KAZAKHSTAN

In 1997, the U.S. trade surplus with Kazakhstan was $142 million, an increase of $118 million from the $24 million trade surplus in 1996. In 1997, U.S. merchandise exports to Kazakhstan were $258 million, an increase of $120 million from the level of U.S. exports to Kazakhstan in 1996. U.S. imports from Kazakhstan in 1997 were $116 million, an increase of $2 million from the level of imports in 1996.

Overview

Kazakhstan is in the midst of its transition to a market economy. Key reforms underway include completing Kazakhstan's Privatization Program, creating a viable securities market, pension reform, modifying its trade regime so that Kazakhstan can join the World Trade Organization (WTO), consolidating the banking sector and improving Kazakhstan's investment climate.

The U.S. and Kazakhstan have several trade agreements in place, in keeping with U.S. trade policy of creating a legal framework for productive trade, investment and protection of intellectual property. There is a bilateral trade agreement between the two countries, which came into force in 1993. A bilateral investment treaty came into force in January 1994. An avoidance of double taxation treaty came into force in December 1996.

Over 95 American firms have established offices in Almaty, Kazakhstan's former capital and largest city. Major U.S. investors include Chevron, Mobil, Philip Morris, Oryx, and AES.

IMPORT POLICIES

The average weighted import tariff is approximately 12 percent. This is largely due to the fact that trade with Russia, Kazakhstan's major trade partner, is duty-free pursuant to the Customs Union Agreement. Merchandise from both CIS and non-CIS countries is subject to a value-added tax (VAT) of 20 percent at the time of importation. In addition, customs levies a 0.2 percent import processing fee, based on the declared value of the item.

According to the February 1997 law on state support for direct investment, imported goods--equipment, raw and other materials--can qualify for complete or partial exemption of duty if the goods are used as an investment in designated “priority sectors” of the economy. Priority sectors include infrastructure, agriculture, tourism and all imported goods related to activity connected with the construction of the new Kazakhstani capital at Akmola.

In April 1997, the Ministry of Finance announced that enterprises that import consumer goods used in industrial processing will be granted a three-month delay in paying VAT taxes. Of these companies, those that regularly import such items may be granted a one-year delay in paying VAT taxes.

Certain goods that are imported temporarily are exempt from payment of customs duties and taxes. These include transport vehicles, professional and office equipment, goods imported for demonstration purposes, shipping containers, and advertising materials. Such goods may remain in Kazakhstan for one year duty-free.

With some exceptions, all other goods may be imported temporarily for a period of two years under a partial duty exemption. The amount of duty payable is also equivalent to three percent of the duty chargeable for each calendar month. Goods not eligible for full or partial duty exemption are food products, industrial waste, and consumable materials.

Kazakhstan formed a customs union with Russia and Belarus in January 1995 with the Kyrgyz Republic formally joining in 1997. Under the provisions of the customs union, trade between these four countries is free of customs duties.

Customs Procedures

Kazakhstan's customs valuation rules largely conform to the GATT Valuation Agreement, and its tariff nomenclature is patterned after the World Trade Organization's harmonized system. Foreign firms can import some items for their own use duty-free. Article 22 of the 1994 Foreign Investment Law exempts from customs duties property imported by a foreign investor for the purpose of contributing it to the charter fund of a "foreign-shared enterprise" (defined as a Kazakhstani legal entity, such as a limited liability company, in which the foreign investor has an ownership interest). However, varying interpretations of Article 22 following the July 1997 changes to the foreign investment law have reduced investor confidence in this article.

U.S. companies have identified the cost of customs declarations to be an added cost of doing business in Kazakhstan. U.S. companies have also complained of a new requirement that they obtain a "transaction passport" to clear imported goods through customs. Ostensibly designed to stem the outflow of capital, the State Customs Department and the National Bank of Kazakhstan are now requiring importers to show copies of contracts and other documentation to prove the legitimacy and verify pricing on import/export transactions.

STANDARDS, TESTING, LABELING, AND CERTIFICATION

Government observance of old Soviet standards, testing, labeling, and certification requirements is uneven. Such requirements constitute a barrier when they differ significantly from U.S. and western standards. In November 1996, the U.S. National Institute of Standards and Technology signed a memorandum of understanding with the Kazakhstani Government to bring Kazakhstani metrology methods in conformity with international rules and practices.

GOVERNMENT PROCUREMENT

During ongoing negotiations to accede to the World Trade Organization, the Republic of Kazakhstan declared its intention to accede to the WTO's Agreement on Government Procurement. It is anticipated that the framework for government procurement now being developed will provide foreign bidders with enhanced access to government tenders, assurances of national and most-favored nation treatment, and international standards of transparency and public accountability.

LACK OF INTELLECTUAL PROPERTY PROTECTION

In 1992, the U.S. and Kazakhstan signed a bilateral trade agreement incorporating provisions on the protection of intellectual property rights (IPR). In anticipation of 1992, Kazakhstan acceded to the Paris Convention for the Protection of Industrial Property, the Patent Cooperation Treaty (PCT) and the Madrid Agreement Concerning the International Registration of Marks and joined WIPO. It has not, however, joined the major copyright agreements such as the Berne Convention for the Protection of Literary and Artistic Works or the Geneva Phonograms Convention. Kazakhstan has signed but has not ratified the 1997 WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT). In June 1996, Kazakhstan enacted a new law on copyright protection which includes sanctions for infringement.

Under the 1992 bilateral trade agreement, Kazakhstan agreed to bring its IPR regime up to world standards. Kazakhstan has fulfilled most of its obligations under the Trade Agreement, but still has steps to take, such as adhering to the Berne Convention. Under the bilateral trade agreement, Kazakhstan is required to afford full-term protection to preexisting foreign works and sound recordings, which it has yet to do. To secure full-term retroactive protection of U.S. copyrighted works, Kazakhstan needs to join and implement the Berne Convention, including Art. 18 of the Berne Convention by legislation or decree. Under the trade agreement, Kazakhstan is also obligated "to provide protection for sound recordings first fixed by their respective nationals or companies or first published in their national territory." This could be accomplished if Kazakhstan joins and implements the Geneva Phonograms Convention and ratifies and implements the WCT and WPPT.

Piracy of U.S. movies, computer software and audio-cassettes in Kazakhstan is reportedly extensive. To date, however, there have been no enforcement actions taken against anyone for IPR violations.

Kazakhstan is in the process of acceding to the World Trade Organization (WTO) and full implementation and enforcement of its bilateral IP commitments under the 1992 trade agreement with the United States would greatly assist this country in complying with the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs) on the date of its accession to the WTO.

SERVICES BARRIERS

Foreign insurance companies are limited to operating in Kazakhstan through joint ventures with Kazakhstani companies.

INVESTMENT BARRIERS

There is a severe lack of capital in domestic enterprises for servicing loans and to meet equity percentages in joint ventures. In addition, in accordance with the Constitution, foreign firms currently cannot purchase land. Firms can obtain leasing rights to land only through a domestic partner for a maximum of 99 years. Kazakhstani authorities have also often insisted that U.S. firms invest in social programs for local communities.

OTHER BARRIERS

Structural Barriers

These include a weak system of business law, a shortage of domestic capital to pay for U.S. goods, lack of an effective judicial process for breach-of-contract resolution, logistical difficulties of serving the Kazakhstani market, and an unwieldy and corrupt government bureaucracy.