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Kazakhstan Trade Report

Kazakhstan - Improving the Trade Policy Framework, its Management and its Regulations

Executive Summary

January 2014

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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
EU27	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
NACEK	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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Kazakhstan - Improving the Trade Policy Framework, its Management and its Regulations

Executive Summary

1. The main message of this report is that if Kazakhstan wants to take advantage of global integration and diversification opportunities, the government needs to improve its trade policy framework, its management and its regulations. Kazakhstan's economy is now integrating into the Belarus-Kazakhstan-Russia Customs Union (BKR-CU) and the government is addressing an accelerated schedule to integrate further into the Common Economic Space by 2015. It is also finalizing accession to the WTO while its trade strategy includes a number of free trade agreements to be negotiated. It is an active member of the Central Asia Region Economic Cooperation (CAREC). These agreements have the potential to provide unprecedented opportunities for the Kazakhstani economy to benefit from regional and global economic integration. In fact, with its expected accession to the WTO the country will be finalizing its first generation trade reforms (tariff reforms) and should start focusing more on its second generation trade reforms. These include trade facilitation, regulations and non-tariff measures, competition policy, and other behind the border factors. These behind the border factors are strongly affected by the quality of policy making, that is to say, the trade policy institutions, and in turn strongly affect the competitiveness of the Kazakhstani producers.

2. **This report is composed of three policy notes that discuss *how to improve the trade policy framework, management and regulations*:**

3. **Note 1** is on the trade policy framework and recommends joining the WTO on a tariff schedule that is more liberal than Russia's. If the authorities are interested in joining a FTA, they should carefully assess the costs and benefits of such agreements before negotiations. If negotiating an FTA, the authorities should adopt a design that includes (i) low external MFN tariffs; (ii) few sectoral and product exemptions; (iii) nonrestrictive rules of origin; and (iv) measures to facilitate trade.

4. **Note 2** postulates that to benefit more fully from the WTO membership and future regional or bilateral agreements, the institutional framework for trade policy management will need a clearer strategic vision, better coordination within the government and with private sector, and enhanced human capacity.

5. **Note 3** suggests that for the private sector to benefit from global integration and diversification, the government should ease the burden of regulations that affect trade (non-tariff measures (NTMs)). This can be achieved by reducing the number of NTMs, their restrictiveness and cost; and by building institutional capacity to assess and properly regulate them.

I. THE TRADE POLICY FRAMEWORK

Join the WTO on a tariff schedule that is more liberal than Russia's and carefully assess whether any new trade agreement would further enhance the country's export and diversification opportunities.

6. In helping assess the current trade policy framework, note one answers four specific policy questions: How has trade performed since early 2011? What are the consequences for Kazakhstan if it were to adopt the Russian WTO accession tariff schedule? Should there be concern in Kazakhstan about

the source of its intermediate imports? Should Kazakhstan pursue new free trade agreements (FTAs) soon after WTO accession?

Box 1: The Early Impact of Joining the Belarus-Kazakhstan-Russia Customs Union

Kazakhstan's trade-weighted average tariff protection levels nearly doubling from 6.72 to 11.51 percent as a result of implementing the Common External Tariff (CET). Tariff dispersion measured by standard deviation of the average effective rate increased as well. A recent World Bank report (World Bank, 2012) predicted that the increase in the external tariff level would lead to a 0.2 percent loss in welfare per year (as percent of consumption) as of mid-2011. Besides the impact on tariffs, the CU had important effects on non-tariff measures (NTMs). Traditionally a relatively open economy, Kazakhstan has now aligned its regulatory framework (procedures on declaring goods, customs valuations, and import licensing as well as phyto-sanitary measures (SPS) and technical barriers to trade (TBT) measures) to the more restrictive Russian standards and technical regulations. The key to offsetting the negative net impact of the CU is to make substantial progress in the areas of trade facilitation and easing of non-tariff barriers. If enough progress in reforming these NTMs is made, it could lead to 1.5 percent in welfare gains (as percent of consumption) per year to Kazakhstan, while without reform Kazakhstan would continue to lose out.

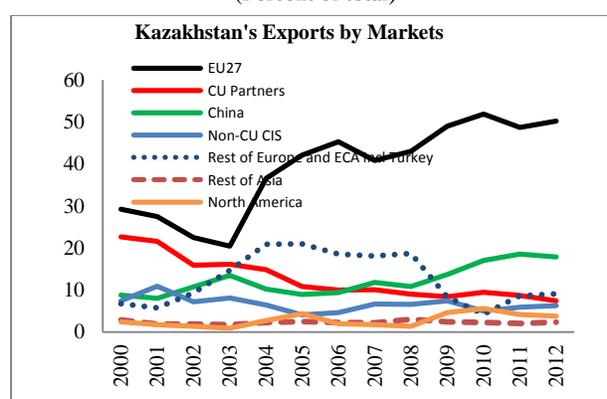
Source: D. Tarr and J. Jensen, 2012. Assessment of Costs and Benefits of the Customs Union for Kazakhstan.

Kazakhstan's trade performance has experienced significant adjustments since 2010

7. **Kazakhstan experienced trade diversion upon joining the Customs Union in 2010, but this initial impact may be abating.** Overall Kazakhstani exports are still driven by demand from petroleum products and by a rebound in the European Union (EU) demand and increased exports to the rest of Europe and Central Asia (ECA), including Turkey (Figure 1). China remains a solid client. After a surge in 2010, Kazakhstan's exports to Customs Union (CU) partners were declining through most of 2012, a trend likely reflecting the adjustments to new regional regulations. Data for January-August 2013 suggest a slight recovery in exports to the CU partners, but it is preliminary and should be assessed with caution.

Figure 1: Exports are Driven by Mining/Petroleum Products

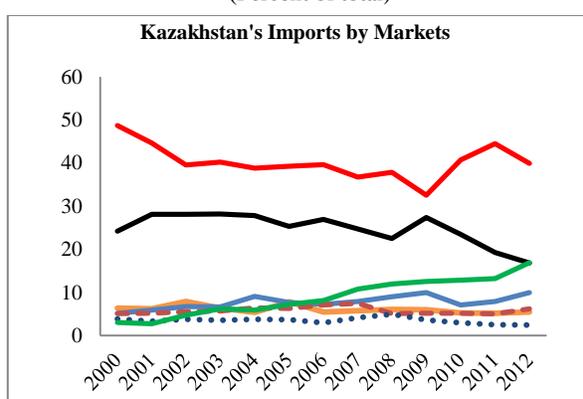
(Percent of total)



Source: Statistical Agency of Kazakhstan.

Figure 2: In Imports EU Loses Market, China Gains and CU Moderates

(Percent of total)



Source: Statistical Agency of Kazakhstan.

8. **On the import side, while Kazakhstan experienced trade diversion - an initial surge of imports from the CU partners in 2010-11, other global partners will be driving Kazakhstan's imports over the longer term.** First, much of the import surge from the CU appears to be thanks to a doubling of **transport** equipment from 6 percent of total imports to 12 percent of total imports share (HS-2 import category). Secondly, Figure 2 shows a rather pronounced shift of import partners from the EU to China as far back as 2005. This shift was accentuated after the creation of the CU: it impacted negatively

the EU-27 exports to Kazakhstan in almost all HS-2 import categories, while China made inroads in almost all the same sectoral markets. This shift is a reflection of how competitive China remained in view of new CU tariffs affecting its imports compared to the EU. Finally, the role of suppliers that have a lower market share in Kazakhstan, such as North America and the rest of Asia, remains steady in the import structure.

9. **If Kazakhstan were to join the WTO by adopting a tariff schedule similar to that used by Russia, tariff rates would decline substantially.** The current un-weighted mean tariff rates would decline from 10.6 percent at year-end 2012 to 7.9 percent by the end of the decade. Average trade-weighted rates will fall from 8.9 percent back down to 5.5 percent by 2020, similar to the pre-CU rates of 5.3 percent in 2009. Most of the reductions will occur by the year 2016. This change of the tariff structure is expected to lead to a rebalancing of trade away from the CU and towards global partners.

Table 1: Tariffs Will Fall Substantially With WTO Membership

(Percent unless otherwise noted)

Year	Tariff lines	Mean		Standard Deviation	
		Simple	Trade weighted	Simple	Trade weighted
2009	10,853	6.72	5.33	9.8	8.3
2012	11,313	10.64	8.93	13.80	8.77
WTO-2020	11,557	7.89	5.48	9.26	5.01

Source: Official data and World Bank calculations.

Note: 2009 statistics are based on author's computations performed for World Bank report (2012). They use the same methodology; therefore can be compared with the computations performed in this study. Trade weights are computed based on import statistics of Kazakhstan for 2009 (2009 rates) and 2012.

Joining the WTO, based on a tariff schedule similar to that used by Russia, would lead to gains for the Kazakhstani economy

10. **Reducing tariffs would engender gains for the economy, and reducing trade facilitation costs would enhance these gains.** The analysis finds that tariff reductions will improve aggregate welfare (as percent of GDP) by 0.1 percent per year. Aggregate trade grows by 0.5 percent by 2020 while tariff revenues as percent of GDP will drop by 0.9 percent. If in addition to reducing tariffs, trade facilitation costs are reduced by one-third, the welfare gains will increase to 0.9 percent of the GDP. Aggregate trade will grow by 0.9 percent by 2020.

11. **Finalizing WTO negotiations in the disciplines other than market access (tariffs) will help advance the accession process.** Negotiations on a number of other important issues still need to be finalized. Obtaining WTO members' final agreement on the draft services agreement will be positive outcome for the Government. Pushing ahead with the complex negotiations on the regulations and practices governing sanitary and phytosanitary (SPS) measures and technical regulations is also necessary. Finally, the authorities still need to conclude negotiations on WTO-inconsistent trade-related investment measures (TRIMS), including those related to state-owned enterprises, local content requirements and discriminatory VAT preferences; and trading rights and treatment of natural persons. Given that Kazakhstan is a CU member, it needs to address the added complexity of ensuring that these agreements are compliant to the CU policy framework or take the necessary steps to adjust the CU frameworks to these new agreements.

Joining the WTO should reverse the initial trade diversion experienced in 2010-2011, including the sourcing of intermediate inputs

12. **These tariff rate reductions make Kazakhstani market competitive for a more global pool of intermediate inputs again.** New analysis suggests that the tariff structure will revert back partially to the 2009 levels. Average trade weighted tariff rate on intermediate inputs in 2020 will be within 0.5 percent of the 2009 rates, while that of 2020 capital goods rate will remain well above the 2009 rates. The tariff schedule in 2020 is more conducive for developing of manufacturing industry, due to larger positive impact on productivity. At the same time, the pre-CU tariff schedule of Kazakhstan had been even more liberal for importers of capital and intermediate goods. Kazakhstan should consider acceding to the WTO on more liberal tariff schedule than Russia did.

13. **Accession to the WTO has a strong rebalancing effect with imports from the EU or rest of the world replacing Russia and the CIS countries.** The base case results from the analysis show that in general, total imports rise, but they rise significantly for non CIS, and non-CU trading partners. On the other hand, total imports from Russia and other neighboring trade partners fall, sometimes significantly. This shift in import patterns is particularly strong in sectors where barriers had been high, and where potential trade volume shifts are large. Processed foods, basic metals, metal products, and tobacco products are examples of such sectors.

Box 2: Status of Negotiations for WTO Accession

Kazakhstan applied for WTO accession on January 29, 1996. A working party was created on February 6, 1996 to help support the accession process. Negotiations moved ahead until 2008, when Kazakhstan focused on launching the Russia-Belarus-Kazakhstan Custom Union by January 1, 2010. Since 2010, the authorities have intensified their re-engagement in the WTO accession negotiations and are now expected to join the organization in 2014.

The country was considered to be at an advanced stage of negotiations in June 2013. The Working Party on Kazakhstan's Accession to the WTO consists of 43 members of the WTO, 30 of which have signed bilateral goods market access negotiations with Kazakhstan. Of these 30, 14 have also reached a bilateral market access agreement in Services. The authorities are said to have a consolidated draft services schedule and as well as a consolidated draft goods tariff schedule, and have proposed a timeline for making their agricultural subsidies WTO compatible (July 1, 2018) and binding export subsidies at zero upon accession.

As of December 2013, however, the authorities still need to negotiate a number of critical issues to finalize the accession package. The principal hurdle in completing Kazakhstan's market access negotiations is the tariff schedule. The tariff negotiations involve resolving discrepancies between bilateral market access agreements negotiated by Kazakhstan with WTO members prior to joining the Custom Union, Russia's schedule of commitments and the common external tariff of the customs union of Belarus, Russia and Kazakhstan. WTO members did not accept the methodology for adjustment proposed in July 2013 by Kazakhstan. Additionally, the authorities need to finalize negotiations on the tariff rate quota volumes and administration and export duties; the regulations and practices governing sanitary and phytosanitary (SPS) measures and technical regulations; WTO-inconsistent trade-related investment measures (TRIMS), including those embedded in state-owned enterprises, on local content requirements and discriminatory VAT preferences; and trading rights and treatment of natural persons.

Source: World Bank Staff.

Kazakhstan should first accede to the WTO and prepare for the upcoming CES in 2015 before launching negotiations for new FTAs.

14. **Economic theory and practical considerations suggest launching new FTA negotiations may be premature.** First, numerous economic analyses suggest that joining WTO first and then a free trade agreement is more welfare enhancing for a country. In the case of Kazakhstan, recent World Bank analyses find results that are aligned with this conclusion. So Joining the WTO would be the first best

option for Kazakhstan. Also, implementation of the WTO commitments and the upcoming transformation of the Custom Union into a common economic space will take time and human and financial resources. In fact, substantial analytical work, policy and legal reforms and capacity building will be needed to translate CU/CES and WTO commitments into national policies and regulations. Given this already challenging agenda launching new FTA negotiations and agreeing to further commitments may not be an optimal policy in the next few years.

15. **Furthermore, international experience suggests that integration is complex and prone to set backs and even failures.** The Mercado Común del Sur (also known as MERCOSUR) and South Asia FTA (SAFTA) are two examples of FTAs that have not flourished. Even though regional integration in the EU has spanned 50 years and is considered a success in many aspects, it still faces difficulties and setbacks, as witnessed by the current multi-year financial crisis. ASEAN has decided to not try the full integration scheme of the EU and is moving at an even slower, more differentiated pace it calls “The ASEAN Way”.

16. **If the authorities decide to pursue an FTA, they should first undertake an economic evaluation of the best markets for Kazakhstan to target.** It would be useful to assess and prioritize the proposed free trade agreements negotiations with Turkmenistan, the European Free Trade Agreement (EFTA), and Serbia, and preferential trade agreements with Egypt, Jordan, Israel, Afghanistan, and the Gulf countries based on their economic value to Kazakhstan. Generally, Kazakhstan should seek trade with countries with which it has a high complementarity of products. Quite simply there is more economic interest to trade as the export baskets of the countries are sufficiently different. For instance, within ASEAN, a relatively successful FTA, product complementarity for Indonesia is 48, Malaysia 63, Philippines 60, and Singapore 63. For Kazakhstan, analysis shows that product complementarity is below 20 with the Central Asian economies, Russia, and Mongolia. China and Belarus are the only country with which Kazakhstan has a complementarity score over 30, which is low on a scale of zero to 100. So if there is interest in new FTAs, it behooves the authorities to investigate options beyond this group of countries, for instance, with East Asia or Middle East.

17. **Also, best practice suggests that before negotiating, Kazakhstan should undertake a comprehensive analysis of the potential impacts of FTAs or other types of regional integration agreements.** This would include a thorough social, environmental and economic analysis to identify the potential positive and negative impacts of such an agreement. Such an analysis should include qualitative and quantitative analytical methods, economy wide as well as sectoral computable general equilibrium models, use of partial equilibrium analysis such as gravity models to predict trade patterns and poverty and environment assessments. Systematic public consultation is a key element of such an assessment. This methodological approach is time consuming and expensive, but ultimately worthwhile as it provides quantitative and qualitative assessments of the costs and benefits of joining an FTA. EU has undertaken a number of such comprehensive analyses, including the 2009 EU-India FTA and the 2012 EU-Georgia FTA analyses.

18. **In summary, before joining new FTAs, authorities should consider the following issues in depth:**

- What are the objectives in joining the FTA?
- Does the country have the institutional capacity to properly negotiate and implement new FTAs?
- Has there been an in-depth study of the potential impacts of joining new FTA?

- Has there been extensive consultation with all parties who will be potentially affected by the FTA, including private sector and civil society?

19. **If negotiating an FTA, the authorities should adopt a design that includes (i) low external MFN tariffs; (ii) few sectoral and product exemptions; (iii) nonrestrictive rules of origin; and (iv) trade facilitation measures (including those related to non-tariff measures).**

II. IMPROVING TRADE POLICY MANAGEMENT

To take better advantage of global opportunities would mean more a prioritized trade policy strategy, improved institutional capacity and more effective public-private consultation

The trade policy strategy can benefit from further prioritization

20. **Kazakhstan has an ambitious trade policy strategy and needs strong supportive capacity take advantage of its potential benefits.** Trade policy is a central and well integrated instrument of diversification for the economy as outlined in the vision ‘Kazakhstan-2050’. To implement the trade strategy successfully, it would be useful to first fully analyze the implications of membership in the CU, the WTO, and the creation of the Common Economic Space (CES) in rapid sequence. It is then important to take the time to implement these agreements and monitor and evaluate their effects on the economy. The different sectors of the economy will be impacted differentially, firms will need time to adjust to new regulations and incentives, workers need to assess their skills and opportunities in the new economic environment and households will be faced with new consumption choices. In the medium term, the evaluation of these agreements will provide the authorities with lessons to help shape Kazakhstan’s future trade policy strategy.

21. **The authorities should further prioritize the objectives of the trade strategy.** For instance, is there a strategy and related implementation approach to take advantage of CU membership and the future WTO accession? Have the authorities assessed the economics of which FTA to negotiate first? Should providing support to reimburse exporters have priority over enforcing treaty obligations to resolve trade disputes (Box 2)? This priority setting should go hand in hand with realistic action plans and a clear methodology to monitor and evaluate the progress of the different components of the action plan.

22. **International experience suggests there is no “best” practice model for trade policy making.** Successful trade policy outcomes seem not to be related to who is responsible for trade policy. Rather, the quality of the trade policymaking process defines the successful outcome. This includes: how trade policy is designed, implemented, and administered, together with human and infrastructure resources.¹ A high level of coordination at the different levels of design, implementation, and administration matters as well as the willingness to adjust the policymaking process according to the challenges of the trade environment.

23. **The institutional framework for trade policy is well developed but can be improved to help implement CU/CES and WTO commitments.** Trade policy is developed through a tiered process. At the top level, a Deputy Prime Minister oversees the definition of broad policy objectives and mandates. It would be beneficial to ensure the foreign policy dimension is taken into account early on in the

¹ There are no “pure” models. We classified the countries within one model on the basis of where the trade policy “function” is located, including negotiations. The U.S. model limits the USTR function to negotiations. Policy making is a shared responsibility of the Executive and the Congress.

development and implementation of trade policy. Also, Kazakhstan should have a permanent Kazakhstani representation in Moscow responsible for CU/CES affairs.

Box 3: Kazakhstan's Trade Policy Objectives

The Trade Policy of Kazakhstan is focused on promotion of export development and diversification and protection of the country's interests in global trade through:

- Completing accession to the WTO in order to ensure market access and attract foreign investment.
- Finalizing the Russia, Belarus, Kazakhstan CES by 2015. This agreement along with the current CU is seen as a major platform for the development and diversification of exports as well as the attraction of foreign investment.
- The initiation of negotiations of free trade agreements with Turkmenistan, EFTA, and Serbia, and preferential trade agreements with Egypt, Jordan, Israel, Afghanistan, and the Gulf countries.
- Enforcing treaty obligations to resolve trade disputes or to undertake rules-based retaliatory measures as necessary.
- Undertaking research aimed at proposing to the Eurasian Economic Commission needed adjustments of the Common External Tariff to protect domestic industry or facilitate needed imports.
- Providing informational and support services to exporters, including analysis of world trade trends, reviews of countries' economies, industries and products, develop trademarks, promote abroad enterprises and their products and provide specialist training in export management.
- Providing financial support to reimburse exporters for part of the costs of promotional activities abroad and the development of new products for foreign markets as well as provide export credit and insurance.
- Using diplomatic missions and the assignment of special counselors to those missions to develop new distribution channels for Kazakhstan exporters.

Source: Official documents.

24. **At the second level of trade policy development, the MEBP is responsible for coordinating the overall negotiation process, and leading the CU/CES negotiations.** There is a bifurcation of responsibilities where negotiations are concerned. One of the Vice-Ministers at MEBP is in charge of conducting and coordinating negotiations and other work in the CU/CES while the Minister of Economic Integration oversees the WTO accession negotiations. At this level, the strategic alignment of the trade negotiations process and the national development strategies should be emphasized. There is little evidence of a tight correspondence between trade negotiation strategies and the strategies that focus on development and diversification of goods/services for export and import substitutes.

25. **Trade policy coordination at the MEBP can be improved.** The two departments supporting the negotiations, the Department of Foreign Trade Regulations and the Department of International Economic Integration are relatively small (approximately 25 persons each) for the heavy tasks of supporting the parallel negotiations with CU and WTO. Furthermore, many of the topics in these and all trade negotiations are thematically similar, covering agriculture, services, goods trade, competition, government procurement, movement of labor and the like. Therefore, the authorities may wish to consider consolidating the international trade department into one, organized around thematic areas. This would help leverage knowledge and capacity across these different negotiations.

26. **The third level of decision making on trade issues takes place at other ministries or at the agency level.** Currently, although coordination among the relevant ministries is intense, it often seems to be mainly in response to a specific request and therefore *ad-hoc* and irregular. The consultation and coordination process among ministries and agencies can be strengthened in several ways. First, best

practice suggests permanent working groups organized in a thematic approach to consult and coordinate on trade related issues. Also, it communication among ministries can be improved by ensuring that information flows both ways between the MEBP and sectoral ministries, with sectoral staff receiving feedback about the outcome of their contributions and the status of the negotiations. This will also allow these sectoral experts to be more effective in any follow-on contributions as the negotiations progress. It is good practice to establish focal points for CU/CES issues to improve follow-through and coordination. An option is to expand these focal points from one person to small dedicated institutionalized secretariats with backup office support.

27. **To benefit from export and diversification opportunities presented by these integration efforts, the authorities will need to build analytical, institutional and negotiations capacity within the government.** The MEBP would benefit from increased human resources to effectively perform its responsibilities in the areas of trade negotiations. The number of staff should be increased, especially specialists in the thematic areas under negotiations. The same can be said of the Center for Trade Policy Development (CTPD), which provides extensive analytical and policy support to the authorities in trade negotiations. As the Center is growing, it may wish to consider adjusting its organizational structure to reflect better its responsibilities. This would involve creating a dedicated research department, a legal department on trade law, a program evaluation department as well as re-organizing the other departments around thematic and regional issues. There is need for world class trade lawyers and trade economists. Aside from the number of experts needed, a skills audit will help determine the mix of current vs. needed skills.

28. **More broadly training would be useful for all actors implicated in trade and trade policy making and implementation.** General and specialized technical training will help the authorities to take better advantage of their rights and advantages in international and regional arena and ensure a correspondingly advantageous institutional framework for private sector to do the same. Training/capacity building can be more specifically structured as follows. In the short term the government could secure en situ specialized and general training from international universities or institutes. For the medium term it is essential to foster development of international trade-related curriculums/degrees in law and economics at domestic universities. Finally, it is necessary to upgrade language skills. The dominant language of trade and international business is English.

Improving public-private consultations and capacity building within the private sector will help it take full advantage of the global and regional integration efforts.

29. **While the principle of public-private consultations is heeded in Kazakhstan, the nature of the consultation can improve through better information sharing and more content-rich regular consultations.** The majority of the private sector has not been an active partner in the public-private consultation up to now, and some have noted that when consulted the process has been ad-hoc and not very informative. Looking forward, a number of actions can strengthen the consultative process around the trade policy agenda. It would be useful to educate and train the private sector about the effects of trade agreements to help it take advantage of new economic opportunities. To improve public outreach, the authorities would benefit from a new communications program to disseminate the government's trade policy and strategy. The authorities should consider different types of consultation mechanism including formal and informal networks, structured, time limited/permanent. In trade negotiations the private sector should mirror the thematic nature of the trade agenda.

30. **If effectively operationalized, the new National Chamber of Entrepreneurs is expected to help substantially reform and strengthen the consultation process in structure and content.** A July 2013 law created the Chamber, which has replaced ATAMEKEN. In principle the new organization can overcome some of the limitations of the previous set-up. The compulsory membership and dues of the

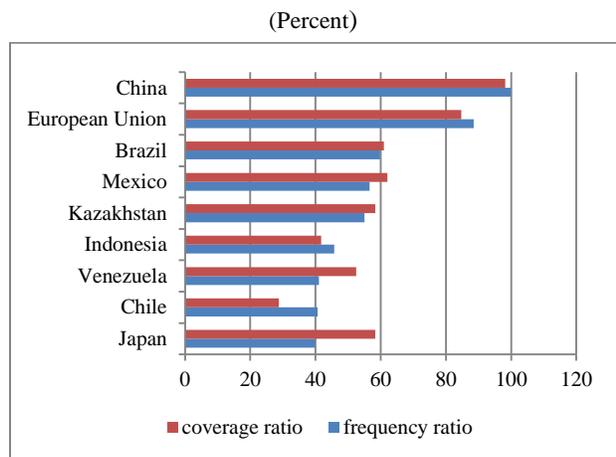
National Chamber should help alleviate the financing bottleneck that the ATAMEKEN experienced and which limited its ability to dialogue with the government on the issues facing national businesses and provide collective services and analysis to the business community. The organizational links between the National Chamber and regional entities also should enhance coordination of business positions in the national dialogue and provide opportunities to strengthen the capacities of the regions to participate. However, development of other operational details not set out in the law—e.g., transparency, mechanisms for evaluation of the Chamber’s programs and performance, etc.—and the effectiveness of execution, including socially responsible use of the government veto if and when needed, will determine the quality of public-private consultation and policy outcomes.

III. IMPROVING THE REGULATORY ENVIRONMENT FOR NON-TARIFF MEASURES

For the private sector to benefit fully from WTO membership and regional and bilateral agreements, the government should simplify the regulatory environment.

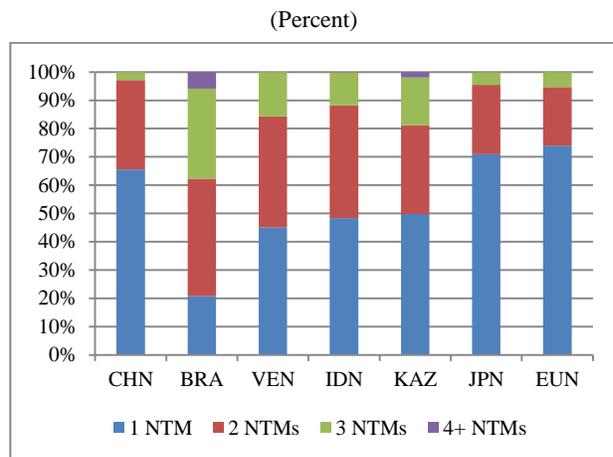
31. **While only about 55 percent of tariff lines are currently affected by non-tariff measures (NTMs), the risk of duplication and burdensome administrative procedures are high.** The tariff lines affected by NTMs represent around 60 percent of overall import value in 2012.² In Kazakhstan, half of the products for which an NTM applies are affected by a single type of NTMs (Figure 4). 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. Agri-food products and chemicals have the highest shares of products subject to multiple NTMs (Figure 5). In fact, Ninety-four percent of Kazakhstan’s current NTMs are concentrated under four ministries: Ministry of Health (35 percent), Ministry of Agriculture (35 percent), Ministry of Economics and Budget Planning (13 percent), and Ministry of Industry (10 percent).

Figure 3: NTM Coverage and Frequency Ratios³



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

Figure 4: Non-Tariff Measures are Potentially Burdensome in Kazakhstan

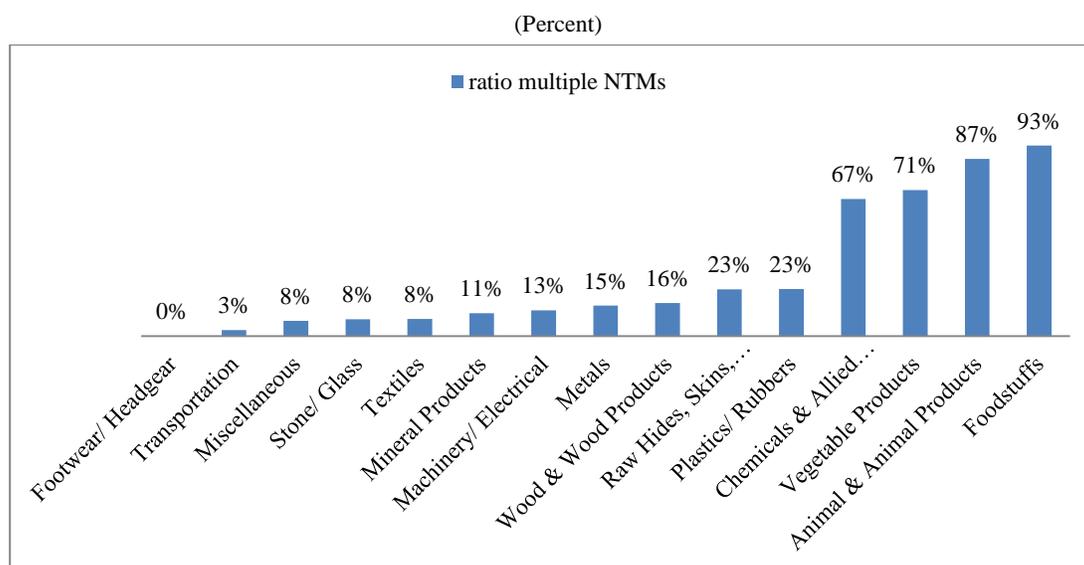


Source: Official data. World Bank staff calculations, 2013.

² The data base was created in 2012 and updated in 2013 by the Ministry of Economy and Budget Planning, with the assistance of the World Bank.

³ The frequency ratio of NTMs captures the percentage of products that are subject to one or more NTMs..

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



Source: Official data and World Bank staff calculations.

32. **Joining the CU has led to a large number of regulatory changes, among them five new NTM challenges stand out.** These are: (i) issuance of more stringent regulations; (ii) additional mandatory certifications, (iii) new state product registration requirements; (iv) the new requirement of registering third country suppliers; and (v) the 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. Kazakhstan may end up hurting its own competitiveness by making it difficult for domestic producers and exporters to access critical inputs in a timely fashion.

Design and administer NTMs to support trade and economic diversification

33. **The authorities should carefully assess the effects of more stringent new regulations on the private sector.** When adopting a new regulation, policy motivation, international experience and WTO commitments, local conditions, technical capacity, and economic impact – including addition cost to trade – should be considered. Measures that are designed or administered without adequate analysis, education, lead-time or supporting quality infrastructure will likely increase unnecessarily the cost of imports and may affect the structure of the national market. They may also deter imports and decrease the variety of products available in the local market. This is particularly pertinent for Kazakhstan since it relies heavily on imported goods not only for final consumption but also for production of final goods. In this context, some new CU regulations are considered too stringent and badly adapted to the technical capacity of Kazakhstani local producers. For examples, the draft CU regulation for milk and dairy products appears not to take into account the realities of the Kazakhstani milk industry and its quality infrastructure. Introduction of this regulation may lead to a restructuring of the Kazakhstani milk industry and affect consumer food safety. Although the new requirements may be justified, existing laboratory methods for detection of powdered milk in the liquid milk are rather expensive, and there are no laboratories in Kazakhstan that possesses these technologies. So clearly, time, investment and training will be needed to prepare the Kazakhstani industry for such a major change.

In the short to medium run, reducing the most restrictive NTMs and simplifying the procedural constraints for others will help the private sector.

34. **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.

35. **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

36. **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

37. **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.

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

38. **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.

39. **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.

ii) Include private sector more fully in the NTMs development and implementation process

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

40. **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).

41. **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.

42. **Finally, the NTM database, upon which the analysis in this note was based, can be of further use to the authorities.** Further update and further analysis can 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. 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 4: Good Regulatory Practices in Trade

Good regulatory practices encompass principles of transparency, efficiency and increased competition. These good practices are recommended by the WTO and implemented by Organisation for Economic Co-operation and Development (OECD) countries. 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 such 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 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.

43. In sum, improving the trade policy framework, its institutions and its regulations will require analytically sound, well supported, prioritized actions.

- In trade policy, acceding to the WTO should remain a first priority, especially if this is achieved on a tariff schedule that is more liberal than that of Russia's tariff schedule. If the authorities decide to pursue a new FTA, it is recommended that they first assess its effects on the economy before starting negotiations. If negotiating an FTA, they should adopt a design that includes (i) low external MFN tariffs; (ii) few sectoral and product exemptions; (iii) nonrestrictive rules of origin; and (iv) measures to facilitate trade.
- The trade policy institutions are well developed, so the focus should be more on prioritizing the country's objectives, building analytical policy, and development and implementation capacity. The role of the private sector as an active partner in this process cannot be understated.
- Finally, as the country finalizes its tariff reforms, it needs to focus on simplifying the regulatory framework that affects non-tariff measures. Without such a simplification, the non-tariff measures will constrain opportunities for export growth and diversification, and ultimately Kazakhstan's goal to integrate into the global economy.

Table 2: Short-Term Priority Actions

PRIORITY ACTIONS	POTENTIAL OUTCOMES
TRADE POLICY	
WTO accession. The authorities should try to lock in a tariff schedule more liberal than the one used by Russia at accession - especially as it relates to intermediate and capital goods - and implement their commitments quickly.	More liberal policy trade regime; reversal of trade diversion experienced when the CU was created; more competitive imports environment.
WTO accession. Negotiations in other areas should be finalized, including the services agreement, SPS, TBTs, issues related to local content rules, state-owned enterprises, and subsidies.	More liberal trade policy regime; gains from NTM, TRIMS, TRIPS and services agreements in the longer run.
FTA negotiations. Assess the effects of joining an FTA before starting negotiations	Clearer negotiating positions and sectoral interests; the authorities better prepared to mitigate any negative effects.
FTA negotiations. If negotiating an FTA, adopt a design that includes (i) low external MFN tariffs; (ii) few sectoral and product exemptions; (iii) nonrestrictive rules of origin; and (iv) measures to facilitate trade.	FTAs with these characteristics are most likely to increase national welfare.
TRADE INSTITUTIONS	
Strategy. Prioritize trade policy strategy further. Ensure strategic alignment between trade policy negotiating positions and export/enterprise development policies.	Negotiations outcomes more supportive of export development and diversification goals of the country.
Coordination. Establish a permanent technical and policy representation in Moscow for CU/CES affairs and strengthen Kazakhstan's permanent representation at the WTO.	More informed and coordinated policy positions for all trade negotiations, including future FTAs.
Coordination. Organize the coordination and consultation process for negotiation along thematic themes, and with a closer involvement of the private sector in each thematic group.	More informed and coordinated approach to all trade negotiations.
Training. Use short term training on trade negotiations techniques and policy issues for the technical staff at the MEBP and other ministries involved.	Better understanding and preparation for the negotiations issues.
Outreach. Launch outreach campaign for the civil society and private sector on the objectives of the trade policy, benefits/costs of participation in the WTO, the CU and FTAs	Public is educated on the benefits/costs/mitigation measures associated with the trade agreements.
NON-TARIFF BARRIERS	
Number and burden of regulations. 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.	Reduced cost of trade restrictive instruments.
Number and burden of compliance procedures. Simplify procedures for compliance. Use mutual recognition of standards or voluntary conformity assessments. Simplify the procedures for conformity assessment requirements for SPS and TBT measures.	Reduced costs associated with CU level certifications.
Coordination. 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 are good initial steps.	Easier compliance to newer and more stringent regulations. Less costly for private sector.
Quality infrastructure capacity. Train technical staff to undertake regulatory impact assessment before the regulation is adopted; build laboratories and the technical capacity to run them properly.	Better manage NTMs. Easier compliance to newer and more stringent regulations.
Analysis. The NTM database should be kept updated and used for further analysis.	Shed light on the impacts of regulatory measures on the economy: effects on producers, consumer prices and poverty.