

**WORLD TRADE
ORGANIZATION**

RESTRICTED

WT/ACC/SPEC/KAZ/9
20 May 2005

(05-2039)

Working Party on the
Accession of Kazakhstan

**DRAFT REPORT OF THE WORKING PARTY ON THE
ACCESSION OF KAZAKHSTAN
TO THE WORLD TRADE ORGANIZATION**

the prohibition of TRIMs or subsidies contingent in law or in fact on local content or export performance. In addition, Kazakhstan should ensure that goods produced in the free zones under tax and tariff provisions that exempted imports and imported inputs from tariffs and certain taxes would be subject to normal customs formalities when entering the rest of Kazakhstan, including the application of tariffs and taxes.

240. The representative of Kazakhstan replied that existing legislation did contain any provisions that granted special privileges contingent on export orientation and/or import substitution. She clarified that the term "export oriented production", as found in the text of Presidential Decrees establishing SEAs, meant that production in SEAs should offer export potential. This term did not mean that the export of goods and services was a condition for privileged taxation.

Government procurement

241. The representative of Kazakhstan said that the legislation of Kazakhstan on government procurement consisted of Law No. 321-II "On State Procurement" of 16 May 2002, Resolutions No. 1158 "On Rules for Organisation and Holding of State Procurement of Goods, Works, and Services" of 31 October 2002 and No. 1163 "On Special Procedures for State Procurement" of 3 November 2000; and Order No. 8 establishing Standard Bidding Documentation of 31 October 2002. This legislation was formulated taking into account requirements of international law, specifically the Model Law of the United Nations Commission on International Trade Law (UNCITRAL). The body responsible for development and implementation of state policies in the area of government procurement was the Agency for Financial Control and State Procurement.

242. She noted that under the Law "On State Procurement" government procurement was defined as the procurement of goods, works, and services effected by public bodies and agencies, public enterprises, and joint stock companies with a state-owned controlling share, as well as by their affiliated legal persons, using available resources. A certain share of goods, works, and services – procured by public bodies and agencies, public enterprises, and joint stock companies with a state-owned controlling share, as well as by their affiliated legal persons – was used for their own production purposes.

243. She further noted that government procurement was implemented through public bidding, limited bidding (public and limited bidding could consist of two stages), procurement from one source, selection of a supplier based on requests of price offers, and market procurement. According to Article 3 of the Law, the procurement process had to provide equal opportunities for participation for all potential suppliers of goods and services, unless there were provisions to the contrary in the

legislation; fair competition among potential suppliers; and openness and transparency of government procurement procedures.

244. Some members of the Working Party sought a commitment from Kazakhstan that it would initiate negotiations for membership in the Agreement on Government Procurement by tabling an entity offer [membership application] immediately after [one year after] its accession to the WTO.

245. The representative of Kazakhstan replied that Kazakhstan would consider accession to the WTO Agreement on Government Procurement after its accession to the WTO.

- **Transit**

246. The representative of Kazakhstan said that goods in transit across the territory of Kazakhstan were exempt from customs charges and fees, VAT, and excise taxes. Kazakhstan allowed free transit to reflect provisions of Article V of GATT 1994, as well as those of international treaties to which Kazakhstan was party. Goods listed in Resolution No. 524 could only transit the customs territory of Kazakhstan, provided that they were accompanied by a guarantee of payment of all chargeable customs duties and taxes. In addition, pursuant to Article 42 of the Customs Code, the customs authority could deny, in writing, the release of goods in the event that the goods originated in a country whose goods were prohibited for importation into Kazakhstan. Except for bans on import and export of certain goods (arms, drugs, antiques, etc.) there was no legislation prohibiting the transit of goods.

247. She noted that Kazakhstan applied no transit charges, except for charges on transportation services for road, railroad and sea transport. Payments were collected without any special preferences. For international transit of goods by railway, Kazakhstan applied a Tariff Policy, which was annually coordinated and approved at Tariff Conferences held in the framework of the Tariff Agreement of the Railway Administrations (Carriers) of the CIS Countries of 17 February 1993. The maximum tariff rates, established in the Tariff Policy, were based on the International Transit Tariffs (ITT) and the Uniform Transit Tariff (UTT). Transit charges were regulated by Government Decrees No. 62 "On some issues regulating the movements of vehicles on the territory of Kazakhstan" of 19 January 2002 and No. 1306 of 24 December 2003; the Rate Policy of the Republic of Kazakhstan for the Goods Transportation in International Communication for 2005; and Decree No. 320-OD of the Chairman of the Agency for Regulation of Natural Monopolies, Protection of Competition and Support of Small Business of 12 December 2003.