

AGREEMENT ON TRADE RELATIONS BETWEEN  
THE UNITED STATES OF AMERICA  
AND THE REPUBLIC OF KAZAKHSTAN

The United States of America and the Republic of Kazakhstan (hereinafter referred to collectively as "Parties" and individually as "Party"),

Recognizing that the development of bilateral trade may contribute to better mutual understanding and cooperation,

Taking into account the favorable implications for trade expansion of the economic restructuring and the development of a market-based economy in the Republic of Kazakhstan,

Considering that expanded trade relations between the Parties will contribute to the general well-being of the peoples of each Party, and promote respect for internationally recognized rights of working people,

Acknowledging that the development of trade relations and direct contact between Kazakh nationals and organizations and United States nationals and companies will promote openness and mutual understanding,

Considering that economic ties are an important and necessary element in the strengthening of their bilateral relations,

Reaffirming their desire to develop economic cooperation in accordance with the principles and provisions of the Final Act signed in Helsinki on the 1st of August, 1975, and other documents of the Conference on Security and cooperation in Europe, and in accordance with the Document of the Conference on Economic Cooperation in Europe held in Bonn in March-April 1990,

Being convinced that an agreement on trade relations between the two Parties will best serve their mutual interests, and

Desiring to create a framework which will foster the development and expansion of commercial ties between Kazakh nationals and organizations and United States nationals and companies,

Have agreed as follows:

ARTICLE I

MOST FAVORED NATION AND NONDISCRIMINATORY TREATMENT

1. Each Party shall accord unconditionally to products originating in or exported to the territory of the other Party treatment no less favorable than that accorded to like products originating in or exported to the territory of any third country in all matters relating to:

(a) customs duties and charges of any kind imposed on or in connection with importation or exportation, including the method of levying such duties and charges;

(b) methods of payment for imports and exports, and the international transfer of such payments;

- (c) rules and formalities in connection with importation and exportation, including those relating to customs clearance, transit, warehouses and transshipment;
- (d) taxes and other internal charges of any kind applied directly or indirectly to imported products; and
- (e) rules concerning sale, purchase, transport, distribution, storage and use of products on the domestic market.

2. Each Party shall accord to products originating in or exported to the territory of the other Party nondiscriminatory treatment with respect to the application of quantitative restrictions and the granting of licenses.

3. Each Party shall accord to imports of products and services originating in the territory of the other Party nondiscriminatory treatment with respect to the allocation of the currency needed to pay for such imports.

4. The provisions of paragraphs 1, 2 and 3 shall not apply to:

- (a) advantages accorded by either Party by virtue of such Party's full membership in a customs union or free trade area;
- (b) advantages accorded to third countries for the facilitation of frontier traffic;
- (c) advantages accorded to third countries in accordance with the General Agreement on Tariffs and Trade (the "GATT") , and advantages accorded to developing countries under the GATT and other international agreements; and
- (d) actions taken under Article XI (Market Disruption) of this Agreement.

## ARTICLE II

### GENERAL OBLIGATIONS WITH RESPECT TO MARKET ACCESS FOR PRODUCTS AND SERVICES

1. Recognizing the mutual benefit to trade relations on the basis of this Agreement and consistent with the most favored nation principles expressed in Article I, the Parties shall, on the basis of reciprocity and without detriment to relations with third countries, improve market access for products and services of the other Party and optimize mutual commercial opportunities, including through the satisfactory reciprocation of market opening measures - resulting from multilateral negotiations. Taking the above into account and resulting from the development of market mechanisms in the Republic of Kazakhstan and its closer relationship with the GATT, opportunities shall be created to increase step-by-step national treatment for products and services of the United States.
2. Trade in products and services shall be effected by contracts between nationals and companies of the United States and nationals and organizations of the Republic of Kazakhstan concluded in the exercise of their independent commercial judgment and on the basis of customary commercial considerations such as price, quality, delivery and terms of payment.
3. Neither Party shall require or encourage U.S. nationals or companies or Kazakh nationals or organizations to engage in barter or countertrade transactions. Nevertheless, where nationals, companies or organizations decide to resort to countertrade operations, the Parties

will encourage them to furnish to each other all necessary information to facilitate the transaction.

4. Each Party shall accord products imported from the territory of the other Party treatment no less favorable than that accorded to like products originating in any third country in relation to technical regulations and standards, including conformity testing and certification. Furthermore, the Parties shall ensure that such technical regulations and standards are not prepared, adopted, or applied in a discriminatory manner, with a view to creating obstacles to bilateral trade, or to protect domestic production.

### ARTICLE III

#### EXPANSION AND PROMOTION OF TRADE

1. The Parties affirm their desire to expand trade in products and services consistent with the terms of this Agreement. They shall take appropriate measures to encourage and facilitate the exchange of goods and services and to secure favorable conditions for long-term development of trade relations between United States nationals and companies and Kazakh nationals and organizations.

2. The Parties shall take appropriate measures to encourage the expansion of commercial contacts with a view to increasing trade. In this regard, the Kazakh Party expects that, during the term of this Agreement, Kazakhstan nationals and organizations shall increase their orders in the United States for products and services, while the United States Party anticipates that the effect of this Agreement shall be to encourage increased purchases by United States nationals and companies of products and services from the Republic of Kazakhstan. Towards this end, the Parties shall publicize this Agreement and ensure that it is made available to all interested parties.

3. The Parties shall encourage interested nationals, companies and organizations of both countries to look for opportunities to expand trade in machinery, equipment and technologies, including creation of favorable financial conditions to carry on trade in such products.

4. Each Party shall encourage and facilitate the holding of trade promotional events such as fairs, exhibitions, missions and seminars in its territory and in the territory of the other Party. Similarly, each Party shall encourage and facilitate the participation of its respective nationals, companies and organizations in such events. Subject to the laws in force within their respective territories, the Parties agree to allow the import and re-export on a duty free basis of all articles for use in such events, provided that such articles are not sold or otherwise transferred.

### ARTICLE IV

#### GOVERNMENT COMMERCIAL OFFICES

1. Each Party shall allow government commercial offices to hire directly host country nationals and, subject to its laws and procedures on entry and residence of aliens, third country nationals.

2. Each Party shall ensure unhindered access of host country nationals to government commercial offices of the other Party.

3. Each Party shall encourage the participation of its nationals and companies in the activities of their respective government commercial offices, especially with respect to events held on the premises of such commercial offices.

4. Each Party shall create favorable conditions for access by government commercial office personnel of the other Party to host country officials at both the federal and other levels, representatives of state enterprises, institutes, foreign trade organizations, cooperatives, joint ventures and other organizations.

## ARTICLE V

### BUSINESS FACILITATION

1. Each Party shall permit the establishment within its territory of commercial representations of companies and organizations of the other Party and shall accord such representations treatment at least as favorable as that accorded to commercial representations of companies and organizations of third countries. If either Party accredits commercial representations, that Party shall establish promptly an expedited accreditation procedure. Through this procedure, a central accrediting authority shall exercise its best efforts to consider an application for accreditation and, in the case of a positive decision, to issue a certificate of accreditation to commercial representations of the other Party all within 60 days of the submission of such application. The accreditation procedure shall be administered with a goal of maximizing the participation in the market of the accrediting Party of companies already operating in that market, new entrants and small companies. Commercial representations of a Party accredited through the above procedure shall be accorded treatment no less favorable than that accorded to accredited commercial representations of third countries, except that they shall not be entitled to the assistance of the accrediting Party in locating office and residential space.

2. Each Party shall afford commercial representations of the other Party fair and equitable treatment with respect to the conduct of their operations.

3. Each Party shall permit commercial representations of the other Party to import and use, in accordance with normal commercial practices, office and other equipment, such as typewriters, photocopiers, computers and telefax machines in connection with the conduct of their activities in the territory of such Party.

4. Each Party shall permit on a nondiscriminatory basis, at nondiscriminatory prices (where such prices are set or controlled by the government), commercial representations of the other Party access to office space and living accommodations, whether or not designated for use by foreigners, as well as telecommunications, municipal and social services.

5. Each Party shall permit such commercial representations established in its territory to hire directly employees who are nationals of either Party or of third countries and to compensate such employees on terms and in a currency that is mutually agreed between the parties, consistent with such Party's minimum wage laws.

6. Each Party shall permit nationals, companies and organizations of the other Party to advertise their products and services (a) through direct agreement with the advertising media, including television, radio, print and billboard, and (b) by direct mail, including the use of enclosed envelopes and cards preaddressed to that national, company or organization.

7. Each Party shall permit nationals, companies and organizations of the other Party to conduct market studies, either directly or by contract, within its territory. To facilitate the

conduct of market research, each Party, upon request of the other Party, shall make available to interested nationals, companies, and organizations of that Party, non-confidential, non-proprietary market information within its possession.

8. Each Party shall permit commercial representations to stock and provide an adequate supply of samples and replacement parts for before and after sales service on a noncommercial basis.

9. Each Party shall facilitate direct contact between end-users in its territory and nationals, companies and organizations of the other Party. Each Party shall create favorable conditions for direct contacts between its organizations and government institutions whose decisions affect potential sales and purchases of goods and services and nationals, companies and organizations of the other Party. Each Party shall also encourage direct commercial transactions between Kazakh nationals and organizations and U.S. nationals and companies, including those which act from either side as producers, end-users or buyers.

10. Each Party shall permit nationals, companies and organizations of the other Party to engage and serve as agents or consultants for nationals, companies or organizations of either Party and of third countries on prices and terms mutually agreed between the parties. Each Party shall permit nationals, companies and organizations of the other Party to engage its nationals, companies and organizations that act as distributors, provided that such nationals, companies or organizations are entitled to engage in such activities, on prices and terms mutually agreed between the parties.

11. Neither Party shall impose measures which unreasonably impair contractual or property rights or other interests acquired within its territory by nationals, companies and organizations of the other Party.

12. Nothing in paragraphs 1, 5 or 10 of this Article shall be interpreted to confer any rights under either Party's laws and procedures on entry and residence of aliens.

## ARTICLE VI

### TRANSPARENCY

1. Each Party shall make available publicly on a timely basis all laws and regulations related to commercial activity, including trade, investment, taxation, banking, insurance and other financial services, transport and labor.

2. Each Party shall provide nationals, companies and organizations of the other Party with access to available non-confidential, non-proprietary data on the national economy and individual sectors, including information on foreign trade.

3. Each Party shall allow the other Party, when interested, the opportunity to consult on the formulation of rules and regulations which affect the conduct of business activities.

## ARTICLE VII

### FINANCIAL PROVISIONS RELATING TO TRADE IN PRODUCTS AND SERVICES

1. Unless otherwise agreed between the parties to individual transactions, all commercial transactions between United States nationals and companies and Kazakh nationals and organizations shall be made in United States dollars or any other freely convertible currency that may be mutually agreed upon by such nationals, companies and organizations.

2. No restrictions shall be placed by either Party upon the export from its territory of freely convertible currencies, including deposits or instruments representative of such currencies, obtained in an authorized manner in connection with trade in products and services by nationals, companies and organizations of the other Party.

3. Nationals, companies and organizations of a Party holding currency of the other Party received in an authorized manner may deposit such currency in authorized financial institutions located in the territory of the other Party and may maintain and use such currency for local expenses in accordance with applicable laws and regulations of the other Party.

4. Without derogation from paragraph 2, in connection with trade in products and services, each Party shall grant to nationals, companies and organizations of the other Party most-favored-nation treatment with respect to:

(a) opening and maintaining accounts, in both foreign and local currency, and having access to funds deposited, in financial institutions located in the territory of the Party;

(b) payments, remittances and transfers of freely convertible currencies, or financial instruments representative thereof, between the territories of the two Parties, as well as between the territory of that Party and that of any third country;

(c) rates of exchange offered by financial institutions authorized to deal in foreign exchange, and authorized means of obtaining freely convertible currencies; and

(d) the receipt and use of local currency.

## ARTICLE VIII

### PROTECTION OF INTELLECTUAL PROPERTY

1. Proceeding from the importance of intellectual property and the necessity of its legal protection to promote trade and economic cooperation and acknowledging the necessity of creating more favorable conditions for adequate and effective legal protection of intellectual property and its enforcement, the Parties have agreed that they shall:

(a) ensure in accordance with the provisions of internal legislation, protection and implementation of intellectual property rights, including copyright on its literary, scientific and artistic works including computer programs and data bases, patents and other rights on inventions and industrial designs, know-how, trade secrets, trade marks and service marks, trade names, and protection against unfair competition;

(b) ensure that their international commitments in the field of intellectual property rights are honored. Accordingly, each Party reaffirms the commitments made with respect to industrial property in the Paris Convention for the Protection of Industrial Property of March 30, 1883, as revised at Stockholm on July 14, 1967 (the "Paris Convention") , and the commitments made with respect to copyright in the Universal Copyright Convention of September 6, 1952; and

(c) encourage appropriate arrangements between institutions within the United States and the Republic of Kazakhstan to provide protection for intellectual property rights.

2. To provide adequate and effective protection and enforcement of intellectual property rights, each Party agrees to submit, to their respective legislative bodies, the draft laws

necessary to carry out the obligations of this Article and to exert their best efforts to enact and implement these laws. In this connection, the Parties will:

- (a) enhance their copyright relations through adherence to the Berne Convention for the Protection of Literary and Artistic Works (Paris 1971) (the "Berne Convention");
- (b) provide copyright protection for computer programs and data bases as literary works under their copyright laws;
- (c) (1) provide protection for sound recordings first fixed by their respective nationals or first published in their national territory;
- (c) (2) such protection shall include, among the minimum rights guaranteed to producers of these works, a right of reproduction and a right of public distribution and importation, and notwithstanding the rights of an owner of a particular copy of a sound recording in such copy, the producer of a sound recording shall continue to enjoy the exclusive commercial rental and lending rights in such copy; and
- (c) (3) the Parties agree, that immediately after both Parties have enacted protection for sound recordings originating in their respective territories, to take such steps as are necessary under domestic law to extend such protection to sound recordings originating in the other Party's territory;
- (d) provide product and process patent protection for all areas of technology (except the Parties may exclude materials useful solely in atomic weapons) for a term of at least 20 years from the filing of an application or at least 17 years from the grant of the patent; and
- (e) provide broad protection for trade secrets.

3. Upon the date when both Parties are members of the Berne Union, the protection of works in existence prior to that date shall be determined in accordance with Article 18 of the 1971 Paris Act of the Berne Convention.

4. The Parties shall introduce in their legislative proposals the principles enumerated in the side letters to this Agreement. These side letters shall form an integral part of this Agreement.

5. The Parties agree to constitute a working group on intellectual property matters in accordance with the terms and for the purposes set forth in the side letters attached hereto.

## ARTICLE IX

### TRANSIT

Each Party shall facilitate the transit of products originating in the territory of the other Party and transported via the territory of the Party in accordance with the laws and regulations in force in the Party.

## ARTICLE X

### SUBJECTS FOR FURTHER ECONOMIC COOPERATION

1. The Parties shall take appropriate steps to foster economic cooperation on as broad a base as possible in all fields deemed to be in their mutual interest, including with respect to statistics and standards.

2. The Parties, taking into account the growing economic significance of service industries, agree to consult on matters affecting the conduct of service business between the two countries and particular matters of mutual interest relating to individual service sectors with the objective, among others, of attaining maximum possible market access and liberalization.

## ARTICLE XI

### MARKET DISRUPTION SAFEGUARDS

1. The Parties agree to consult promptly at the request of either Party whenever either actual or prospective imports of products originating in the territory of the other Party cause or threaten to cause or significantly contribute to market disruption. Market disruption exists within a domestic industry whenever