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Kazakhstan and Tajikistan: WTO Accession and U.S. Trade Relations

Overview

On November 30, 2016, Kazakhstan acceded to the World Trade Organization (WTO). Kazakhstan's WTO commitments include binding tariffs at an average of 6.1% and adopting all WTO rules and agreements. Tajikistan, another eastern-bloc country, became a WTO member in 2013.

WTO rules require that all members extend nondiscriminatory, most-favored-nation (MFN) tariff treatment "immediately and unconditionally" to other WTO members. The United States currently grants Kazakhstan and Tajikistan temporary MFN (in U.S. law called normal trade relations or NTR) status under Title IV of the Trade Act of 1974, the so-called Jackson-Vanik amendment.

Congress will need to enact legislation to provide Kazakhstan and Tajikistan permanent NTR (PNTR) treatment if the United States is to benefit fully from the terms of its WTO membership, including enjoying Kazakhstan's tariff concessions and engaging in WTO dispute settlement procedures with Kazakhstan. Other eastern-bloc WTO members that have United States PNTR status are Albania, Armenia, Bulgaria, Georgia, Kyrgyzstan, Moldova, Mongolia, Russia, and Ukraine. Besides Kazakhstan and Tajikistan, Title IV still applies to Azerbaijan, Belarus, Cuba, North Korea, Turkmenistan, and Uzbekistan.

WTO Membership Status

How does a prospective member join the WTO? Any state or customs territory that has full autonomy over its trade policies may join ("accede to") the WTO by agreeing to its terms. This includes, first, agreeing to the body of rules and agreements that comprise the WTO. Second, a prospective member must satisfy specific market access conditions of other WTO members on an individual basis, which involves engaging in a series of bilateral negotiations. These bilaterally negotiated commitments are then extended to all members based on the WTO's MFN principle. Third, a WTO working party drafts the candidate member's "protocol package" along with a report on the actions the country will take to bring its trade regime into conformity with WTO obligations. This package is presented to the entire WTO membership for approval. Membership requires a two-thirds majority vote of all WTO members. In many cases, as with Kazakhstan, the prospective member's own parliament or legislature must ratify the agreement before membership is effective.

How long has Kazakhstan been engaged in the accession process? Kazakhstan has undergone an almost 20-year

accession process—the longest of any WTO member. The country submitted an application in January 1996, a year after the WTO was founded. In recent years, the delay was attributed to the formation of the Eurasian Economic Union (EAEU), a customs union with Russia and Belarus, and the need to harmonize the tariffs and customs laws of the EAEU countries.

In approving Kazakhstan's accession protocol we are concluding almost two decades of negotiations. Moreover, we are delivering a result which will have a major economic impact, a major systemic impact, and a major human impact. Because, crucially, the benefits of accession can help to create jobs, raise incomes, and improve people's lives. *WTO Director-General Roberto Azevêdo*

Kazakhstan/Tajikistan-U.S. Trade Relationship

The United States currently grants Kazakhstan and Tajikistan temporary NTR status under Title IV of the Trade Act of 1974, the so-called Jackson-Vanik amendment. PNTR status may only be granted to Kazakhstan and Tajikistan if Congress approves it through legislation.

What is the "Jackson-Vanik" Amendment? Congress enacted the so-called Jackson-Vanik Amendment (Title IV of the Trade Act of 1974) to respond to strict emigration policies implemented in the 1970s by the Soviet Union and other communist countries during the Cold War. Title IV requires the President to deny PNTR (i.e., MFN) status to any country to which the United States did not provide this treatment on the date of enactment (January 3, 1975). At the time, this included the Soviet Union, China, and other communist-led regimes. Congress has since passed legislation to grant PNTR to several of these countries. Russia was the latest country to receive PNTR status in December 2012 (P.L. 112-208).

Title IV denies PNTR status if a country: (1) denies its citizens the right or opportunity to emigrate; (2) imposes more than a nominal tax on emigration documents, visas, or other paperwork necessary for emigration; or (3) imposes more than a small tax or fine because a citizen wants to emigrate.

Title IV prohibitions also extend to participation in any US government program of credits, credit, or investment guarantees. Before a country can receive temporary trade status, the country must have concluded a bilateral trade agreement (BTA) with the United States that provides for,

among other things, reciprocal extension of NTR treatment. Congress must approve the BTA agreement through a joint resolution.

How can the President provide countries with temporary normal trade relations (NTR) status? The President may temporarily remove the restriction in Title IV by two methods: 1) he/she may determine that a country is not violating any of these conditions; or (2) waive the full compliance requirement if he/she determines that a waiver would substantially promote its objectives (i.e., freedom-of-emigration). Both methods require regular reporting to Congress and an annual renewal process that is subject to a congressional joint resolution of disapproval.

Why does Title IV apply to Kazakhstan and Tajikistan? Kazakhstan and Tajikistan became independent countries in 1991 due to the breakup of the Soviet Union. The United States signed a bilateral trade agreement with Kazakhstan in May 1992 and with Tajikistan in July 1993. Then-President George H.W. Bush extended temporary NTR treatment by waiving the requirements of Title IV for both countries beginning in June 1992 (Executive Orders 12809 and 12811, respectively). In December 1997, then-President Clinton informed Congress that both countries were in full compliance with the provisions of Title IV.

To what other countries does Title IV still apply? Title IV still applies to Azerbaijan, Belarus, Cuba, North Korea, Turkmenistan, and Uzbekistan.

What happens if Congress does not grant PNTR status to Kazakhstan and/or Tajikistan? If a WTO member determines that it cannot comply with the application of PNTR status, or any other WTO rule toward a new WTO member, it can “opt out” of its obligations toward that member by invoking the non-application provision (Article XIII of the WTO Marrakesh Agreement). A WTO member that opts out of its obligations is also excluded from the trade concessions granted by the new member. The United States currently invokes non-application with regard to Tajikistan, which acceded to the WTO in 2013, but has not officially invoked non-application to Kazakhstan as of this writing.

What relevant legislation has been proposed? No legislation has been proposed in the 115th Congress to date. In the 114th Congress, S. 3413 / H.R. 4219 would have extended nondiscriminatory treatment to the products of Kazakhstan. H.R. 3400 would have done so for products of Kazakhstan, Tajikistan, and Uzbekistan. Uzbekistan began the WTO accession process in 1994, but the process has not been concluded to date.

U.S. Trade by the Numbers

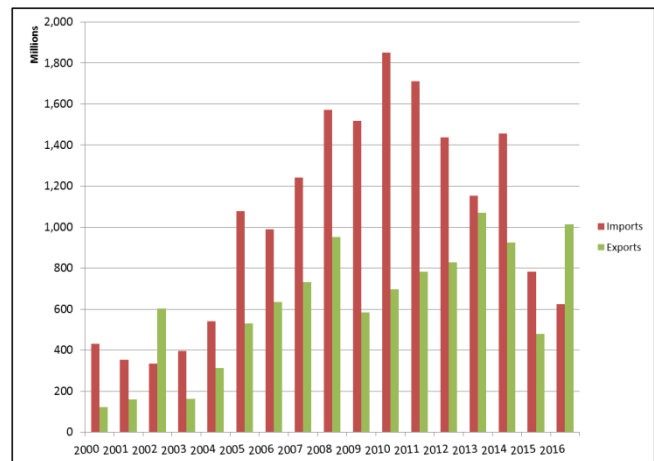
The United States exported about \$10.6 billion in merchandise to Kazakhstan in 2016, and imported about \$625 million. Top U.S. exports included communications satellites (\$439 million), chicken cuts (\$71 million), and parts of oil and gas field machinery (\$56 million), and combine harvester-threshers (\$17 million). Major U.S. imports from Kazakhstan included petroleum oils (\$302 million), uranium ores and concentrates (\$123 million),

ferrochromium (\$40 million), enriched uranium (\$26 million), refined lead (\$20 million), and tantalum (\$19 million).

As of 2015 (latest data available), total world foreign direct investment (FDI) stock in Kazakhstan amounted to \$120 billion. According to the most recent international United Nations data (for 2012), the United States had no FDI flows to Kazakhstan, however, U.S. data could have been withheld to avoid disclosure of data on individual companies.

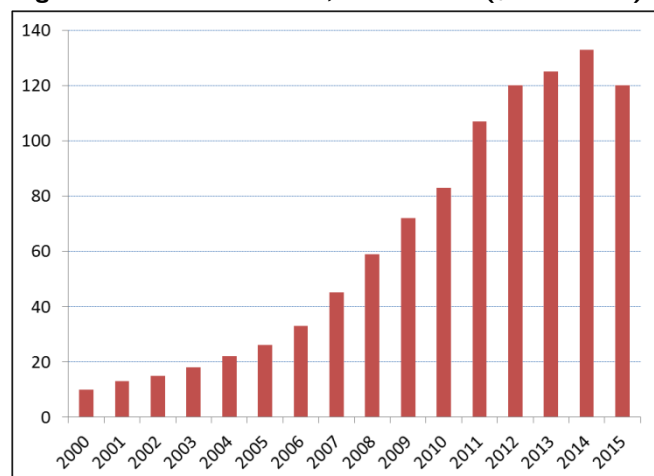
Tajikistan is one of the least-developed countries in the region, with a per capita GDP of just over \$1,100. At present, it has a limited trade relationship with the United States, with U.S. exports of \$18.8 million and imports of \$31.1 million in 2015.

Figure 1. U.S. trade with Kazakhstan (\$US)



Source: CRS chart based on U.S. Census Bureau Data.

Figure 2. World FDI Stock, Kazakhstan (\$US billions)



Source: CRS chart based on United Nations Conference on Trade and Development data.

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