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## **CRITICAL ANALYSIS OF THE CASE OF KAZAKHSTAN'S ACCESSION TO THE WORLD TRADE ORGANIZATION**

Kazakhstan's application to join the World Trade Organization began less than five years after achieving full independence from the Soviet Union, when economy of the country required reforms and progress. The accession process differs on a case-by-case basis depending on the country's economy and policy. In comparison with General agreement trade and tariffs, the World Trade Organization accession has become more political due to the negotiation issues subject to the domestic politics of the country and geopolitical considerations World Trade Organization Membership is regarded as a fundamental step towards Kazakhstan's full integration into the international economy. As a hydrocarbon rich state, the government realized that by remaining outside the World Trade Organization, the country would lose economic opportunities to take benefits of global market. Kazakhstan's involvement in the international trade through the World Trade Organization would commence a new wave of economic growth. Nineteen years later on, the Republic of Kazakhstan has become the full member of the World Trade Organization. In this article the complex and lengthy process of Kazakhstani accession to the World Trade Organization will be explored. Specifically, referring to Kazakhstan's accession case, the essay will critically analyse some of the main issues of accession in terms of legal perspective view.

**Key words:** General agreement trade and tariffs, World Trade Organization, accession negotiation, the Marrakesh agreement, multilateral trade agreement.

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### **Дүниежүзілік сауда ұйымына Қазақстанның қосылу процесін критикалық талдау**

Қазақстанның Дүниежүзілік сауда ұйымына қосылу туралы өтініші Кеңес Одағынан толық егемендік алғаннан кейін және ел экономикасы әртүрлі реформалар мен ілгері қадамдарға мұқтаж болған кезеңде басталды. Тәжірибе көрсетіп отырғандай, Дүниежүзілік сауда ұйымына қосылу процесі мемлекеттің экономикасы мен саясатына байланысты әрқилы болуы мүмкін. Кеден тарифтері және сауда бойынша бас келісіммен салыстырғанда Дүниежүзілік сауда ұйымына қосылу мемлекеттің ішкі саяси және геосаяси жағдайларына байланысты келіссөздер жүргізу мәселелерінің салдарынан саясылана түсті. Дүниежүзілік сауда ұйымына мүшелік – бұл Қазақстанның халықаралық экономикаға толыққанды өтудегі іргелі қадамы болып табылады. Қазақстанның Дүниежүзілік сауда ұйымынан тыс қалуы мемлекеттің жаһандық нарықтағы әртүрлі артықшылықтар мен экономикалық мүмкіншіліктерден айырылып қалу қаупін туғызатыны туралы Қазақстан үкіметі өз тұжырымдарын айтқан болатын. Бұл орайда Дүниежүзілік сауда ұйымы арқылы Қазақстанның халықаралық саудаға қосылуы экономикалық өсім үшін жаңа қадам болып табылады. Тек он тоғыз жылдан кейін Қазақстан Республикасы Дүниежүзілік сауда ұйымының толық мүшесі атанды. Бұл мақалада Қазақстанның күрделі әрі ұзаққа созылған Дүниежүзілік сауда ұйымына кіру процесі қарастырылады. Сондай-ақ, мақалада ұйымға кірудің негізгі мәселелеріне құқық тұрғысынан талдау жасалады.

**Түйін сөздер:** Дүниежүзілік сауда ұйымы, Кеден тарифтері және сауда бойынша Бас келісім, ұйымға кіру келісімі, Маракеш келісімі, көпжақты сауда келісімі.

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### Критический анализ процесса вступления Казахстана во Всемирную торговую организацию

Заявка Казахстана на вступление во Всемирную торговую организацию началась менее чем через пять лет после достижения полной независимости от Советского Союза, когда экономика страны нуждалась в реформах и прогрессе. Процесс присоединения отличается в каждом конкретном случае в зависимости от экономики и политики страны. По сравнению с Генеральным соглашением по тарифам и торговле, вступление во Всемирную торговую организацию стало более политическим из-за проблем ведения переговоров с учетом внутренней политики страны и геополитических соображений. Членство во Всемирной торговой организации рассматривается как фундаментальный шаг к полной интеграции Казахстана в международную экономику. Как государство, богатое углеводородами, правительство осознало, что, оставаясь за пределами Всемирной торговой организации, страна потеряет экономические возможности воспользоваться преимуществами глобального рынка. Участие Казахстана в международной торговле через Всемирную торговую организацию будет способствовать новой волне экономического роста. Спустя девятнадцать лет Республика Казахстан стала полноправным членом Всемирной торговой организации. В частности, ссылаясь на случай вступления Казахстана, в статье будет критически проанализирован ряд основных вопросов вступления во Всемирную торговую организацию с точки зрения юридической перспективы.

**Ключевые слова:** Генеральное соглашение по тарифам и торговле, Всемирная торговая организация, переговоры о вступлении, Марракешский договор, многосторонний договор о торговле.

#### Introduction

The WTO, formerly known as the General Agreement on Tariffs and Trade (GATT), is commonly accepted as having been a success if the size of its membership is considered as a criterion. From 1948 to 2015, 160 countries acquired full membership. In 1948 the GATT was signed by 23 countries, in 1970 the number of member countries reached 100, then 150 in 2005, subsequently increased to 160 member states which constitute 98 % of world trade and 98.7 % of global GDP (Cattaneo, 2009: 7). There are several countries which have become recently the member of the World Trade Organization (WTO), including Kazakhstan, which is the focus of this article. The accession process differs on a case-by-case basis depending on the country's economy and policy. In comparison with GATT, the WTO accession has become more political due to the negotiation issues subject to the domestic politics of the country and geopolitical considerations (Hindley, 2008).

It is generally established from the economic perspective that two major forces could push globalisation forward. The first is technology, which is a potential driver. The second is the liberalisation of trade and attracting direct foreign investment. The role of the latter driver mainly realises by the cooperation and integration of the world states. This has

become particularly important for transition economy countries, especially for Kazakhstan as a former member of the Soviet Union and a landlocked country and very distant from key world markets. On the path of implementing transition in Kazakhstan from a 'controlled' economy to a 'market-oriented' one, the role of the WTO is appropriate. Thus, in following this path Kazakhstan applied for membership of the WTO on 29 January 1996 after 5 years of independence. The immediate decision of the Kazakhstan government to join the WTO was certainly associated with geopolitical considerations and economic reforms. The long accession process is the rule, not the exception: for emerging market states and transition economies, the typical example is the Russian Federation. On that occasion accession took 19 years negotiation.

The entry membership price for Kazakhstan was high. This is because the negotiation generated a number of controversial accession issues. The Director-General of the WTO, Roberto Azevedo, has indicated that accession negotiations are complex and challenging, on average, it takes a decade to conclude the negotiations. In particular, the Director-General highlighted that 'in the year under review, the accession negotiation of Kazakhstan, presented unique negotiating challenges, of the type that the Organization had never previously addressed' (WTO Accessions Annual Report 2004:4).

One of the sophisticated questions was associated with the integration of individual members of a Customs Union to the WTO. Other accession issues were mainly subject to the domestic policy of the country.

### Methodology

By solving the task of the article, the author relies on some research methods such as social-legal method, the method of comparative legal analysis, statistical method. These methods play a vital role in determining the accession process of Kazakhstan to the WTO and specific characteristics of this complicated process. Also, economic analysis will be widely used to define some advantages and disadvantages of the process.

In recent years, the accession process of Kazakhstan has aroused an international interest. Several publications have appeared in recent years raising a number of important discussions. The World Bank, ECIPE, EDRB etc. have published 'Kazakhstan Accession to the WTO: A Quantitative Assessment', 'The Impact of Kazakhstan Accession to the World Trade Organization'. Kazakh authors have also written extensively on this subject, particularly focusing on contentious changes in tariff rates and legislation.

This paper will examine the complex procedure of accession of new Members to the WTO, mainly focusing on Kazakhstan's case, and evaluate current progress and remaining obstacles. The structure is organized as follows. In this article I will examine the whole process of the WTO accession, mainly, focusing on the steps of accession and process in the example of Kazakhstan. Secondly, the whole development of the process will be reviewed. In this part, certain attention is paid to the implemented measures, legislation modifications and improvements.

#### *Rules that governs WTO accession*

The basic rules of accession stemmed from the Article XII of the Marrakesh Agreement on establishing the World Trade Organization. Article XII sets out:

1. 'Any state or separate customs territory possessing full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement and the Multilateral Trade Agreements may accede to this Agreement, on terms to be agreed between it and the WTO. Such accession shall apply to this Agreement and the Multilateral Trade Agreements annexed.

2. Decisions on accession shall be taken by the Ministerial Conference. The Ministerial Conference

shall approve the agreement on the terms of accession by a two-thirds majority of the Members of the WTO'.

3. Accession to a Multilateral Trade Agreement shall be governed by the provisions of that Agreement' (Agreement on Establishing the WTO).

This Article mainly was formed referring to the corresponding clause of the GATT (1947), which had regulated the accession process for more than 40 years. The overall language of the Article remained largely unchanged, but with minor changes. Despite the complex accession process, the unique characteristic of this clause would be the brevity. At first glance, some doubts could appear regarding to the lack of explicit instructions in the Article about the terms and conditions of joining the WTO. Moreover, it might seem easier to sign and ratify the Agreement (e.g. the UN) rather than to be through the process of negotiation. The reason is that in comparison with other organisations, the WTO accession is an increasingly complicated and lengthy process in practice. All general applicable rules in the Article could not be reflected due to the complex nature of negotiations. Mainly, this process demands thorough case-by-case study, focusing on the candidate's national policy (WTO, Handbook Accession to the WTO, 2008). Each negotiation requires a great deal of effort and balance between applying measures and accommodating them in concordance with the WTO rules. Furthermore, the scope of the WTO measures substantially exceeds those of the GATT 1947 by including intellectual property and services (Cattaneo, 2009). Therefore, accession generally followed by the relatively well-defined set of procedures of customary practice. Article 16:1 of the WTO Agreement sets out:

*'Except as otherwise provided under this Agreement or the Multilateral Trade Agreements, the WTO shall be guided by the decisions, procedures and customary practices followed by the Contracting parties to GATT 1947 and the bodies established in the framework of GATT 1947'* (Article IX:I (d) Agreement on Agriculture, 2015).

Besides, Article 12 and customary practice, and other additional rules facilitate the accession procedures. For instance, the Note by the Secretariat about 'Procedures for Negotiations under Article 12' and 'Guidelines on Accession of Least-developed countries', Ministerial Declarations devote special instructions for acceding countries. Simultaneously, WTO ensures technical assistance and training programs for acceding least developed and developing countries.

*Procedural explanation of accession*

In order to achieve the membership, applying states submit the request for accession. Initially, two ways provided to become a member of the WTO. First way principally has given to 'original members' at the time of establishment of the WTO. By accepting the terms of the WTO Agreement and Multilateral Trade Agreements, 123 countries (original members) became Members in accordance to Article 11:1 of the WTO Agreement. The second way is set out in Article 12 of the WTO Agreement. In case of Kazakhstan, the second way of accession has taken place.

Pursuant to the Article 12:1, an applicant must accept the terms of WTO Agreement and Multilateral Agreements as well as it has to make binding market access commitments. Applicants according to the procedures of accession must submit a formal written request to a Director-General indicating its desire to accede (Article IX:I (d) Agreement on Agriculture, 2015). Kazakhstan party submitted the request for WTO accession on 29 January 1996. After the submission of the request, the next step is the establishment of the Working Party to deal with the application. Kazakhstan's accession Working party was founded in 6 February 1996. Membership for working Party is open to all members who have an interest. Pursuant to accession procedures Chairperson of the working party is appointed by consultations, conducted by the Chairperson of the General Council in cooperation with an applicant and working party members. Finland nationals were appointed as a Chairperson for Kazakhstan's Working Party, current Chairperson appointed in July 2012 is Ambassador Vesa Himanen (WTO, 'Status of Accession Working Party', 2015). At the beginning of the Kazakhstan accession, Chairpersons have always been actively engaging and meeting with representatives of Members and Kazakhstan in various formats providing assistance in resolving complex issues.

In accordance with procedure rules, candidate is required to submit a memorandum, which generally called 'tell-us-about-yourself' (Van de Bossche and Zdouc, 2013: 110). It means that an applying state has to report in detail all aspects of its current trade and economic policies providing all relevant statistical data in a Memorandum. Working Party principally deals with the request and the matters represented in a Memorandum (Shukurova, 2013). Therefore, Memorandum must be scrutinized comprehensively on the consistency of regimes with the WTO rules. Furthermore, on this stage, two main stumbling blocks can appear: the first is adopting

laws and regulations that fully compliant with WTO disciplines; the second is the collection of relevant documents, additional questions and replies. These procedures can be time-consuming and sophisticated for both, candidate state and the Working Party. At the same time, Applicant's current tariff schedule in the harmonized system (HS) nomenclature meant to be submitted.

If the examination of trade and economic policies of applicant has a satisfactory progress, it allows flow to the second stage of accession, which is the bilateral agreements and negotiation of market commitments. This stage is generally known as 'work-out-with-us-individually-what-you-have-to-offer'. An applicant offers negotiation package for each member of the working party and applicant must negotiate with them individually. Participants must exchange equal concessions. Most of applicants face increasingly lengthy and complex challenges in this part, and Kazakhstan party is one of them. This is due to unequal bargaining power of the developed and developing countries. Thus, applicants bind tariffs on agricultural goods and non-agricultural goods. In accordance with the World Bank review, the level of market access commitments and concessions required from candidates is much higher compare with the early demands of the GATT (Cattaneo, 2009). For example, acceding countries are obliged to incur additional liabilities that go outside the GATT provisions or so-called 'WTO plus' requirements' (Ya Qin, 2003). Furthermore, countries with transition economies are proposed to join multilateral agreements such as Agreements on Government Procurement (Selivanova, 2005: 12). The outcomes of negotiations and market access commitments will be examined in the meeting of Working Party. Kazakhstan's Working Party meetings have been held 19 times the last one was in July 2014 (WTO Newsletter, 2018).

Subsequently, the third stage of accession will be started. The starting point is the submission of the 'Working Party Report', 'Draft Protocol of Accession', 'Draft of Goods and Services Schedule'. This stage is commonly recognized as a 'let-us-draft-membership-terms'. The package of documents is submitted to the Ministerial Conference or General Council. Kazakhstan's accession Draft Working Party reports were revised for consideration eleven times (WTO, 'Status of Accession Working Party', 2015). Consequently, final stage of the accession pursuant to Article 12:2 of the WTO Agreement, Ministerial Conference shall approve the agreement by two-thirds majority of the Members of the WTO.

## Discussion

### *Bilateral agreements trade in goods and services*

Accordingly, the main achievement is that Kazakhstani government has concluded 29 bilateral agreements (Investment Climate Statement-Kazakhstan, 2013) on goods ('The current state of negotiations', 2015). Within 2013, negotiation rounds on free trade have been held with Vietnam and Indonesia; bilateral negotiations with Ukraine suspended temporarily due to the political instability in that country ('The current state of negotiations', 2015). Furthermore, ultimately after the long negotiation process, agreement 'Enhanced Partnership and Cooperation' was signed between EU and Kazakhstan 'on 9 October 2014 in Brussels (EU-Kazakhstan Enhanced Partnership and Cooperation Agreement, 2014). The agreement ensures improved regulatory environment for the economic operators in trade in services, establishment of companies and operation, capital movement, government procurement and intellectual property. As a result of bilateral negotiations, the average level of customs tariff constituted 7.9 %. Inter alia, for manufactured goods and agricultural products tariffs are 6.5% and 13.2% respectively (Report Minister of Economic Integration, 2013: 7). The results of these negotiations allow protecting domestic products from foreign competition with imported products, also help to develop non-extractive industries.

In addition to bilateral agreements on goods, 15 bilateral agreements on services were deposited with the Secretariat in 2012 (The current state of negotiations, 2015). These negotiations were conducted in 12 major sectors, which would play vital role in the development of the economy. Negotiations on telecommunications and financial sector would be an appropriate illustration for that. For instance, after 2,5 years of the accession, 49% of foreign limit ownership will be removed for telecommunication companies, providing long-distance and international calls (exception state-owned 'Kazakhtelecom' company) (Report Minister of Economic Integration, 2013: 7). It would contribute positively to the increase of competition in the telecommunication market. Additionally, after 5 years of accession, it will be allowed to establish direct branches of foreign banks and insurance companies. However, special mandatory conditions will be imposed to ensure financial market stabilization (Report Minister of Economic Integration, 2013: 7). Such conditions could become a minimum amount of assets of parent companies

and minimum size of deposits of population. The outcomes of the service negotiations added to the Consolidated Draft Service Schedule and, therefore, were verified by the Signatory members and envisaged in December 2014 (WTO Newsletter, 2018).

### *Negotiation on agriculture support*

As stated in Article III of the SCM Agreement, the prohibition on export subsidies applies to agricultural export subsidies with exception provided in the Agreement on Agriculture. Thus, under negotiation process of WTO, the Agreement on Agriculture, Article IX requires Member countries to minimize the export subsidies. Due to the remoteness from major agricultural markets and waterway transport routes, Kazakhstani government continues to subsidize rail transport facilities for agricultural products. Average subsidies for transport facilities on agricultural goods constitute around 9-15 US dollars per ton of agricultural products (Abdimoldaeva, 2010). Article IX:I (d) clearly sets out that export subsidies on the costs of international transport and freight are subject to the reduction (Article IX:I (d) Agreement on Agriculture, 2015). Accordingly, Kazakhstani government has concluded the agreement to be bound on export subsidies at zero upon accession (Kazakhstan accession negotiations make incremental progress but major questions unresolved, 2013). However, the issue on domestic support has remained contentious.

### *Comprehensive legislation changes*

Another core outcome is the modification of national laws in conformity with the WTO standards. Modifying and adapting national laws and practices of foreign economic activity regulation in accordance with the WTO standards is essential for applicants and the most difficult one. Government of the RK adopted the 'Order No 56, 12 January 1996' on adoption of 25 new laws and re-drafting of 13 laws (Salamatov and Gubenco, 2013:11). For this purpose, during 2004-2011, substantial changes were made to the legal framework of Kazakhstan, namely in the areas of customs regulation, intellectual property, technical regulations and some others. From 2011 until now, the legal framework has improved considerably, taking into account the legal base of the Eurasian Economic Union. Overall changes occurred in more than 50 Kazakh laws since 2004 (Report Minister of Economic Integration, 2013: 2). Besides, ten Agreements signed under the Customs Union which relevant to foreign trade.

Modifications in legislation can be divided into three main parts:

- Changes that help to improve the investment and business climate, by simplifying procedures for establishing and maintaining business;

- changes in the light of sensitive sectors of the economy that require transitional period after the accession to the WTO;

- changes which aim at liberalization of tariffs, reducing the trade barriers;

Fundamental changes have taken place, as an illustration, in the following laws: (Report Minister of Economic Integration, 2013: 3-7)

- Law of the RK № 214-III 11 January 2007 'On Licensing' (with changes 07.11.2014). Purpose of the alteration was to simplify licensing procedures in Kazakhstan. For instance, as a result of the changes, time for issuing licenses on import of goods reduced from 30 days to 15 days; mandatory state licensing for medical products and ethyl alcohol and etc. was cancelled.

- modifications in Customs, Tax, Administrative Codes of the RK in order to make this sphere of activities more transparent and simplistic. Five new laws in Intellectual Property were adopted.

- the law of the RK № 603-II 9 November 2004 'On Technical Regulation' (with last changes 29.12.2014). This law (2004) facilitated the work on harmonization of national standards with international standards. Hence, conducted work allows enhancing the national technical regulation system and increasing consumer preferences towards Kazakh products in domestic market as well as abroad. Overall, 33 new modifications were adopted related to the technical regulation.

- significant changes were carried out to bring the sanitary and phytosanitary measures in conformity with the WTO requirement such as the ratification of 13 International Agreements on SPS. In accordance with applied modifications, by today, a number of potential activities were held by the Government to improve the material and technical basis for veterinary, food safety. For instance, 48 modular veterinary laboratories started to work in 2013, and 78 more were yet to come. These kinds of measures would contribute to increase the credibility of the Kazakh products in foreign market, also ensure the safety and quality of products.

- as mentioned above 10 agreements were signed under the EEU (Customs Union). 6 July 2010, the Customs Code of the Customs Union came into force. It is a key legal instrument regulating the customs administration and procedures (Ceysenns, 2006). In particular, it sets out the obligations and rights of national custom authorities, exporters and importers. One of the affirmative outcomes was

in the field of railway transport under Customs Code (Ceysenns, 2006). This allowed for national manufacturers to export products through Russia to Western Europe at the same tariff rates as applied to Russian exporters (Report Minister of Economic Integration, 2013:7). Particularly, it is beneficial for petroleum exporters to minimize export expenses.

#### *Barriers on conclusion of accession*

Despite the successful negotiations, there are still unresolved issues on accession that can be classified as below:

The high tariff rates, TBT, SPS;

Sensitive sectors of economies as domestic agriculture support, VAT preferences, and TRIMS.

The reason for the first category is mainly linked with the formation of the Customs Union with Russia, Belarus. Article XXIV of the GATT provides the general rules for formation and functioning of customs unions, free trade zones and other state regional associations (General Agreement on Tariffs and Trade 1994, Article XXIV). Such agreements and unions promote free trade and do not lead to the creation of barriers to trade with Members. Hence, the main aim of the EEU is to provide free movement of goods, services, capital and labor, also pursue coordinated, harmonized, single policy in the sectors determined by the Treaty (Treaty on the Eurasian Economic Union, 2014: art 4). However, the economic integration of Kazakhstan with Russia and Belarus led to the difficulties on conclusion of accession. The membership automatically impacted and entangled the process of Kazakhstan's accession to the WTO (Tarr, 2012). Therefore, in the following paragraphs the emerged barriers will be analyzed.

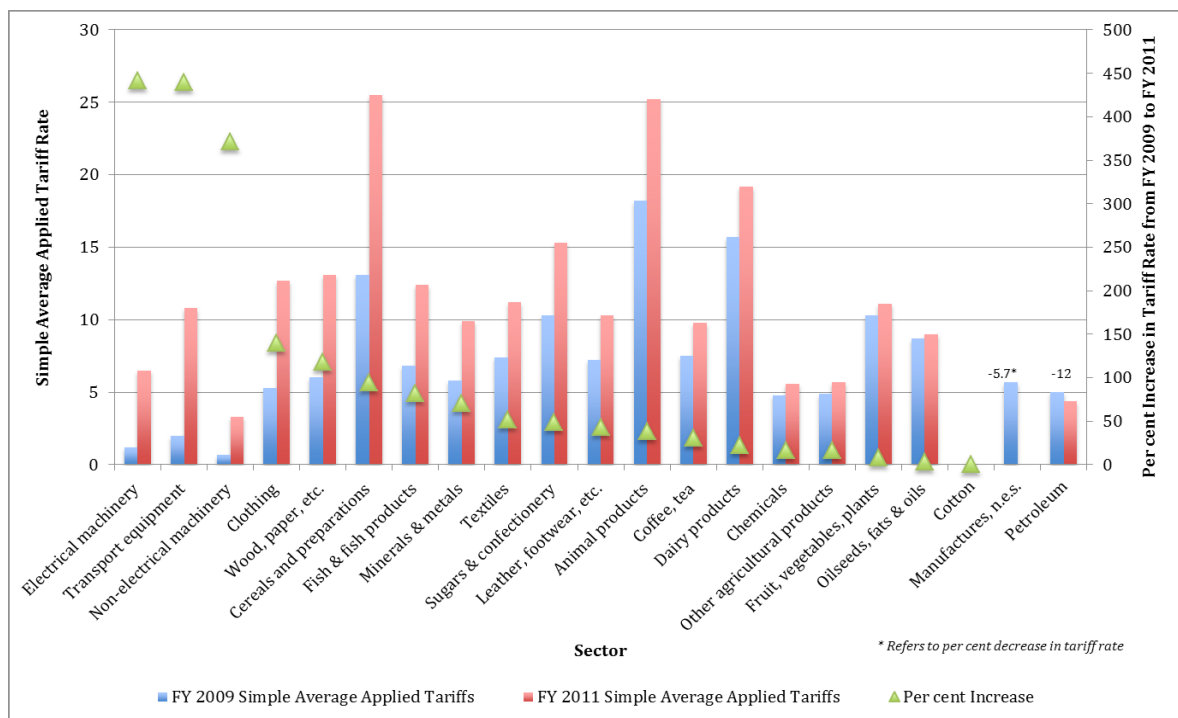
#### *Tariff rate barriers*

The first stumbling block for the accession is the sudden change of the tariff adjustment in the draft schedule. It has occurred due to the tariff rate divergence between bilateral market access agreements of Kazakhstan with other WTO member countries and the acceptance of the common external tariff of the EEU (Heal, 2014:4). WTO's negotiating parties raised objections to Kazakhstan's membership to the EEU, and its adoption of new tariff with Russia and Belarus (Heal, 2014:4). The following graph demonstrates the tariff alterations after the Customs Union.

Tariff adjustment modifications differ significantly by sector. The main sectors such as electrical machinery, transport equipment, clothing, wood had a large experience compared to other sectors. It can be seen from the graph, that tariff lines decreased merely in two sectors, namely manufacturers and petroleum, 5,7 % and 12%

respectively. During the negotiation of the EEU tariff regime, Kazakhstan and Belarus mutually and effectively agreed to adopt the tariff profile of the Russian Federation with some exceptions. As a result, Kazakhstan had the tariff rate increase on some 5400 tariff lines. Kazakhstani government could retain some exceptions on more than 400 tariff lines, that contain raw materials for chemical, non-produced raw materials, light manufacturing, wood processing industries, some medical drugs

and medical equipment. Other tariff exemptions from transport means such as international freight, rail wagons, goods imported by international financial institutions (EEU Commission, 2009). Overall, Kazakhstan underwent a double increase in tariff lines, the simple mean *Ad valorem* Equivalent tariff rates increased from 6,78 % to 12,31% and the weighted mean *Ad valorem* grew up from 5,52% to 12,66% (indicative tariff protection levels) (Jandosov, 2011).



**Figure 1** – Tariff changes in Kazakhstan pre- and post-Customs Union for certain tariff lines.

Source: ESCAP calculations based on WTO, World Trade Profiles (Heal, 2014:5).

It is important to note that prior to the establishment of the EEU, Kazakhstan had lower tariff rates compared to Russia and Belarus (Heal, 2014: 4). Analysis demonstrated that the MFN rates were 6,45 % as a simple mean and 4,30% as a weighted mean (EEU Commission, 2009: 9). Moreover, comparative analysis shows that the level of tariff protection in Kazakhstan before the membership of the CU was roughly proportionate with the level of middle and high-income countries (Jandosov, 2011:11). After the accession to the CU, tariff protection level has increased significantly. Approximately, this level is now even higher compared to low and middle-income countries.

These tariff changes could be affected by the trade policy differences of Russia and Belarus on the one hand, and of Kazakhstan on the other hand. According to the World Bank assessment, tariffs that doubled in the Kazakhstan's tariff's line had detrimental consequence on trade between non-EEU countries. For instance, the increase in tariffs *vis-à-vis* with non-EEU countries resulted in the increase in imports from Russia and replacement of imports from Europe. To conclude, tariffs on around 5000 out of a total of 11,000 tariff lines reduced by 1 and 2 % due to the Russian's accession to the WTO (Heal, 2014: 6). However, tariff reduction has not reached the degree they were at before the establishment of the CU.

*Non-tariff barriers*

Apart from tariff measures, there are other measures caused the significant impediments to accession process. In order increase transparency and predictability, Kazakh government implemented potential arrangements to harmonize non-tariff measures with European Union and other countries (Heal, 2014: 6). As known, the reduction of non-tariff measures is one of the main requirements of the WTO accession, but after accession to the EUU, Kazakhstan adopted the EUU standards and regulations that are closer to Russian Federations technical regulations with the increased protectionism (Heal, 2014: 7). As a good illustration, in 2012 the EUU applied a regulation on emissions from compounds used as solvents in glues in furniture items, which imposed standards twice as stringent as those required by the EU. This regulation prepared by the Russian Health Ministry and applied across the EUU. Licensing requirements were also subject to modifications, for example, metals, stones and items of cultural value. The crucial problem in EUU with the SPS and TBT standards is that they derives from the Soviet Union based regulation system (Tarr, 2012: 1). However, after the accession of Russia to the WTO, non-tariff measures required the liberalization. Thus, in Kazakhstan has also begun the transition process from mandatory standards to voluntary.

*Advantages*

Initially, the local community welcomed the ambition of the Government on establishing open economy and open society. It is estimated that after Kazakhstan's accession, the country will gain about 6.7% of the value of Kazakhstan consumption in the medium run and up to 17.5% in the long run (Jensen, 2007). However, currently the membership is a subject of discussion in terms of advantages and disadvantages.

By the special request of Kazakhstan, World Bank assessed the possible advantages of the WTO accession for Kazakhstan (Jensen, 2007). One of the notable advantages is that Kazakhstan will have an access to the markets of non-CIS countries. Therefore, relying on non-discriminatory market access will facilitate export of Kazakh products (petroleum, wheat). For instance, export of wheat through non-CIS countries to Europe will cost comparatively (Wheat export by country, 2018) less for Kazakhstan. Secondly, tariff reduction on goods and services will increase diversification of goods and services in local market. Thus, it could strive local manufacturers to increase the quality of

produced goods in order to compete with foreign importers. Next advantage is that the elimination of local content requirement will positively affect on the investment climate (Additional considered advantages could be found in World Bank Data). Subsequently, the foreign investors will be stimulated and interested in investing their capital, which might bring new wave of opportunities. Furthermore, the presence of Government Procurement, Import License and Procedures agreements may prevent from the potential corruption in governmental institutions. All these advantages fundamentally will lead to the diversification of the economy by reducing the reliance on natural resources, which is highly important for current situation in Kazakhstan.

*Disadvantages*

While the above-mentioned advantages certainly buttress Kazakhstan's accession to the WTO, there are a number of negative repercussions and concerns that the Kazakhstani government must address in order to minimize the drawbacks of the trade liberalization. Agreeing with the position of Sagadiyev (Sagadiyev, 2013: 1), the lack of competitiveness of domestic manufactures will certainly have detrimental influence on national economy. Virgin domestic products cannot definitely compete with cheaper and higher qualified foreign products that have already proved their own credibility. In this regard, benefits are distant and long-term, while losses may affect quickly and detrimentally. Therefore, government should carefully define strategically important sectors and protect them in order to avoid jeopardy of national economy.

Thus, there might be some proposals from the economic prospective in order to conclude the negotiation. However, from my point of view, the most correct solution for a smooth adoption of membership is a discreet acceptance of WTO standards. No importance is that this process can take another ten years to equate with the benchmarks of WTO that are very much required at the moment. The importance is that Kazakh government should strike a balance between EEU and WTO rules. Government must take into account the untimed decision of Kyrgyz Republic in order to escape undesired repercussions.

**Conclusion**

From the critical analysis that was carried out, it is possible to conclude that the findings of this research have shown that substantial work on accession has been conducted. In particular, between



2004-2010 the Kazakh government made substantial progress in the field of modifications in national laws, bilateral agreements on goods and services. These advancements have brought WTO accession closer. In the second phase of the accession process the negotiations reached a deadlock. This was linked with the Kazakhstan's membership to the Customs Union. New issues subsequently emerged which the WTO did not address before. With respect to the subsidies, the continuous support of the agriculture industry for transition countries such as Kazakhstan was indispensable. There was the possibility that the deal on the removal of export subsidies and the reduction of domestic subsidies could have an unfavorable influence on agriculture manufactures. The decision on export subsidies has been made, under the agreement, Kazakhstan accepted to be

bound to halt export subsidies, while domestic subsidies still remained in the line of unresolved issues. The unsettled questions demanded a new approach and a new set of measures. This period of time required patience and persistence from both the Working Party and the Kazakhstan government in order to complete the course of accession. Furthermore, the collaboration of all interested Member countries also was essential, technical and legal support by the WTO bodies would assist the accession.

By focusing on the specific accession questions, this essay would provide a deep understanding of accession problems, which mostly developing CIS countries face. The findings of this research give future implications for lawyers specializing in WTO law.

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