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Proposal for a

COUNCIL DECISION

**establishing the position to be taken by the European Union within the General Council
of the World Trade Organization on the accession of the Republic of Kazakhstan to the
WTO**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

Members of the World Trade Organization (WTO) and the Republic of Kazakhstan have reached the concluding stage of an agreement on the terms for the accession of the Republic of Kazakhstan to the organization. This comes after 20 years of negotiations, which began when the Republic of Kazakhstan submitted its application to join the WTO in 1996. A summary of the terms of the accession is set out below under point 5.

In submitting the terms of Accession of the Republic of Kazakhstan to the WTO for approval by the Council, the Commission considers these terms as representing a balanced and ambitious package of market opening commitments, which will bring substantial benefits to the Republic of Kazakhstan and its WTO trading partners alike.

- **Consistency with existing policy provisions in the policy area**

Multilateralism is at the heart of EU's trade policy and the EU supports the WTO accession of third countries on right terms.

- **Consistency with other Union policies**

Consistent with the EU external action, the proposal will anchor Kazakhstan in the multilateral trading system and pave the way for the implementation of a new Partnership and Cooperation Agreement between Kazakhstan and the EU.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

A Council Decision approving the terms of the Republic of Kazakhstan's accession to the WTO is required by Article 218(9) of the Treaty of the Functioning of the European Union the TFEU, before the EU can formally support that approval in the WTO.

- **Subsidiarity (for non-exclusive competence)**

Not applicable. EU exclusive competence for trade.

- **Proportionality**

An Article 218(9) Council Decision is required.

- **Choice of the instrument**

An Article 218(9) Council Decision is required.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

Not applicable

- **Stakeholder consultations**

Not applicable

- **Collection and use of expertise**

Not applicable

- **Impact assessment**

Unnecessary. An Article 218(9) Council Decision is required.

- **Regulatory fitness and simplification**

The proposal is not linked to REFIT

- **Fundamental rights**

The proposal has no consequences for the protection of fundamental rights.

4. BUDGETARY IMPLICATIONS

The proposals have no budgetary implications.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Not applicable

- **Detailed explanation of the specific provisions of the proposal**

Summary of terms of accession

Schedules of commitments

Goods (overall)

The Tariff Schedule of Kazakhstan consists of 11,812 national tariff lines (at 10-digit level). There are 2,441 agriculture tariff lines, and 9,371 non-agriculture tariff lines.

Kazakhstan will complete the implementation of its bound rate commitments in 5 years from its date of accession (2020). For the tariff lines that have an AdValorem rate (10,602 out of the 11,812) the average final bound rate (FBR) in the accession schedule of Kazakhstan is 6.9 %.

The rates are in many cases lower than those of the Eurasian Economic Union. Kazakhstan intends to discontinue the exemptions on which they are based and to align its rates with those of the Union. The process will start no earlier than three years and six months after the full implementation of final bound rates and be based on a specific mechanism designed in the Working Party Report (see below).

Tariffs for Industrial Goods

- The average FBR for non-agricultural products is 6%.
- The highest averages of around 8%-10% are observed in furniture, glass, ceramics.
- Kazakhstan concedes duty-free treatment for Pharmaceuticals and Information Technology products, binding the final bound rates for these products at 0%.
- The highest tariff peaks are at 15% for certain non-ferrous metals and furniture.

- There are Non-Ad-Valorem FBR commitments for some industrial goods: specific rates for textiles and footwear, and compound rates for used passenger cars.

Tariffs for Agricultural Goods

- There is an AdValorem commitment for 71% of Kazakhstan agriculture products schedule. The average FBR commitment for those tariff lines is 8.3%.
- In agriculture, the Non-Ad-Valorem commitments consist of specific, mixed and compound FBR applicable mainly to poultry, cheese, confectionery, wine, spirits, fruit juices and rice.

Export duties

The Republic of Kazakhstan has undertaken commitments to remove or reduce and not to introduce new export duties for 370 products of interest to EU exporters. Moreover, in the event of unification of export duties within the Eurasian Economic Union, Kazakhstan's rates will be reduced to the lowest ones bound by either Kazakhstan or the Russian Federation

Services

The Republic of Kazakhstan will undertake market access and national treatment commitments in a broad range of services sectors, including professional, computer and other business services, communication services, construction services, distribution services, educational services, environmental services, financial (insurance and banking) services, health and social services, tourism services and transport services.

Protocol commitments

In the final, multilateral stage of the accession process, WTO Members collectively sought to ensure the basic compatibility of the republic of Kazakhstan's trade laws and institutions with WTO rules and agreements, setting these out in the Protocol of Accession and Working Party Report. Against this background, the Republic of Kazakhstan has undertaken standard Working Party Report's commitments and renounced to any transitional periods, except as regards the WTO Agreement on Trade Related Investment Measures.

The following issues are of particular interest to the EU:

Access to pipelines

Foreign invested juridical persons of Kazakhstan, producing crude oil and gas in accordance with the national legislation of Kazakhstan, will be provided non discriminatory access to pipelines which are partly or fully owned and regulated by the Government in accordance with the national legislation within the available remaining capacities of such pipelines, based on existing rights of access.

State-owned and State-controlled Enterprises, Enterprises with Special and Exclusive Privileges

From the date of accession such enterprises, when engaged in commercial activity, will make purchases, which are not intended for governmental use, and sales in international trade in a manner consistent with applicable provisions of the WTO Agreement. These enterprises will make such purchases and sales in accordance with commercial considerations, including price, quality, availability, marketability, and transportation, and will afford enterprises of other WTO Members adequate opportunity in conformity with customary business practice, to compete for participation in such purchases or sales.

Pricing policies

From the date of accession, Kazakhstan will apply price controls on products and services in a manner consistent with the WTO Agreement, taking into account the interests of exporting Members. Price control measures will not be used for purposes of affording protection to domestic production of goods, or to impair the services commitments of Kazakhstan.

Future alignment of Kazakhstan's and Eurasian Economic Union's tariff rates

A special mechanism has been established to ensure that appropriate compensation to the WTO members concerned takes place before the tariff rates are aligned. In case the agreed compensation is not applied by the Eurasian Economic Union, the rates in Kazakhstan's schedule will continue to apply.

Customs Valuation

From the date of accession, Kazakhstan will apply its customs valuation laws, regulations and practices, including those to prevent under valuation of goods, in conformity with the WTO Agreement, including Article I of the WTO General Agreement on Tariffs and Trade 1994 and the WTO Agreement on Implementation of Article VII of the GATT 1994. Accordingly, Kazakhstan will not use any form of minimum value, such as reference prices, or fixed valuation schedule for customs valuation of goods.

Sanitary and Phytosanitary Measures

Kazakhstan has committed to negotiate and mutually agree on bilateral veterinary certificates with a third country for the goods subject to veterinary control imported into the territory of Kazakhstan until Eurasian Economic Union veterinary certificates with the third country for such goods enter into force (such certificates have been negotiated between the EU and Kazakhstan and should enter into force on 15 July 2015). Moreover, in implementing Eurasian Decisions, Kazakhstan will neither require an establishment to be included in a Register nor require a successful audit as a pre-condition for importation into Kazakhstan of low-risk products. Furthermore, in cases in which no mandatory veterinary or phytosanitary, or sanitary epidemiological and hygienic requirements had been established at Eurasian or national level, Kazakhstan will apply the relevant international standards, guidelines and recommendations in accordance with the WTO SPS Agreement. In cases where an SPS measure in force is not based on international standards, where they exist, the relevant international standards or parts thereof will be applied in Kazakhstan, unless a scientific justification of such measure is provided in accordance with the WTO SPS Agreement.

Government Procurement Agreement

Kazakhstan intends to join the WTO Agreement on Government Procurement. Kazakhstan will request the status of an "observer" to the Agreement upon accession and submit an application for membership with a coverage offer within four years after accession to the WTO.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 91, 100(2) and the first subparagraph of Article 207(4), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) On 29 January 1996 the Government of the Republic of Kazakhstan applied for accession to the Marrakesh Agreement establishing the World Trade Organization (WTO), pursuant to Article XII of that Agreement.
- (2) A Working Party on the accession of the Republic of Kazakhstan was established on 6 February 1996 in order to reach agreement on terms of accession acceptable to the Republic of Kazakhstan and all WTO Members.
- (3) The Commission, on behalf of the Union, has negotiated a comprehensive series of market opening commitments on the part of the Republic of Kazakhstan which satisfy the Union's requests on tariffs, on export duties and on trade in services.
- (4) These commitments are now embodied in the Protocol of Accession of the Republic of Kazakhstan to the WTO.
- (5) Accession to the WTO is expected to make a positive and lasting contribution to the process of economic reform and sustainable development in the Republic of Kazakhstan.
- (6) The Protocol of Accession should therefore be approved.
- (7) Article XII of the Agreement establishing the WTO provides that the terms of accession are to be agreed between the acceding Member and the WTO, and that the Ministerial Conference of the WTO approves the terms of accession on the WTO side. Article IV.2 of the Agreement establishing the WTO provides that in the intervals between meetings of the Ministerial Conference, its functions shall be conducted by the General Council.
- (8) Accordingly, it is necessary to establish the position to be taken by the Union within the General Council of the WTO on the accession of the Republic of Kazakhstan to the WTO,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the European Union within the General Council of the World Trade Organization on the accession of the Republic of Kazakhstan to the WTO is to approve the accession.

Article 2

This Decision shall enter into force on the day of its adoption.

Done at Brussels,

*For the Council
The President*