export prohibitions.

### **Pervasiveness of NTMs**

There are various approaches for identifying the importance of trade measures and assessing their effect on international trade. Methodologies include simple inventory measures, computation of price gaps and the estimation of ad-valorem equivalents (AVE). As the intent of this section is primarily to explore the collected data for Kazakhstan, a simple inventory approach is used. This approach is based on two indices: the Frequency Ratio and the Coverage Ratio. The Frequency Ratio simply captures the percentage of products that are subject to one or more NTMs. The Coverage Ratio captures the percentage of imports that are subject to one or more NTMs. In more formal terms, the frequency index of NTMs imposed by country  $j$  is calculated as:

$$F_j = \left[ \frac{\sum D_i M_i}{\sum M_i} \right] \cdot 100$$

where  $D_i$  is a dummy variable reflecting the presence of one or more NTMs and  $M_i$  indicates whether there are imports of good  $i$  (also a dummy variable).

A measure of the importance of NTMs in terms of overall imports is given by the Coverage Ratio. This measures the percentage of imports to country  $j$  subject to at least one NTM. In formal terms the Coverage Ratio is given by:

$$C_j = \left[ \frac{\sum D_i V_i}{\sum V_i} \right] \cdot 100$$

where,  $D_i$  is defined as before, and  $V_i$  is the value of imports in product  $i$ .

## **Annex 2: Impact of NTMs around the World**

The increased use of NTMs has been associated with a change in their composition worldwide. Quantitative restrictions (e.g. quotas and non-automatic licensing) - clear trade protectionist instruments, have declined, whereas technical regulations (e.g. product standards and SPS measures on agri-food products) often having primarily non-trade motivations, have been on the rise. The increasing scope of technical regulations is a result of increased global trade flows and rising public demand on food safety and protection against environmental hazards.

The empirical investigation of the impact of NTMs is in its embryonic stages, and there is still no consensus as of yet on the most appropriate methodology to estimate their economic impact. However, there are a range of papers finding that their global significance is immense, with Henson et al asserting that “SPS measures are currently one of the foremost issues affecting exports of agricultural and food products from developing countries” (77: 2000). Andriamananjara et al (2004) report that the global welfare gains of NTM removal would be in the order of US\$90-92 billion, while Walkenhorst and Yasui (2005) find that a 1 percent lowering of transaction costs would boost world income by US\$40 billion.

NTMs are now often found to be more important impediments to trade than traditional barriers; for instance, Kee et al (2009) find that, for 34 out of the 78 countries in their sample, the contribution of NTMs to the overall level of restrictiveness is higher than the contribution of tariffs. Bradford (2003) finds that Japan's average tariff equivalent is 57 percent, European countries ranging from 48 percent to 55 percent, and the United States to be 12 percent. Chemingui and Dessus (2008) estimate that, across all product categories in Syria, non-tariff trade barriers raise the domestic price of imported goods by 19 percent, compared to 8 percent for tariffs. Cadot and Gourdon (2012) find that SPS measures raise the price of African foodstuffs by 14 percent, with peaks for certain products, such as rice and other cereals, some types of meat, and edible oils. Combining this data with Kenya's household survey, they find that NTMs act as a regressive tax, a reflection of the large share of foodstuffs in poor households' budgets and the major impact of NTMs, especially SPS, on these goods.

Results from gravity type models (e.g. Iacovone (2005), Disdier et al (2008) and Fontagne et al (2005)) find that while NTMs generally do have a trade effect, the direction of the effect varies across sectors. Although NTMs are often found to be impediments to trade, they can also be trade promoting. This is due to the fact that NTMs can provide consumers with information, limit transaction costs, facilitate comparison and reduce uncertainty about the quality of products (Akerlof, 1970). This point is also made by Crivelli and Gröschl (2012), Disidier et al (2008), Calvin and Krissoff (1998) and Ganslandt and Markusen (2001). For instance, case studies of low and middle income countries reveal that to the extent that higher SPS standards increase costs of production, compliance with high SPS requirements offer them a source of competitive advantage (Henson et al, 2000). A similar result is found by Cato and Lima dos Santos (1998) in relation to shrimp processing firms in Bangladesh. Chemnitz and Künkel (2006) study the heterogeneous effect of SPS across different countries noting that standards can “act like a catalyst and like a barrier at the same time”, and Fontagne et al (2005) note that “for sensitive products, enforcing a measure at the border may guarantee the existence of trade flows that would otherwise not be recorded at all” (2005:8).

However, research indicates that NTMs can have a particularly negative effect on small and developing countries; Ganslandt and Markusen's 2001 general equilibrium model finds that incompatible standards are especially harmful for a small country, which can never win a “standards' war”, where two countries impose cost-increasing standards on imports. In the small country, both producers and consumers may lose. In addition, Disdier et al (2008) find OECD exporters are not significantly affected by SPS or technical barriers to trade (TBTs) in their exports to other OECD countries while developing and least developed countries' exports are negatively and significantly affected.

## Annex 3: 2013 NTM Stock Taking

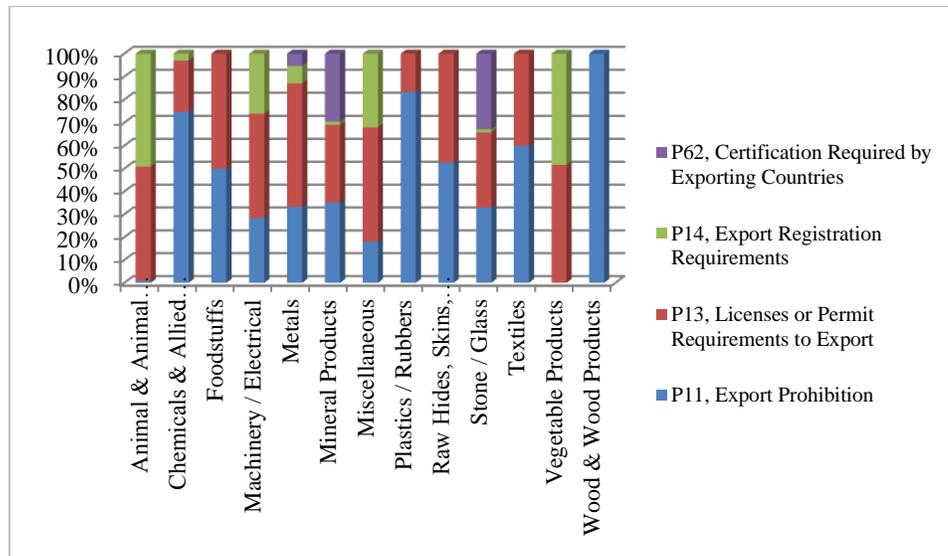
**Table A2: Pervasiveness of NTMs across Sectors and NTMS Chapters**

(Frequency indices, in percent)

Sector	SPS				TBT				Pre-shipment				Quantity Controls			
	KZ	PG	JP	EU	KZ	PG	JP	EU	KZ	PG	JP	EU	KZ	PG	JP	EU
Animal & Animal Products	64	42	59	51	6	23	19	46	23	14	0	4	11	29	27	12
Chemicals & Allied Industries	39	12	8	2	19	16	60	84	18	2	0	1	42	22	0	0
Foodstuffs	52	34	68	47	44	32	13	49	44	4	0	2	11	17	11	10
Footwear/Headgear	1	8	0	0	26	27	2	80	0	8	0	0	14	18	0	0
Machinery/Electrical	2	1	8	7	10	13	11	80	1	2	0	0	7	9	0	0
Metals	2	1	6	5	11	9	4	69	1	2	0	14	15	7	0	15
Mineral Products	1	6	3	1	12	6	25	54	0	0	0	0	42	11	0	0
Miscellaneous	18	2	2	1	22	13	24	62	16	3	0	9	8	12	0	0
Plastics/Rubbers	18	1	4	2	0	15	54	90	0	0	0	2	22	6	0	0
Raw Hides, Skins, Leather, Furs		11	34	29		18	48	24		6	0	0		21	0	0
Stone/Glass	2	0	5	5	14	5	3	55	2	1	0	0	10	4	3	0
Textiles	9	2	2	2	32	33	3	65	6	8	0	15	2	11	0	26
Transportation	2	1	0	0	22	15	28	82	0	2	0	1	0	22	0	0
Vegetable Products	56	48	76	46	28	22	8	47	35	12	0	0	4	24	6	7
Wood & Wood Products	23	10	18	1	17	10	17	43	8	1	0	0	10	11	0	0

Source: World Bank staff calculations.

**Figure A1: Composition of Export Related Measures Applied to Different Sectors**



Source: World Bank staff calculations.

**Table A3: Frequency Ratios of HS 2 Categories Categories Subject to Third Country Supplier Registration Requirements (+Importer Registration Requirements)**

HS2	Frequency ratio (percent)	HS2	Frequency ratio (percent)
1	100	12	27
2	100	41	26
4	100	38	18
16	100	97	14
20	100	19	11
29	100	39	10
30	100	13	8
3	90	76	8
23	88	86	8
5	82	44	7
35	67	73	7
43	43	42	5
10	38	96	4
21	38	31	4
15	30	95	2
50	30	70	2
51	29	87	1
		84	1

*Source:* World Bank staff calculations.

## Annex 4: CU List of Products Covered Until State Product Registration and Technical Regulation

**Table A4: List of Products and Products Subject to Sanitary-Epidemiological Supervision and State Product Registration.**

Products categories subject to the sanitary-epidemiological supervisions	List of products subject to the state product registration requirements
<ol style="list-style-type: none"> <li>1. Foods.</li> <li>2. Goods for children.</li> <li>3. Materials, equipment, materials, devices used in the field of drinking water supply and waste water treatment.</li> <li>4. Perfumes and cosmetics, oral hygiene.</li> <li>5. Chemical and petrochemical products for production purposes, household chemicals, paints and varnishes.</li> <li>6. Polymer, synthetic and other materials intended for use in the construction, transport, as well as for furniture and other household items, furniture, textile sewing and knitted materials containing chemical fiber and textile auxiliaries; artificial and synthetic leather and textile materials for clothing and footwear.</li> <li>7. Machinery and industrial instrumentation, medical and consumer purposes, other than spare parts for vehicles and household appliances.</li> <li>8. Publications: publications and educational materials for secondary and higher secondary schools, book and magazine publishing for children and adolescents (from products made from natural materials undergoing treatment in the manufacturing process.</li> <li>9. Materials for the product (s) in contact with human skin, clothing, footwear.</li> <li>10. Products, products that are the source of ionizing radiation, including generation, as well as products and goods containing Radioactive substances.</li> <li>11. Building materials and industrial waste.</li> <li>12. Tobacco and tobacco raw materials.</li> <li>13. Individual protection means.</li> <li>14. Pesticides and agrochemicals.</li> <li>15. Materials, products and equipment in contact with food products.</li> <li>16. Equipment and materials for air handling, air cleaning and filtering.</li> <li>17. Anti-freezing solutions.</li> </ol>	<ol style="list-style-type: none"> <li>1. Mineral water (natural, sparkling, medical, therapeutic) .</li> <li>2. Special foods, including baby food, food for pregnant and lactating women, dietary products (medical).</li> <li>3. Food produced using genetically modified. (transgenic) organisms, including genetically engineered microorganisms.</li> <li>4. Additives, complex supplements, flavorings, vegetable extracts as flavoring materials and raw materials, starter cultures of microorganisms and bacterial yeast, processing aids, including enzymes.</li> <li>5. Cosmetic products, tools and products of oral hygiene.</li> <li>6. Disinfectants, pest and exterminating tools (for use in the home, in health care facilities and other facilities (except used in veterinary medicine)).</li> <li>7. Household chemistry.</li> <li>8. Potentially hazardous chemical, biological agents, and derivatives on their basis, posing a potential danger to human life.</li> <li>9. Materials, equipment, devices, and other technical means of water treatment, intended for use in drinking water systems.</li> <li>10. Personal hygiene items for children and adults; baby items related to three years: dishes and products used for nutrition, hygiene items for baby care; clothes for children (first layer).</li> <li>11. Articles intended for contact with food (except kitchenware, tableware, equipment).</li> </ol>

Source: Government of Kazakhstan.

The CU phyto-sanitary measures and the products subject to quarantine of plants are outlined in the following documents:

- Union Agreement on Plant Quarantine.
- List of regulated products (regulated goods, regulated articles regulated goods) subject to quarantine phyto-sanitary control (supervision) at the customs border of the Customs Union and the customs territory of the Customs Union. (Document) (database of products with high phyto-sanitary risk, low risk).
- Regulation on the procedure of quarantine phyto-sanitary control (supervision) at the customs border of the Customs Union.
- Regulation on the procedure of quarantine phyto-sanitary control (supervision) in the customs territory of the Customs Union.

The veterinary control of the CU is guided by the following documents:

- Agreement on the Customs Union veterinary and sanitary measures
- A single list of goods subject to veterinary control.
- Unified veterinary (veterinary - sanitary) requirements for goods subject to veterinary control (supervision).
- The position of a single system of joint inspections of sites and sampling of goods (products) subject to veterinary control (supervision).
- Regulation on the common procedure of veterinary inspection at the customs border of the Customs Union and in the customs territory of the Customs Union.
- Register of organizations and individuals engaged in production, processing and (or) storage of controlled goods transported from the territory of one Member State of the Customs Union on the territory of another Member State of the Customs Union and the Register of organizations and individuals engaged in production, processing and (or) storage controlled goods imported into the customs territory of the Customs Union.
- Register of authorized medicinal products for veterinary use, diagnostic systems etc.

**Table A5: List of Products Categories Subject to Mandatory Conformity Assessment Within the CU**

<ol style="list-style-type: none"> <li>1. Machinery and equipment.</li> <li>2. Low-voltage equipment.</li> <li>3. High-voltage equipment.</li> <li>4. Devices running on gaseous fuels.</li> <li>5. Equipment operating under pressure.</li> <li>6. Vessels working under pressure.</li> <li>7. Equipment for explosive environments.</li> <li>8. Rides, equipment for playgrounds.</li> <li>9. Elevators.</li> <li>10. Wheeled vehicles.</li> <li>11. Tractors.</li> <li>12. Agricultural machinery.</li> <li>13. Machinery for forestry.</li> <li>14. Tires.</li> <li>15. Railway rolling stock, including that for high speed trains.</li> <li>16. Metro rolling stock.</li> <li>17. Light rail and trams.</li> <li>18. Objects of sea transport.</li> <li>19. Inland water transport.</li> <li>20. Small craft.</li> <li>21. Buildings.</li> <li>22. Building materials and products.</li> <li>23. Rail transport infrastructure, including that for high speed trains.</li> <li>24. Infrastructure underground.</li> <li>25. Highways.</li> <li>26. Pyrotechnics and containing their products.</li> <li>27. Explosives for civil use and containing their products.</li> <li>28. Light industrial products (finished piece goods, carpets and rugs, knitted, garment and leather, footwear, fur and fur).</li> <li>29. Toys.</li> <li>30. Products for children and adolescents.</li> </ol>	<ol style="list-style-type: none"> <li>31. Skin care products for children.</li> <li>32. Kitchen Ware.</li> <li>33. Products for sanitary purposes.</li> <li>34. Perfumes and cosmetics.</li> <li>35. Oral hygiene products.</li> <li>36. Containers and packaging.</li> <li>37. Personal protective equipment.</li> <li>38. Means of fire safety.</li> <li>39. Fire protection.</li> <li>40. Medical products.</li> <li>41. Sanitary ware.</li> <li>42. Furniture products.</li> <li>43. Chemical products.</li> <li>44. Synthetic detergents.</li> <li>45. Household products.</li> <li>46. Paints and solvents.</li> <li>47. Fertilizers.</li> <li>48. Plant protection products.</li> <li>49. Gasoline, diesel and marine fuel, jet fuel and heating oil.</li> <li>50. Alternative fuels.</li> <li>51. Lubricants, oils and special fluids.</li> <li>52. Devices and systems for water, gas, heat, electricity.</li> <li>53. Devices and systems of oil and refined products.</li> <li>54. Food products.</li> <li>55. Alcoholic beverages.</li> <li>56. Fodder.</li> <li>57. Grain.</li> <li>58. Tobacco products.</li> <li>59. Hunting and sporting arms, ammunition.</li> <li>60. Telecommunications facilities.</li> <li>61. Coal and its products</li> </ol>
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Source: Government of Kazakhstan.

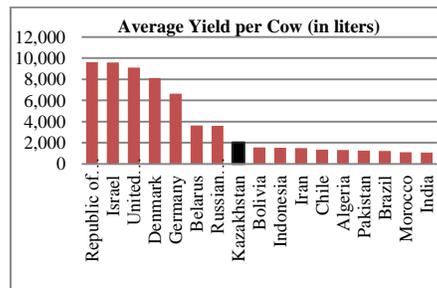
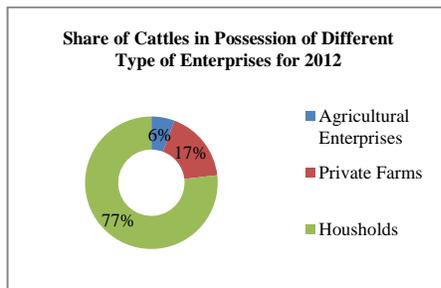
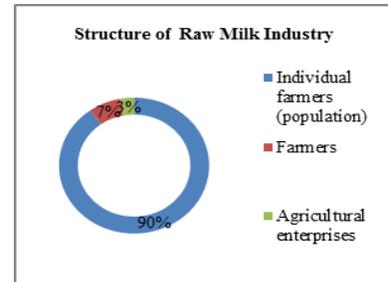
## Annex 5: Sector Specific Impact of NTMs

### The Structure of the Dairy Industry in Kazakhstan

#### Box A1: Fragility of The Dairy Industry in Kazakhstan

The radical transition of Kazakhstan economy from a command to a market economy had a drastic impact on the development of livestock sector. Reduction of government subsidies and disruption of economic ties led many large collectively and state owned farms to bankruptcy. Privatization of these farms resulted in creation of myriads of small privately owned entities. While government support of agriculture significantly increased in the last decade, major bulk of subsidies went to the development of grain sector where large vertically integrated grain holding allows industrial production

Unlike in Russia and Belarus, the structure of the livestock industry has changed dramatically since 2000 in Kazakhstan, from large enterprises and farms to small private owners. Starting from 2000, the livestock sector started slowly to recover. Over the period 2000-2009, the number of cattle increased from 4 to 6 million nevertheless, its level still far below of the level of 1990 with 9 million heads. As for December 2010, 82 percent of total cattle was in possession of private households, and only 18 percent was in possession of agricultural enterprises and farms. By comparison, the respective numbers were 30 percent and 70 percent in 1990



The change in the structure of the livestock industry had a significant impact on the industrial processing of milk, which dropped from 61 percent in 1991 to 30 percent in 2010. The reasons for that are lack of infrastructure and poor quality of the products produced in the small scale basis. More specifically, outdated technology of feeding and lack of mechanization resulted in

Source: Authors calculations.

low level of milk yield and its high seasonality. According to the Milk Union of Kazakhstan, the milk yield amounts to 2045 liters per cow annually against 3595 and 3639 liters per cow in Russia and Belarus respectively. The summer production of milk is 3 times more than the winter production. Expensive vaccination and lack of veterinary specialists in the country side result in low safety of raw milk produced in small households. Finally, large geographic dispersion of private farms complicates the process of procurement of milk which increases the cost of industrial processing.

According to the Milk Union, from 5.3 billion liters of raw milk, 21 percent goes to industrial production of solid dairy products and 9 percent to liquid dairy products. In turn, liquid milk constitutes only 19 percent of total liquid milk products or 90.6 million tons. Due to high geographic dispersion of private farms (households) and the lack of storage facilities in place dairy companies are not able to collect more than half of raw milk produced in Kazakhstan. They are used for private consumption. Since the annual demand for liquid milk in Kazakhstan is about 597 million liters, only 15 percent of the total milk demand can be covered by the locally produced milk. Moreover, according to firm interviews, milk collected from various small farms cannot be used for production of liquid milk but rather used for production of cheese due to different quality of milk supplied by different small farms.

According to national rating agency RFCA<sup>41</sup>, there are 195 milk processing enterprises in Kazakhstan with an average capacity of about 1.2 million tons of milk. However, these firms currently operate with a utilization rate for milk production barely exceeding 25 percent. According to the Milk Union the reason for that are high production costs for liquid milk and increasing competition from the Russian and Belarusian companies in the segment of homogenized liquid milk. According to the estimate of the Milk Union, 70 percent of the production costs of liquid milk constitute costs of raw milk and transportation, the average gross margin amounts to 2 percent, which is very low comparing with the industry average of 7 percent. Currently the price of concentrated milk imported from Belarus and Russia is cheaper than locally produced brand by 20 percent. In 2012, imports constitute 13 percent of liquid milk segment, while in the segment of concentrated milk it accounts for 78 percent of total market.

Source: World Bank analysis of information from national various sources.

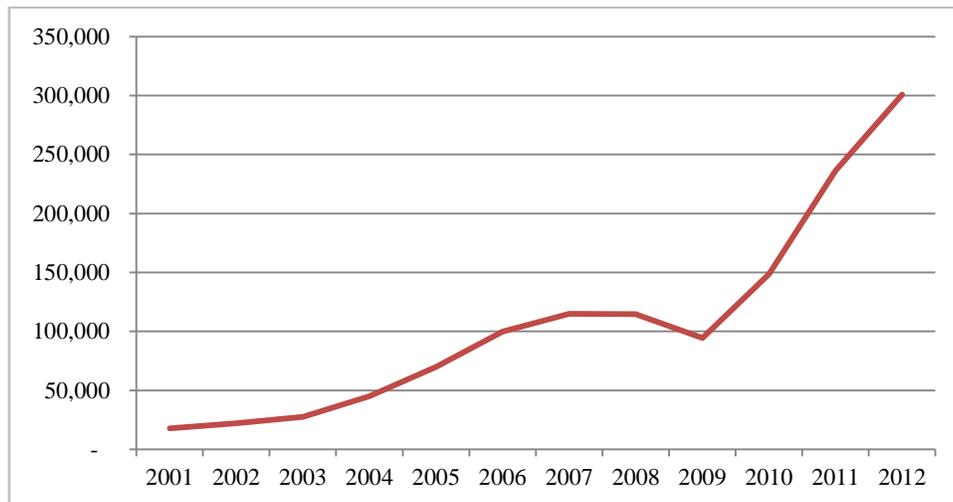
<sup>41</sup> RFCA Kazakhstan's first national rating agency specializing in the provision of services for the independent evaluation of Kazakhstani companies by assigning corporate credit rating, corporate governance rating, the credit rating of the notes, as well as credit rating financial institutions. In addition, it provides various sectorial and industry analysis.

## The Trade Distortionary Effect of Import Quotas on Meat

**These regulations can have distortionary impact on trade.** Case in point is the trade diversion Kazakhstan experienced in its meat imports due to import bans. Due to structural problems in its livestock sector; Kazakhstan relies increasingly on imported meat. In order to stimulate development of the domestic livestock industry the CU countries decided to introduce import quota on meat. As a consequence of these quotas, the share of CU countries drastically increased with respect to the share of non CU countries starting from 2010, indicating strong diversion effect on trades of frozen meat. The quota received negative feedback from Kazakhstani meat processing companies.

**Figure A2: Meat Imports**

(Tons)



Source: Trade Map data, International Trade Centre, 2012.

Starting in 2011, Kazakhstan and the CU applied import quota on external (non-CU) imports of meat (beef, pork and poultry). The quota was set to 10000 tons for frozen beef meat and 20 tons for fresh beef meat, with in-quota tariffs of 15 percent but no less than €0.20 per kg and out-of-quota tariffs of 50 percent and no less than €1.00 per kg<sup>42</sup>. Kazakhstan increased quota volume to 13900 tons in 2012 and 15400 tons for frozen beef in 2013. According to the private sector, the quota on import of beef was too small, clearly not meeting local Kazakhstani demand (Table A5). Domestic production of raw meat is not sufficient to cover the demand of local processing companies, and companies rely heavily on imported frozen beef for production of sausages and other meat products.

In addition to the overall small volume of quota on beef meat, majority of meat producers received very small quota allocation due to the disturbance caused by the introduction of the register of third country suppliers.

<sup>42</sup> For pork, the quantity was 7400 tons, with in-quota tariffs of 15 percent but no less than €0.25 per kg and out-of-quota tariffs of 75 percent but no less than €1.50 per kg. For poultry, the quantity was 110000 tons with an in-quota tariff of 25 percent but no less than €0.20 per kg and an out-of-quota tariff of 80 percent but no less than €0.70 per kg.

**Table A6: Import Quotas for Frozen Beef by CU Member<sup>43</sup>**

Country	Import quota on beef, in thousand tons, as for 2012	Population, as for 2011	Consumption per capita (total meat)
Kazakhstan	10	16,558,459	67,2 kg per year
Russia	536	141,930,000	73.8 kg per year
Belarus	2.5	9,473,000	72 kg per year

*Source:* World Bank staff calculations.

In fact, the annual quota per company is allocated based on the actual imports volume of the company for preceding two years. However, many companies ended up with lower import volumes in 2011 due bureaucratic hurdles provoked by the introduction of third country suppliers. While such registry was already in place in Russia prior to the CU, Kazakhstani firms needed to populate the registry with their own foreign suppliers. This process was lengthy, and as a consequence goods were often not cleared at the CU border, and business deals were cancelled. For example, the Meat Union of Kazakhstan gives an example of a company that stopped importing from its traditional Canadian supplier, which was not initially in the registry. The company was not able to re-engage with the Canadian exporter, and find is ‘simpler’ to import additional quantity of meat through Russian intermediaries. The Meat Union point out lack of the available information on application to the third country register and general opacity of the process of allocation of quota. According to the National Economic Chamber of Kazakhstan Atameken ", the lion’s share of the quota is granted to intermediary organizations (about 85 percent of the total quota). Meat processing companies are forced to buy imported raw meat from intermediary organizations which results in increasing costs of finished products. According to the CU decision on 12/03/2013, the quota on meat will increase to 15 thousand tons for 2013 which according to the industry expert, it is still not sufficient (in 2009, for the first 9 months of the year imports of beef meat were 15.3 thousand tons). Nevertheless, the disturbance caused by the third country register and lack of transparency in the process of allocation of quota remains.

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<sup>43</sup> Data for per capita consumption of meat is taken from the following articles:  
<http://www.agroxxi.ru/zhivotnovodstvo/novosti/potreblenie-mjasa-v-rossii-uvelichivaetsja.html>.  
<http://news.nur.kz/216950.html>.