



Committee on Regional Trade Agreements

FACTUAL PRESENTATION

TREATY ON THE EURASIAN ECONOMIC UNION
(GOODS AND SERVICES)

Report by the Secretariat

This report, prepared for the consideration of the Treaty on the Eurasian Economic Union, has been drawn up by the WTO Secretariat on its own responsibility and in full consultation with the Parties. The factual presentation reproduces as closely as possible the terminology used in the Treaties and in the comments provided and does not imply official endorsement or acceptance by the Secretariat of such terminology. The report has been drawn up in accordance with the rules and procedures contained in the Decision for a Transparency Mechanism for Regional Trade Agreements (WT/L/671) and thus does not imply any value judgement by the Secretariat regarding the contents of the Agreement.

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KEY FACTS

Parties to the Treaty:	Republic of Belarus, Republic of Kazakhstan and the Russian Federation
Date of Signature:	29 May 2014
Date of Entry into Force:	1 January 2015
Date of Notification:	12 December 2014
Full implementation:	2025

1 TRADE ENVIRONMENT¹

1.1. The Eurasian Economic Union – hereafter the EAEU – represents the last stage of integration between the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation. The origins of trade cooperation and integration amongst these three countries can be traced back to their Customs Union Agreement signed in 1995.

1.2. The three economies are of considerably different sizes and have different trade profiles. In 2016, Belarus's GDP was estimated at US\$48,847 million, and it ranked 45th and 43rd among global exporters and importers of goods (excluding intra-EU trade), respectively. In the same year, Kazakhstan had a GDP of US\$133,757 million; for world trade in goods it ranked 34th as regards exports and 44th as regards imports. The Russian Federation's GDP accounted for US\$1,280 billion in 2016; its global ranking was 11th and 17th for merchandise exports and imports, respectively. In 2016, Belarus's world exports reached US\$23.3 billion and imports US\$27.6 billion and Kazakhstan's merchandise exports and imports reached US\$36.8 billion and US\$25.2 billion, respectively. Also in 2016, Russian Federation's exports were estimated at US\$281.8 billion and imports at US\$191.4 billion. Belarus's exports are dominated by manufactures while manufactures, fuels and mining products constitute the bulk of its imports. Fuels and mining products dominate exports of both Kazakhstan and the Russian Federation, while imports are concentrated in manufactures.

1.3. In 2016, Belarus ranked 43rd and 53rd among global exporters and importers of commercial services; with exports valued at US\$6,787 million and imports at US\$4,244 million, while Kazakhstan ranked 45th and 38th among global exporters and importers of commercial services with the value of services exports and imports reaching respectively US\$6,044 million and US\$10,816 million. Also in 2016, the global ranking of the Russian Federation was 14th and 12th for commercial services exports and imports, respectively; with the value of exports estimated at US\$49,679 million and imports – US\$72,872 million.

1.1 Merchandise trade

1.4. In 2016, Belarus accounted for a relatively small share of Kazakhstan's global exports and imports, ranking 26th and 10th, respectively; in contrast, it is the Russian Federation's third and fourth largest export and import market. In the same year, Kazakhstan was the sixth and 20th largest export and import market for Belarus products; and the sixth and eighth largest for the Russian Federation. Also in 2016, the Russian Federation was the largest export and import market for Belarus products; as well as the third largest and the largest for Kazakhstan's exports and imports.²

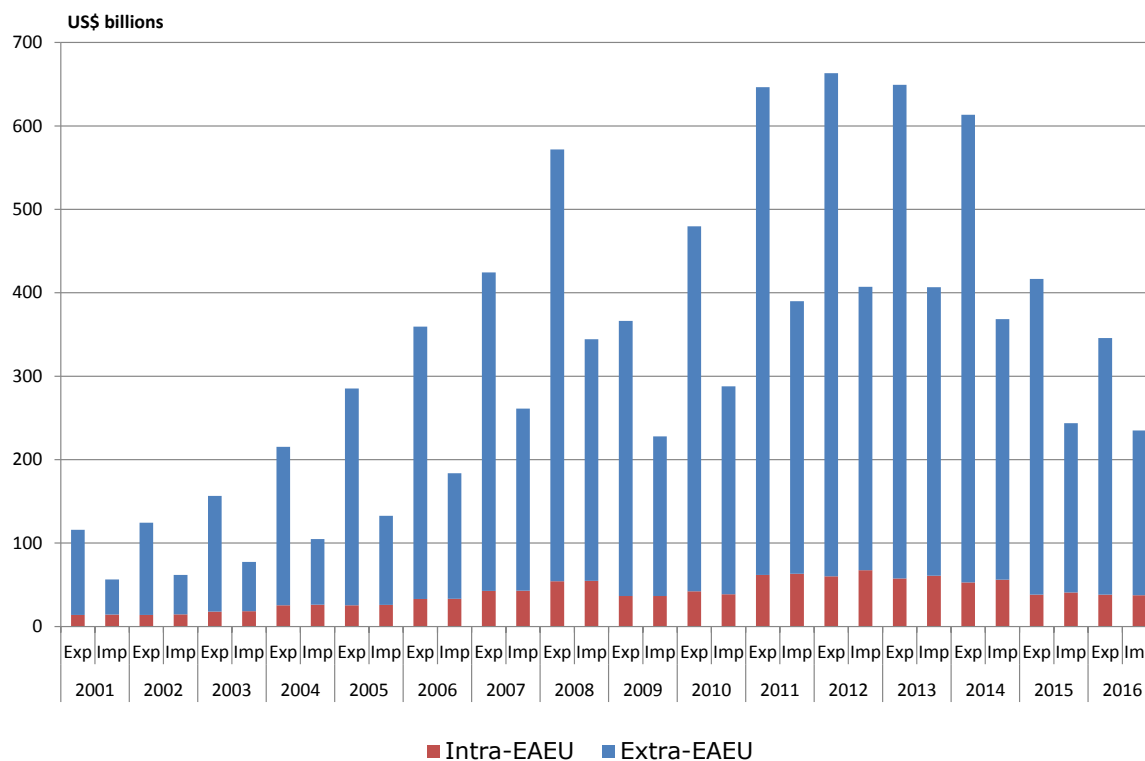
1.5. Chart 1.1 shows trends in intra and extra-trade of the EAEU for the 2001-2016 period. The EAEU's trade is dominated by trade with third parties; intra-EAEU trade remains relatively modest.

¹ Unless otherwise indicated, all data in this section are from the WTO Trade Profiles 2017. Ranking figures exclude intra-EU trade.

² UNSD, Comtrade Database. Excludes intra-EU trade.

In general, since 2001 the EAEU's global trade has grown consistently, reaching a peak in 2012 at US\$942 billion – the major exception being a sharp decline in 2009 due to the 2008-2009 world economic crisis. As of 2013, the EAEU's flows of both exports and imports have declined steadily coinciding with an economic slowdown in both Kazakhstan and the Russian Federation. Throughout the 2001-2016 period, the EAEU has persistently remained a net exporter *vis-à-vis* the world with a substantial decline in its trade surplus in 2015-2016. Trade among Parties has generally followed a positive trend but of a smaller magnitude and has generally been less volatile..

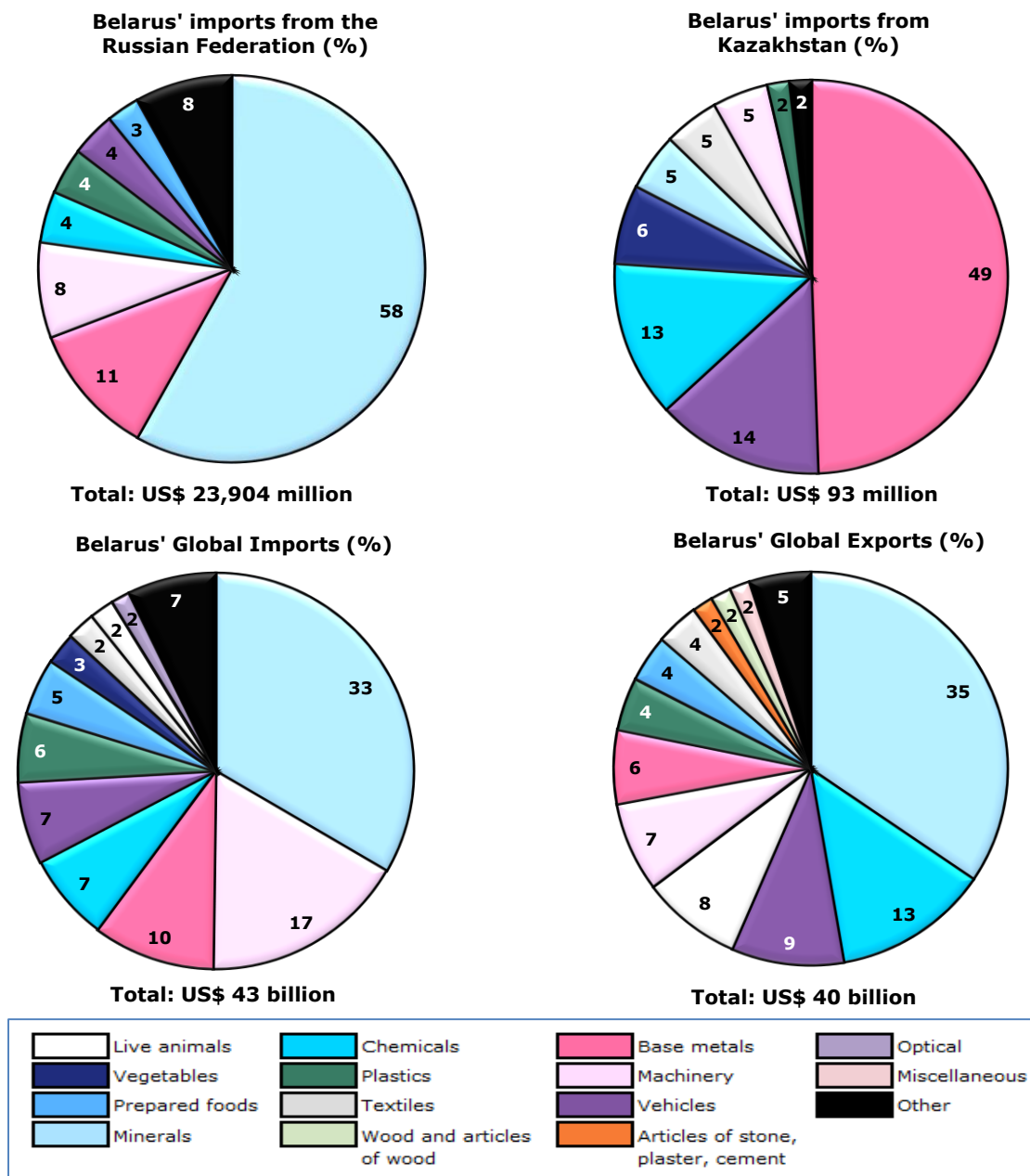
Chart 1.1 EAEU: Intra and extra-trade, 2001-2016



Source: UNSD, Comtrade database.

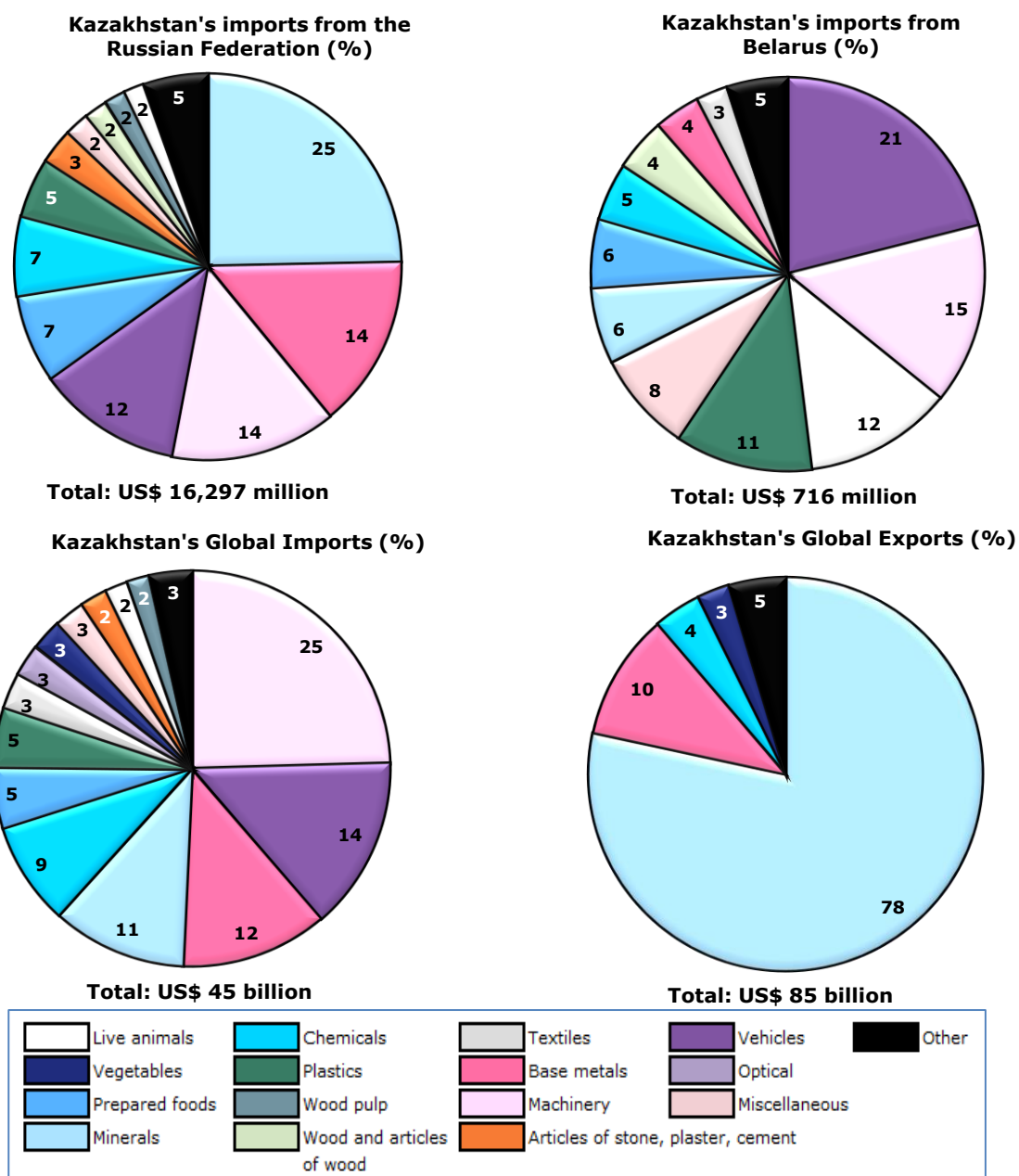
1.6. Charts 1.2–1.4 depict the Parties' commodity structure of trade, as well as their imports and exports to the world in the period 2012-2014, on the basis of the Harmonized System (HS) sections.

1.7. Belarus's imports from the Russian Federation were dominated by minerals (58%), followed by base metals (11%) and machinery (8%); and from Kazakhstan by base metals (49%), vehicles (14%) and chemicals (13%). Minerals also account for the bulk of Belarus's global imports (33%) and exports (35%). Kazakhstan's imports from the Russian Federation are slightly less concentrated, with minerals (25%), base metals (14%) and machinery (14%) as top imports; its key imports from Belarus are vehicles (21%), machinery (15%) and live animals (12%). Vehicles are Kazakhstan's second largest global import (14%), with machinery ranking first product of import (25%). Kazakhstan's global exports are highly concentrated, with minerals accounting for 78% and base metals for 10%. Finally, machinery (20%) and live animals (16%) are major imports from Belarus by the Russian Federation; minerals (35%), machinery (22%) and base metals (17%) are the main imports from Kazakhstan. With respect to global imports, Russian Federation's top ranking comprised machinery, vehicles and chemicals – with respectively 30%, 16%, and 11%. Similar to Kazakhstan, minerals (71%) were also the Russian Federation's main global exports.

Chart 1.2 Belarus and EAEU: Product composition of merchandise trade, annual average (2012-2014)

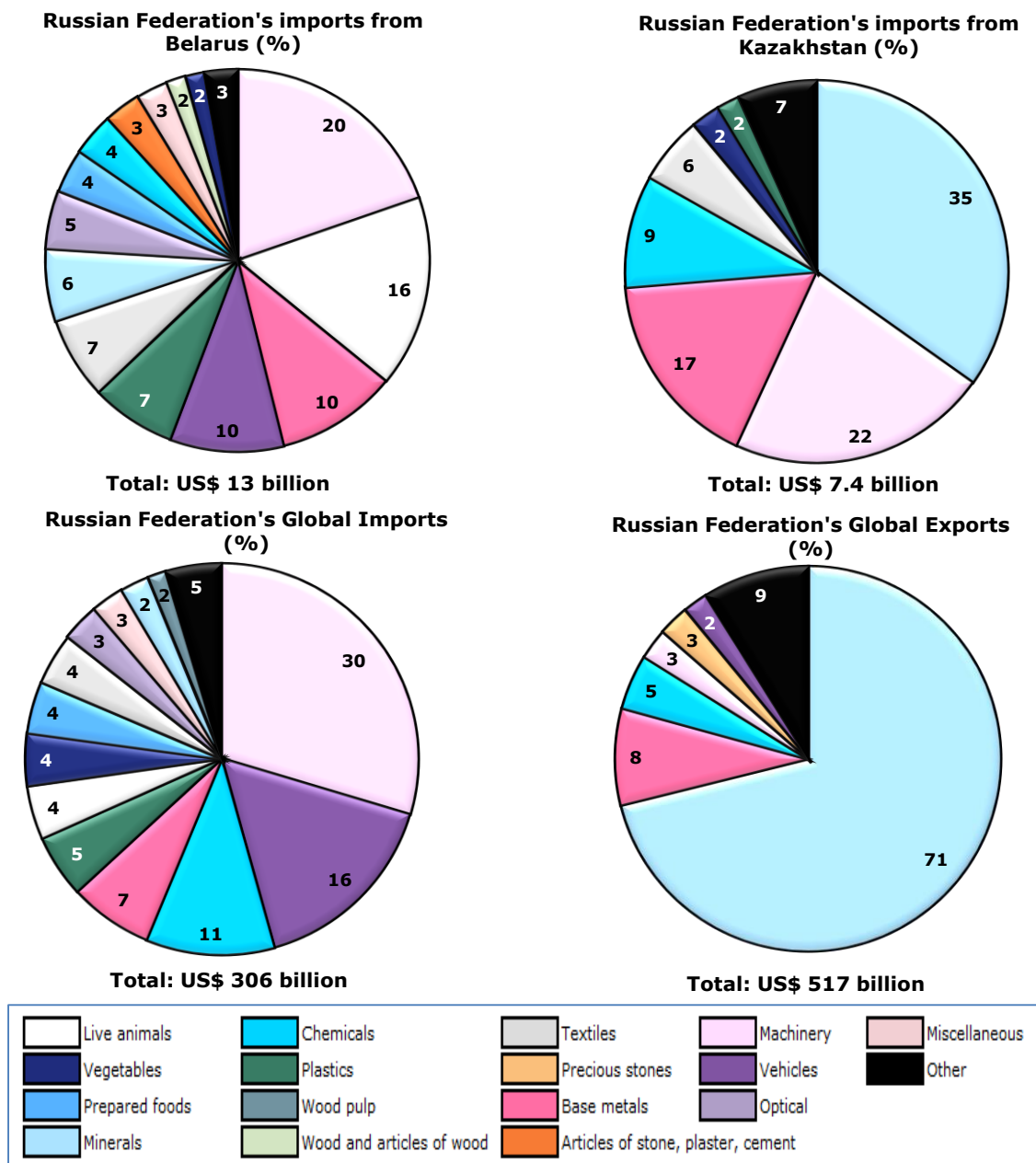
Source: UNSD, Comtrade database.

Chart 1.3 Kazakhstan and EAEU: Product composition of merchandise trade, annual average (2012-2014)



Source: UNSD, Comtrade database.

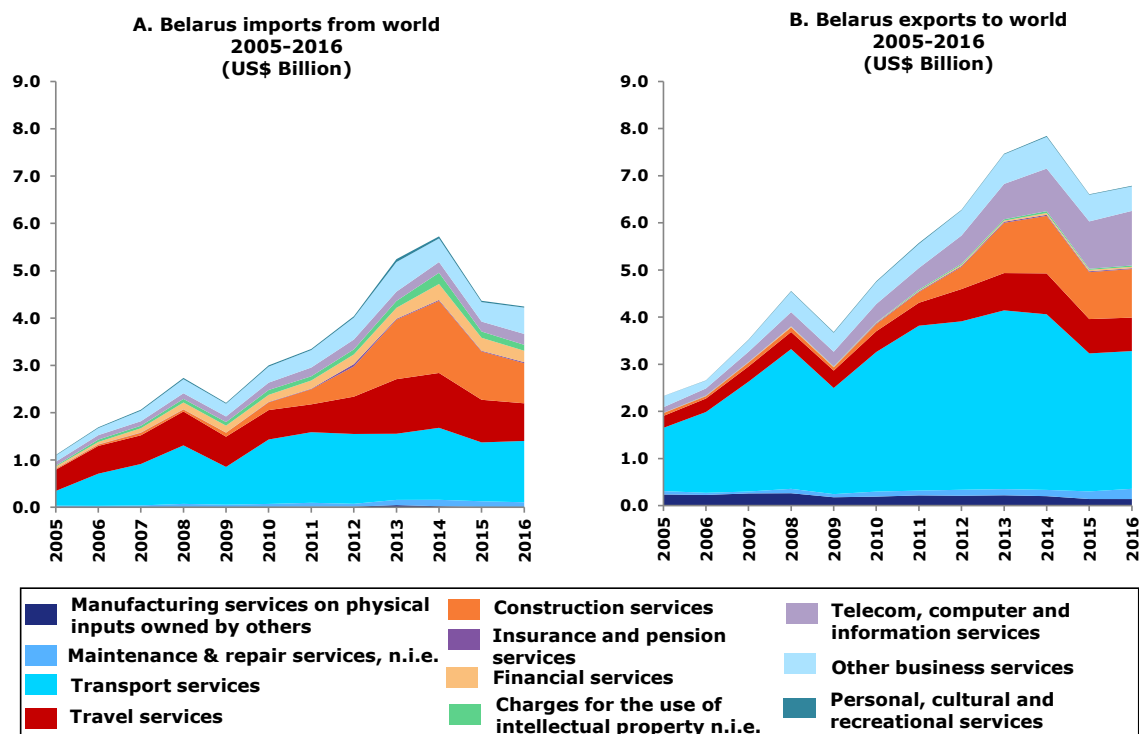
Chart 1.4 Russian Federation and EAEU: Product composition of merchandise trade, annual average (2014-2016)



Source: UNSD, Comtrade database.

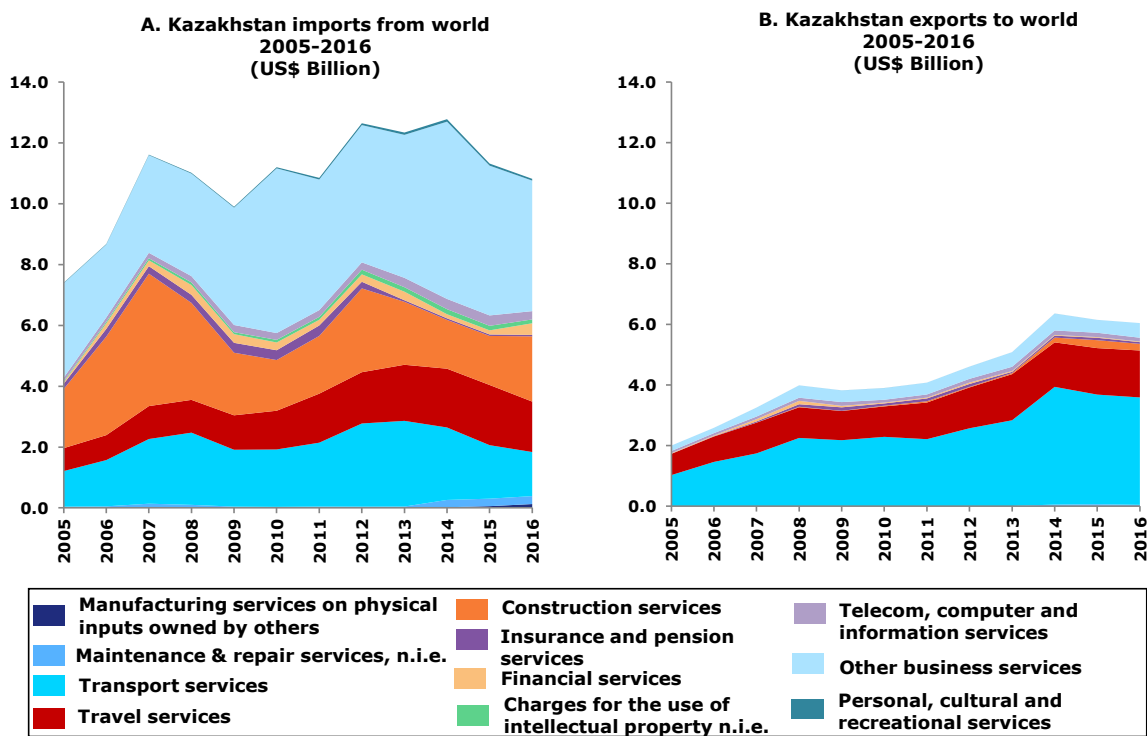
1.2 Trade in services and investment

1.8. Charts 1.5-1.7 show the breakdown of global commercial services trade for Belarus and Kazakhstan in 2005-2016 and for the Russian Federation in 2001-2016. Chart 1.5 includes Belarus's trade in commercial services with the world. During this period, Belarus was a net importer of travel and financial services; charges for the use of intellectual property; and personal, cultural and recreational services. It had a surplus in transport and manufacturing services on physical inputs owned by others; and telecom, computer and information services. Kazakhstan was a net importer of most services, with maintenance and repair services, transport, construction and travel forming key imports (Chart 1.6). The Russian Federation was a net importer especially of travel; transport; and maintenance and repair. For the three member States, the largest exports were construction, travel, transport and maintenance and repair services (Chart 1.7).

Chart 1.5 Belarus: Trade in commercial services data with world, 2005-2016

Note: Based on BPM6.

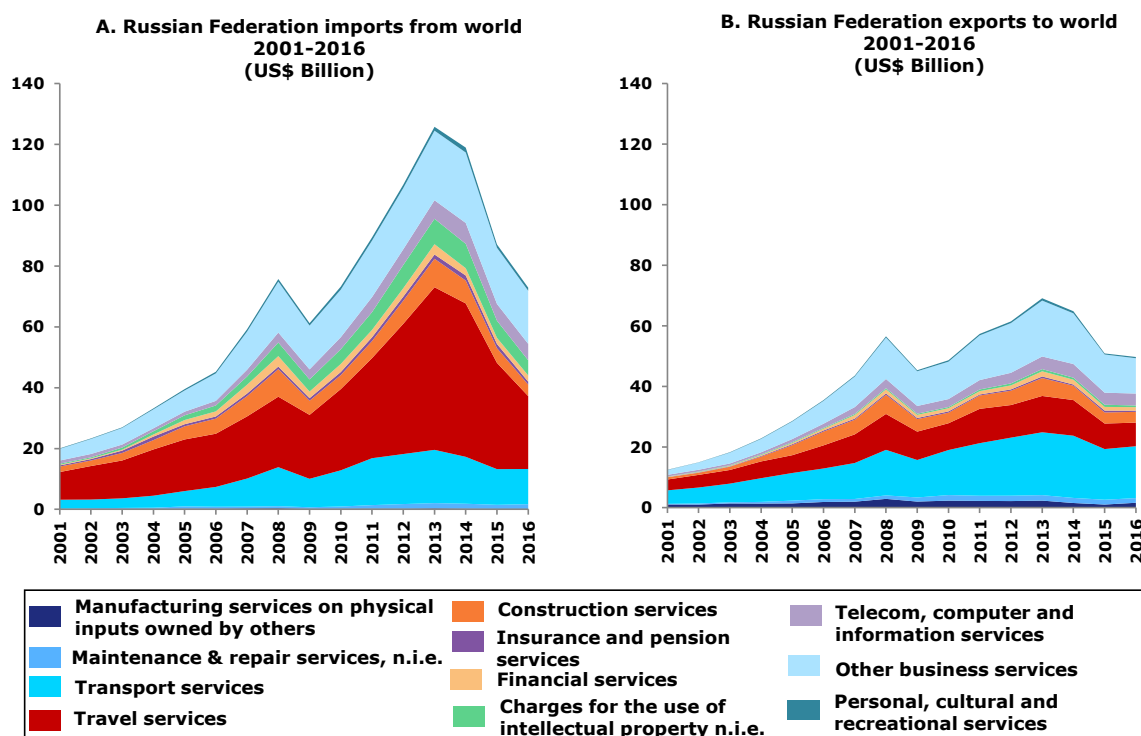
Source: WTO Statistics Database.

Chart 1.6 Kazakhstan: Trade in commercial services data with world, 2005-2016

Note: Based on BPM6.

No trade data for Manufacturing services on physical inputs owned by others (2007-12) and no export data for Manufacturing services (2005-06; 2013-16) and Charges for the use of intellectual property n.i.e. (2006-12).

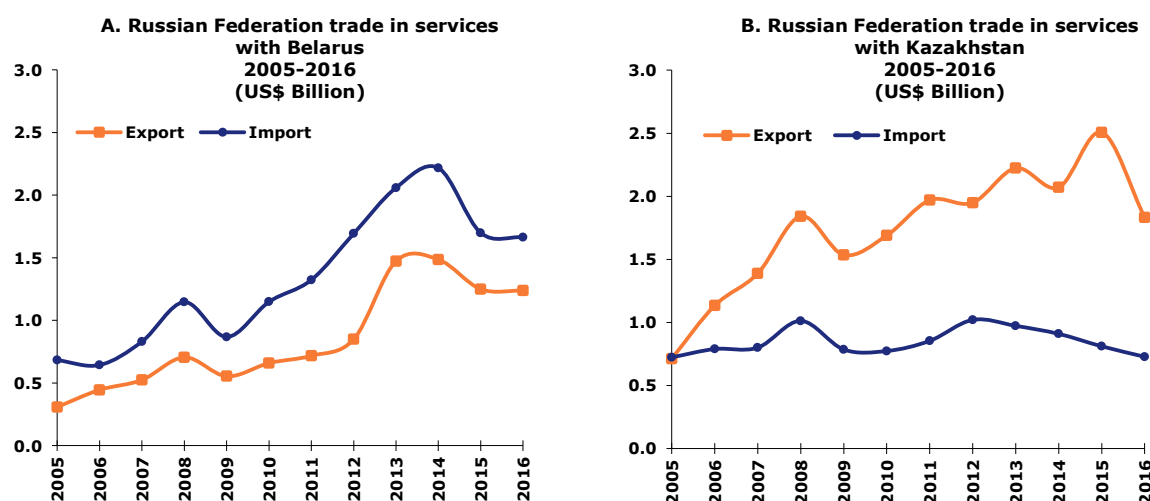
Source: WTO Statistics Database.

Chart 1.7 Russian Federation: Trade in commercial services data with world, 2001-2016

Note: Based on BPM6.

Source: Data viewed from: <http://www.cbr.ru/eng/statistics/Default.aspx?PrId=svs>.

1.9. Bilateral data on trade in services is only available for the Russian Federation (Chart 1.9). During 2005-2016, the Russian Federation's trade in services with Belarus registered a deficit which had been generally growing since 2006 and decreased in 2015-2016. With respect to bilateral trade with Kazakhstan, the Russian Federation was a net exporter of services; exports have increased since 2006 but saw a sharp decline in 2016.

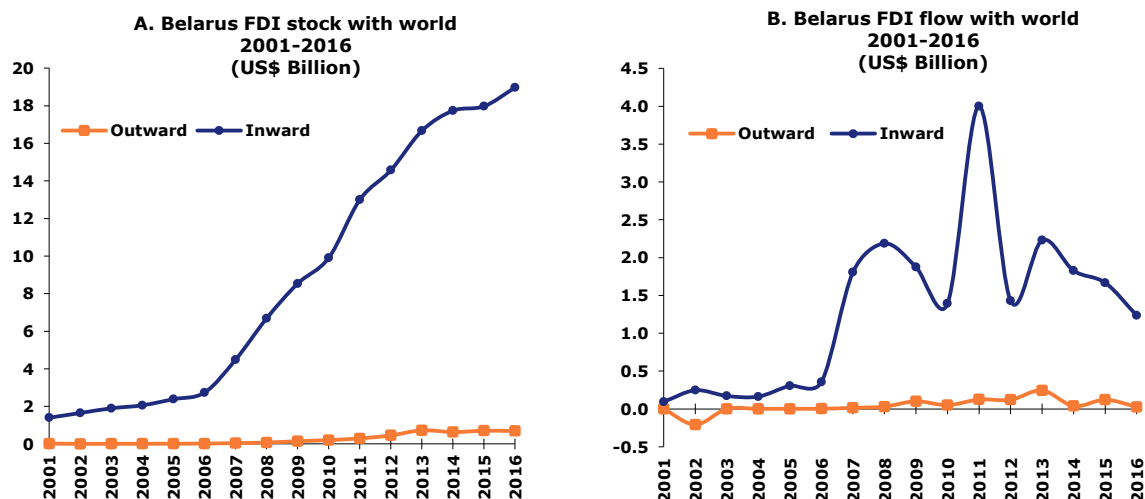
Chart 1.8 Russian Federation: Bilateral trade in services with Belarus and Kazakhstan, 2005-2016

Note: Based on BPM6.

Source: Data viewed from: <http://www.cbr.ru/eng/statistics/Default.aspx?PrId=svs>.

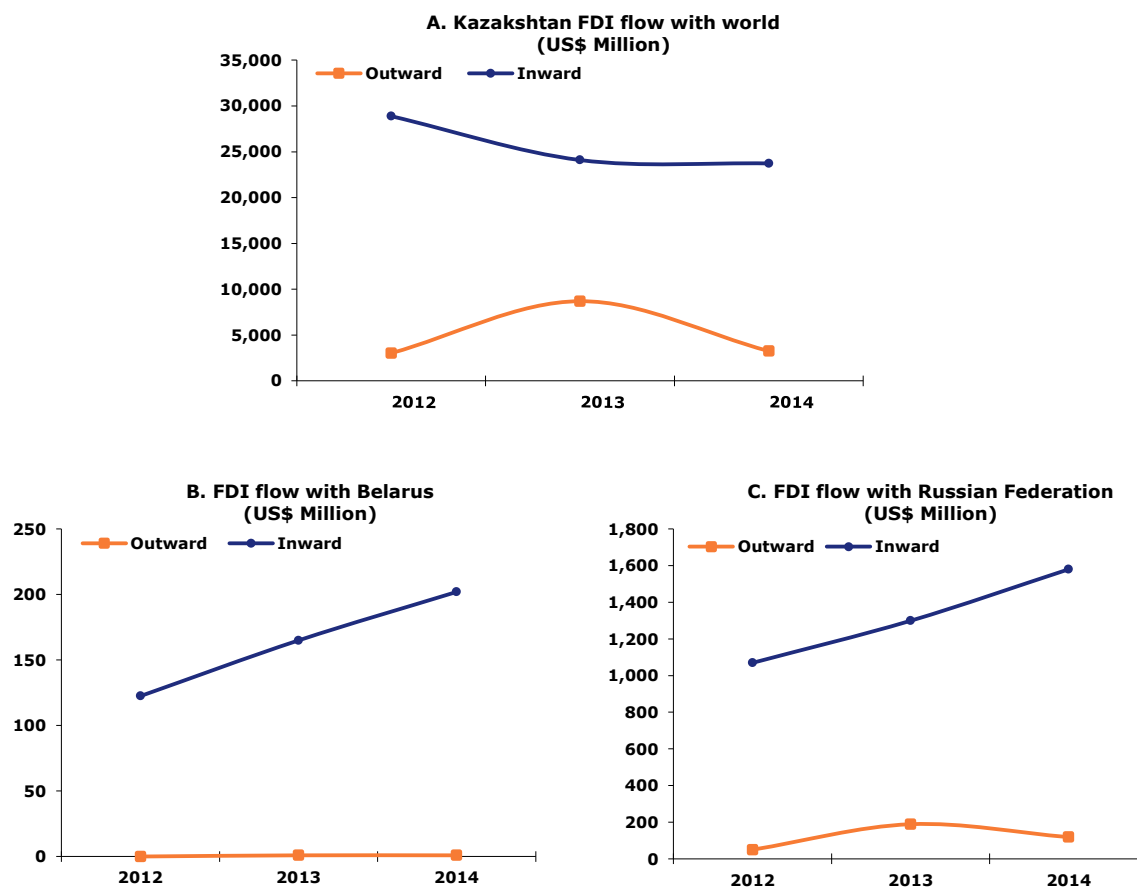
1.10. Chart 1.9 depicts Belarus's foreign direct investment (FDI) with the world during 2001-2016, showing that it was a net importer in terms of both stocks and flows over that period. FDI inward stock with the world has grown consistently since 2001. FDI inward flows have fluctuated to a large extent, peaking in 2008, 2011 and 2013, but later decreasing in the 2014–2016 period.

Chart 1.9 Belarus: FDI stock and flow with world, 2001-2016



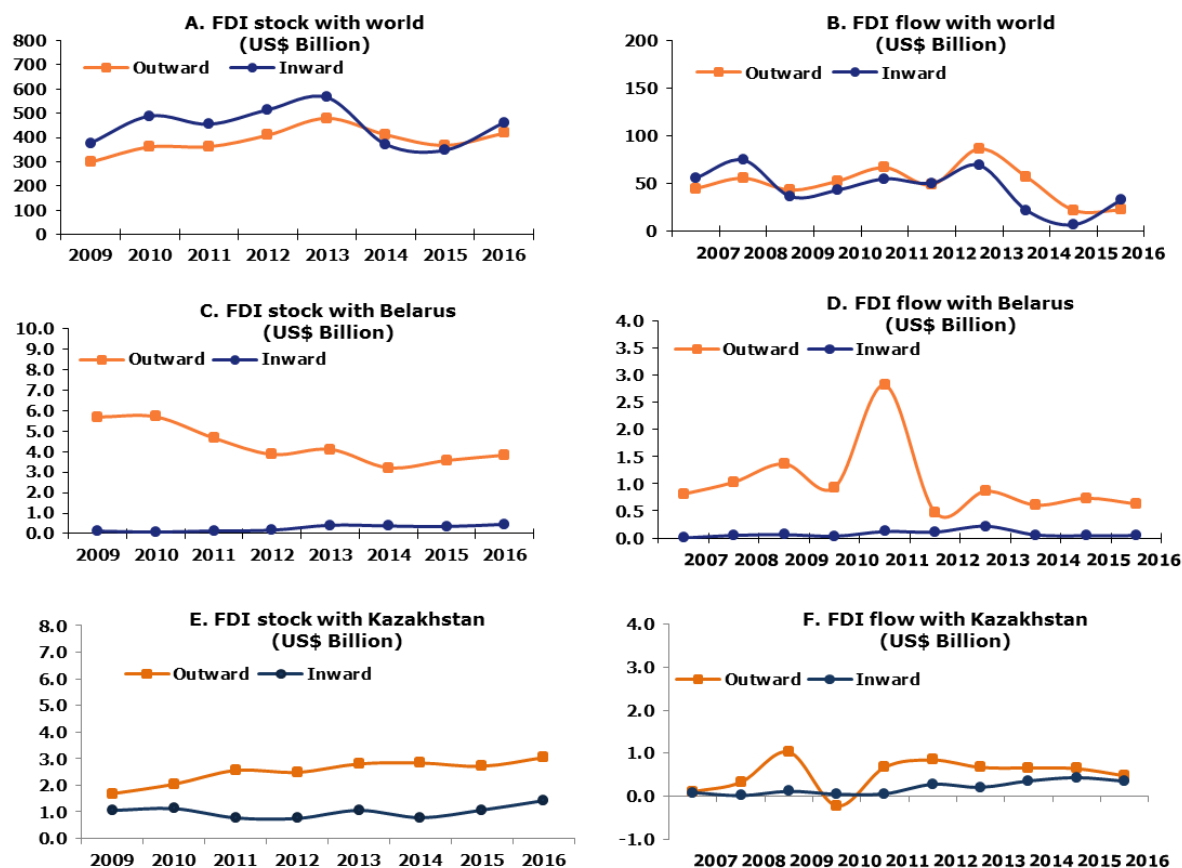
Source: UNCTADStat.

1.11. During 2012-2014, Kazakhstan was a net importer of FDI flows both from the world and the EAEU member States, as shown in Chart 1.10. While FDI flows from the world decreased, FDI from both Belarus and the Russian Federation increased, albeit only for the three year period.

Chart 1.10 Kazakhstan: FDI flow with Belarus, Russian Federation and world, 2012-2014

Source: Kazakhstan authorities.

1.12. During 2009-2016, the Russian Federation was a net importer of FDI in terms of its stock with the world, with an exception in 2014-2015 (Chart 1.11). Conversely, with the other EAEU member States it maintains an FDI surplus in terms of stocks. In terms of flows of FDI towards Belarus, they have fluctuated to a large extent, peaking in 2011. After some volatility up until 2011, the Russian Federation's FDI flows to Kazakhstan have gradually decreased since 2012.

Chart 1.11 Russian Federation: FDI stock and flow with Belarus, Kazakhstan and world

Source: Data viewed from: <http://www.cbr.ru/eng/statistics/Default.aspx?PrId=svs>

2 CHARACTERISTIC ELEMENTS OF THE AGREEMENT

2.1 Background Information

2.1. On 12 December 2014, the Russian Federation notified the "Treaty Establishing the Eurasian Economic Union" (hereafter, the EAEU) between the Russian Federation, the Republic of Belarus and the Republic of Kazakhstan under both Article XXIV of the GATT 1994 and Article V of the GATS (WT/REG358/N/1 and S/C/N/785). The Treaty provides for a common market for goods, services, capital and labour as well as coordinated and agreed policy in different areas, as provided for in the Treaty (Articles 4 and 5). It was signed on 29 May 2014 by the Presidents of Belarus, Kazakhstan and the Russian Federation; the Treaty entered into force on 1 January 2015.³

2.2. At the time of EAEU's notification and entry into force, only the Russian Federation was a WTO Member. As of January 2018, Belarus remains in the process of acceding to the WTO.

2.3. Kazakhstan became a WTO Member on 30 November 2015. In the context of the Working Party on its Accession, discussions were held on the establishment of the EAEU. In order to incorporate into the EAEU's legal system the accession commitments of Kazakhstan, the five member States of the EAEU signed on 16 October 2015 the "Protocol on Certain Issues relating to the Importation and Movement of Goods in the Eurasian Economic Union" (hereafter, the "Protocol of 16.10.2015"), which came into force on 11 January 2016. The Protocol regulates import and movement within the EAEU of goods imported by Kazakhstan whose tariffs are lower than the CET of the EAEU, in accordance with its WTO obligations (see paragraph 3.21. below).

³ Ratified by Belarus on 9 October 2014, Kazakhstan on 14 October 2014 and by the Russian Federation on 3 October 2014.

2.4. On 29 December 2014, the Republic of Armenia (hereafter, "Armenia") and the Russian Federation notified the "Treaty on Accession of the Republic of Armenia to the EAEU" under both Article XXIV of the GATT 1994 and Article V of the GATS (WT/REG363/N/1 and S/C/N/790). On 1 September 2015, the Kyrgyz Republic notified the "Treaty on the Accession of the Kyrgyz Republic to the Treaty on the Eurasian Economic Union" under both Article XXIV of the GATT 1994 and Article V of the GATS (WT/REG366/N/1 and S/C/N/823). Factual Presentations on these Treaties will be distributed separately.

2.5. Eurasian integration has been taking shape since 1991, originally via the establishment of the Commonwealth of Independent States in 1991. The main steps of Eurasian integration are pictured in Box 2.1 and presented in paragraphs 2.7. -2.10. below; some of the legal instruments involved have been notified to the WTO.

2.6. The major predecessor of the EAEU was the Agreement on the Customs Union (CU) between Belarus, Kazakhstan and the Russian Federation, signed on 20 January 1995 and notified to the WTO on 21 December 2012 under Article XXIV of the GATT 1994 (WT/REG325/N/1). This framework Agreement, which had entered into force on 3 December 1997, established the fundamental principles for the creation of the customs union – which was actually formed through the 2007 Treaty on the establishment of the Common Customs Territory and Formation of the Customs Union (hereafter the "Customs Union Treaty").⁴ The 2007 Customs Union Treaty was terminated at the entry into force of the EAEU.

2.7. Following the 1995 framework Agreement, the establishment of a common market for goods, services, capital and labour was originally envisaged in the 1996 Treaty on Increased Integration in the Economic and Humanitarian Fields, signed by Belarus, Kazakhstan, the Russian Federation and the Kyrgyz Republic. This was later complemented with the 1999 Treaty on the Customs Union and the Single Economic Space (SES), signed by these four countries and Tajikistan. This Treaty elaborated on the gradual creation of the free-trade area and the customs union through stages to be defined by the CU's Interstate Council.

2.8. In order to formally establish the CU and SES, in 2000 the now five countries (joined in 2006 by Uzbekistan) signed the Treaty on the establishment of the Eurasian Economic Community (EurAsEC), which entered into force on 30 May 2001. This institutional Treaty establishes the EurAsEC as an international organization with legal personality with the task of improving cooperation and promoting integration of its signatories. In 2003 the Treaty on the Establishment of the Common Economic Zone provided a roadmap for the establishment of a free trade area between the five countries, but without providing for preferential treatment.

2.9. In August 2006, at an informal EurAsEC summit meeting, it was decided that Belarus, Kazakhstan and Russian Federation would accelerate efforts aimed at the establishment of the Customs Union, while the Kyrgyz Republic and Tajikistan would join the organization as soon as they were ready; on this basis, the Customs Union Treaty was signed on 6 October 2007.⁵ In June 2009 the CU's Supreme Body defined the stages for the creation of the CU and decided that it would come into force on 1 January 2010 (as per Article 2 of the 2007 CU Treaty).

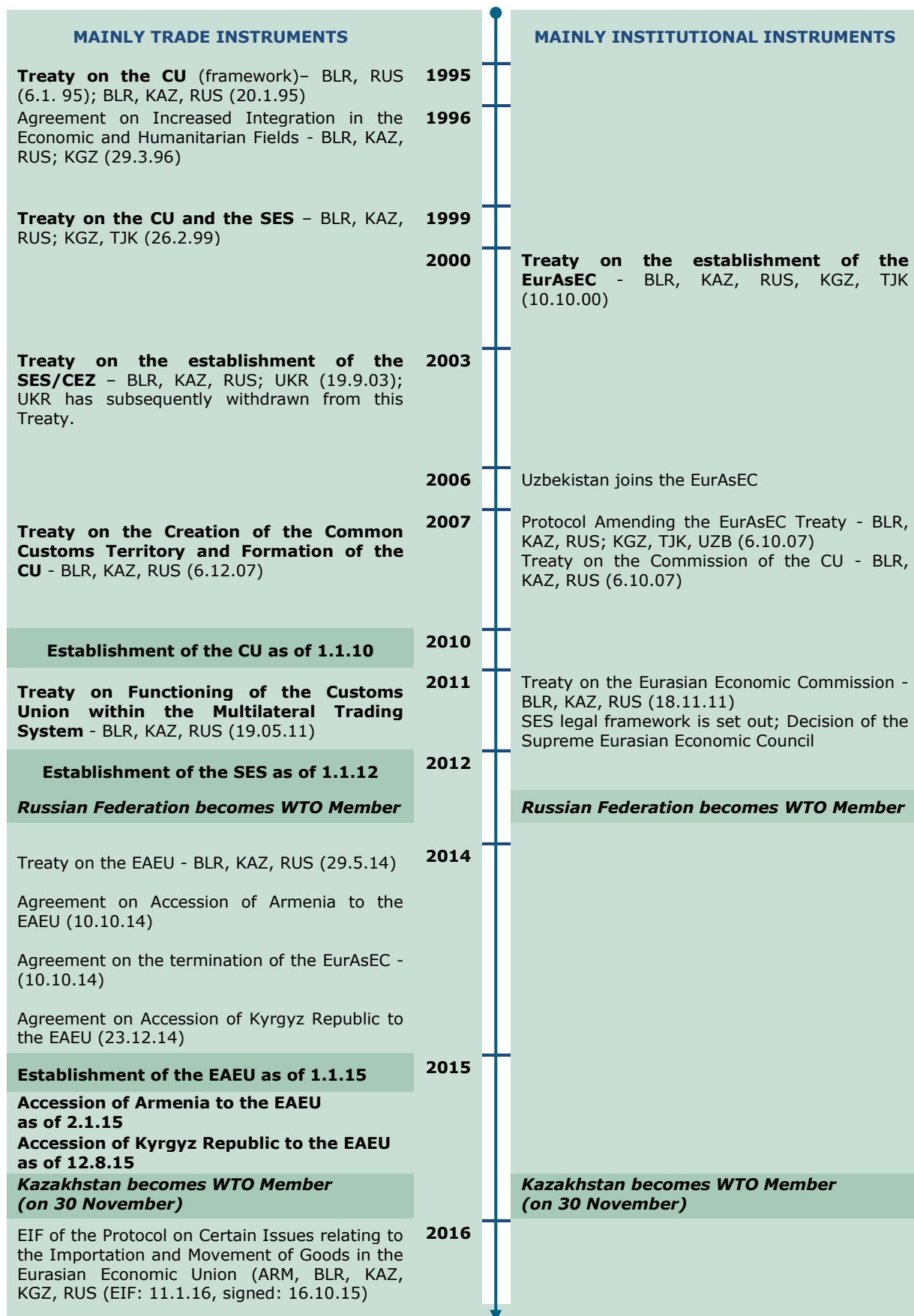
2.10. The 2007 CU remained in operation from 1 January 2010 until 1 January 2015, when it was terminated in accordance with Article 113 of the EAEU Treaty, which provides for the termination of international agreements included in Annex 33 to the EAEU Treaty (see Annex 2 of this Factual Presentation). That list includes *inter alia* the 2007 Customs Union Treaty and the EurAsEC Treaty⁶ (the latter discontinuation was notified under WT/REG/GEN/9). However, the Eurasian Economic Commission continued to act in accordance with the EAEU Treaty.⁷ Numerous legal instruments of the 2007 CU have however been incorporated into the EAEU law; whenever relevant, they will be referred to in this Factual Presentation.

⁴ A Factual Presentation of this Agreement has not been distributed given that it has ceased to exist prior to the finalization of the Presentation.

⁵ In parallel to developments with the 6 members of EurAsEC, Belarus, Kazakhstan and the Russian Federation signed in 2003 a framework agreement with Ukraine to establish a free trade area and possibly a customs union. No follow-up has however taken place, thus the framework agreement has been suspended.

⁶ A Treaty on Discontinuation of Activities of the Eurasian Economic Community was signed in Minsk on 10 October 2014, which provided for its termination on 1 January 2015.

⁷ The members of its Collegium continued their functions until their term expired.

Box 2.1 Timeline of EAEU Integration

The date of signature is indicated in brackets.

CEZ Common Economic Zone.
 CU Customs Union.
 EurAsEC Eurasian Economic Community.
 EAEU Eurasian Economic Union.
 SES Single Economic Space.

Source: Eurasian Economic Commission.

2.11. The law of the EAEU (Articles 6 and 99, the latter on transitional provisions) is composed of:

- a. the EAEU Treaty;
- b. international agreements within the EAEU;
- c. international agreements between the EAEU and a third party;
- d. decisions and resolutions of EAEU bodies - namely the Supreme Eurasian Economic Council (hereafter the "Supreme Council"), the Eurasian Intergovernmental Council and the Eurasian Economic Commission (hereafter the "EEC" or the "Commission");
- e. legal instruments concluded within the legal framework of the CU and SES which were in force on 1 January 2015, to the extent they do not contradict the EAEU Treaty (Article 99:1) - namely:
 - i. international agreements concluded by members States (including e.g. the Customs Code of the Customs Union); and
 - ii. decisions of the governing bodies of the 2007 CU - i.e. its Supreme Council and the Commission; and
- f. the Treaty on Functioning of the Customs Union within the Multilateral Trading System of 19 May 2011 (hereafter, "Treaty on the Multilateral System"), incorporated into the EAEU as per Article 99:4 and Annex 31.⁸

In case of conflict between international agreements within the EAEU system and the EAEU Treaty, the latter takes precedence (Article 6).

2.12. The process of establishment of the CU, the SES and the EAEU has taken place concomitantly with the process of accession of its Parties to the WTO. In order to take into account the distinct disciplines that these legal frameworks might entail, as well as their independent timeframe, the parties to the CU signed in 2011 the Treaty on the Multilateral System, the main provisions of which are:

- a. from the date of accession of any EAEU member State to the WTO, the provisions of the WTO Agreement, as set-out in its Protocol of Accession, which related to matters that the member States had authorised the Supreme Council and the EEC to regulate in the framework of the EAEU, as well as to the legal relationships regulated by the international treaties constituting the legal framework of the EAEU, become an integral part of the legal framework of the CU and later the EAEU. EAEU member States are obliged, when making an international agreement within the EAEU, to ensure that such EAEU agreement is consistent with the WTO Agreement;
- b. EAEU member States which are WTO Members are required to adopt measures, in consultation with, and with the agreement of, other EAEU member States, so that the EAEU legal framework complies with the WTO Agreement and the relevant Protocols of Accession; pending these being made compatible, the WTO disciplines shall prevail over respective provisions of the EAEU legal framework. In practical terms, temporary exceptions from the EAEU disciplines/CET are granted to the Party that would have

⁸ The text of this Treaty has been made available to WTO Members most recently in the context of the accession of Kazakhstan (WT/ACC/KAZ/68). It is also available at:
<http://www.eurasiancommission.org/ru/act/trade/dotp/SiteAssets/wto/freddy-eng.pdf>.

otherwise breached WTO disciplines. Pending the end of this transition period, that Party is to adopt measures to make both compatible;

- c. an EAEU member State that is not a WTO Member can deviate from the provisions of the WTO Agreement in certain cases. When that member State becomes a WTO Member, however, any deviation from the WTO Agreement would be allowed only as specifically provided for in the terms of accession to the WTO of that member State;
- d. the specific case of potential breach of tariff commitments is dealt with in Article 1:4 of the Treaty on the Multilateral System; see paragraph 3.17. below)

2.13. The structure of the EAEU Treaty - 18 Articles and 33 Protocols - is presented in Box 2.2.

Box 2.2 Structure of EAEU

Part One	Establishment of the Eurasian Economic Union
Section I	General Provisions
Section II	Basic Principles, Objectives, Competence and Law of the Union
Section III	Bodies of the EAEU
Section IV	Budget of the EAEU
Second Part	Customs Union
Section V	Information Interaction and Statistics
Section VI	Functioning of the Customs Union
Section VII	Regulation of Drugs and Medical Products Circulation
Section VIII	Customs Regulation
Section IX	Foreign Trade Policy
	1. General Provisions on Foreign Trade Policy
	2. Customs and Tariff Regulation and Non-Tariff Regulation
Section X	Technical Regulation
Section XI	Sanitary, Veterinary and Sanitary and Phytosanitary Quarantine Measures
Section XII	Consumer Rights Protection
Part III	Single Economic Space
Section XIII	Macroeconomic Policy
Section XIV	Monetary Policy
Section XV	Trade In Services, Establishment, Activities and Investments
Section XVI	Regulation of the Financial Markets
Section XVII	Taxes and Taxation
Section XVIII	Common Principles and Rules of Competition
Section XIX	Natural Monopolies
Section XX	Energy
Section XXI	Transport
Section XXII	Government (Municipal) Procurement
Section XXIII	Intellectual Property
Section XXIV	Industry
Section XXV	Agro-Industrial Complex
Section XXVI	Labour Migration
Part Four	Transitional and Final Provisions
Section XXVII	Transitional Provisions
Section XXVIII	Final Provisions
Annexes	
Annex 1	Protocol on the Eurasian Economic Commission
Annex 2	Statute of the Court of the Eurasian Economic Union
Annex 3	Protocol on Information and Communication Technologies and Information Interaction within the Eurasian Economic Union
Annex 4	Protocol on Procedure of Formation and Distribution of official Statistical Information of the Eurasian Economic Union
Annex 5	Protocol of Enrolment and Distribution Procedure of Import Customs Duties (Other Duties, Taxes and Charges Having Equivalent Effect), their Transfer to the Budgets of member States
Annex 6	Protocol on Common Customs and Tariff Regulation
Annex 7	Protocol on Measures for Non-tariff Regulation with regard to Third Countries
	Appendix to Annex 7

Annex 8	Protocol on Application of Safeguard, Antidumping and Countervailing Measures with Regard to the Third Countries
Annex 9	Protocol on Technical Regulation within the Eurasian Economic Union
Annex 10	Protocol on Conducting Coordinated Policy in the Sphere of Ensuring Uniformity of Measurements
Annex 11	Protocol on Acceptance of the Results of Works on Accreditation of the Conformity Assessment Bodies
Annex 12	Protocol on the Application of Sanitary, Veterinary and Sanitary and Phytosanitary Quarantine Measures
Annex 13	Protocol on Coordinated Policy in the Field of Consumer Rights Protection
Annex 14	Protocol on Conducting of Coordinated Macroeconomic Policy
Annex 15	Protocol on Measures Aimed at Coordinated Monetary Policy
Annex 16	Protocol on Trade in Services, Establishment, Activities and Investments
Annex 17	Protocol of Financial Services
Annex 18	Protocol on the Procedure of Levying Indirect Taxes and the Mechanism of Control Over their Payment while Exporting and Importing Goods, Performing Works, Rendering Services
Annex 19	Protocol on Common Principles and Rules of Competition
Annex 20	Protocol on Single Principles and Rules for Regulation of Activity of the Natural Monopoly's Subjects
Annex 21	Protocol on Ensuring the Access to Services of Subjects of Natural Monopolies in Electric Power Industry, Including the Basics of Pricing and Tariff Policy
Annex 22	Appendix Protocol on the Access to Services of Natural Monopolies in the Sphere of Gas Transmission by Gas Transmission Systems, including the Basics of Pricing and Tariff Policy
Annex 23	Protocol on the Procedures, Management, Operation and Development of Common Markets For Oil and Petroleum Products
Annex 24	Protocol on Coordinated (Harmonized) Transport Policy
Annex 25	Protocol on Regulation of Procurement
Annex 26	Protocol on Protection and Enforcement of Intellectual Property Rights
Annex 27	Protocol on Industrial Cooperation
Annex 28	Protocol on Common Rules for Granting Industrial Subsidies
Annex 29	Protocol on Measures of State Support to Agriculture
Annex 30	Protocol on the Provision of Medical Care to the member States Workers and to their Family Members
Annex 31	Protocol on Functioning of the Eurasian Economic Union within the Multilateral Trading System
Annex 32	Regulation on the Social Guarantees, Privileges and Immunities in the Eurasian Economic Union
Annex 33	Protocol on Termination of International Treaties Concluded within the Framework of Formation of the Customs Union and Single Economic Space due to Entry into Force of the Treaty on the Eurasian Economic Union

Source: WTO Secretariat based on the Agreement.

3 PROVISIONS ON TRADE IN GOODS

3.1. Among members of the EAEU, a customs union with a single internal market for goods, common customs regulations and a common external trade regime is in operation (Article 25-29).

3.2. The common customs regulations are conducted in accordance with the provisions of the EAEU Treaty (Article 32), agreements and acts concluded among EAEU member States and the EAEU Customs Code (in force since 1 January 2018). Pending the entry into force of the EAEU Customs Code, the unified Customs Code of the Customs Union of 27 November 2009 (and its subsequent modifications), together with other legal instruments incorporated into the EAEU law, were used by the EAEU Parties (Article 101). Information related to the EAEU Customs Code can be found in Section 3.4.5 of this Factual Presentation.

3.3. Modifications to the Union's nomenclature and tariff rates, including tariff preferences and exemptions, are the competence of the Commission. The WTO accession commitments of Kazakhstan as well as the provisions of the Treaty on the Multilateral System are also of relevance for understanding the trade in goods aspects of the Union (see paragraphs 3.15. and 3.17. below).

3.1 Trade liberalization between the Parties

3.4. Trade liberalization among the EAEU Parties was progressively achieved through the conclusion of successive - and sometimes overlapping - agreements, as explained in Section 2.1 of this Factual Presentation.

3.5. The EAEU Treaty provides for an internal market with free movement of goods – with trade being free of import and export duties and other charges having equivalent effect, non-tariff measures and trade defence instruments, except as otherwise provided for in the Treaty (Articles 3, 25 and 28). Once a good is within the territory of the Union, trade is carried out without customs declarations and controls such as transport, sanitary, veterinary, etc. except as otherwise provided for in the Treaty.

3.6. The EAEU legal framework provides the possibility to apply certain exceptions to the free movement of goods. These include:

- a. goods imported from third-parties under country-specific exceptions to the CET – among the three original EAEU member States, only Kazakhstan applies such exceptions on a temporary basis (see Section 3.2). However, according to paragraph 5 of Article 3 of the Protocol of 16.10.2015, an importer is able to pay customs duties on the rates of the CET when importing to the territory of the Republic of Kazakhstan goods included in the list of the goods whose tariff are lower than the CET. In this case, in accordance with the Customs Code of the EAEU the product receives the status of the good of the EAEU and can free circulate within the EAEU; and;
- b. in accordance with Article 29 of the EAEU Treaty, goods to which the general and/or security exception clauses apply (e.g. ozone depleting goods), (see paragraph 5.12. below).

3.7. On the basis of the value of imports from third-parties (average of 2012-2014; for Belarus, 2012-2013 only), in 2015, 3.5% of intra-EAEU imports took place in goods which correspond to Kazakhstan's exceptions to the CET; in 2016, that figure was 4%. However, information is not available on whether these imports were of originating products or products from third-parties.

3.8. Article 27 foresees the establishment of free (special) economic zones (SEZ) and free warehouses. SEZs are established in the territory of the member States in accordance with national legislation (Article 3 of the "Agreement on free (special) economic zones in the customs territory of the Customs Union and the customs procedure of the free customs zone"); Articles 420 and 421 of the Customs code of the EAEU contain provisions on the conditions for the operation of free warehouses. As of early 2018, there are six SEZ in Belarus, 11 SEZ in Kazakhstan and 25 SEZ in the Russian Federation

3.2 Trade with third parties

3.9. The foreign trade policy of the EAEU is implemented through international agreements with third parties concluded by the EAEU unilaterally or collectively with the EAEU member States, in the spheres where Bodies of the EAEU are entitled to make binding decisions, participation in the international organizations or autonomous application of measures and foreign trade policy mechanisms (Article 33). MFN treatment shall be applied as provided for by international treaties of the EAEU with a third party, as well as by international treaties of the member States with a third party (Article 34; see also paragraph 5.49. below). The EAEU common external tariff (CET) is the basis of the EAEU external trade regime (Article 25).

3.10. There are five major types of exceptions to the CET rates (Article 42):

- a. tariff preferences granted in the context of regional trade agreements (Articles 35 and 102; see paragraph 5.49. below)

- b. tariff preferences granted in the context of the "Unified System of Tariff Preferences (USTP, similar to the GSP,⁹ Article 36). The terms and procedure for the application of EAEU USTP were adopted by the Decision of the Council of the Eurasian Economic Commission of 6 April 2016 N° 47.¹⁰ Under the USTP, certain products originating in developing countries have a 25% margin of preference on the EAEU CET rate while those of least-developed countries origin are granted duty-free access to the EAEU;
- c. tariff exceptions applied by members acceding to the EAEU (Article 42:6), in accordance with the list of goods and rates approved by the Commission based on the accession agreement. The acceding State must ensure that imports of products facing lower tariffs are for domestic consumption and adopt measures to prevent trade deflection. As of January 2018, this is of relevance for Armenia and the Kyrgyz Republic;
- d. temporary tariff exceptions granted to certain EAEU member States in accordance with the Treaty on the Multilateral System (see paragraph 3.17. below). As of January 2018, this applies to Kazakhstan;
- e. tariff exemptions applied collectively by the EAEU member States regardless of the origin of the goods (Article 43 of the EAEU Treaty and its Annex 6). A joint reading of these disciplines with Article 101:7 of the EAEU Treaty defines the following goods as benefitting from tariff exemptions:
 - i. goods imported as a contribution to the charter capital in the context of an investment, subject to the Commission's procedures;
 - ii. goods related to space exploration and spacecraft launch imported under the international cooperation projects, in accordance with the list approved by the Commission;
 - iii. products of fishing operations of vessels owned or leased by entities and individuals of the EAEU Parties;
 - iv. currency (except when used for numismatic purposes) and securities in accordance with the Parties' national legislation;
 - v. goods imported as humanitarian aid including technical assistance in accordance with the legislation of the member States, unless these goods are excisable. Vehicles specifically meant for medical use are exempted from the payment of duties; and
 - vi. other cases established in the EAEU Treaty, the EAEU's treaties with third parties and acts of the Commission.¹¹

3.2.1 Common external tariff

3.2.1.1 Structure

3.11. Article 42 regulates the EAEU's CET, by specifying that EAEU member States have a CET and a Common Commodity Nomenclature of Foreign Economic Activity. The CET has *ad valorem*, specific and combined duties. Countries acceding to the EAEU are allowed CET derogations in accordance with the list of goods and rates in the country's accession agreement to the EAEU (Article 42:4). Such imported goods are to remain in the country, which shall adopt measures to ensure that these are not re-exported to other EAEU member States without the payment of the tariff differentials due.

⁹ Protocol on Common System of Tariff Preferences of the Customs Union of 12 December 2008 . The Russian Federation has notified the USTP scheme of the customs union to the CTD in accordance with the Transparency Mechanism for Preferential Trade Arrangements (WT/COMTD/N/42). Additional information can be found at the PTA-IS at <http://ptadb.wto.org>.

¹⁰ Available at https://docs.eaeunion.org/docs/en-us/01410767/cncd_12072016_46 (in Russian only).

¹¹ More specific provisions were elaborated by the Customs Union Commission Decision N° 130/09.

3.12. The CET is limited to the bound rates of the Russian Federation and its WTO accession commitments, but its applied rates may be lower.^{12, 13} On acceding to the WTO in 2012, the Russian Federation bound all 11,557 tariff lines at the 10 digit level with reductions to be phased in over periods of one to eight years for 7,028 lines. The longest transition period of eight years applied to pork, followed by seven years for motor cars, helicopters and civil aircraft. For all except 148 tariff lines, the reductions were phased in by 2016 (Table 3.1).

Table 3.1 Implementation of final bound tariffs, 2012-2020

Year	N° of tariff lines at the final bound rate	N° of lines with further reductions in bound rate to be implemented	
		N° of tariff lines	%
2012	4,529	7,028	60.8
2013	5,030	6,527	56.5
2014	6,344	5,213	45.1
2015	9,339	2,218	19.2
2016	10,737	820	7.1
2017	11,409	148	1.3
2018	11,486	71	0.6
2019	11,533	24	0.2
2020	11,557	0	0.0

Note: The annual reduction of import duties occur on 1 September each year according to the Russian authorities (except 77 tariff lines subject to a different implementation date).

Source: WTO Secretariat calculations, based on the Consolidated Tariff Schedules (CTS) database.

3.13. The structure of the CET/Russian Federation tariff in 2015 is presented in Table 3.2, which provides information on the simple average for 2015 and for the final bound tariff in 2020 (overall as well as for agricultural and non-agricultural products, according to the WTO definition). In 2015, while the average applied tariff of 8.7% is slightly higher than the average final bound tariff (8.4%), the share of duty free lines in the applied tariff is significantly higher when compared to the final bound rates of 3.7% in 2020. Non-*ad valorem* duties were applied in 14.8% of the tariff lines. In 2015, around one-third of imports from third parties entered the Russian Federation on a duty-free basis (using 2014 import figures). In 2015, TRQs are applied on 0.4% of the tariff lines.

Table 3.2 CET/Russian Federation structure at the national tariff line level, 2015

			Year	Total		Agricultural products ^a		Non-agricultural products	
Number of tariff lines:			11,711						
of which with TRQs: ^b			49 (0.4%)						
Simple average final bound ^c			2020	8.4%		13.6 %		7.1%	
Simple average MFN applied ^d			2015	8.7%		14.5 %		7.1%	
Imports, billion US\$			2014	285.9		37.7		248.2	
CET – Frequency distribution		Duty-free	0<=5	5<=10	10<=15	15<=25	25<=50	50<=100	NAV %
			Tariff lines and import value (in %)						
Total									
Final bound		3.7	43.2	26.4	12.9	0.6	0.0	1.0	12.1
MFN applied	2015	14.9	31.0	18.3	16.4	4.4	0.0	0.2	14.8
Imports	2014	33.7	21.9	14.8	10.9	3.3	0.0	0.3	15.1
Agricultural products									
Final bound		1.4	27.5	14.5	18.5	1.2	0.0	4.8	32.0
MFN applied	2015	6.4	21.7	9.1	17.7	5.6	0.0	1.0	38.3
Imports	2014	14.4	15.8	3.9	14.8	5.5	0.0	2.4	43.2
Non-agricultural products									
Final bound		4.3	47.4	29.6	11.4	0.5			6.8
MFN applied	2015	17.4	33.7	21.1	15.9	4.1	0.0	0.0	7.8
Imports	2014	36.6	22.8	16.4	10.3	3.0	0.0	0.0	10.9

Note:

a WTO definition.

b Based on WTO notification G/AG/N/RUS/12 of 26 April 2016.

¹² The parties to the EAEU have indicated that for 2015 and 2016 the CET is the Russian Federation MFN tariff; therefore, all tariff data and tables are based on that premise.

¹³ The CET rates for 2015 and 2016 are as of 1 January; for Kazakhstan, on 1 December.

- c For the calculation of averages, specific rates are excluded and the *ad valorem* equivalents (AVEs) are included. In cases of unavailability, the *ad valorem* parts of alternate rates are included.
- d For the calculation of averages, specific rates are excluded and the *ad valorem* parts of alternate rates are included.
- NAV Non-*ad valorem* duties.
Data on trade and tariff lines are calculated at the national tariff line level.
Final bound and MFN applied rates are based on the HS 2007 and HS 2012 nomenclatures, respectively.

Source: UNSD, Comtrade and WTO TPR databases.

3.2.1.2 Level of harmonization

3.14. The CET is applied in its entirety by both the Russian Federation and Belarus, while Kazakhstan has been given a number of temporary exceptions.¹⁴ Negotiations on tariff adjustment are expected to start in 2024 (see paragraph 3.16. below). Table 3.3 provides data on the number of tariff lines for which a fully harmonized CET applies, as well as on the value of imports from third-parties (average of 2012-2014) under these lines. Using these years as a basis, in 2015, 99% of imports from third-parties were carried out under a fully harmonized CET, and the equivalent figure for 2016 was 98.7%. A breakdown is also provided in terms of duty-free/dutiable rates.

Table 3.3 CET harmonized in all EAEU member States and corresponding average trade, 2015-2016¹⁵

		Tariff lines				Imports ROW (2012-2014) ^a			
		Number		%		Value (US\$ million)		% ^b	
		duty-free	dutiable	duty-free	Dutiable	duty-free	dutiable	duty-free	Dutiable
2015	BLR	1,746	9,965	14.9	85.1	5,652	13,549	1.7	4.1
	KAZ ^c	1,745	8,623	14.9	73.6	7,751	14,722	2.4	4.5
	RUS ^d	1,746	9,965	14.9	85.1	95,520	188,653	29.0	57.3
	<i>Harmonized CET (average, %)</i>			14.9	81.3			33.1	65.9
2016	BLR	1,869	9,741	16.1	83.9	5,878	13,323	1.8	4.0
	KAZ ^c	1,830	7,875	15.8	67.8	8,126	13,385	2.5	4.1
	RUS ^d	1,869	9,741	16.1	83.9	100,486	183,686	30.5	55.8
	<i>Harmonized CET (average)</i>			16.0	78.5			34.8	63.9

Note:

BLR Belarus.

KAZ Kazakhstan.

ROW Rest of the world (extra-EAEU imports).

RUS Russian Federation.

The Parties agreed that the Russian Federation MFN 2015 is the CET.

Based on HS 2012 nomenclature.

- a Data for imports into Belarus are available at the 10-digit tariff line level only for 2012 and 2013. The 2014 import data are only expressed at the 6-digit level. Therefore, calculations are only based on 2012-2013 import data.
- b As compared to all extra-EAEU imports, under both harmonized and non-harmonized tariff lines.
- c Kazakhstan's exceptions are only provided for 2015 and 2016. There is no information from 2017 to 2019 as Kazakhstan's list of exceptions differs per year.
- d Import data into Russian Federation are at the 8-digit tariff line level, while the tariff is at the 10-digit level. Imports were aligned with the 10-digit tariff line data.

Source: WTO-TPR database, Kazakhstan authorities and UNSD, Comtrade database.

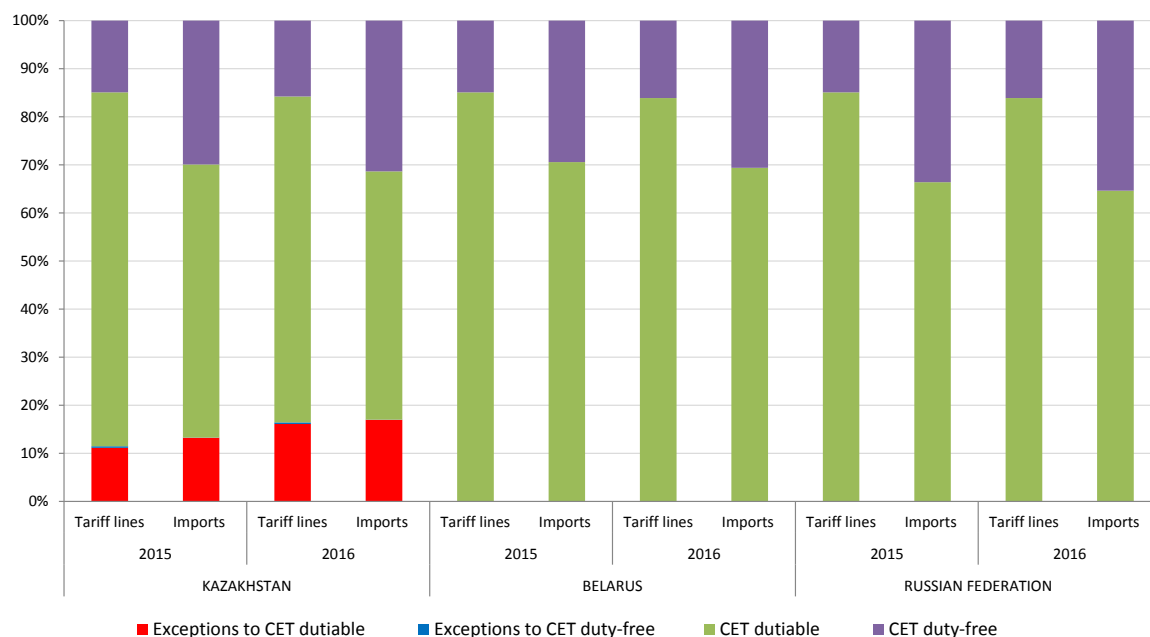
3.15. Chart 3.1 illustrates the level of harmonization and the corresponding average trade in each EAEU member State, on the basis of average 2012-2014 extra-EAEU imports (for Belarus, 2012-

¹⁴ Exceptions granted to Armenia and the Kyrgyz Republic will be dealt with in the Factual Presentation related to their accession to the EAEU.

¹⁵ For Belarus and Russian Federation, based on tariffs as of 1 January 2015 or 2016; for Kazakhstan, based on tariffs as of 1 December 2015 or 2016.

2013 only). In Kazakhstan, imports under exceptions dutiable under the CET accounted for 13.2% and 17% of imports in 2015 and 2016.¹⁶

Chart 3.1 CET level of harmonization and corresponding average trade, 2015-2016, in percentage



Note: In terms of 2012-2014 average of extra-EAEU imports of each member State, except for Belarus where import coverage is 2012-2013. Based on HS 2012 nomenclature. CET as of 1 January 2015 or 2016; for Kazakhstan, based on tariffs as of 1 December 2015 or 2016.

Source: Kazakhstan authorities, WTO TPR and UNSD, Comtrade databases.

3.16. Kazakhstan's WTO accession commitments provide that no earlier than three years and six months from the date of full implementation of all the final bound tariff rates contained in its Accession Schedule (final bound will be implemented at the latest by November 2020) for goods for which the WTO rate is lower than the CET, Kazakhstan would: seek to align the Accession Schedule with the final bound tariff rate of the Russian Federation as set out in its Protocol of Accession; commence negotiations with affected WTO Members; and notify WTO Members of its intention to commence these negotiations six months before they start and provide Members that had concluded bilateral goods market access protocols with Kazakhstan all data relevant for the negotiations.¹⁷ Negotiations on tariff adjustment are expected to start in 2024. The duration and outcomes of the negotiations will be subject to an agreement between WTO Members affected and the relevant EAEU member States. As provided for in paragraph 310 of the Working Party Report, the negotiations would be entered into in good faith with a view to achieving within three years from commencement of such negotiations mutually satisfactory compensatory adjustment. The adjusted rates will be incorporated into the CET and will be uniformly applied by EAEU member States, unless otherwise provided by the EAEU Treaty. However, if Kazakhstan reduces its tariff commitments to final bound levels prior to 2020, tariff negotiations can be commenced earlier.

3.17. Within the EAEU legal framework, the Treaty on the Multilateral System provides the possibility of holding consultation and negotiations on harmonization of import customs duties if consolidated tariffs negotiated during WTO accession of two EAEU member States differ. In this

¹⁶ CET as of 1 January 2015 or 2016; for Kazakhstan, based on tariffs as of 1 December 2015 or 2016.

¹⁷ See WT/ACC/KAZ/93, paragraphs 307-311.

case the Parties concerned shall consult each other and enter into negotiations with interested WTO Members expeditiously with a view to harmonize import tariffs. The Parties shall coordinate their positions and express the intention to follow the respective provisions of the WTO Agreement that are applied in case of tariff harmonization by the customs union.

3.18. In the period 1 December 2015-30 November 2016, Kazakhstan's CET exceptions were in force for 1,343 tariff lines, representing 11.5% of the total number of lines and accounting for 13.2% of Kazakhstan's imports from third-parties and 1% of extra-EAEU imports (Table 3.4).

Table 3.4 Kazakhstan: CET exceptions and trade with third parties, 2015-2016

Year of tariffs	N° of lines	% imports from ROW (2012-2014) ^a by	
		KAZ	EAEU
1 December 2015 - 30 November 2016 of which: lower than CET not comparable ^b	1,343 956 387	13.2	1.0
1 December 2016 - 30 November 2017 of which: lower than CET not comparable ^b	1,905 1,206 699	17.0	1.3

Note: Based on HS 2012 nomenclature.

CET as of 1 January 2015 or 2016; for Kazakhstan, based on tariffs as of 1 December 2015 or 2016

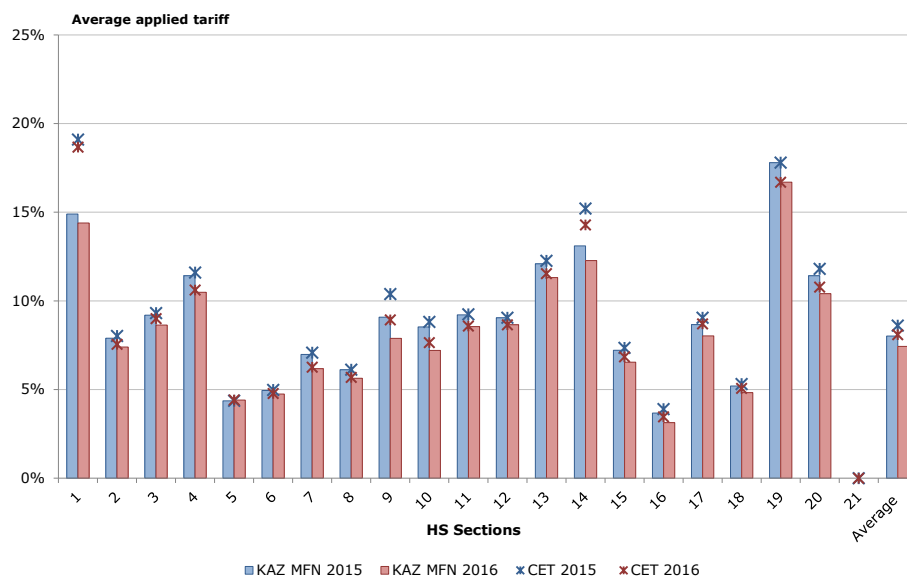
a Except for Belarus where import coverage is 2012-2013.

b Rates are not comparable because of differences in duty type.

Source: Kazakhstan authorities and UNSD, Comtrade databases.

3.19. Chart 3.2 provides details of Kazakhstan's CET exceptions by HS Section for the years 2015 and 2016.¹⁸ It can be seen that applied rates for Kazakhstan and under the CET are the same in HS Sections 5, 12, 19 and 21 for both years, and Sections 8 and 11 in 2015. In other Sections, Kazakhstan's applied rates are lower than those of the CET.

Chart 3.2 CET and Kazakhstan MFN rates, 2015-2016, by HS Section



Note: Averages have been calculated on the basis of Russian Federation MFN tariffs incorporating Kazakhstan's exceptions. For the calculation of averages, specific rates are excluded and the ad valorem parts of alternate rates are included.

Based on the HS 2012 nomenclature.

CET as of 1 January 2015 or 2016; for Kazakhstan, based on tariffs as of 1 December 2015 or 2016

Source: Kazakhstan authorities, WTO-TPR and UNSD, Comtrade databases.

¹⁸ *Supra*, footnote 16.

3.20. Tariff and trade information by HS Section for EAEU member States are depicted in Table 3.5 and 3.6.¹⁹ In particular, they provide information on average imports from third parties (2012-2014 for the Russian Federation and Kazakhstan, 2012-2013 for Belarus) and the number of tariff lines that are harmonized/non-harmonized with the CET, broken down in terms of duty-free and dutiable lines.

Table 3.5 Belarus and Russian Federation: 2015 and 2016 CET levels and trade, by HS Section

HS Section	CET 2015 (MFN)			CET 2016 (MFN)			ROW imports (US\$ million)	
	Average (%)	N° of lines		Average (%)	N° of lines		RUS (2012-2014)	BLR (2012-2013)
		Duty-free	Dutiable		Duty-free	Dutiable		
1	19.1	60	1,124	19.1	63	1,121	11,383	685
2	8.0	34	592	7.6	35	590	12,976	703
3	9.3	15	136	9.2	15	136	1,249	96
4	11.7	43	1,049	12.3	38	1,054	12,500	1,359
5	4.4	31	247	4.4	30	248	3,853	682
6	5.0	109	1,127	4.8	109	1,128	31,104	2,020
7	7.2	35	325	6.3	38	320	14,808	1,550
8	6.1	28	194	5.7	28	194	1,423	66
9	10.8	4	300	9.3	3	302	1,317	135
10	8.9	16	217	7.8	16	214	4,533	329
11	9.3	10	1,195	8.1	9	1,195	11,676	639
12	9.0	8	108	8.8	8	108	4,298	202
13	12.3	5	271	11.5	7	269	3,493	335
14	15.9	1	63	13.8	5	61	791	
15	7.4	120	1,072	6.9	119	1,064	18,507	1,703
16	4.0	979	1,020	3.5	1,087	839	86,379	5,543
17	9.1	108	387	8.8	108	383	46,980	2,320
18	5.4	125	251	4.8	135	224	8,846	515
19	17.8		24	16.0	1	23	97	
20	12.0	8	263	11.9	8	268	7,941	317
21	0.0	7		0.0	7		18	2
Total	8.7	1,746	9,965	8.3	1,869	9,741	284,173	19,201

Note: For the calculation of averages, specific rates are excluded and the ad valorem part of alternate rates is included.

Based on the HS 2012 nomenclature.

CET as of 1 January 2015 or 2016

Source: WTO-TPR and UNSD, Comtrade databases.

Table 3.6 Kazakhstan: 2015 and 2016 MFN tariff levels and trade, by HS Section

HS Section	MFN 2015					MFN 2016					ROW imports (US\$ million) 2012-2014
	Average (%) ^a	CET Harmonized		Non-CET harmonized		Average (%) ^b	CET Harmonized		Non-CET harmonized		
		Duty-free	Dutiable	Duty-free	Dutiable		Duty-free	Dutiable	Duty-free	Dutiable	
1	14.9	60	781	31	312	14.4	60	751	31	342	461.4
2	7.9	34	552	2	38	7.4	35	532	2	56	993.0
3	9.2	15	122	4	10	8.6	15	97	4	35	55.2
4	11.4	43	829		220	10.5	38	802		252	970.3
5	4.4	31	247			4.4	28	248		2	829.0
6	4.9	109	1,103		24	4.7	106	1,092		39	2,201.6
7	7.0	35	312		13	6.2	33	303		22	1,075.1

¹⁹ Ibid.

HS Section	MFN 2015					MFN 2016					ROW imports (US\$ million) 2012-2014
	Average (%) ^a	CET Harmonized		Non-CET harmonized		Average (%) ^b	CET Harmonized		Non-CET harmonized		
		Duty-free	Dutiable	Duty-free	Dutiable		Duty-free	Dutiable	Duty-free	Dutiable	
8	6.1	28	193		1	5.6	28	180		14	112.4
9	9.1	4	209		91	7.9	3	237		65	192.0
10	8.5	16	186		31	7.2	17	161		52	942.1
11	9.2	10	1,084		111	8.5	9	1,066		129	1,066.8
12	9.0	8	106		2	8.7	8	107		1	451.6
13	12.1	5	254		17	11.3	6	237		33	503.0
14	13.1	1	24		39	12.3	1	24		41	25.1
15	7.2	120	1,013		59	6.5	119	849		215	2,879.4
16	3.7	978	873	1	147	3.1	1,084	569	1	272	7,671.9
17	8.7	108	280		107	8.0	101	245		145	3,841.6
18	5.2	125	240		11	4.8	124	183		52	935.1
19	17.8		24			16.7		24			0.0
20	11.4	8	191		72	10.4	8	168		100	707.1
21	0.0	7				0.0	7				2.0
Total	8.0	1,745	8,623	38	1,305	7.4	1,830	7,875	38	1,867	25,915.9

Note:

a Based on Kazakhstan's 2015 tariffs as of 1 December 2015 - 30 November 2016.

b Based on Kazakhstan's 2016 tariffs as of 1 December 2016 - 30 November 2017.

For the calculation of averages, specific rates are excluded and the *ad valorem* parts of alternate rates are included.

No information from 2017 to 2019 as Kazakhstan's list of exceptions differs per year.

Based on the HS 2012 nomenclature.

Source: Kazakhstan authorities, WTO-TPR and UNSD, Comtrade databases.

3.21. In order to incorporate into the EAEU legal system Kazakhstan's accession commitments that derogate from the common legal framework of the EAEU, the Supreme Council adopted on 16 October 2015 the Decision N° 22²⁰ which contains the Protocol of 16.10.2015, and which came into force on 11 January 2016. The Protocol regulates import and movement within the EAEU of goods imported by Kazakhstan whose tariffs are lower than the CET of the EAEU, in accordance with its WTO obligations. It provides that imports of such products are for use in the Kazakh market alone; any further circulation within other EAEU parties is subject to the CET of the EAEU (as is normally the case whenever this situation occurs in other customs unions). Customs control at internal borders will not be resumed, but the control services will monitor the movement of excepted goods, within their competences. In particular, a special control system based on electronic invoicing and sharing of information online has been established by the Rules for Electronic Invoicing adopted by Order of the Minister of Finance of the Republic of Kazakhstan N° 301 of 12 May 2017.

3.2.1.3 Revenue-sharing

3.22. The Union uses a fixed customs revenue sharing mechanism, irrespective of the entry point with the ratio according to provisions of Article 26 and Annex 5 of the EAEU Treaty. As of 1 January 2015, the ratio was the following: 4.70% for Belarus, 7.33% for Kazakhstan and 87.97% for the Russian Federation.

3.23. The revenue is to be distributed on the next business day following the payment of the import duties (the same day in the case of Kazakhstan). In case of failure to transfer or incomplete transfer of funds and non-provision of information on the absence of the amounts of import

²⁰ In some instances in this Factual Presentation, decisions taken by the different bodies will be referenced through Body, number and year, as follows: Decision N° 22/15, adopted on 16 October 2015. This approach is used as a simplification but does not represent the official EAEU reference of Decisions.

customs duties to be distributed, the authority of the member State collecting the duty shall notify authorized bodies of the member States and the EAEU Commission of the failure to transfer or incomplete transfer of funds. The Member State that has failed to transfer any distributed import customs duties shall pay other Member State the default interest with regard to the entire outstanding amount at the rate of 0.1% for each calendar day of delay, including the day on which the amount of distributed import customs duties wasn't transferred to the Member State. In cases of a delay, on the third business day, the affected member State may suspend any relevant transfer of customs duties collected; this shall also be notified to other member States and the Commission. In such cases, the Commission shall organize consultations aimed at solving the issue; if no solution is found, the case shall be presented to the Intergovernmental Council (paragraphs 20-26). Annex 5 also regulates transfer procedures regarding the funds received and the sale of equivalent amounts of US dollars and the procedures for exchange of information by member States' authorized bodies as well as those related to the payment of import duties; finally, it establishes a monitoring mechanism and entrusts the Commission to submit an annual report to the Intergovernmental Council on the computation and distribution of import duties.

3.24. The revenue-sharing formula was modified following the accessions of Armenia and the Kyrgyz Republic; this will be discussed in the corresponding Factual Presentations.

3.2.2 Non-tariff measures

3.25. The EAEU's common external trade regime is also extended to non-tariff measures (NTMs), defined by the Treaty as import/export prohibitions, quantitative restrictions (QRs), exclusive trading rights, automatic licensing (permit) and authorization procedures (Article 46 of the Treaty and its Annex 7, "Protocol on Measures for Non-tariff Regulation with regard to Third Countries" hereafter, the "Protocol on NTMs"). In derogation from this general principle, unilateral NTMs may in certain cases be imposed, as stated in Article 47 of the Treaty (see paragraph 5.13. below).

3.26. Paragraphs 3-10 (Section II) of the Protocol on NTMs include provisions regarding the introduction and application of measures for non-tariff regulation, that define:

- a. the Commission as the authority introducing/extending/terminating the NTMs, on the basis of proposals by either a member State or the Commission itself; and
- b. transparency and consultations disciplines. These require the Commission to inform interested operators of member States (i.e. participants of foreign trade activities whose economic interests may be affected by the adoption of such a NTM) on the possibility of making suggestions and comments to the Commission, as well as to conduct consultations with respect to the measure. In three cases - need for secrecy, delay that could lead to injury, and establishment of exclusive trading rights - the Commission may decide not to hold consultations.

3.27. The EAEU "Common list of goods" on which NTMs are applied on trade with third parties, adopted by EAEU Collegium Decision N° 30 of 21 April 2015, includes the following:²¹

- i. goods banned for importation into or exportation from the customs territory of the EAEU (8 categories of products);
- ii. goods covered by a permit-based procedure for importation into or exportation from the customs territory of the EAEU (20 categories of products);
- iii. goods subject to bans or restrictions (respectively 1 and 4 categories of products) applying only to some of the EAEU member States (see in Annex 3);
- iv. specific import/export/transit requirements applying to goods under i.-iii. above; and

²¹ The EAEU list is merely a re-approval of the customs union list, applied since 2012 (EEC Collegium Decision N° 134/12 and subsequent updates), which was in turn based on the customs union list of 2009 (Decision N° 132/09). The Russian version of the Decision can be found in https://docs.eaeunion.org/docs/ru-ru/0139921/clcd_22042015_30.

- v. the institution responsible for administering the measures. In all of the cases, the Decision indicates that this is to be done in accordance with the national legislation.

The lists of goods can be found in Annex 3. It includes ozone depleting substances, hazardous waste, cryptographic capabilities, precious stones and metals, gas, medicines, drugs, goods of cultural value and goods subject to exclusive import/export rights, etc.

3.2.2.1 Import and export prohibitions and quantitative restrictions

3.28. Disciplines on "Prohibition and quantitative restrictions on the export and import of goods" are included in Section III of the Protocol on NTMs. Import prohibitions and QRs are banned, except in exceptional circumstances (paragraph 12 of the Protocol on NTMs) or otherwise provided in the Treaty (general exceptions, balance of payments safeguards). The "exceptional circumstances" are similar to those under Article XI of the GATT 1994: export restrictions on grounds of relief from critical shortage, import and export restrictions due to the application of standards or regulations, and import restrictions on fisheries product. The GATT requirement of not reducing the total imports relative to domestic production is however not reflected in the EAEU disciplines.

3.29. Restrictions on the export of agricultural goods for critical shortage reasons shall take into account the impact on food security of third countries; prior notification to the WTO shall be made and, upon request of an importing State, additional information be provided and consultations organized. Countries having a significant interest in the product concerned by the QR, defined as reaching 5% of imports or exports, respectively, have the right to consultations (paragraph 15 of the Protocol on NTMs).

3.30. The target of QRs on imports can only target is goods originating in third parties. Selective imposition of QRs *vis-à-vis* third parties is prohibited, unless in conformity with international agreements (paragraph 13 of the Protocol on NTMs).

3.31. The introduction of authorized QRs is regulated by import/export quotas, which may or may not be allocated by the Commission to specific countries; relevant disciplines are included in Section III of the Protocol on NTMs. Information regarding the amount of quotas, any country allocation as well as time-frames is to be published. If import quotas are allocated by country, the Commission shall hold consultations with all "significant suppliers" from third countries, defined as having an import share of the good into the EAEU territory of at least 5%. In the absence of agreement following the consultations, the Commission is responsible for the quota distribution taking into account volumes in the preceding period, normally the previous three years for which statistics are available. No conditions or formalities that can prevent the fulfilment of quotas shall be imposed (Paragraphs 17-21 of the Protocol on NTMs). Upon request from any interested third country, the Commission is to consult on the necessity of redistributing the quotas, modifying the preceding period or abolishing conditions or formalities relating to the quota distribution.

3.32. The Commission is also responsible for quota distribution among member States and their foreign trade actors. Underlying principles for quota distribution provide for equal treatment among foreign trade actors and non-discrimination on grounds of form of ownership, place of registration or market ranking (paragraphs 16 and 23 of the Protocol on NTMs).

3.33. Finally, the Commission is to provide information to interested third countries regarding the order of distribution of quotas, the mechanism for their distribution among foreign trade actors and the volume of licensed quotas, and to publish information on future quotas.

3.2.2.2 Tariff-rate quotas

3.34. The conditions and mechanism of application of tariff-rate quotas (TRQs) on certain agricultural products are spelled out in Article 44 of the EAEU Treaty and Section III of the "Protocol on Common Customs and Tariff Regulation" in Annex 6 to the Treaty. TRQs are applied on beef, pork, poultry, whey and modified whey (see Annex 4). Each year the Commission adopts

a decision concerning TRQ volumes for each EAEU member State for the following year²² (Decisions of the Collegium of the Commission, as follows: for 2015 TRQs, N^{os} 131/14 and 134/15; for 2016 TRQs: N^o 99/15, 134/15 and 76/16; for 2017 TRQs: N^o 97/16 and 98/16; and for 2018 TRQs: N^{os} 96/17 (TRQs for Viet Nam) and 97/17. They are administered by EAEU member States in accordance with their respective national legislation. The tariff rates for both in-quota and out-of-quota are specified in the CET.

3.35. TRQs are only authorized in cases of short supply, i.e. if the volume of consumption exceeds that of production of like products in the customs territory of the EAEU. More precisely:

- a. the TRQ volume cannot exceed the difference between domestic consumption and production;
- b. TRQs are time-bound;
- c. if the Commission decides to have a pre-defined TRQ allocation, all interested third countries shall be informed of their allocation; and
- d. information on all of the above, including the in-quota rate, is to be provided to interested third countries.

3.36. Disciplines regarding TRQs are as follows (Section III of Annex 6):

- a. TRQ allocation among EAEU member States:
 - i. as regards importers, allocation will be based on equal access and non-discrimination in terms of form of ownership, place of registration or position on the market (paragraph 8);
 - ii. as regards member State volumes, allocation will be in accordance with its ratio in the short-supply calculation. For those member States which are also WTO Members, the volume may be established based on their WTO commitments (paragraph 9);²³
- b. TRQ allocation among third-parties:
 - i. allocation is done by the Commission or by a member State;
 - ii. allocation is based on the result of consultations with "major suppliers" (paragraph 10). If this cannot be done, allocation will take into account third-party export volumes during the three preceding years for which information on the actual volume of imports is available (or, if not possible, on the basis of an assessment of the "most likely distribution" of import volume);
- c. other elements (paragraphs 11-14):
 - i. no conditions and/or formalities that prevent third countries from fully utilizing allocated TRQs shall be established;
 - ii. upon request of a third country interested in the supply of goods, the Commission shall: conduct consultations on a possible re-allocation of TRQs, change in the

²² These can be found in https://docs.eaeunion.org/docs/en-us/0044084/clcd_20082014_131; https://docs.eaeunion.org/docs/en-us/0044504/clcd_14102014_189; https://docs.eaeunion.org/docs/en-us/0148316/clcd_20082015_99; https://docs.eaeunion.org/docs/ru-ru/0138745/clcd_14102015_134; https://docs.eaeunion.org/docs/ru-ru/01316122/clcd_22062016_76; https://docs.eaeunion.org/docs/en-us/01411091/clcd_31082016_97; https://docs.eaeunion.org/docs/ru-ru/01316137/clcd_31082016_98; https://docs.eaeunion.org/docs/ru-ru/01314646/clcd_21082017_97; https://docs.eaeunion.org/docs/en-us/01414643/clcd_21082017_96;

²³ In acceding to the WTO, the Russian Federation bound six TRQs, for fresh and chilled beef; frozen beef; fresh, chilled and frozen pork; pork trimming; fresh, chilled or frozen poultry; and whey and modified whey. Kazakhstan has also bound two TRQs upon WTO accession, on fresh, chilled or frozen beef; and fresh, chilled or frozen poultry.

selected period, and any provision unilaterally established in regarding the fulfilment of the TRQ; provide information concerning the method and procedures for TRQ allocation among participants of foreign trade activity (hereafter, "traders") and the TRQ volume for which licences are issued; and publish information on the total quantity or value of goods intended for supply within the allocated TRQ volume as well as the beginning and end dates, including any changes therein; and

- iii. the Commission may not require that licenses be used for import of goods from a particular third country, except in cases where TRQs have been allocated among third countries.

3.37. Annex 4 to this Factual Presentation provides additional information on TRQs under the EAEU Treaty.

3.2.2.3 Exclusive rights

3.38. On the basis of proposals by the member States, the Commission identifies goods for which an exclusive right of export and/or import is granted, as well as the procedures that member States are to apply in determining traders benefitting from the right (Section IV of the Protocol on NTMs, and included in the List referred to in paragraph 3.27. above). These are:

- a. for the Russian Federation, exports of gas;
- b. for Belarus, exports of potassium fertilizers (mineral and chemical); imports of alcohol, raw tobacco and tobacco products.

3.39. Foreign trade actors holding exclusive licences issued by the authorized body are thus authorized to import/export the goods concerned. The list of traders with exclusive rights shall be published on the official website of the Commission; as of April 2018, no such list has been established. These traders are to conduct their business in a non-discriminatory manner, guided only by commercial considerations including conditions of purchase or sale. Third country organizations are to be granted adequate opportunity, in conformity with usual business practice, to compete for such purchases or sales.

3.2.2.4 Licensing

3.40. Automatic licensing, used to monitor foreign trade within the Union, is disciplined under Section V of the Protocol on NTMs. The initiative to implement automatic licensing comes from either a member State or the Commission. Goods subject to automatic licensing shall be included in the Common list of goods referred to above. Trade in goods subject to automatic licensing is carried out on the basis of import/export permits (Section V of the Protocol on NTMs).

3.41. Import/export licenses - one-time, general or exclusive - are issued to the traders by an authorized body of a member State. Licences are applicable to the export/import of goods subject to QRs, exclusive rights, permit-based procedures, TRQs and import quotas applied as special safeguard measures. General and exclusive licenses are issued in cases determined by the Commission. Licenses issued by the authorized body of one member State are recognized by all other member States. Detailed rules as regards how licensing shall be carried out are defined in the Appendix to the Protocol on NTMs.

3.42. Unless when allocated among third countries, licences cannot be country-bound (paragraph 24 of the Protocol on NTMs).

3.2.3 Other export-related measures

3.43. Export duties are not applied on intra-trade.

3.44. As regards trade with third-parties, the EAEU has no common regulation for export duties; member States are thus free to unilaterally apply export duties in accordance with their respective domestic legislation and international commitments.

3.45. As of early 2018, export duties are applied by all three parties:

- a. the Russian Federation applies export duties on approximately 200 lines at 10-digit level. Duties on another 495 lines were eliminated upon accession to the WTO.²⁴
- b. Kazakhstan applies export duties on 148 lines.²⁵ In acceding to the WTO, Kazakhstan has bound, sometimes with commitments to progressively reduce and eliminate, export duties for 370 lines (Part V, Section A of its Schedule). In addition, in case the EAEU decides to introduce a common policy on export duties, Kazakhstan has also committed to align its export duty rates with lower rates of the Russian Federation on 556 lines (Part V, Section B of its Schedule); and
- c. Belarus applies export duties on few lines, including petroleum.²⁶

3.46. The EAEU envisages developing a series of measures for export development - in particular, insurance and export credit, introduction of common labelling for goods of the EAEU and their promotion. (Article 41). In that context, an annual exhibition forum - the "Eurasian Week" - is held alternately in the territory of each of the member States. The forum aims at the further development of integration, promotion of export and exhibition activities of EAEU member States.

3.2.4 Fees and charges connected with importation and exportation

3.47. Under Article 47 of the EAEU Customs Code, customs fees are the competence of the member States individually. Their amount may not exceed the estimated costs incurred by the customs authorities for the performance of the acts in respect of which the customs fees are established. The terms and conditions for their payment as well as any applicable exemption are set out either in the Code or in domestic legislation.

3.48. Goods in intra-trade are not subject to the payment of fees and charges connected with importation.

3.2.5 General incidence of the formation of the EAEU

3.49. When the Russian Federation joined the WTO, the customs union, including its CET, was already in force. At the time of the entry into force of the EAEU, among its original members only the Russian Federation was a WTO Member. Since that time, Kazakhstan has become a Member and Belarus is acceding.

3.50. The accessions of Armenia and of the Kyrgyz Republic to the EAEU took place in 2015, the same year the EAEU was established – respectively in January and August.

3.51. Given the proximity of the establishment of the EAEU and the two successive accessions, the Secretariat will calculate the general incidence of the formation of the EAEU with the five member States. The general incidence calculation was circulated in a separate document (document WT/REG358/2).

3.3 Rules of origin

3.52. In accordance with the principles of functioning of the EAEU, the control of origin of goods in intra-trade is not carried out.

3.53. Provisions of common rules of origin for goods imported into the territory of the EAEU are stipulated in Articles 36 and 37 of the EAEU Treaty (USTP rules and MFN trade, respectively) and by Article 37 (MFN rules). Pending the adoption of EAEU rules:

²⁴ See paragraphs 3.93 and 3.94 of WT/TPR/S/345/Rev.1.

²⁵ In accordance with Order of Minister of National Economy of the Republic of Kazakhstan N° 81 of 17 February 2016. See <http://adilet.zan.kz/rus/docs/V1600013217>.

²⁶ Export duties are applied on rape or colza seeds, whether or not broken; petroleum oils and oils obtained from bituminous minerals, crude and petroleum products; mineral or chemical fertilizers, potassium; raw hides and skins; tanned or crust hides; fuel wood; wood in the rough, whether or not stripped of bark or sapwood, or roughly squared; hoopwood; wood sawn or chipped lengthwise.

- a. the Agreement between the Government of the Republic of Belarus, the Government of the Republic of Kazakhstan and the Government of the Russian Federation "On Rules of Origin of Goods from Developing and Least Developed Countries" of 12 December 2008 is applied for USTP trade (Article 102:3); and
- b. the Agreement between the Government of the Republic of Belarus, the Government of the Republic of Kazakhstan and the Government of the Russian Federation "On Common Rules for Determining the Country of Origin of Goods" of 25 January 2008 is applied for MFN trade (Article 102:4).²⁷

3.54. MFN rules of origin are used in the application of the CET, non-tariff measures, trade defence measures, labelling, government procurement and for statistical purposes. Beyond wholly obtained goods, the general non-preferential rules of origin are a change in tariff heading; value-added and the technical test criteria can also be used. Basic operations (such as mixing, slaughter of animals, preparation for sale, and packaging of goods) do not qualify as substantial transformation.

3.55. USTP rules of origin limit non-originating materials to 50% of the exported product. Valuation of imported materials is on the basis of the customs value while for exported products it is on the basis of the ex-factory price.

3.4 Regulatory provisions on trade in goods

3.4.1 Standards²⁸

3.56. The EAEU Treaty provisions and Decisions on the preparation and application of technical barriers to trade (TBT), conformity assessment procedures and sanitary and phytosanitary (SPS) measures are based on the following underlying elements:

- a. interaction between member States and supranational bodies, in particular within the Consultative Committee on Technical Regulation and Application of Sanitary, Veterinary and Phytosanitary Measures (hereafter the "Consultative Committee");
- b. an appointed "Developer" - a member State or the Commission – leads the discussion on a particular draft TBT and SPS measure within a Working Group (WG). The WG is composed of representatives from member States with specific technical and administrative expertise;²⁹
- c. opportunity given for public consultations on draft TBT and SPS measures;³⁰ and
- d. the EAEU's common TBT and SPS measure are approved by the Commission – either the Collegium or the Council, depending on the subject matter (see paragraph 3.69. below). The Council has the right to veto the decisions adopted by the Collegium. In general, prior review and approval by the relevant national authorities is also required.

²⁷ Notified to the WTO, see G/RO/N/84 and Corr.1. The Agreement on Common Rules for Determining the Country of Origin of Goods of 25 January 2008 and the Agreement on Rules of Origin of Goods from Developing and Least Developed Countries of 12 December 2008 can be consulted online, see respectively http://www.eurasiancommission.org/ru/act/trade/dotp/commonSytem/Documents/CU_Agreement_on_ROO.pdf (non-preferential rules of origin) and http://ptadb.wto.org/docs/Russia_GSP/Rules_of_origin.doc and http://ptadb.wto.org/docs/Russia_GSP/Decision_130.doc for USTP rules of origin.

²⁸ Many decisions referred to in this section, some in a consolidated form, are available in English in the Commission's website – see Annex 5 to this factual presentation and <http://www.eurasiancommission.org/en/act/txnreg/Pages/acts.aspx>.

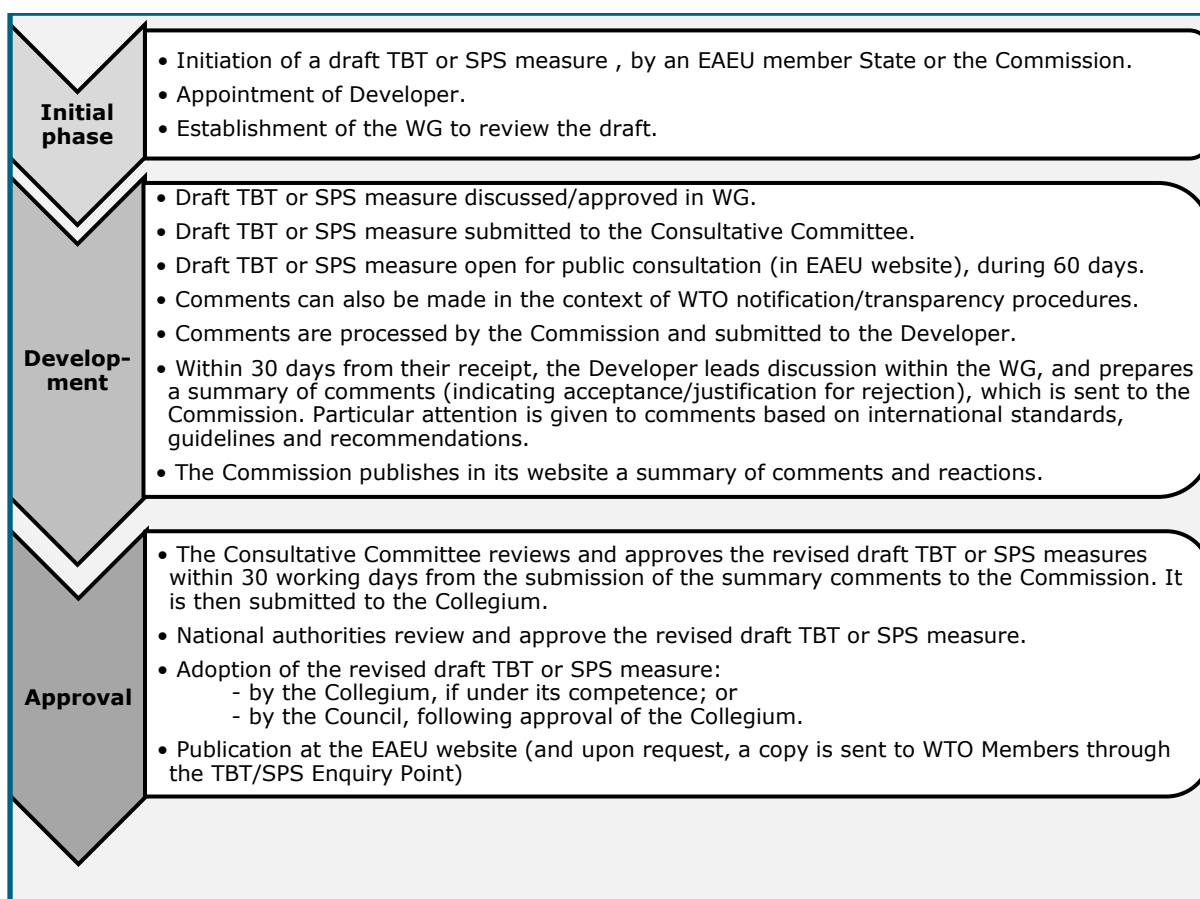
²⁹ The functions and interactions of WGs and the Consultative Committee are defined by two regulations: "of Working and Expert Groups on SPS and TBT" - Decision of the Minister on Technical Regulation, Member of the EEC Collegium of 3 October 2013, and "on the Consultative Committee on Technical Regulation, Application of Sanitary, Veterinary and Phytosanitary Measures" - Collegium Decision N° 161/12.

³⁰ See <http://www.eurasiancommission.org/en/act/txnreg/depsanmer/publ/Pages/default.aspx> for SPS and <http://www.eurasiancommission.org/en/act/txnreg/deptexreg/tr/Pages/projectsPublic.aspx> for technical regulations.

3.57. The Consultative Committee is an advisory body to the Collegium that develops proposals for technical regulations and sanitary, veterinary and phytosanitary measures on the basis of agreed positions of the EAEU member States' authorized bodies. Sub-committees on Standardization and Uniformity of Measurements are established under the Consultative Committee. Figure 3.1 summarizes the steps involved in the adoption of common EAEU TBT and SPS measures.

3.58. The EAEU member States national enquiry points on technical regulations and sanitary and phytosanitary measures are as follows: Belarus State Institute of Standardization and Certification (BelGISS), www.nicwto.by, e-mail info@nicwto.by; Department for Foreign Trade Activity Development of the Ministry of National Economy of the Republic of Kazakhstan, e-mail wto.kaz.ntf@gmail.com; and for Russian Federation, the Ministry of Industry and Trade of the Russian Federation (Minpromtorg) concerning technical regulation, <http://minpromtorg.gov.ru/> and <http://minpromtorg.gov.ru/en/>, the Ministry of Agriculture of the Russian Federation concerning veterinary and phytosanitary measures, <http://mcx.ru/> and <http://mcx.ru/en/about/>, and the Russian Federal Service for Surveillance on Consumer Rights Protection and Human Wellbeing (Rospotrebnadzor) concerning sanitary measures, <https://rospotrebnadzor.ru.com/> and <https://rospotrebnadzor.ru/en/>.

Figure 3.1 Procedures for the adoption of common EAEU TBT and SPS measures



3.4.1.1 Sanitary and phytosanitary measures

3.59. Sanitary and phytosanitary provisions are found in Section XI and Annex 12 of the EAEU Treaty (Protocol on the Application of Sanitary, Veterinary and Phytosanitary Measures, hereafter, "SPS Protocol"). Decisions of the Commission of the Customs Union or of the EAEU regulate in greater detail the application of these measures.

3.60. The Treaty establishes a coordinated SPS policy for the Union. However, member States retain their rights to introduce temporary SPS measures, e.g. in cases of justified risk of specific

imported goods. The Treaty provides that procedures of interaction between authorized bodies of the EAEU member States for implementing these temporary SPS measures are to be developed by the Commission (Article 56.4). These procedures, adopted by the EAEU Council Decision N° 149 of 16 May 2016, provide the timeframes for informing other EAEU member States on the temporary SPS measure and require the member State introducing the measure to provide a description of the measure as well as the reason for, and date of, its implementation.³¹

3.61. Article 57 of the Treaty provides that the EAEU common sanitary requirements that fall within the scope of technical regulations shall be included therein. Further, movement of certain categories of products may be subject to conformity assessment procedures conducted in the course of registration with the competent authorities of the member States (paragraph 4 of the SPS Protocol). The List of products subject to state registration was adopted by the Decision of the CU Commission N° 299 of 28 May 2010.³²

3.62. In line with Article 56.1 of the Treaty, SPS measures must be applied on the basis of scientific principles and only to the extent necessary for the protection of human, animal or plant life and health. SPS measures must be based on international and regional standards, except when their application on a scientific basis results in a higher level of protection. According to the CU Commission Decision N° 721 of 22 June 2011, in the absence of the EAEU's or national mandatory rules establishing veterinary and SPS requirements, the standards, guidelines and recommendations of the Codex Alimentarius Commission, the International Office of Epizootics and the International Plant Protection Convention are to be applied. Also, those standards prevail over the more stringent rules applicable in the Union to the extent there is no scientific justification for the application of the latter.

3.63. The EAEU's risk assessment disciplines, as defined in EEC Collegium Decision N° 17 of 11 February 2014, are based on Article 5 of the WTO SPS Agreement.³³ Member States are required to ensure that veterinary or SPS measures are based on an assessment, as appropriate to the circumstances, of the risks to human, animal or plant life or health, taking into account risk assessment techniques developed by the relevant international organizations. Account shall also be taken of relevant economic factors, including the potential damage in terms of loss of production or sales in the event of the entry, establishment or spread of a pest or disease, the cost of control or eradication in the territory of the member States and the relative cost-effectiveness of alternative approaches to limiting risks.

3.64. Every EAEU member State is obliged to recognise veterinary certificates issued in uniform form (common veterinary certificate) by other member States (Article 58:6 of the Treaty). Regulated products with high phytosanitary risk (see below) imported into the Union's customs territory must be accompanied by a phytosanitary certificate in the case of import of such products as well as of transportation within the Union (paragraph 23 of the SPS Protocol).

3.65. The EAEU's disciplines are implemented on the basis of CU Commission Decisions N° 317 (as amended) "On the Application of Veterinary and Sanitary Measures in the Customs Union" of 18 June 2010, N° 318 "On Assurance of Plant Quarantine in the Customs Union" of 18 June 2010 and N° 299 "On Application of Sanitary Measures in the Eurasian Economic Union" of 28 May 2010, which establish the following:

- a. common lists of goods subject to veterinary control and to phytosanitary quarantine control - covering respectively 109 and 125 groups of products³⁴ (see Table A6.1 in Annex 6) - of which 81 are listed as having high phytosanitary risk, and the remaining 44 as having low phytosanitary risk (see Table A6.2 in Annex 6);

³¹ Available at https://docs.eaeunion.org/docs/en-us/01413079/cncd_15022017_149 (Russian only).

³² Decision "On application of sanitary measures in the Customs Union", available in English at https://docs.eaeunion.org/docs/en-us/0045260/cuc_28062010_299.

³³ Decision N° 17 of 11 February 2014 amends CU Commission Decision N° 835 "On Equivalence of Sanitary, Veterinary and Phytosanitary Measures and Conduct of Risk Assessment" of 18 October 2011. These Decisions can be found, in Russian only, at https://docs.eaeunion.org/docs/en-us/0044949/cuc_21102011_835 and https://docs.eaeunion.org/docs/en-us/0044176/clcd_11022014_17.

³⁴ The HS codes can be found in Annex 6. However, for a full picture of the products involved, both the HS codes and the product description have to be consulted. These are found in the relevant Appendices of the Decisions N°s 317 of 18 June 2010 and 318 of 18 June 2010.

- b. common regulations regarding veterinary and phytosanitary control at the EAEU's external borders and within its customs area, as last modified by the EEC Council Decision N° 93 of 23 November 2015 and N° 10 of 17 March 2017, respectively;
- c. common procedures for joint inspections and sampling subject to veterinary control, as modified by CU Commission N° 834 of 18 October 2011 and EEC Council Decision N° 94 of 9 October 2014;
- d. a list of Common Veterinary Requirements – including supporting documentation (veterinary certificate/passport) and import permit - for 110 groups of products subject to veterinary control. For various groups of products, the latter requirement only apply to Belarus (common requirements are aligned with WTO accession commitments of the Russian Federation; when acceding to the WTO, Kazakhstan undertook the same commitments); and
- e. in addition, common forms of veterinary certificates are also defined for 41 controlled products when these are imported from third countries into the territory of the EAEU (CU Commission Decision N° 607 of 7 April 2011). This Decision has been amended a few times to align the veterinary certificates with international standards, recommendations and guidelines.³⁵
- f. common List of Goods subject to sanitary and epidemiologic surveillance (control) on the customs border and customs territory of the EAEU;
- g. common sanitary and epidemiologic and hygienic requirements to goods subject to sanitary and epidemiologic surveillance (control);
- h. common form of document confirming safety of products (the common form of the certificate on the state registration); and
- i. regulations on the procedure of the state sanitary and epidemiologic surveillance (control) of persons and the vehicles crossing the customs border of the EAEU, controlled goods moved through the customs border of the EAEU and on customs territory of the EAEU.

3.66. Except as indicated in b. and e. above, all of these elements apply equally to internal and external trade of the Union.

3.67. In the absence of common veterinary requirements for the EAEU, bilateral certificates may be developed based on a common EAEU position, in accordance with relevant international standards, guidelines and recommendations. When common veterinary requirements exist, exporters may either use the EAEU common form of veterinary certificate or alternatively a bilateral export certificate that reflects the particular conditions of the exporting country. Bilateral export certificates that differ from the EAEU's common certificate and requirements can be negotiated between EAEU member States' competent authorities and an exporting country (Decision N° 726 "On Veterinary Measures" of 15 July 2011), provided that the exporting country had made such a substantiated request prior to 1 January 2013; the certificate ensures the appropriate level of protection, as determined by the EAEU member States; and its terms and requirements are no less favourable than those of an international treaty concluded prior to 1 July 2010 between the relevant EAEU member State and the exporting country.

3.68. Until new EAEU-wide veterinary certificate enters into force, the validity period of any bilateral veterinary export certificate initialled by one of the EAEU member States with third parties before 1 July 2010 or between 1 July to 1 December 2010, as well as any subsequent amendments to such certificates, is extended until an export certificate is agreed between the EAEU and a third party based on the agreed positions of all of the EAEU member States, provided

³⁵ As amended by CU Commission Decisions N° 832 of 18 October 2011 and N° 892 of 9 December 2011; EEC Collegium Decisions N° 262 of 4 December 2012, N° 308 of 25 December 2012, N° 193 of 10 September 2013, N° 245 of 29 October 2013, and N° 19 of 11 February 2014; and EEC Council Decision N° 95 of 9 October 2014, N° 252 of 24 December 2014, N° 161 of 8 December 2015, N° 15 of 2 February 2016, N° 64 of 7 June 2016, N° 61 of 30 May 2017.

an authorized body of an EAEU member State had received an appropriate request before 1 January 2013.

3.69. The Commission's competence regarding the adoption, introduction of amendments and addenda to standards is summarized in Table 3.7.

Table 3.7 Commission competence regarding SPS and veterinary measures

Council	Collegium
Common Lists of Goods subject to Sanitary-Epidemiological Surveillance, Veterinary and Quarantine Phytosanitary Control	Common Veterinary Requirements and Common Forms of Veterinary Certificates
Regulations of Sanitary and Epidemiological Control	Common Sanitary Requirements
Regulations on Common System of Joint Inspections of Objects and Sampling Goods Subject to Veterinary Control	Common Form of Certificate of State Registration of Product
Regulations on Common Procedure for Conduct of Veterinary Control	All remaining issues
Regulations on Common Procedure for Conduct of Quarantine Phytosanitary Control	
Common Quarantine Phytosanitary Requirements	
Common List of Quarantine Objects	
Common Rules and Norms of Assurance of Quarantine of Plant	

Source: EAEU Treaty and EAEU legal instruments.

3.4.1.2 Technical barriers to trade

3.70. Technical barriers to trade are dealt with in Section X and Annex 9 (Protocol on Technical Regulation) of the Treaty. Two related aspects - harmonization of measurements and accreditation of conformity assessment bodies - are found in Annexes 10 and 11 to the Treaty, respectively.

3.71. EAEU technical regulations shall aim at the protection of human, animal and plant life and health; the protection of the environment; the prevention of deceptive practices; ensuring energy efficiency and conservation of resources (Article 52 of the Treaty).

3.72. A technical regulation encompasses mandatory product characteristics and related processes - namely design (including research), manufacturing, construction, installation, setting up, operation, storage, transportation, sale and disposal. While the use of standards is voluntary, compliance with technical regulations is mandatory, and the use of international standards in the development of EAEU's technical regulations is encouraged (paragraphs 2 and 3 of the Protocol on Technical Regulation, respectively).

3.73. EAEU disciplines on technical regulations are based on the provisions of the WTO TBT Agreement, in particular:

- a. technical regulations shall not create barriers to business activity beyond the levels necessary to achieve legitimate objectives (paragraph 1(16) of Article 51 of the EAEU Treaty);
- b. harmonization of technical regulations with relevant international standards (paragraph 3 of the Protocol on Technical Regulation), unless, as provided for in Article 2.4 of the WTO TBT Agreement, they are "an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued";
- c. harmonization of conformity assessment procedures with relevant international standards, relevant guidelines or recommendations issued by international standardizing bodies;
- d. establishment of a single information/enquiry point on SPS and TBT;

- e. transparency in the development of technical regulations (Council Decision N° 48/12);
- f. conformity assessment procedures are based on the principles of non-discrimination between domestic and imported products and among suppliers of imported products, both in terms of procedures and in terms of fees; proportionality of procedures to the level of risk; transparency and predictability of the procedures; and protection of confidentiality; and
- g. notification to the WTO of a draft technical regulation that would affect international trade takes place at the same time as it is open for public consultations, which shall last at least 60 calendar days.

3.74. EAEU Treaty provisions and Decisions aim at progressively achieving the following:

- a. harmonization of national legislation in the area of technical regulation;
- b. adoption of the EAEU's technical regulations on mandatory requirements for goods and production processes;
- c. common procedures for the development of technical regulations in the territory of each EAEU member State;
- d. harmonization of standards and the implementation of relevant international standards as a basis for the elaboration of technical regulations;
- e. implementation of common forms and rules for conformity assessment;
- f. conducting joint conformity assessment of products;
- g. accreditation of conformity assessment bodies; and
- h. coherence of policies in the area of measurement traceability.

3.75. Pending full harmonization, three systems coexist: a national system, one based on mutual recognition, and finally the EAEU harmonized system. The paragraphs below describe these as well as progress achieved up to January 2018. The most recent disciplines on the importation of goods subject to mandatory requirements are spelled out in Collegium Decision N° 294/12.³⁶

3.76. Products for which EAEU technical regulations are to be developed are included in the Unified List of Products approved by CU Commission Decision N° 526/11, as amended by EAEU Commission Decision N° 102/12, which includes 66 product groups (see Table A6.3 in Annex 6). In practice, technical regulations adopted at the EAEU level have direct effect in its territory (Article 52.1 of the Treaty). Products for which a technical regulation has entered into force shall move freely within the territory of the Union, provided the necessary conformity assessment has been undertaken. The EAEU's mandatory labelling also applies, as approved by the Commission (paragraph 6 of the Protocol on Technical Regulation). Mandatory requirements cannot however be applied for products not include in the Unified List.

3.77. Out of these 66 product groups, 47 had been identified as priority products for the development and adoption of EAEU technical regulations (CU Commission Decision N° 492/10). As of 1 March 2018, 45 EAEU technical regulations had been adopted of which 38 had entered into force;³⁷ transition periods are foreseen to allow producers, importers and exporters to become acquainted with the new technical regulations prior to their application. Once these have expired, any mandatory national technical regulations applied in the EAEU member States would be abolished.

³⁶ "Regulation on the Procedures for Importation to the Customs Union Territory of Goods (Products) in Respect of which Mandatory Requirements are Established within the Customs Union" of 25 December 2012. It supersedes the relevant provisions of the CU Commission Decision N° 319/10.

³⁷ EAEU technical regulations can be consulted on <http://www.eurasiancommission.org/ru/act/texnreg/deptexreg/tr/Pages/default.aspx>.

3.78. Pending the adoption of EAEU technical regulations, a Unified List of products subject to mandatory conformity assessment within the EAEU has been established (Decision of the CU Commission N° 620 of 7 April 2011, as amended).³⁸ Products not included in the Unified List are subject to mandatory conformity assessment according to the national legislation of the EAEU member States. Products for which technical regulations of the EAEU are adopted are excluded from the Unified List.

3.79. As of April 2018, the Unified List only includes six groups (out of the original 25), split into 7 sub-groups and 46 products (see Table A6.4 in Annex 6).³⁹ These products are allowed for circulation within the EAEU territory provided compliance with the following conditions are fulfilled:

- a. unified mandatory technical requirements;
- b. unified conformity assessment procedures;
- c. unified or similar or comparable testing and measurement methods;
- d. a mandatory form for conformity assessment procedures based on the level of risk that each particular product poses to human life and health - i.e. either a certification, a declaration of conformity based on evidence acquired with third party participation, or a declaration of conformity based on the applicant's own evidence;
- e. issuing of certificates of conformity and/or registration of declarations of conformity in the EAEU common form is carried out by certification bodies listed in the Unified Register (see paragraph 3.81. below) for goods produced within the CU (paragraph 5 of the Protocol on Technical Regulation). Conformity of foreign goods can be demonstrated either through the use of the EAEU's common form (approved by the CU Commission Decision N° 319 of 2010, as amended by the EEC Collegium Decision N° 77 of 2013) or alternatively through the declaration of conformity in accordance with the national legislation of the EAEU member State; the common forms are defined in the Decision of the CU Commission N° 621 of 7 April 2011;⁴⁰
- f. free circulation within the EAEU territory provided that (paragraph 7 of the Protocol on Technical Regulation) the product has undergone conformity assessment procedures in the territory of one of the member States; the certification and testing were conducted respectively by a conformity assessment body/testing laboratory included in the Unified Register of bodies on conformity assessment of the EAEU; and the product is accompanied by a certificate of conformity or a declaration of conformity, with the common form; and
- g. that where the applicant has chosen to demonstrate conformity on the basis of the national legislation of an EAEU member State, the product must remain within the territory of that member State.

3.80. A member State being guided on the protection their legitimate interests may apply emergency measures in order to prevent release into circulation of hazardous products. In such case it shall immediately inform other EAEU member States on the emergency measures taken and shall hold consultations and negotiations on that issue (paragraph 9 of the Protocol on Technical Regulation).

³⁸ CU Commission Decision N° 620 "On the Unified List's Update with Regard to Products Subject to Mandatory Conformity Assessment (Confirmation) within the Framework of the CU with Issuance of Single Documents, Approved by CU Commission Decision No. 319 of 18 June 2010", of 7 April 2011. Decision 69 excluded "Furniture" (Chapter 13) from the list, reducing the number of "groups" of products to 24. Various subsequent Decisions excluded from the Unified List those products for which EAEU technical regulations had been adopted. The very first unified list had been established by CU Commission Decision N° 319 "On Technical Regulation in the Customs Union" of 18 June 2010.

³⁹ Lighting equipment; dishes; food for animals, birds and fish; cleaning agent; sanitary ware and matches.

⁴⁰ Decision N° 621 "On the Regulation on the Application of Model Schemes of Conformity Assessment (Confirmation) in the Technical Regulations of the Customs Union" of 7 April 2011.

3.81. The following EAEU Unified Registers are maintained by the Commission on the basis of member State submissions: EAEU Unified Register of Certification Bodies and Testing Laboratories (hereafter, the "Unified Register");⁴¹ Unified Register of Issued Certificates of Conformity; and Unified Register of Registered Declarations of Conformity.

3.82. Documents on conformity assessment issued by Bodies included in the Unified Register are accepted throughout the EAEU territory, and their validity shall not exceed 5 years. Application for registration of a declaration of conformity can be made by a juridical person, a natural person registered as an individual entrepreneur in accordance with national legislation of the EAEU member States who operates as a producer or seller, or by an authorized representative of both categories of applicants.

3.83. The "Protocol on Recognition of the Results of Works on Accreditation of the Conformity Assessment Bodies" (Annex 11 to the EAEU Treaty) stipulates the principles for a common EAEU system of mutual recognition of accreditation, the responsibilities of the accreditation bodies of the EAEU member States and general principles of accreditation, pending harmonization of the accreditation legislation. Harmonization work is to be based on international standards; pending that, mutual recognition of accreditation of conformity assessment bodies is granted provided they comply with Article 54 of the EAEU Treaty (paragraph 3 of Annex 11). Article 54 on "Accreditation" provides *inter alia* for accreditation rules to be harmonized with international standards; access to voluntary, transparent, objective and impartial accreditation procedures that ensure the confidentiality of information obtained during the accreditation, the inadmissibility of the combination by one authority of a member State of both accreditation and conformity assessment functions. Article 54 also includes disciplines aimed at avoiding competition between accreditation bodies of member States.

3.84. The tasks of EAEU member State accreditation bodies are as follows (paragraph 4 of Annex 11 to the EAEU Treaty):

- a. propose national-related modifications to the EAEU's Unified Register;
- b. maintain the register of accredited conformity assessment bodies and the rosters of accreditation and technical experts;
- c. provide information on all of the above to the EAEU integrated information system;
- d. provide an opportunity for representatives of accreditation bodies to carry out mutual comparative assessments in order to achieve equivalence of procedures applied in the member States;
- e. decide on appeals filed by conformity assessment bodies; and
- f. decide on complaints from natural or juridical persons of the member States on the activities of both accreditation as well as accredited conformity assessment bodies.

3.85. The voluntary application by EAEU member States of international and regional standards (and, in their absence, national standards) included in the "List of Standards" adopted by the Commission ensures compliance with the EAEU technical regulation requirements (paragraph 4 of the Protocol on Technical Regulation). While their application on a voluntary basis is a sufficient condition to prove compliance, non-compliance with these standards however does not mean non-compliance with the EAEU technical regulations.⁴²

⁴¹ See http://www.eurasiancommission.org/en/docs/Pages/IL_OS.aspx.

⁴² The "Approved Lists of Standards for Technical Regulations of the Customs Union" can be found at <http://www.eurasiancommission.org/ru/act/txnreg/deptexreg/tr/Pages/default.aspx>. The "List of Standards" covers railroad rolled stock; high speed railroad transport; infrastructure of railroad transport; pyrotechnical articles; packaging; low voltage equipment; toys; perfumes and cosmetics; products intended for children and teenagers; machinery and equipment; lifts; equipment for work in explosion hazardous environment; motor petrol and aviation gasoline, diesel fuel and marine fuel, fuel for reactive engines and furnace oil fuel; automobile roads; units operated with gaseous fuel; grains; wheeled vehicles; oil and fat production; food products; light industry products; individual protection means; fruit and vegetable juices; electromagnet

3.86. Pursuant to paragraph 5 of Article 53 of the EAEU Treaty, the liability for non-compliance with technical regulation requirements, as well as for a violation of conformity assessment procedures, is established by the legislation of each member State. A member State has the right to take all appropriate measures whenever it ascertains that products do not conform with EAEU technical regulations, including prohibition on placement in, or withdrawal from, the market; other member States are to be informed of measures taken.

3.87. Article 55 of the EAEU Treaty foresees the development of an "Agreement on procedure and conditions of elimination of technical barriers to mutual trade with third countries". Under this Agreement, the elimination of TBT would be possible on the basis of international agreements of the EAEU with third countries. As of April 2018, this Agreement has not been signed. Pending the conclusion of this Agreement, legislation at the level of each EAEU member applies.

3.88. Finally, the following Agreements are also being drafted within the EAEU: "On principles and approaches to the harmonization of legislation of EAEU member States in the sphere of state control (surveillance) over the fulfilment of requirements of EAEU technical regulations", aimed at applying equivalent approaches to market surveillance; and "On rules and procedures of ensuring safety of circulated products, that are not covered by the technical regulations", aimed at improving the safety of products.

3.89. The establishment of the CU in 2010 initiated the transfer of competence in the field of technical regulations from a national towards a supranational level – initially to the CU Commission and finally to the Commission. This is further defined in Section X and Annexes 9-11 to the EAEU Treaty. In particular, EAEU member States have delegated the authority to establish mandatory State product requirements to the Commission and no additional mandatory requirements can be imposed at the national level.

3.90. The Council of the Commission - working under the consensus rule - is responsible for the overall regulation of integration processes, whilst the Collegium - working under the qualified majority rule - is the executive body that makes proposals for further integration. These are more specifically defined in Table 3.8.

Table 3.8 Commission competence regarding TBT

Council	Collegium
Unified List of Products for which Mandatory Requirements are established within the Framework of the EAEU (approval/modifications, procedure for its maintenance)	List of international and regional standards, and in case of non-existence, the List of national standards which ensure compliance with EAEU technical regulations (approval/ modifications, procedure for their maintenance)
Technical regulations of the EAEU (approval/modifications, procedure for their maintenance)	Schemes of conformity assessment (approval)
Plans for development of technical regulations of the EAEU (approval)	Regulation on procedure of importation into the EAEU customs territory of products for which mandatory requirements were established within the EAEU framework (approval)
Common Mark of Circulation of Products in the Markets of EAEU member States, as well as the relevant regulation (approval)	Common forms of conformity assessment documents (approval of declaration of conformity and certificate of conformity)
	Regulation on procedure of formulation and maintenance of the Unified Registry of conformity assessment bodies
	Regulation on procedure of formulation and maintenance of the Unified Registry of conformity assessment documents

Source: EAEU Treaty and EAEU legal instruments.

compatibility of technical means; furniture products; small-sized vessels; certain types of specialized food products, including dietetic medical and dietetic preventive nutrition; explosives and articles on their basis; lubricants, oils and special fluids; and food additives, aromatizers and technological auxiliary substances.

3.4.2 Safeguard mechanisms

3.91. Articles 48-50 of the Treaty and its Annex 8 "Protocol on Application of Safeguard, Antidumping and Countervailing Measures with regard to the third countries" (hereafter the "Trade Defence Protocol") contain the principles applying to trade defence measures *vis-à-vis* third parties.⁴³

3.92. Safeguard measures towards third party products are applied in the entire territory of the Union; global safeguards cannot be applied in individual EAEU member States. Decisions on the application of safeguard measures are taken by the Commission. If the safeguard measures applied on a good involve a special quota or import quotas, this good shall also be included in the "Common list of goods" for which NTMs are applied (see paragraph 3.27. above).

3.93. Both Kazakhstan and the Russian Federation notified the EAEU safeguards regime towards third parties in March and May 2016, respectively.⁴⁴ Notification of Kazakhstan also includes the Law of the Republic of Kazakhstan № 316-V "On the application of safeguard, anti-dumping and countervailing measures with regard to the Third countries" of 8 June 2015.

3.4.2.1 Global safeguards

3.94. A safeguard may be applied to a product if, as a result of an investigation carried out by the investigating body, upon request of a "domestic industry of the member States" or on own initiative of the investigating authority, it has been determined that the product is being imported into the EAEU customs territory in such increased quantities (in absolute terms or relative to the total volume of production in member States of like or directly competitive products) and under such conditions that it causes or threatens to cause serious injury to the domestic industry of the member States.

3.95. The Treaty and the Trade Defence Protocol (Article 49:4) define the domestic industry of the member States as all producers of the like or directly competitive product in the member States, or those whose share in the total production of like or directly competitive products constitutes a major proportion, but not less than 25%. In the WTO Safeguards Agreement, imposition of a safeguard is possible in case of serious injury to the "domestic industry" or threat thereof; there is no numerical threshold but "domestic industry" is understood to mean producers as a whole "whose collective output of the like or directly competitive product constitutes a major proportion of the total domestic production of those products".

3.96. Safeguards are applied to any product imported into the EAEU's customs territory from any third country, irrespective of its origin, except as follows (Trade Defence Protocol, Section III.1, paragraph 9):

- a. imports from developing and least-developed countries benefitting from the EAEU USTP below a given threshold are exempted from the application of the global safeguards. The thresholds are a maximum of 3% of the EAEU's total imports of the product per country or if below the 3% share, not to collectively exceed 9% of the EAEU's total imports of the product. This provision is similar to that under the WTO Safeguards Agreement, except that it refers specifically to beneficiaries of the USTP (in the Safeguards Agreement, reference is only made to a "developing country Member");
- b. imports originating from a member State of the CIS Treaty are exempted from global safeguard measures so long as all the conditions specified in Article 8 of the CIS Treaty have been fulfilled, namely:

⁴³ The English text of the Trade Defence Protocol used in this section as well as on Section 3.4.3 is the one notified to the Committee on Safeguards; see footnote 44 *infra*.

⁴⁴ G/SG/N/1/RUS/2. Kazakhstan's notification was revised and circulated as G/SG/N/1/KAZ/1/Rev.1 and Corr.1.

- i. over the previous three years, the party has not been among the five main suppliers of the product nor has its import volume decreased or grown in smaller volumes compared to imports from other countries; and
- ii. the import price of the product is equal to or higher than the domestic price of a like or directly competitive product in the importing Party.

3.97. Provisional safeguards (Section III.3 of the Trade Defence Protocol) may be imposed in critical circumstances and for a maximum of 200 days as in the WTO Agreement. Paragraph 22 of the Trade Defence Protocol stipulates that the decision on the application of the provisional duty shall be taken, as a rule, within 6 months from the initiation of the investigation. The investigating body is to notify in writing the authorized body of the exporting third party, as well as other interested parties known to it, about the possible introduction of a provisional safeguard; upon request of the authorized body of the exporting third party, consultations shall be initiated after the imposition of the provisional safeguard.

3.98. If the investigation concludes that there was a difference between the provisional and final safeguard duty, the payer will benefit - i.e. if a higher final rate is authorized, the difference *vis-à-vis* the provisional duty is not charged to the payer; in the other case, the payer is reimbursed. Full reimbursement of duties paid occurs if the investigating body concludes that there were no grounds for the imposition of the safeguard in the first place (as foreseen under the WTO Agreement) but also - and that is a novelty of the Treaty - in cases where the Commission decides not to apply the safeguards on the basis of a recommendation by the investigating body. Any such recommendation is made on grounds that their use "may impair the interests of member States", despite the investigations having shown the right of the importing Party to impose them (Section VII of the Trade Defence Protocol).

3.99. Disciplines regarding safeguards applied through import quotas are similar to those of the WTO Agreement (Trade Defence Protocol, Section III.4, paragraphs 24-27). Procedures for the application of safeguards through an import quota are to be adopted by the Commission; if licences are to be established, these have to conform with Article 46 of the Treaty.

3.100. The maximum duration of safeguards and any eventual extension are the same as in the WTO Agreement, i.e. four and eight years, as are the conditions for extending the measure. Also the same as in the WTO Agreement is the approach taken regarding gradual liberalization of safeguards that are longer than a year or three years (Section III.5 of the Trade Defence Protocol).

3.101. The Department for Internal Market Defence of the Commission is the responsible authority for conducting safeguard investigations; it also ensures that all notifications concerning investigations and measures are provided to the WTO bodies in accordance with the established procedure (paragraph 270 of the Trade Defence Protocol). Notifications concerning safeguard actions are published in the Commission's website. Final decisions to impose measures following investigations are made by the Collegium of the Commission.

3.102. The Protocol establishes that judicial reviews/appeal of Commission decisions are determined by the Statute of the Union's Court (see Section 5.6 below). The Commission is to take necessary measures to implement Court decisions. Review procedures shall not, as a rule, exceed 9 months.

3.103. Before the entry into force of the EAEU Treaty, two safeguard measures with respect to third countries were applied by the Customs Union between the Russian Federation, Kazakhstan and Belarus. These measures continued to apply at the entry into force of the EAEU, as indicated in Table 3.9.

Table 3.9 Definitive Safeguard Measures applied by the Customs Union on 31 December 2014 and by the EAEU on 1 January 2015

Investigation	Initiation date and WTO document	Effective date and type of definitive measure, if any and WTO document
Harvesters and modules thereof	06/07/2012 G/SG/N/6/RUS/1	01/01/2014 until 21/08/2016, quota G/SG/N/10/RUS/1 & Suppl.1-3
Tableware	03/09/2012 G/SG/N/6/RUS/2	29/09/2013 until 28/09/2016, Specific duty G/SG/N/10/RUS/2 and Suppl.1

Note: These measures expired in August and September 2016, respectively.

Source: G/SG/141 and G/SG/N/10/RUS/- series.

3.104. At the entry into force of the EAEU, none of its members imposed a "Special Safeguard in Agriculture".

3.4.2.2 Bilateral safeguards

3.105. In line with the internal market, intra-EAEU safeguards are prohibited.

3.4.2.3 Measures taken for balance-of-payments purposes

3.106. EAEU member States are authorized to adopt measures in cases of critical balance of payments (BOP) conditions and whenever other measures have not prevented a serious deterioration of its external financial position (Protocol on NTMs, section VIII, paragraph 42). The request for imposition of such measures is made by the member State and reviewed by the Commission. If this is rejected by the Commission, the member State may unilaterally apply the specified measure, in accordance with the Annex's specific provision on unilaterally applied measures (see paragraph 5.14. below).

3.107. The measures concerned include the introduction of QRs on imports and lifting exclusive trading rights. Restrictions on imports shall not be more substantial than necessary to prevent an imminent threat of serious decline in foreign exchange reserves or to restore a reasonable rate of increase in the foreign exchange reserves of the member State concerned. While no reference is made to the WTO, the provisions of the Treaty on the Multilateral System (see paragraph 2.12. above) are of relevance in this context.

3.4.3 Anti-dumping and countervailing measures

3.108. Articles 48-50 of the Treaty and its Annex 8 contain the principles applying to trade defence measures *vis-à-vis* third parties. Anti-dumping and countervailing measures are not applied in intra-trade (Article 28:3 of the Treaty). At the same time in intra-trade, member States are allowed to apply "compensatory measures" - which refer to special mechanisms to counteract the negative impact of a specific subsidy of a subsidising member State on the domestic industry of the other member State. Application of compensatory measures is governed by Article 93 of the EAEU Treaty and Annex 28 (see Section 3.4.4 .

3.109. Both Kazakhstan and the Russian Federation notified the EAEU's anti-dumping and countervailing measure regime towards third parties to the WTO in March and May 2016, respectively.⁴⁵

3.110. An anti-dumping or a countervailing measure may be applied to a product that was respectively subject to dumped imports or benefitted - during production, exportation or transportation - from a specific subsidy by an exporting third country, and, if as a result of investigation carried out by the investigating body upon request of a domestic industry of the member States, it was determined that imports of such product into the EAEU's customs territory cause or threaten to cause material injury to, or significantly retard the development of the domestic industry of member States.

⁴⁵ G/ADP/N/1/RUS/2 - G/SCM/N/1/RUS/2. Kazak notifications were revised and circulated as G/ADP/N/1/KAZ/1/Rev.1 and Corr.1 - G/SCM/N/1/KAZ/1/Rev.1 and Corr.1.

3.111. Generally the provisions regarding anti-dumping and countervailing measures are in line with those of the WTO Agreements on Implementation of Article VI (hereafter the "Anti-Dumping Agreement") and on Subsidies and Countervailing Measures. In particular, the Treaty's definition of "domestic industry of the member States" (paragraph 3.95. above) is in line with disciplines, or further interpretation, of both WTO Agreements. The EAEU Treaty does however specify time-limits for the notification of decisions taken in connection with the investigation, which are not specified in the WTO Agreements.

3.112. The Department for Internal Market Defence of the Commission is the responsible authority for conducting anti-dumping and countervailing investigations. Notifications concerning any such actions are published in the Commission's website. Final decisions to impose measures following investigations are made by the Collegium of the Commission.

3.113. Provisions regarding non-application of anti-dumping duties or countervailing measures are included in Section VII of the Trade Defence Protocol. These anti-dumping or countervailing measures are not to be applied whenever the investigating body recommends their non-application because their use "may impair the interests of member States", despite the application of such measures meets the criteria established by Annex 8 to the EAEU Treaty.

3.114. Finally, the Protocol establishes that judicial reviews/appeal of the Commission decisions are determined by the Statute of the Union's Court (see Section 5.6 below). The Commission is to take necessary measures to implement Court decisions. Review procedures shall not, as a rule, exceed 9 months.

3.115. Before the entry into force of the EAEU Treaty, 10 definitive anti-dumping duties on imports from 6 countries (Table 3.10 and Annex 7) were applied by the Customs Union between the Russian Federation, Kazakhstan and Belarus. These measures continued to apply at the entry into force of the EAEU. On the date of Kazakhstan's accession to the WTO, an additional three anti-dumping duties and one price undertaking were being applied. By the end of 2015, two additional anti-dumping duties had been imposed. All of these measures have been duly notified to the WTO.

Table 3.10 Definitive Anti-dumping measures/price undertakings applied by the EAEU

Country Affected	Product	Measure
Measures in force on 31 December 2014		
China	Cold-rolled flat steel products with polymer coating	Duties
	Cold-worked seamless pipes and tubes of stainless steel	Duties
	Enamelled baths of cast iron	Duties
	Rolling-element bearings (excl. needle roller bearings)	Duties
Germany	Light commercial vehicles	Duties
India	Graphite electrodes	Duties
Italy	Light commercial vehicles	Duties
Turkey	Light commercial vehicles	Duties
Ukraine	Certain steel pipes and tubes	Duties
	Forged work-rolls	Duties
Additional measures in force on 30 November 2015 (Kazakhstan's accession to WTO)		
China	Citric acid	Duties
	Stainless steel flatware	Duties
	Seamless steel oil country tubular goods	Duties and price undertakings
Additional measures in force on 31 December 2015		
China	Crawler dozers	Duties
	Commercial vehicles tyres	Duties

Source: G/ADP/N/265/RUS, G/ADP/N/280/RUS, G/ADP/N/294/RUS and G/ADP/N/300/RUS.
G/ADP/N/280/KAZ, G/ADP/N/294/KAZ and G/ADP/N/300/KAZ.

3.116. At the entry into force of the EAEU, while no countervailing duties were applied by the Customs Union, an investigation was taking place in the Union regarding imports of ferrosilicon manganese (HS ex-7202.30) from Ukraine. That investigation was terminated in June 2016 upon findings of a *de minimis* amount of subsidy; no countervailing measures were imposed. This investigation has been duly notified to the WTO.⁴⁶

3.4.4 Subsidies and State-aid

3.117. The EAEU Treaty provides extensive disciplines regarding subsidies, differentiated by industrial (Section XXIV) and agricultural sectors (Section XXV).

3.4.4.1 Agricultural subsidies

3.118. Agricultural subsidies are regulated by Article 95 of the EAEU Treaty and its Annex 29 - Protocol on Measures of State Support to Agriculture (hereafter the "Protocol on Agricultural Support"). In addition, transition provisions (Article 106) foresee a 10-year period for Belarus to undertake commitments on agricultural support under a newly-developed methodology⁴⁷ for the calculation of state support measures.

3.119. Disciplines regarding State-support to agriculture are in line with those of the WTO Agreement on Agriculture, as follows:

- a. non trade-distorting measures ("green box") may be applied by member States without limitations. These are listed in section III of the Protocol;
- b. measures that are to a large extent trade-distorting cannot be applied by member States. They include subsidies for export to another member State and support contingent on the use of domestic agricultural products in the production of agricultural products. These are listed in section IV of the Protocol on Agricultural Support;
- c. all other measures are considered trade-distorting measures ("amber box"). The Treaty limits these to 10% of the gross value of the whole agricultural goods' production. State support measures are to be calculated and be subject to commitments, which are to be replaced by those of the member State once it becomes a WTO Member (paragraphs 8 and 9 of Protocol on Agricultural Support); and
- d. yearly notifications on state support in the format similar to that of the WTO.

3.4.4.2 Industrial subsidies

3.120. Subsidies disciplines are included in Article 93 of the EAEU Treaty and its Annex 28 - Protocol on Common Rules for Granting Industrial Subsidies ("Protocol on Industrial Subsidies"). Transition provisions clarify that some of these disciplines will only apply once an agreement further defining some of the Treaty's elements enters into force (Article 105 of the EAEU Treaty). A transition period is envisaged for a number of competences to be acquired by the Commission after the "Agreement on Voluntary Harmonization by the Member States of the EAEU with the Eurasian Economic Commission (EEC) of Specific Subsidies for Industrial Goods and the Commission's proceedings related to their Provision" (hereinafter referred to as the "Voluntary Harmonization Agreement") enters into force. Moreover, the Commission is fully implementing its tasks as regards monitoring and conducting comparative and legal analysis of legislation of EAEU member States; preparing annual reports; assisting in the organization of consultations between member States on the issues of harmonization and unification of legislation in the sphere of granting subsidies (subparagraphs 1 and 2 of Article 93:6 of the EAEU Treaty).

3.121. The Voluntary Harmonization Agreement is under ratification by EAEU member States. Decision of the EAEU Intergovernmental Council and the Collegium Decision N° 155/17, as well as

⁴⁶ G/SCM/N/281/RUS, G/SCM/N/289/RUS, G/SCM/N/298/RUS, G/SCM/N/305/RUS, /SCM/N/298/KAZ and G/SCM/N/305/KAZ.

⁴⁷ The methodology was adopted by the Council Decision N°163/16, available at: https://docs.eaeunion.org/docs/en-us/01413254/cncd_20032017_163 (in Russian).

relevant implementing legislation, will be operating once the Voluntary Harmonization Agreement comes into force.

3.122. Industrial subsidy disciplines only apply among EAEU Parties and for subsidies granted as of 1 January 2012⁴⁸ (Articles 93:2 and 105:2). They aim to ensure a level playing field for companies operating within the EAEU in the absence of trade barriers. The provisions authorize the imposition of compensatory measures on intra-EAEU trade in cases of injury to the domestic industry of a member State. The domestic industry is understood as "all manufactures of like products in the member State or those whose in the total production of like products in the member State is no less than 25 per cent".

3.123. EAEU disciplines are based upon principles of the WTO Agreement on Subsidies and Countervailing Measures. In particular, they provide the following:

- a. a categorization of industrial subsidies and countervailing duty procedures as in the WTO Agreement - specific/prohibited/permissible/non-actionable specific subsidies, with the difference that some specific subsidies may *a priori* not be actionable (see c. below);
- b. the criteria to be used by the Commission for determining the admissibility/inadmissibility of specific subsidies;
- c. a voluntary request by a member State to the Commission to approve its specific subsidies, based on an analysis of their compliance with the criteria of admissibility/inadmissibility. Specific subsidies approved by the Commission cannot be subject to compensatory measures (paragraph 6 of the Protocol on Industrial Subsidies);
- d. a request by a member State to the Commission to conduct investigations in respect of industrial subsidies granted by other member States, if there is evidence of damage to its domestic industry;
- e. the procedures for Commission investigations, including the information to be supplied by member States;
- f. transparency of procedures and opportunity for consultation between member States; and
- g. the possibility of a challenge by a member State of a specific subsidy during five years from the date of provision of the specific subsidy. Disputes between member States shall be primarily resolved through negotiations and consultations. If no solution is found within 60 calendar days from the date of the written request for consultations: the complainant member State may appeal to the Court of the EAEU; and if the decisions of the Court are not implemented within the specified time-period or if the Court decides that the corrective measures are inconsistent with EAEU disciplines, the complainant member State shall be entitled to take proportionate counter measures.

3.124. The Commission's decisions under c. and d. above are binding for the EAEU member States. Its proceedings are an alternative mechanism for investigations at the national level, since member States retain the right to initiate them at the national level. In the latter case, the Commission will act as a third-party to ensure a fact-based analysis.

3.125. Temporary exemptions from industrial subsidies disciplines, listed in the Appendix to the Protocol and aligned, in accordance with the Treaty's provisions, with the relevant WTO protocols of accessions – are the following:

- a. for Belarus, until 31 December 2020 (unless otherwise provided for in its WTO Accession Protocol) - tax and customs privileges granted for industrial assembly agreements in the automotive sector;

⁴⁸ Prior to the establishment of the EAEU, subsidies disciplines were already in place under the customs union – "Agreement on Common Rules for Granting Industrial Subsidies" of 9 December 2010, in force as of 1 January 2012.

b. for Kazakhstan:

- i. customs duty and tax exemptions, as well as local content, export performance and trade balancing requirements (all of which are WTO prohibited trade-related investment measures, or "TRIMs") applied in SEZs and free warehouses, for which the transition period ended before 1 January 2017;
- ii. measures applied under the relevant industrial assembly agreements which are inconsistent with the WTO-related rules and disciplines were removed before 1 July 2018;⁴⁹
- iii. local content requirements applied in the oil, gas and mining sectors are to be removed before 1 January 2021;⁵⁰ and
- iv. the subsidization of interest rates on loans for export oriented production and local content requirements for procurement of goods and services were removed upon its accession to the WTO;⁵¹

c. in the case of the Russian Federation:

- i. tax and customs privileges for industrial assembly agreements in the automotive sector, were permitted under the time frame provided in the relevant agreements plus an eventual extension up to two years – as indicated by the Russian Federation, the transition period ends before 1 July 2018;⁵² and
- ii. for measures benefitting SEZs, the transition period ended before 1 April 2016.

3.4.5 Customs-related procedures

3.126. Pending the adoption on entry into force of the EAEU Customs Code, the Customs Code of the CU was applied – i.e. during the period 1 January 2015 to 31 December 2017 (Article 101 of the EAEU Treaty). Beyond the unified Customs Code, customs regulations are also provided by the domestic legislation of EAEU Parties; they remain in force to the extent that they do not conflict with the EAEU Customs Code.

3.4.5.1 The EAEU Customs Code

3.127. The EAEU Customs Code entered into force on 1 January 2018 along with numerous decisions of a supranational nature. The Code, composed of 60 Chapters and divided into nine Sections, replaced 12 legal instruments of the customs union that were simultaneously in force (including the 2009 Customs Code of the Customs Union; Annex 8 lists all the terminated instruments). A particular feature of the new system is its digital nature, replacing paper copies.

3.128. The Code, based on generally accepted international rules including the Revised Kyoto Convention, is the principal legal document governing EAEU customs administration and procedures, including the rights and obligations of national customs authorities, importers and exporters. It contains detailed provisions related to customs control, operations, payments and various types of customs procedures (e.g., release for domestic use, export, re-importation and re-exportation, inward and outward processing, temporary imports or exports, use of customs warehouses, etc.). It also includes WTO-related rules and disciplines on customs valuation, rules of origin, customs fees, special economic zones, trade in transit, the protection of intellectual property rights at the border, and the right of appeal against customs decisions.

⁴⁹ The date of the EAEU Protocol – 1.1.2020 – was superseded by the 2018 deadline in its WTO Protocol of Accession.

⁵⁰ The date of the EAEU Protocol – 1.1.2023 – was superseded by the 2021 deadline in its WTO Protocol of Accession.

⁵¹ The date of the EAEU Protocol – 1.1.2016 – was superseded by the deadline in its WTO Protocol of Accession.

⁵² WT/TPR/S/345/Rev.1, paragraph 2.46.

3.129. The EAEU Customs Code is intended to ensure uniform rules and customs operations for all EAEU member States; in some instances, it also provides additional facilities for foreign declarants as compared to the Code previously in force. Its main provisions are as follows:

- a. customs declarations are electronic; written customs declaration are only possible in exceptional cases – e.g. goods in transit or sent by international post, etc. (Article 104 of the Customs Code). Customs declarations can be submitted without additional documentation to confirm the declaration; these will only be required in case of doubt following the risk assessment system (Article 109 of the Customs Code);
- b. creation of a single window for all customs operations by economic operators (Article 80 of the Customs Code);
- c. automatic release of goods (without direct participation of the customs authorities) within 4 hours from the registration of the customs declaration (instead of instead of one working day following the day of the registration of the customs declaration) (Article 119 of the Customs Code);
- d. customs declarations can be submitted prior to the arrival of the good at the delivery point set by the customs authority – previously prior to its importation into the EAEU's customs territory (Article 104 of the Customs Code). Reasons for denying the release of goods subject to a preliminary customs declaration include any changes applicable to the tariff, taxes and procedures for granting privileges for their payment, as well as introducing internal market protection;
- e. the preliminary determination of the customs value of goods – based on the transaction value method - will be made before their customs clearance;
- f. operators will be able to defer the payment of customs duties and taxes during customs clearance of goods;
- g. the customs declaration must be registered no later than one working hour from submission of the declaration. Registration may be denied in a number of cases, including failure to comply with the customs declaration form or its inappropriate compilation. The reasons for such a denial and appropriate corrective measures must however be specified;
- h. common, supranational customs procedures as regards special, free-zones and free warehouse customs procedures (Chapters 27 and 28 of the Customs Code);
- i. the status of declarants for foreign legal entities is regulated. Representative offices and branches of foreign legal entities are authorized to declare goods only as part of the procedure of release of goods for their own consumption (Article 80 of the Customs Code); and
- j. any legal entity incorporated under the legislation of an EAEU member State involved in international trade can apply for an authorized economic operator (AEO) status (Chapter 61 of the Customs Code), recognized throughout the Union (Article 434),⁵³ on the basis of a self-assessment questionnaire. Such status is granted upon recognition by the national customs authority of compliance with international safety standards; a registry of AEOs is also established.⁵⁴ There are three types of AEO certificates, each implying a balance between requirements to be met and facilitation accorded; type 3 certificates benefit from the all the facilitations of types 1 and 2 (Articles 432 and 437 of the Customs Code). Trade facilitation include *inter alia*, priority for customs procedures and customs control and release of goods prior to submission of the declaration on goods (all

⁵³ That is producers, exporters, brokers, carriers, warehouse owners, port, airport and terminal operators, and other legal entities involved in foreign economic activities.

⁵⁴ The application form for inclusion in the register of AEOs, the form of the Certificate on the inclusion in the register of AEOs, as well as the procedures for their completion, were approved by Decision of the Collegium of the Commission N° 128 of 26 September 2017, available at https://docs.eaeunion.org/docs/ru-ru/01414919/clcd_28092017_128 (in Russian).

types); exemption from the obligation to provide security deposits for customs payments in customs transit procedures, or the possibility to provide lower amounts of such security deposits subject to certain conditions (types 1 and 3); the right to distance clearance – i.e. ability to clear the goods with customs posts located in other regions of the same EAEU member state than the region where the goods are actually imported/located – and to temporarily store goods at the AEO premises (types 2 and 3).

3.130. The new Code does not however modify the "place of residence" rule in place under the old code – namely that the customs declaration may only be submitted in the country where the operator has its registered tax residency.

3.4.5.2 Other customs-related procedures

3.131. Article 37:6 of the EAEU Treaty authorizes the Commission to act upon false origin determination (proof of origin). In cases of repeated false origin determination (proof of origin) by a third party, the Commission is authorized to monitor the assessment by customs authorities of member States of the correctness of the origin determination (proof of origin) of goods imported from a particular country. In case of systematic false origin determination (proof of origin), the Commission is authorized to suspend the acceptance of the member State's document certifying the correctness of the origin determination (proof of origin). Despite the role given to the Commission, member States remain however free to check the origin of the imported goods and to adopt any measure aimed at addressing the results of the assessment.

3.132. To qualify for preferential access under the EAEU USTP scheme, imports of eligible products require the Certificate of Origin Form A from the competent authorities of the exporting country or Declaration of origin (in respect of low-value consignments). Importers must request preferential treatment at the time of declaration of the goods and present supporting documentation. Under the Agreement on Rules of Origin of Goods from Developing and Least-developed Countries, customs authorities of the importing country may lodge a request with the authorities in the country that issued the certificate of origin to provide additional documentary proofs. If the certificate or other proof of origin is not accepted, MFN treatment should be applied until the origin of the goods is established. The importer can recover the difference in the duties paid for a period of one year from the date of registration of the customs declaration.

3.5 Sector-specific provisions on trade in goods

3.5.1 Agriculture

3.133. The Union's overall principles for agriculture are in Section XXV of the Treaty on "Agro-Industrial Complex". Its aim is to deepen integration within the EAEU through implementation of coordinated agro-industrial policy by member States.

3.134. The EAEU Treaty's disciplines contain provisions on the objectives of its coordinated agricultural policy. Furthermore, they also entrust the Commission with new competences, which include: coordination of information sharing on member States' agriculture sector development programmes and monitoring the development of their agricultural sector; assistance in conducting consultations and negotiations between member States on harmonization of legislation for the agro-industrial complex, including regulation of State support to agriculture; preparation of policy reviews in agriculture, including State support, and providing recommendations on improving the effectiveness of State support in the EAEU; coordination of joint scientific and innovative activities in agriculture; and, promotion of a level playing field for competition between the member States in agriculture.

3.5.2 Industry

3.135. The Unions' overall principles for the industrial sector are in Section XXIV ("Industry") of the Treaty and its Annex 27 – "Protocol on Industrial Cooperation". These principles foresee EAEU policies on industrial cooperation and coordination, the identification of sensitive goods and of

priority economic sectors.⁵⁵ In accordance with the Treaty, the "Main Directions of Industrial Cooperation" were adopted by the Eurasian Intergovernmental Council Decision N° 9 of 8 September 2015.⁵⁶ "Main directions to coordinate the national industrial policies of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation" were in turn adopted by the Supreme Council Decision N° 40/13.

3.136. According to the "Main Directions of Industrial Cooperation" within the EAEU, the strategic goal of cooperation in this field is established for a five-year period; they involve creating conditions for the transition to high-tech industries with high labour productivity and added value. The instruments adopted include the Eurasian Technology Platforms, the Eurasian Subcontracting Network and the Eurasian Technology Transfer Network. The high priority economic sectors include *inter alia* agricultural machinery, light industry, metallurgy, manufacture of machinery and equipment and production of construction materials, etc.⁵⁷

3.137. The development of legal instruments that implement EAEU cooperation and coordination of industrial policy is work in progress; economic sectors are progressively subject to EAEU regulations aimed at the development of the "EAEU industrial policy".

3.5.2.1 Pharmaceutical and medical goods

3.138. Articles 30 and 31, as well as Article 100, originally foresaw the establishment as of 1 January 2016 of common markets for pharmaceuticals and medical goods (healthcare products and medical devices). These involve the development of common rules on legal requirements and rules for their circulation; quality, effectiveness and safety; domestic legislation on the control and supervision of their circulation; licensing and enforcement of drugs circulation via relevant competent authorities of the member States; approaches for the establishment of a system of safety of medical goods; and identical or comparable methods of research and monitoring in the assessment of the quality, effectiveness and safety of drugs.

3.139. The EAEU's Agreement on Common Principles and Rules for the Circulation of Medicines, as well as the Agreement on Common Principles and Rules for the Circulation of Medical Devices (Medical Products and Medical Equipment), ratified on 26 April 2016, required the adoption of 24 and 11 acts, respectively. Following their adoption, all instruments entered into force and on 6 May 2017 single markets for circulation of both medicines and medical devices started to operate. Both Agreements provided for the introduction of transitional periods. National markets of medicines and medical products will continue to operate until 31 December 2021, in parallel to the single market; at the choice of producers, products can be registered according to either the single market or the national rules. At the same time, the circulation of medicines registered under national rules will be terminated from 31 December 2025, while for medical products the EAEU registration is required as of 1 January 2022.

4 PROVISIONS ON TRADE IN SERVICES AND INVESTMENT

4.1. The EAEU aims at progressively achieving a single services market between its member States. The member States maintain their autonomy on trade in services and investment with third parties.

4.1 Scope and definitions

4.2. Several sections and Annexes of the EAEU Treaty contain disciplines on trade in services and investment, with the general regulation set forth in its Section XV - Trade in Services, Establishment, Activities and Investments - and elaborated in the Protocol on Trade in Services, Establishment, Activities and Investments (Annex 16 to the Treaty, hereafter the "Services and Investment Protocol"). Supplement 1 to the Services and Investment Protocol (Electric

⁵⁵ Additional information can be found at the official publication " EAEU Industrial Policy: From Its Creation to the First Results", http://www.eurasiancommission.org/ru/Documents/Industrial_eng.pdf

⁵⁶ See: http://www.eurasiancommission.org/ru/act/prom_i_agroprom/SiteAssets/%D0%B1%D1%80%D0%BE%D1%88%D1%8E%D1%80%D0%B0%20%D0%B0%D0%BD%D0%B3%D0%BB%20OK%20NEW.pdf

⁵⁷ The full list of high priority economic sectors is reproduced in Annex 1 to the publication referred in the footnote *supra*.

Communication/ Telecommunication Services),⁵⁸ Sections XVI of the Treaty on Financial Services and Annex 17 to the Treaty, XX on Energy and XXI on Transport, as well as respective Annexes to the Treaty, provide rules for trade in specific services sectors. Article 65.3 of the Treaty establishes that Section XV provisions apply to sector-specific services to the extent they are not inconsistent with provisions of the sector-specific sections.

4.3. The Services and Investment Protocol is divided into seven sections: General Provisions; Definitions; Transfers and Payments; Restrictions on Transfers and Payments; State Enterprises; Trade in Services and Establishment; and Investment. It also contains two supplements, on Trade in Telecommunication Services and on member States' Schedules of Horizontal Limitations.

4.4. The EAEU establishes a common market for labour, which is fully liberalized except as listed in Annexes to the Services and Investment Protocol. Common markets are also being developed for energy - including electricity, gas and petroleum - and transport services (see Sections 4.6.3 and 4.6.4).

4.5. The following definitions are included in paragraph 6 of the Services and Investment Protocol (respectively paragraphs 6.7, 6.10, 6.24 and 6.27):

- a. "investments" are "tangible and intangible assets, invested by the investor of one member State in objects of business activities in the territory of another member State in accordance with the legislation of the latter, in particular: (i) monetary assets (money), securities, other property; (ii) right to carry out business activity, conferred by the legislation of the member States or under contract; and (iii) property and other rights, having monetary value";
- b. a "person of a member State" is "any natural or juridical person of a member State";
- c. "establishment" is wider than GATS mode 3 as it also covers establishment for the production of goods and the acquisition of control over a juridical person of a member State and registration as an individual entrepreneur (beyond all of the elements of GATS mode 3); and
- d. "juridical person of a member State" is "an entity of any legal form, created or established in the territory of a member State in accordance with the legislation of this member State".

4.6. The Services and Investment Protocol is applicable to all four GATS modes of supply (paragraph 6.22).

4.7. All investments, in services but also goods, by investors of a member State in the territory of another member State since 16 December 1991 are covered by the EAEU Treaty disciplines. Disciplines on investment-related issues beyond establishment - e.g. entry, national and MFN treatment - are provided for in Section VII on Investment.

4.8. The following are carved out from the scope of the Treaty:

- a. air traffic rights or measures affecting services directly related to the exercise of air traffic rights (except aircraft repair and maintenance services, the selling and marketing of air transport services and computer reservation system services) - paragraph 4 of the Services and Investment Protocol; and
- b. government procurement and services supplied in the exercise of governmental authority (Article 65:2 of the Treaty).

⁵⁸ The translated version of the EAEU Treaty submitted to the WTO refers to "Electric Communication"; however, in this Factual Presentation, the term of "Telecommunications" has been used instead.

4.2 Denial of benefits

4.9. A member State may refuse to extend the benefits of Section XV of the Treaty in respect of services, establishment, activities and investment to any natural or juridical person of another member State if it is established that the juridical person:

- a. has no substantial business activities in the territory of that other member State and is owned or controlled by a person of the first member State or of a third party (Article 65:10 of the Treaty); or
- b. is owned or controlled by a person of a third party against which the member State maintains prohibitions or restrictions (in relation to trade in services, establishment, activities and investment), and the extension of these benefits would result in their circumvention or infringement (Article 65:9 of the Treaty).

4.3 General provisions on trade in services and investment

4.10. The EAEU single services market will be established progressively, on the basis of the EAEU Treaty disciplines and Supreme Council decisions providing for a positive list of sectors/sub-sectors fully opened to all parties; reservations by individual EAEU member States in sectors/sub-sectors covered by the Treaty; and plans for removing existing reservations, including the procedures and stages of single market formation within the sectors in question.

4.11. In sectors/sub-sectors that are not covered by the single services market, member States are allowed to maintain reservations on national and MFN treatment as well as on measures otherwise incompatible with the prohibition on performance requirements, market access restrictions and limitations on the movement of natural persons. All such reservations and measures must be scheduled in either national lists of limitations, reservations, additional requirements and conditions (hereafter, "Schedules of Additional Limitations") or of horizontal restrictions (the latter is included in Annex 2 to the EAEU's Services and Investment Protocol).

4.12. Member States maintain their autonomy on trade in services and investment with third parties (Section 6 of the Services and Investment Protocol); no supranational EAEU competence is established (Article 38), though coordination is foreseen. Member States may *inter alia* conclude economic integration agreements (EIAs) with third parties, provided such agreements meet the criteria prescribed by paragraph 46 of the Services and Investment Protocol – which are similar to those of GATS Article V.

4.3.1 Market access

4.13. Section 3 of the Services and Investment Protocol provides disciplines regarding services- and investment-related QRs as well as trade-related investment measures (TRIMs).

4.14. The following market access restrictions cannot be applied towards juridical persons of other member States⁵⁹ in relation to trade in services, establishment and activities (paragraph 30 of the Services and Investment Protocol):

- a. QRs⁶⁰ on the number of service suppliers, as well as on any of their activities;
- b. limitations on the number of established, created, acquired and controlled juridical persons, branches and representative offices, registered individual entrepreneurs, as well as on any of their activities;
- c. restrictions on the form of institutions, including the legal form of a juridical person;

⁵⁹ The translated version of the EAEU Treaty submitted to the WTO refers sometimes to ""entity(ies)". EAEU member States have informed the Secretariat that in the Russian language, the term "juridical person(s)" is applied throughout the text of Annex 16 to the EAEU Treaty. Therefore, in this Factual Presentation, the term "entities" shall be read as a synonym to "juridical persons".

⁶⁰ In the context of paragraph 30, the prohibition on QRs applies to limitations in terms of a numerical quota, an economic needs test or any other quantitative form.

- d. restrictions on equity participation or on the degree of control over a juridical person; and
- e. limitations on the total number of natural persons that may be employed in a particular service sector or by a service supplier who is necessary for, and directly related to, the supply of a service.

4.15. A member State may however apply the measures mentioned above on the condition that they are listed in its Schedule of Additional Limitations or of Horizontal Limitations.

4.3.2 National and MFN treatment

4.16. National treatment disciplines are embodied in paragraphs 21-26 of the Services and Investment Protocol. They require each member State to provide, in respect of:

- a. all measures affecting trade in services by any other member State, service suppliers and service consumers; and
- b. establishment and activities of any other member State's natural or juridical persons,

treatment no less favourable than it accords in like circumstances to its own like services, service suppliers, service consumers and persons, respectively.

4.17. A member State may meet these requirements by according to other member States' services, service suppliers, service consumers and persons, either formally identical or formally different treatment compared to that it accords to its own like services, service suppliers, service consumers and persons, respectively. Formally identical or formally different treatment is considered to be less favourable if it modifies the conditions of competition in favour of a member State's services, service suppliers, service consumers and persons, respectively, compared to those of another member State.

4.18. MFN obligations are contained in paragraphs 27-29 of the Services and Investment Protocol. Each member State shall accord to services, service suppliers, service consumers of any other member State; and natural or juridical persons of any other member State and persons established by them, in relation to its establishment and activities, treatment no less favourable than it accords in like circumstances to those of any third party.

4.19. National treatment also applies to persons of another member State in the context of privatization (Section V on "State Privatization" of the Services and Investment Protocol, paragraphs 15), subject to the exceptions indicated in paragraph 4.21. below.

4.20. Another MFN clause exists which extends to all EAEU member States any more favourable treatment granted to any third party in the context of EIAs (paragraph 45 of the Services and Investment Protocol).

4.21. National treatment and MFN exceptions are authorized, provided they are listed in the member States' Schedules of Additional Limitations or of Horizontal Limitations.

4.22. As regards investments and investment-related activities by investors from other member States, national and MFN treatment clauses, *mutatis mutandis*, are provided for in paragraphs 69-70 of the Services and Investment Protocol. At the choice of the investor, the national treatment or the MFN treatment shall be provided by the member State, depending on which treatment is more favourable (paragraph 71). Exceptions are also possible, in accordance with national legislation. Contrary to what is the case in services, new exceptions to national treatment may be introduced at any time (paragraph 73).

4.3.3 Commercial presence

4.23. Paragraph 38 of the Services and Investment Protocol states that when a single services market is in operation in a specific sector, each member State shall allow persons of any other member State to supply services without requiring establishment in the form of a juridical person.

4.3.4 Movement of natural persons

4.24. The EAEU Treaty provides for the free movement of personnel (mode 4), subject to member States' Schedules of Additional Limitations or of Horizontal Limitations (paragraphs 35-37 of the Services and Investment Protocol) and to disciplines in Section XXVI of the EAEU Treaty on "Labour Migration". These disciplines regulate the entry, exit, stay and employment of natural persons.

4.25. No member State may apply or adopt limitations on the employment of personnel in established, acquired or controlled juridical persons, branch, representative office or registered individual entrepreneur. Member States are free to apply requirements relating to education, experience, qualifications and business qualities of employees, as long as such requirements do not discriminate on the basis of nationality.

4.26. More specifically (Articles 97 and 98 of the EAEU Treaty):

- a. services suppliers are free to employ workers from other member States without restrictions, except as provided for in national exceptions lists, as well as for reasons of national security (including sectors of strategic economic importance) and public order, in accordance with member States' legislation;
- b. member States' workers have the right to be employed without the need to obtain a work permit and to be accompanied by their family members – where the right of stay of the worker and family members is linked to the labour contract. They are also free to own, use and dispose of their property and to freely transfer their funds.

4.27. Mode 4 commitments and limitations of EAEU member States are addressed in the relevant Sub-sections of Section 4.4

4.3.5 Performance requirements

4.28. The establishment or the operation of activities in a member State by a person of another member State or by persons established by them cannot be made conditional on the fulfilment of performance requirements that take the form of local content, trade-balancing, exchange balancing, export requirements and requirements relating to transfer technology, know-how and other information of commercial value, except when such transfers are required pursuant to a court judgment or a decision of a competition authority (paragraph 32 of the Services and Investment Protocol).

4.29. A member State may nevertheless apply any of the mentioned measures provided they are listed in its Schedules of Horizontal Limitations or of Additional Limitations.

4.3.6 State enterprises and monopolies

4.30. Section V of the Services and Investment Protocol on "State Participation" requires each member State that controls or participates in the equity of a legal entity that operates within its territory to ensure that, with respect to matters covered by the Services and Investment Protocol, such legal entity operates on the basis of commercial considerations and in a non-discriminatory manner towards other market participants. The same rule applies to legal entities that are granted exclusive or special privileges, with the exception of natural monopolies. Reservations to this obligation may be specified in the Schedules of Additional Limitations or of Horizontal Limitations. This obligation does not apply to the extent the mentioned legal entities are entrusted with pursuing social policy objectives of a member State.

4.31. With respect to legal entities constituting natural monopolies, member States shall ensure that these entities do not abuse their monopoly positions by acting within the territory of the other member State in a manner inconsistent with their obligations under the Services and Investment Protocol.

4.32. Section XIX of the EAEU Treaty on Natural Monopolies - which includes Article 78 ("Sectors and Natural Monopoly Entities") and Protocol 20 ("Protocol on Single Principles and Rules for

Regulation of Activity of the Natural Monopoly's Subjects) – contains EAEU disciplines on natural monopolies. The aim of these instruments is to ensure that member States' natural monopolies, which are listed in Appendixes 1 and 2 to Annex 20, promote fair competition among companies while protecting consumers' rights and legitimate interests.

4.33. Natural monopoly disciplines (a) provide the principles for the regulation of their activities; (b) list the authorized regulatory measures, including in particular regulated tariffs; (c) establish rules for ensuring access to services of entities that are natural monopolies; and (d) establish the competence of the Commission and of national bodies *vis-à-vis* natural monopolies. Harmonization of sectors with natural monopolies is encouraged through a reduction of their numbers and possible identification of a transition period, as foreseen in Sections XX and XXI of the EAEU Treaty (see Section 4.6). However, member States' natural monopolies may be expanded, in accordance with paragraph 7 of Article 78. While relations regulated by existing bilateral agreements between member States are grandfathered, their reconduction is subject to the EAEU's disciplines. EAEU rules on competition apply to natural monopolies taking into account the specific disciplines relating to natural monopolies.

4.34. The following natural monopolies are listed in the Appendices:

- a. in all member States: transportation of oil and oil products through trunk pipelines; transportation and distribution of gas through trunk pipelines; transfer and distribution of electrical energy; rail transport services; services in transport terminals, ports and airports; water supply and sanitation;
- b. in Belarus and the Russian Federation: public telecommunication and postal services;
- c. in Kazakhstan and the Russian Federation: services on dispatching management in the electrical power industry;
- d. in Kazakhstan, rail transport services under concession Agreements and entry line (approach route) services; and
- e. in the Russian Federation, internal waterways transport services and icebreaker assistance in waters of the Northern Sea Route.

4.35. Tariffs for services supplied by natural monopolies are regulated by national authorities in accordance with national legislation (paragraph 19 of Annex 20 and paragraph 11 of Annex 21 to the EAEU Treaty).

4.4 Liberalization commitments and the Single Market

4.36. A standstill clause is included in Article 66 of the Treaty, whereby member States agree not to adopt new discriminatory measures from the date of entry into force of the Treaty. The standstill disciplines do not apply to national treatment for investment (paragraph 73 of the Services and Investment Protocol). The restrictive measures in force as of 29 May 2014 are therefore bound (see paragraph 4.39. below). However, new restrictive measures may be adopted in certain specific sectors if the Schedules of Additional Limitations provide for the possibility of future restrictive measures being taken; these exist for the three member States for a limited number of sectors.⁶¹

4.37. Taken together, the EAEU provisions on services and investments provide as follows:

- a. a "negative list" approach, which means that national treatment, MFN treatment and prohibition of quantitative and investment measures are applied in accordance with the EAEU Treaty in respect of trade in services, establishment, activities and investments; non-conforming measures are only allowed to the extent they are included in their Schedules of Additional Limitations or of Horizontal Limitations; and

⁶¹ Limitations 27 and 28 for Belarus; limitations 7, 25-26, 28-30 for Kazakhstan; and limitations 5-6, 31-35 for the Russian Federation.

- b. a "positive list" of sectors in which a single market is in force. The single market for services will function on a reciprocal basis, through phased liberalisation of trade in services and investments and the gradual elimination of restrictions and reservations (paragraph 41 of the Services and Investment Protocol).

4.38. A single market in a given services sector encompasses the following among EAEU service suppliers (paragraph 38 of the Services and Investment Protocol):

- a. national and MFN treatment, as well as a prohibition on market access restrictions and performance requirements;
- b. supply of services without requiring the establishment of a legal entity;
- c. authorization to supply services on the basis of mutual recognition of permits;
- d. recognition of the professional qualifications of its personnel; but
- e. these remain subject to national Schedules of Horizontal Limitations.

Thus, in general terms, single market treatment implies significantly greater liberalization as compared to treatment provided to service suppliers in accordance with commitments generally undertaken within the WTO.

4.39. Against the framework provided by the Treaty and the Services and Investment Protocol, as of December 2017, services commitments have evolved as follows:

- a. immediate – i.e. 1 January 2015 - creation of a single market for 43 services sectors/sub-sectors in at least two member States, as follows (Supreme Council Decision N° 110/14):⁶²
 - i. in 23 services sectors, a single services market is in force in all member States (e.g. services related to agriculture, rental services of machinery and equipment without operators, consulting services in management, software development services);
 - ii. in six services sectors, a single services market is in force between Belarus and the Russian Federation (including services in wholesale and retail trade, franchising services, hotel and catering services). For Kazakhstan, the single market entered into force on 1 January 2016;
 - iii. in six services sectors, a single services market is in place only among Belarus and the Russian Federation (all corresponding to auxiliary transport services); and
 - iv. in eight services sectors, a single services market is in force between Belarus and the Russian Federation (e.g. construction and engineering services). For Kazakhstan, the single market will enter into force in 2024, in accordance with the transition periods provided for under the liberalization plans.
- b. formation of a single market for services for 21 services sectors/sub-sectors within a transition period (Supreme Council Decision N° 30/15):⁶³

⁶² Decision "On Approval of a List of Services Sectors (Subsectors) of Functioning of the Single Services Market of the Eurasian Economic Union". According to the Parties, these 43 services sectors/sub-sectors represent almost 50% of the overall volume of services provided within the EAEU member States, https://docs.eaeunion.org/docs/ru-ru/0137051/scd_25122014_110 (in Russian).

⁶³ Decision "On the approval of the list of sectors (sub-sectors) of services upon which the formation of a single services market within the framework of the Eurasian Economic Union will be carried out in accordance with the plans of liberalization (during the transitional period)", https://docs.eaeunion.org/docs/ru-ru/0138767/scd_19102015_30 (in Russian).

- i. progressive liberalization, with exemptions listed in the national Schedules of Horizontal Limitations (Annex 2 to the Services and Investment Protocol). These lists reflect the conditions of mutual access in force on 29 May 2014; and
- ii. the transition period, plan and schedule for the formation of a single market for 20 - out of 21 - services sectors/sub-sectors are specified in the Supreme Council's Decisions N^{os} 22/16 and 23/16.⁶⁴
- c. for those sectors in which the single services market is not in operation, both national and MFN treatment apply. Besides, quantitative and investment restrictions cannot be applied;
- d. financial services are subject to specific disciplines, and have been subject to liberalization in accordance with Annex 17.

4.40. The sub-sections below provide an overview of the services liberalization commitments under the EAEU. They identify, for each Party that is a WTO Member, the main differences, by sector, between their respective GATS schedules and the EAEU sector-specific commitments. The tables disregard MFN and horizontal limitations, as well as Mode 4 commitments/limitations. Sectors and sub-sectors for which the operation of a single market is foreseen, as well as their date of their entry into force in accordance with liberalization plans and the Supreme Council Decisions, are presented in Annex 10.

4.4.1 Kazakhstan

4.4.1.1 Horizontal reservations

4.41. Under the GATS, Kazakhstan has scheduled horizontal limitations on national treatment regarding (i) subsidies and/or state support for socially and economically disadvantaged groups of people and regions, research and development activities, and development of national culture and history; and (ii) services related to subsurface operations⁶⁵. Horizontal market access and national treatment limitations on modes 3-4 apply for land ownership. Commercial presence is allowed in the form of either juridical persons of Kazakhstan, or branch and/or representative offices established in Kazakhstan.

4.42. Under the EAEU, Kazakhstan's reservations regarding subsoil use operations are identical to those under the WTO.⁶⁶ Further, in accordance with conditions described during its WTO accession and in light of the EAEU negative approach to scheduling, Kazakhstan also lists reservations for activities related to the use of strategic resources, activities within the continental shelf and usage of wildlife and the selection procedure for concessionaires. Land ownership reservations - for agricultural and forestry-related production and land located within border areas - apply on the same terms and conditions as under the GATS.

4.43. Under the GATS, Kazakhstan scheduled MFN exemptions in all sectors/sub-sectors with respect to investment activities and the entry/presence of natural persons; GATS horizontal limitations on mode 4⁶⁷ have been lifted under the EAEU. MFN exemptions were also granted to some communication and educational services and all types of transport services. Under the EAEU, MFN exemptions are granted to financial services, natural monopolies, energy, transport and

⁶⁴ Decisions "On the approval of liberalization plans for service sectors, specified in the Decision of the Supreme Council of October 16, 2015, No. 30", https://docs.eaeunion.org/docs/ru-ru/01315046/scd_11042017_22 and https://docs.eaeunion.org/docs/ru-ru/01315047/scd_11042017_23 (in Russian).

⁶⁵ Requirements include: (i) 50% of services provided by juridical persons of Kazakhstan; (ii) 20% reduction in price for any bid submitted by a juridical person of Kazakhstan where at least 75% of employees are citizens of Kazakhstan (for the first six years) and at least 50% of employees are citizens of Kazakhstan (after the first six-years).

⁶⁶ The term "subsurface" is used in the WTO Schedule of commitments, while in the EAEU the term used is "subsoil".

⁶⁷ Under the GATS they are lifted in case of ICT of executives, managers and specialists, provided they do not represent more than 50% of the workers and for a maximum duration of four years; and for business visitors for 90 days.

broadcasting and other similar forms of transmission of audiovisual works, television and radio programmes.

4.4.1.2 Sectoral commitments

4.44. In its GATS schedule, Kazakhstan made specific commitments in 10 services sectors out of 12; compared to it, Kazakhstan's liberalization under the EAEU goes further - in particular with a single market operating in various sub-sectors and full liberalization in others.

4.45. Table 4.1 summarizes Kazakhstan's services commitments under the EAEU in comparison with its GATS commitments, excluding mode 4 and horizontal limitations. Additional details can be found in Annex 10 and the Decisions themselves. The column relating to liberalization under the EAEU indicates whether a single market is/will be in operation, as well as the extent of liberalization taking place in sectors not covered by the single market.

4.46. Kazakhstan's Schedule of Additional Limitations requires, for any type of activity that requires licensing, that services suppliers from other member States establish a legal entity in its territory; national treatment and market access limitations may also apply.⁶⁸ These are to be lifted when a single market is/will be in force; if that is not the case, they may limit access from other EAEU member States and will be reflected in the table below and referred to in the relevant paragraphs.

Table 4.1 Kazakhstan: Comparison between the GATS and EAEU liberalization commitments (excluding mode 4 and horizontal limitations)

Sectors and Sub-sectors	GATS	Intra-EAEU liberalization	
		Compared to the GATS	Under the EAEU ^a
1. Business Services			
A. Professional Services	Partial	Improved	SM* (2015; 2024)/Partial
B. Computer and Related Services	Full	Improved	SM (2015)
C. Research and Development Services	Partial	Improved	SM* (2020)/Full
D. Real Estate Services	---	New	SM (2020)
E. Rental/Leasing Services without Operators	Full	Improved	SM* (2015; 2019)/Full
F. Other Business Services	Partial	Improved	SM* (2015; 2024)/Partial
2. Communication Services			
A. Postal Services	---	New	Partial
B. Courier Services	Partial	Improved	Full
C. Telecommunication Services	Partial	Improved	Partial
D. Audiovisual Services	Partial	Improved	SM* (2016; 2019)/Partial
E. Other	---	New	Full
3. Construction and Related Engineering Services			
A. General Construction Work for Building	Partial	Improved	SM* (2024)/Full
B. General Construction work for Civil Engineering	Partial	Improved	SM (2024)
C. Installation and Assembly Work	Partial	Improved	SM* (2024)/Full
D. Building Completion and Finishing Work	Partial	Improved	SM* (2024)/Full
E. Other	Partial	Improved	Full (2024)
4. Distribution Services			
A. Commission Agents' Services	Partial	Improved	SM (2016)
B. Wholesale Trade Services	Partial	Improved	SM* (2016)
C. Retailing Services	Partial	Improved	SM* (2016)
D. Franchising	Partial	Improved	SM (2016)
E. Other	---	New	Full
5. Educational Services			
A. Primary Education Services	---	New	Partial

⁶⁸ Limitation 2 of the Schedule. More information on activities that require licensing is available at Law of the Republic of Kazakhstan N° 202-V 3PK "On Permissions and Notifications" as of 19 May 2014.

Sectors and Sub-sectors	GATS	Intra-EAEU liberalization	
		Compared to the GATS	Under the EAEU ^a
B. Secondary Education Services	---	New	Partial
C. Higher Education Services	Partial	Improved	Partial
D. Adult Education	Partial	Improved	Partial
E. Other Education Services	Partial	Improved	Partial
6. Environmental Services			
A. Sewage Services	Partial	Improved	Partial
B. Refuse Disposal Services	Partial	Improved	Partial
C. Sanitation and Similar Services	Partial	Improved	Partial
D. Other	Partial	Improved	Partial
7. Financial Services			
A. All Insurance and Insurance-related Services	Partial	Improved	SM (2025)
B. Banking and Other Financial Services (excluding insurance)	Partial	Improved	SM (2025)
C. Other	---	New	Full
8. Health Related and Social Services			
A. Hospital Services	---	New	Full
B. Other Human Health Services	---	New	Full
C. Social Services	---	New	Full
D. Other	---	New	Full
9. Tourism and Travel Related Services			
A. Hotels and Restaurants (including catering)	Partial	Improved	SM (2016)
B. Travel Agencies and Tour Operators Services	Partial	Improved	SM (2019)
C. Tourist Guides Services	---	New	Full
D. Other	---	New	Full
10. Recreational, Cultural and Sporting Services			
A. Entertainment Services (including theatre, live bands and circus services)	Full	Improved	SM (2015)
B. News Agency Services	Partial	Similar	Partial
C. Libraries, archives, museums and other cultural services	---	New	Full
D. Sporting and Other Recreational Services	---	New	SM* (2015)/Partial
E. Other	---	New	Full
11. Transport Services			
A. Maritime Transport Services	Partial	Improved	SM (2025)
B. Internal Waterways Transport	Partial	Similar	Partial
C. Air Transport Services	Partial	Similar	Partial
D. Space Transport	---	New	Partial
E. Rail Transport Services	Partial	Improved	SM (2025)
F. Road Transport Services	Partial	Improved	SM (2025)
G. Pipeline Transport	---	Similar	---
H. Services Auxiliary to All Modes of Transport	Partial	Improved	Full
I. Other Transport Services	---	New	Full
12. Other Services not Included Elsewhere	---	New	Full

General Note: MFN and Horizontal limitations, as well as Mode 4 commitments/limitations not considered. Under the EAEU, services are classified according to CPC (based on Version 1) which was further transferred into CPC Provisional and MTN.GNS/W/120 using the UN reference table available at:
https://unstats.un.org/unsd/publication/SeriesM/SeriesM_77ver1_1E.pdf

a The years in brackets indicate the starting year (any time in the year) of the functioning of a single services market in a specific sector/sub-sector; two years indicate that the sub-sectors involved have different final liberalization deadlines. If there are sub-sectors not covered by a single market, liberalization is also indicated.

SM: Single services market in operation.

SM*: Single services market in operation in at least one of the sub-sectors

Full: For sub-sectors where no SM is in operation, the specific commitments are not subject to limitation(s) under any of the three modes.

Improved: Overall improved commitments made under the EAEU compared to those under the GATS.

New:	New commitments under the EAEU (full or partial, with or without limitations) which can be seen as "improved".
Partial:	For sub-sectors where no SM is in operation, the specific commitments are subject to some limitation(s) under any of the three modes.
---:	For GATS - no commitments, for EAEU - no project/liberalization plan is in place as of end-2017.
Similar:	Similar commitments (EAEU vs GATS); though possibly, in individual cases, with limited improvements and/or limited additional reservations.
Source:	WTO document GATS/SC/154; Decisions of the Supreme Council N ^{os} 110/14, 111/14, 112/14, 17/15, 30/15, 31/15, 22/16 and 23/16; Annex 17 and its Supplements.

4.47. The following sectors/sub-sectors, for which there are no GATS commitments, have been fully liberalized under the EAEU: all health related and social services; other services not indicated elsewhere; tourist guide services and "other services" under communication, distribution, financial, tourism and travel, recreational, cultural and sporting services. Regarding the latter, a single market was established for hotels and restaurants in 2016 (except the sale of alcohol within catering) as well as travel agencies and tour operators in 2019.

4.48. Business services liberalization has been largely improved as compared to that under the GATS, in particular with full liberalization of mode 4. Besides, in certain sectors/sub-sectors – including computer and related services, real estate services, rent and lease of vessels without operators – the single market is established within the EAEU. With respect to professional services, Kazakhstan improved its GATS commitments. For some sub-sectors partially covered under the GATS, a single market was in operation as of 2015; for others – e.g. auditing, accounting, real estate (not committed under the GATS), engineering services – the single market will operate during the 2020-2024 period. Legal services remain subject to nationality, establishment and licensing requirements as well as mode 4 reservations. The supply of medical and veterinary services also remains subject to licences. Mode 4 reservations, generally combined with nationality requirements, have also been scheduled for forensic experts. In R&D, Kazakhstan has extended its GATS commitments to also cover R&D in natural sciences. Under other business services, a single market was in operation in 2015 for general management, financial management except for business tax, marketing management, human resources management, building-cleaning services and translation and interpretation.

4.49. In communication services, various activities are subject to licensing. Commitments in audiovisual services, partially liberalized under the GATS, have been improved under the EAEU, with, in particular, a single market as of 2016 for sound recording, and as of 2019 for motion picture projection services and production and distribution of films and videos. Ownership and management of mass media is however reserved to nationals and a maximum foreign equity of 20% applies. Also on audiovisual Kazakhstan has reserved the right to provide subsidies for production/distribution of programmes and to apply any measures related to broadcasting or other types of transmission. In postal services, not committed under the GATS, Kazakhstan has reserved the right to apply limitations in modes 1 and 2; full liberalization applies in modes 3 and 4. On telecommunication services, Kazakhstan has reserved the right to apply limitations on modes 1 and 2 as regards local communication and radio services (including satellite communication but excluding, under certain conditions, foreign satellite operators).⁶⁹ Courier services have been fully liberalized.

4.50. As regards construction and related engineering services, only partially liberalized under the GATS, Kazakhstan will join the EAEU single market by 1 January 2025, at the latest. As regards hazardous and complex objects and heritage objects, no single market is foreseen but full liberalization of modes 1-4 was in place as of the EAEU's entry into force.

4.51. Under distribution services, Kazakhstan improved its GATS commitments by joining the EAEU single markets as of 2016 for commission agents and franchising services as well as wholesale and retail trade services – though, for the latter two sub-sectors, the sale of certain products remain restricted (the same as for the Russian Federation, see footnote c of the Table in Annex 10; these include e.g. arms and ammunition, narcotics, alcohol).

⁶⁹ A foreign equity limitation included in the List of limitations has been lifted.

4.52. Under the GATS there are only partial commitments in educational services. Under the EAEU, the sector is partially liberalized - educational institutions need to establish a juridical person of Kazakhstan and licensing is also required, except for private education.

4.53. On environmental services, GATS commitments only apply with respect to services contracted by private companies. Under the EAEU, this limitation is lifted but sectoral liberalization of housing and public utility services, water consumption and supply is subject to nationality and establishment requirements, as well as possible numerical limitation on services suppliers. In addition, when related to nuclear energy and nuclear waste disposal, limitations apply - in particular these are reserved to nationals of Kazakhstan and licensing is required.

4.54. At the entry into force of the EAEU, liberalization of financial services was similar to that under the GATS. However, as explained in Section 4.6.2, the EAEU provides for a gradual reduction of financial services limitations (all listed in In Appendixes to Annex 17) as well as a coordinated policy for financial markets with the purpose of establishing a single market by 2025. Thus, EAEU financial services suppliers will gradually benefit from an improved, more liberalized situation as compared to those from non-party WTO Members.

4.55. Compared to the GATS, liberalization of recreational, cultural and sporting services is improved. Kazakhstan restricts foreign participation in juridical persons providing media services, and requires the editor-in-chief of media services to be a citizen. No other exemptions apply in this service sector. Further, single services markets are in place for entertainment services and the organization of sporting and other recreational activities - excluding gambling - since 2015. Beyond the requirement of getting a licence, gambling-related services are fully liberalized.

4.56. Liberalization of transport services is improved as compared to the GATS. At the entry into force of the EAEU, market access conditions for transport services for suppliers from the EAEU and WTO members were the same. An EAEU coordinated transport policy is being implemented and by 2025 existing barriers shall be removed and a single services market is to be established for maritime, rail and road transport services (see Section 4.6.4). Beyond the requirement to get a license, space transport services are fully liberalized.

4.57. Investment in mining and hydrocarbons requires that 50% of services be procured from Kazakh entities, while investors can reduce by 20% the bidding price towards a juridical person of Kazakhstan, on condition that 50%-75% of its workers are citizens of Kazakhstan. Kazakhstan has also reserved its right to apply non-conforming measures on nuclear energy, investments on refinement of precious metals and stone handling.

4.4.2 Russian Federation

4.4.2.1 Horizontal reservations

4.58. Under the GATS, the Russian Federation has scheduled eight horizontal limitations - on subsidies and other forms of State support, land transactions, participation in privatization and companies to be privatized, types of commercial presence, public utilities, indigenous minorities and exiguous ethnic communities, production sharing agreements for the exploration, development and production of mineral raw materials, and presence of natural persons. These limitations refer to either market access and/or national treatment.

4.59. Under the EAEU, the Russian Federation's horizontal reservations are listed in its Schedule of Horizontal Limitations. The following reservations differ from those under the GATS:⁷⁰

- a. national treatment limitations as regards production sharing agreements apply across the board, while under the GATS it only applies to mineral raw materials.⁷¹ Such

⁷⁰ Similar to those under the GATS are the horizontal reservations on subsidies and other forms of State support, agricultural land ownership, operations on land that is the traditional residence of indigenous populations and land located in border areas.

⁷¹ At least 80% of all workers must be Russian citizens, and at least 70% of the total cost of the equipment acquired by investors must be of Russian origin. For activities in sectors of strategic importance, foreign investors must purchase at least 5% of shares comprising the authorized capital

agreements concluded with other EAEU member States prior to 1 January 2012 are subject to different limitations;

- b. any non-conforming measure as regards activities in closed-administrative formations,⁷² the continental shelf of the Russian Federation, the selection procedure of concessionaires and activities of strategic importance for national defense and security;
- c. new national treatment limitations on wildlife usage in specific territories and on land ownership within the borders of seaports;
- d. GATS mode 4 horizontal limitations⁷³ have been lifted; and
- e. GATS market access limitations on public utilities, as well as market access and national treatment limitations on participation in privatization and on companies to be privatized have been replaced by disciplines in Section V on "State Participation".

4.60. Under the GATS, the Russian Federation scheduled MFN exemptions in all sectors/sub-sectors with respect to investment measures and mode 4, on the basis of existing and future agreements. The other GATS MFN exemptions are applied to some communication and educational services, as well as to all types of transport services. Under the EAEU, the Russian Federation's MFN exemptions are granted to financial services; activities related to natural monopolies, energy and transport; private detective and security activities; and broadcasting and other similar forms of transmission of audiovisual works, television and radio programmes.

4.4.2.2 Sectoral commitments

4.61. In its GATS schedule, the Russian Federation made specific commitments in all services sectors. Compared to the GATS, the Russian Federation's liberalization commitments under the EAEU are extended – particularly, with regards to the establishment of a single market in various sectors/sub-sectors and full liberalization in others.

4.62. Table 4.2 summarizes the Russian Federation's services commitments under the EAEU in comparison with its GATS commitments, excluding mode 4 and horizontal limitations. Further details are available in Annex 10 and the Decisions themselves. The column relating to liberalization under the EAEU indicates whether a single market is/will be established, as well as the extent of liberalization taking place in sectors not covered by the single market. The Schedule of Additional Limitations of the Russian Federation requires, for any type of activity that requires licensing, that services suppliers from other member States establish a legal entity in its territory; national treatment and market access limitations may also apply.⁷⁴ These are to be lifted when a single market is/will be in force; if that is not the case, they may limit access from other EAEU member States and will be reflected in the table below and referred to in the relevant paragraphs.⁷⁵

Table 4.2 Russian Federation: Comparison between the GATS and EAEU liberalization commitments (excluding mode 4 and horizontal limitations)

Sectors and Sub-sectors	GATS	Intra-EAEU liberalization	
		Compared to the GATS	Under the EAEU ^a
1. Business Services			
A. Professional Services	Partial	Improved	SM* (2015; 2022)/ Partial

⁷² "Closed-administrative formations" are territories of a strategic nature, for example hosting atomic, metallurgical, chemical and military industries.

⁷³ GATS reservations are only lifted in case of intra-corporate transfers (ICT) for a period of three years with the possibility of extension and business visits for a maximum period of 90 days.

⁷⁴ Limitation 2 of the Schedule. More information on activities that require licensing is available at Federal law N° 99-FZ "On licensing of certain types of activity" as of 4 May 2011.

⁷⁵ The Russian Federation states that "Licensing requirements are the part of domestic regulation in accordance with the Article VI and they do not fall under market access limitations. Therefore they should not be reflected in the table below."

Sectors and Sub-sectors	GATS	Intra-EAEU liberalization	
		Compared to the GATS	Under the EAEU ^a
B. Computer and Related Services	Partial	Improved	SM (2015)
C. Research and Development Services	Partial	Improved	SM* (2020)/Full
D. Real Estate Services	Partial	Improved	SM (2020)
E. Rental/Leasing Services without Operators	Partial	Improved	SM* (2015; 2019)/Full
F. Other Business Services	Partial	Improved	SM*(2015; 2019)/Partial
2. Communication Services			
A. Postal Services	---	New	Partial
B. Courier Services	Partial	Improved	Full
C. Telecommunication Services	Partial	Similar	Partial
D. Audiovisual Services	Partial	Improved	SM* (2015; 2019)/Partial
E. Other	---	New	Full
3. Construction and Related Engineering Services			
A. General Construction Work for Building	Partial	Improved	SM* (2015)/Full
B. General Construction work for Civil Engineering	Partial	Improved	SM (2015; 2021)
C. Installation and Assembly Work	Partial	Improved	SM* (2015)/Full
D. Building Completion and Finishing Work	Partial	Improved	SM* (2015)/Full
E. Other	Partial	Improved	SM* (2015)/Full
4. Distribution Services			
A. Commission Agents' Services	Partial	Improved	SM (2015)
B. Wholesale Trade Services	Partial	Improved	SM* (2015)
C. Retailing Services	Partial	Improved	SM* (2015)
D. Franchising	Full*	Improved	SM (2015)
E. Other	---	New	Full
5. Educational Services			
A. Primary Education Services	Partial	Improved	Partial
B. Secondary Education Services	Partial	Improved	Partial
C. Higher Education Services	Partial	Improved	Partial
D. Adult Education	Partial	Improved	Partial
E. Other Education Services	---	New	Partial
6. Environmental Services			
A. Sewage Services	Partial	Similar	Partial
B. Refuse Disposal Services	Partial	Improved	Partial
C. Sanitation and Similar Services	Partial	Similar	Partial
D. Other	Partial	Similar	Partial
7. Financial Services			
A. All Insurance and Insurance-related Services	Partial	Improved	SM (2025)
B. Banking and Other Financial Services (excluding insurance)	Partial	Improved	SM (2025)
C. Other	---	New	Full
8. Health Related and Social Services			
A. Hospital Services	Partial	Improved	Partial
B. Other Human Health Services	---	New	Partial
C. Social Services	---	New	Full
D. Other	---	New	Full
9. Tourism and Travel Related Services			
A. Hotels and Restaurants (including catering)	Partial	Improved	SM (2015)
B. Travel Agencies and Tour Operators Services	Partial	Improved	SM (2019)
C. Tourist Guides Services	Partial	Improved	Full
D. Other	---	New	Full
10. Recreational, Cultural and Sporting Services			
A. Entertainment Services (including theatre, live bands and circus services)	Partial	Improved	SM (2015)
B. News Agency Services	Partial	Similar	Partial
C. Libraries, archives, museums and other cultural services	---	New	Full
D. Sporting and Other Recreational Services	---	New	SM* (2015)/Partial

Sectors and Sub-sectors	GATS	Intra-EAEU liberalization	
		Compared to the GATS	Under the EAEU ^a
E. Other	---	New	Full
11. Transport Services			
A. Maritime Transport Services	Partial	Improved	SM (2025)
B. Internal Waterways Transport	Partial	Improved	Partial
C. Air Transport Services	Partial	Improved	Partial
D. Space Transport	---	New	Partial
E. Rail Transport Services	Partial	Improved	SM (2025)
F. Road Transport Services	Partial	Improved	SM (2025)
G. Pipeline Transport	---	Similar	---
H. Services Auxiliary to All Modes of Transport	Partial	Improved	SM (2015; 2025)
I. Other Transport Services	---	New	Full
12. Other Services not Included Elsewhere	---	New	Full

General Note: MFN and Horizontal limitations, as well as Mode 4 commitments/limitations not considered. Under the EAEU, services are classified according to CPC (based on Version 1) which was further transferred into CPC Provisional and MTN.GNS/W/120 using the UN reference table available at https://unstats.un.org/unsd/publication/SeriesM/SeriesM_77ver1_1E.pdf

a The years in brackets indicate the starting year (any time in the year) of the functioning of a single services market in a specific sector/sub-sector; two years indicate that the sub-sectors involved have different final liberalization deadlines. If there are sub-sectors not covered by a single market, liberalization is also indicated.

SM: Single services market in operation.

SM* Single services market in operation in at least one of the sub-sectors.

Full: For sub-sectors where no SM is in operation, the specific commitments are not subject to limitation(s) under any of the three modes.

Improved: Overall improved commitments made under the EAEU compared to those under the GATS.

New: New commitments under the EAEU (full or partial, with or without limitations) which can be seen as "improved".

Partial: For sub-sectors where no SM is in operation, the specific commitments are subject to some limitation(s) under any of the three modes.

---: For GATS - no commitments, for EAEU - no project/liberalization plan is in place as of end-2017.

Similar: Similar commitments (EAEU vs GATS); though possibly, in individual cases, with limited improvements and/or limited additional reservations.

Source: WTO document WT/ACC/RUS/70/Add.2; Decisions of the Supreme Council N^{os} 110/14, 111/14, 112/14, 17/15, 30/15, 31/15, 22/16 and 23/16; Annex 17 and its Supplements.

4.63. The following sectors/sub-sectors, for which there are no GATS commitments, have been fully liberalised under the EAEU: veterinary services; social services; libraries, archives, museums etc.; and "other services" under professional business services; interdisciplinary R&D; audiovisual and communication services; distribution; financial; tourism and travel; recreational, cultural, sporting; and transport services.

4.64. Business services liberalization has been largely improved as compared to that under the GATS. For computer and related services, a single market was established as of 2015; that is also the case for some sub-sectors of professional services (taxation and architectural). In other sub-sectors, partially covered under the GATS, the single market will start operating during the 2020-2022 period (e.g. real estate). With respect to engineering services the single market was established as of 2015, except for hazardous, complex and heritage objects (e.g. nuclear plants, subway systems, etc.)⁷⁶, in which it will start operating in 2021. Commitments to establish the single market in R&D relating to natural sciences, which are new compared to those under the GATS, will be implemented in 2020. The single market started operating in a number of sub-sectors in rental/leasing services without operators and other business services in 2015; these

⁷⁶ See footnotes a and b to the Table in Annex 10 for a complete list.

include, *inter alia*: services related to other transport equipment and machinery, market research and public opinion, management consulting services, and photographic services. Legal services remain subject to various limitations – e.g. national treatment and market access limitations apply for foreign attorneys and notaries, trainees and assistant notaries. The absence of reservations for mode 4 generally in all of the sectors included in the EAEU, contrasts greatly with the unbound nature of mode 4 under the GATS – except for intra-corporate transfers and business visitors. Mode 4 reservations under the EAEU have been scheduled for attorneys and notaries, cadastral and archaeological experts; generally these are combined with nationality requirements. In addition, medical services and related activities – doctors, physiotherapists, manufacture of medical products, production and maintenance of medical equipment, etc – are subject to licence requirements.

4.65. Under the EAEU, the Russian Federation has undertaken new commitments in postal and some audiovisual services. With respect to the latter, a single market was established in sound recording services in 2015; for motion picture and video tape production and distribution as well as for film projections the single market will start operating as of 2019. The Russian Federation has reserved the right to apply any measure related to broadcasting, transmission of television and radio programmes; this also includes an allocation of subsidies for production and distribution. In regard to the provision of postal services, the Russian Federation retains its right to apply non-conforming mode 2 and 3 measures, while modes 1 and 4 are fully liberalised. Courier services are fully liberalised under the EAEU. In telecommunication services, partially liberalised under the GATS, limitations on modes 2 and 3 are placed for measures related to radio communication including satellite services (excluding fixed satellite services provided by foreign satellite communication operators). Additionally, the provision of communication services requires a license.

4.66. A single market has been established in construction and related engineering services except for the civil facilities construction of hazardous, complex and heritage objects, for which it will start operating by 2021.

4.67. Under distribution services, the Russian Federation improved significantly its GATS commitments by establishing a single market in virtually all sub-sectors – commission agents' and franchising services, as well as in wholesale and retail trade services. For the latter two sub-sectors, the sale of certain products (e.g. military equipment, sturgeon and caviar, alcohol, petroleum products, etc.)⁷⁷ remains restricted in accordance with its list of limitations.

4.68. Under the GATS, commitments on educational services are restricted to privately funded education organisations; while, under the EAEU, the sector is fully liberalized except for the requirement of getting a licence.

4.69. In environmental services, liberalization has been improved but limitations remain. The provision of housing and public utility services, water consumption and supply is subject to nationality and establishment requirements, as well as possible numerical limitations on services suppliers. The Russian Federation has reserved the right to apply any non-conforming measure with respect to hazardous waste. Activities related to nuclear energy and radioactive waste handling remain restricted.

4.70. As regards health related and social services, the Russian Federation's GATS commitments only apply to privately funded health care organisations and services. Under the EAEU, this limitation is lifted, but sectoral liberalization is subject to a licence for any type of medical activity.

4.71. As in the case of financial services in Kazakhstan (paragraph 4.54. above), the Russian Federation's level of liberalisation upon the entry into force of the EAEU was similar to that under the GATS. A gradual elimination of limitations and an implementation of a coordinated financial markets policy aims to establish a single market by 2025 (see Section 4.6.2).

4.72. Commitments in tourism and travel related services have been improved *vis-à-vis* its GATS commitments: a single market was established in hotel and restaurant services, while for travel agencies and tour operators services it will start operating in 2019.

⁷⁷ See footnote c of the Table in Annex 10.

4.73. Liberalization of recreational, cultural and sporting services has been improved. As of 2015, a single market was established in entertainment, and sporting and other recreational services with the exception of gambling, which was fully liberalised except for the requirement to get a license. Additionally, limitations have been placed for foreign participation in a media organisation, editorial office, or entity engaged in broadcasting.

4.74. Commitments in transport services have largely improved under the EAEU. In 2015, a single market was established in, *inter alia*, cargo handling, storage and warehouse and freight transport agency services. The Russian Federation has nationality requirements for astronauts, as well as on market access and foreign participation restrictions in space activities and in aviation organizations, respectively. Licensing is also required in some sub-sectors, e.g. inland and air transport. Under the EAEU, a coordinated transport policy is being implemented with a planned elimination of existing barriers and the establishment of a single market in maritime, rail, road, and auxiliary services by 2025 (see Section 4.6.4).

4.75. Investment in energy, mining and certain environmental services is limited by numerous restrictions, including by reserving the right to apply any non-conforming measure *vis-à-vis* subsurface use; nuclear energy and handling of radioactive waste; and plumbing, waste removal, sanitary treatment and similar services as regards hazardous waste. The Russian Federation has also retained the right to have a majority of votes in management bodies of organizations engaged in diamond mining. Further, market access and national treatment reservations apply to organisations entitled to refine precious metals. In the aviation sector foreign interests should not exceed 25% of the authorized capital of an aviation organization with its head and management board being citizens of the Russian Federation.

4.4.3 Belarus

4.4.3.1 Horizontal reservations

4.76. Through its Schedule of Horizontal Limitations, Belarus has reserved the right to apply measures that do not conform to its commitments under the EAEU, as follows:

- a. national treatment may not be accorded to EAEU investors and their investments with respect to subsidies, land acquisition/ownership (leasing however remains an option), and use of wildlife in certain locations/territories in Belarus;
- b. both national treatment and market access do not apply to land inventory and planning, technical inventory and state registration of real estate rights, state property appraisal and geodetic and cartographic activities;
- c. market access, prohibition of performance requirements and national treatment do not apply to concession related activities.

4.77. As per Belarus's Schedules of Additional Limitations, MFN exemptions are granted to financial services and types of activities related to natural monopolies, energy and transport, and some legal services (attorneys).

4.78. Mode 4 is completely liberalized unless limitations are included in its Schedules of Additional Limitations.

4.4.3.2 Services commitments

4.79. Table 4.3 summarizes Belarus services commitments under the EAEU, excluding mode 4 and horizontal limitations. Additional details can be found in Annex 10 and the Decisions themselves. The column relating to liberalization under the EAEU indicates whether a single market is/will be established, as well as the extent of liberalization taking place in sectors not covered by the single market. The Schedule of Additional Limitations of Belarus includes limitations

for any type of activity that requires licensing; in the table and text below, they are dealt with in the same way as under the section about Kazakhstan (see paragraph 4.46. above).⁷⁸

Table 4.3 Belarus: EAEU services liberalization commitments (excluding Mode 4 and Horizontal Limitations)

Sectors and Sub-sectors	EAEU liberalization
1. Business Services	
A. Professional Services	SM (2015; 2022)/Partial
B. Computer and Related Services	SM* (2015)
C. Research and Development Services	SM* (2020)/Full
D. Real Estate Services	SM (2020)
E. Rental/Leasing Services without Operators	SM*(2015; 2019)/Full
F. Other Business Services	SM*(2015; 2019)/Partial
2. Communication Services	
A. Postal Services	Partial
B. Courier Services	Full
C. Telecommunication Services	Partial
D. Audiovisual Services	SM* (2015; 2019)/Partial
E. Other	Full
3. Construction and Related Engineering Services	
A. General Construction Work for Building	SM* (2015)/Full
B. General Construction work for Civil Engineering	SM (2015; 2021)
C. Installation and Assembly Work	SM* (2015)/Full
D. Building Completion and Finishing Work	SM* (2015)/Full
E. Other	SM* (2015)/Full
4. Distribution Services	
A. Commission Agents' Services	SM (2015)
B. Wholesale Trade Services	SM* (2015)
C. Retailing Services	SM* (2015)
D. Franchising	SM (2015)
E. Other	Full
5. Educational Services	
A. Primary Education Services	Partial
B. Secondary Education Services	Partial
C. Higher Education Services	Partial
D. Adult Education	Partial
E. Other Education Services	Partial
6. Environmental Services	
A. Sewage Services	Partial
B. Refuse Disposal Services	Partial
C. Sanitation and Similar Services	Partial
D. Other	Partial
7. Financial Services	
A. All Insurance and Insurance-related Services	SM (2025)
B. Banking and Other Financial Services (excluding insurance)	SM (2025)
C. Other	Full
8. Health Related and Social Services	
A. Hospital Services	Partial
B. Other Human Health Services	Partial
C. Social Services	Full
D. Other	Full
9. Tourism and Travel Related Services	
A. Hotels and Restaurants (including catering)	SM (2015)
B. Travel Agencies and Tour Operators Services	SM (2019)
C. Tourist Guides Services	Full
D. Other	Full
10. Recreational, Cultural and Sporting Services	
A. Entertainment Services (including theatre, live bands and circus services)	SM (2015)
B. News Agency Services	Partial
C. Libraries, archives, museums and other cultural services	Full
D. Sporting and Other Recreational Services	SM* (2015)/Partial
E. Other	Full
11. Transport Services	
A. Maritime Transport Services	SM (2025)

⁷⁸ Limitation 2 of the Schedule. More information on activities that require licensing is available mainly at the Decree of the President No. 450 "On Licensing of Certain Types of Activities" of 1 September 2010.

Sectors and Sub-sectors	EAEU liberalization
B. Internal Waterways Transport	Partial
C. Air Transport Services	Partial
D. Space Transport	Full
E. Rail Transport Services	SM (2025)
F. Road Transport Services	SM (2025)
G. Pipeline Transport	---
H. Services Auxiliary to All Modes of Transport	SM (2015; 2025)
I. Other Transport Services	Full
12. Other Services not Included Elsewhere	Full

General Note: MFN and Horizontal limitations, as well as Mode 4 commitments/limitations not considered. Under the EAEU, services are classified according to CPC (based on Version 1) which was further transferred into CPC Provisional and MTN.GNS/W/120 using the UN reference table available at:
https://unstats.un.org/unsd/publication/SeriesM/SeriesM_77ver1_1E.pdf

a The years in brackets indicate the starting year (any time in the year) of the functioning of a single services market in a specific sector/sub-sector; two years indicate that the sub-sectors involved have different final liberalization deadlines. If there are sub-sectors not covered by a single market, liberalization is also indicated.

SM: Single services market in operation.

SM* Single services market in operation in at least one of the sub-sectors.

Full: For sub-sectors where no SM is in operation, the specific commitments are not subject to limitation(s) under any of the three modes.

Partial: For sub-sectors where no SM is in operation, the specific commitments are subject to some limitation(s) under any of the three modes.

---: No project/liberalization plan is in place as of end-2017.

Source: Decisions of the Supreme Council N^{os} 110/14, 111/14, 112/14, 17/15, 30/15, 31/15, 22/16 and 23/16; Annex 17 and its Supplements.

4.80. In respect of business services, as of 2015 a single market has been in operation in computer and related services and a number of sub-sectors in professional services, rental/leasing services without operators, and other business services. For other sub-sectors, the single market will be established during the 2019–2022 period; these include, *inter alia* taxation services, advisory and pre-design architectural services and engineering services, real estate services, etc. Under the EAEU, Belarus fully liberalized, *inter alia*, interdisciplinary R&D; some rental/leasing services without operators; and services incidental fishing and manufacturing. Legal services remain subject to nationality, establishment and license requirements; non-conforming national treatment and market access limitations are also fixed on state cadastres and registers, and mode 4 related limitations on metrological control. Beyond a requirement to obtain a licence, medical, veterinary, and some other business services are fully liberalised.

4.81. Like the Russian Federation, Belarus reserves the right to apply mode 2 and 3 related limitations for postal services, while modes 1 and 4 remain fully liberalised. Also, liberalization of the telecommunications sector remains subject to limitations for modes 2 and 3 with respect to the application of any measure related to radio communication services, including satellite communication. A licence is required for some communication services, e.g. telecommunications and mailing services. Courier services are fully liberalised under the EAEU. In 2015, a single market was in operation in sound recording services while it will be established in 2019 for motion picture and video tape production, distribution and motion picture projection services.

4.82. For some sectors/sub-sectors in construction and related engineering services, a single market was established in 2015; for services related to general construction work for civil engineering of hazardous, complex and heritage objects, the single market will be established in 2021.

4.83. Under distribution services, a single market was established in most sectors/sub-sectors as of 2015 - some specific products remain restricted for sale (footnote c in Annex 10).

4.84. Educational services in Belarus were partially liberalised. There is a requirement for institutions to establish as a juridical person of Belarus; non-conforming market access limitations

may also be applied. Licensing is also required for secondary and higher education, and tertiary technical/vocational training.

4.85. With respect to environmental services, Belarus has reserved the right to apply non-conforming national treatment and market access limitations. In addition, as regards handling of ozone-damaging substances and hazardous waste, licensing requirements apply.

4.86. Similar to financial services liberalization in Kazakhstan and the Russian Federation, Belarus committed to establish a single services market by 2025 (Section 4.6.2). Pending that, Belarus has reserved the right to apply non-conforming national treatment, market access and MFN limitations to activities related to financial services.

4.87. As regards health related and social services, the latter is fully liberalized under the EAEU. There is a requirement for hospitals to establish as a juridical person of Belarus and the supply of medical/health services requires a licence.

4.88. Single services markets were in operation in a number of sectors/sub-sectors in recreational, cultural and sporting services in 2015; the only exception is gambling for which a licence is required. Media entities need to be established in Belarus; foreign participation limitations may also apply.

4.89. Under transport services, as of 2015 a single market was in operation in auxiliary services. Activities related to automobile transport are subject to licence requirements. A coordinated transport policy is being established under the EAEU; establishment of a single market is envisaged in maritime, rail, road, and auxiliary services by 2025.

4.90. As with the other two EAEU member States, investment is also restricted in energy and mining.

4.5 Regulatory provisions

4.5.1 Domestic regulation

4.91. Paragraphs 57–64 of the Services and Investment Protocol set forth disciplines on domestic regulation, replicating to a large extent the text of Article VI of the GATS. The member States are required to ensure that all their measures of general application affecting trade in services are administered in a reasonable, objective and impartial manner. They shall also have in place procedures for the prompt review of and appropriate remedies for administrative decisions affecting trade in services, including through judicial, arbitral or administrative tribunals. In order to avoid unnecessary barriers to trade in services, the Commission is entrusted with developing rules on the application of qualification requirements and procedures, technical standards and licensing requirements, to be approved by the Supreme Council.

4.5.2 Recognition

4.92. According to paragraphs 53–54 of the Services and Investment Protocol, the member States may agree on the mutual recognition of authorisations of service suppliers in certain liberalized sectors, after achieving substantial regulatory equivalence in this field. The modalities of recognition are specified in the liberalization plans. As of April 2018, no specific agreements have been concluded in that respect.

4.93. Paragraph 38 of the Services and Investment Protocol states that when a single services market is functioning in a specific sector, each member State shall:

- a. provide persons of any other member State the right to supply services and accordingly grant service suppliers a permit to do so; and
- b. recognize the professional qualifications of the services suppliers.

4.5.3 Subsidies

4.94. The EAEU Treaty has no disciplines on subsidies that apply specifically to trade in services or investment.

4.5.4 Safeguards

4.95. The EAEU Treaty has no disciplines on safeguards that apply specifically to trade in services or investment.

4.5.4.1 Balance-of-payments safeguards

4.96. In the event of serious balance-of-payments difficulties, a significant reduction in foreign exchange reserves, sudden fluctuations of national currency or the threat thereof, a member State may apply restrictions on transfers and payments. Such restrictions: must not discriminate among member States or exceed measures necessary to deal with the circumstances mentioned above; must be consistent with the IMF Agreement; must avoid unnecessary damage to the commercial, economic and financial interests of any other Member State; must be temporary and be phased out progressively as the situation improves. In determining the incidence of such restrictions, the member States may give priority to the supply of goods or services which are more essential to their economic or development programmes. However, such restrictions shall not be adopted or maintained for the purpose of protecting a particular service sector.

4.5.5 Other

4.5.5.1 Consumer rights

4.97. Paragraphs 49-52 of the Services and Investment Protocol address the rights of service consumers. In particular, member States are prohibited from establishing requirements or special conditions that restrict the rights of service consumers to receive, use or pay for services supplied by a service supplier of another Member State. Paragraph 50 of the Services and Investment Protocol proscribes the application of discriminatory requirements or special conditions to consumers on the basis of their nationality or their place of residence, establishment or operation. These obligations, however, do not affect the rights of the member States to take measures necessary for the implementation of their social policies, including pension provision and social security.

4.6 Sector specific provisions on trade in services

4.6.1 Telecommunication services

4.98. Telecommunications services, defined as the reception, processing, storage, transfer and delivery of telecommunication messages, are covered by Supplement 1 to the Services and Investment Protocol. Paragraph 6 of Supplement 1 states that telecommunications services are supplied on the basis of a licence to operate within established territorial boundaries and, where appropriate, an additional authorization from the competent authorities.

4.99. The member States are required to take all measures necessary to ensure equal and non-discriminatory access to networks and telecommunication services, and that all information on market access and the supply of these services is made available to the public. The member States must also ensure the provision of universal telecommunication services within their territories on the basis of recommendations by the relevant international organizations.

4.100. Paragraph 12 of Supplement 1 allows the member States to set tariffs for telecommunication services. They must guarantee the supply of services in their territories in accordance with the set tariffs on the basis of contracts with the suppliers located within their territories. With respect to services for which the member States do not set tariffs, they must ensure the effective application of their competition laws.

4.6.2 Financial services

4.101. The formation and functioning of a common financial services market among EAEU member States is foreseen in Section XVI of the Treaty ("Regulations of the Financial Markets") and its Annex 17 ("Protocol of Financial Services"). The Protocol of Financial Services contains two supplements: the National schedules of commitments in financial services (Supplement 1) and the National schedules of limitations on establishments in financial services (Supplement 2). These define precisely the scope and depth of financial services liberalization among EAEU member States. The liberalization provided by these disciplines has been reflected in the Section on liberalization commitments above.

4.102. The definition of supply/trade in financial services (paragraph 3) covers GATS modes 1 to 3. Mode 4 is regulated by Section XXVI on Labour Migration, subject to member State restrictions specified in Appendix 2 to Protocol of Financial Services (paragraph 12).

4.103. Subject to members Schedules, the Protocol of Financial Services regulates trade in services as follows:

- a. financial services included in paragraph 4 – no-life insurance, re-insurance, supply and processing of financial data, and consulting and other auxiliary services⁷⁹ – may be provided by modes of supply 1 and 2; and
- b. all other types of financial services can be provided by mode 3, in accordance with paragraphs 6 and 7.

4.104. Paragraph 13 of the Protocol of Financial Services requires member States to apply all their measures affecting trade in services in a reasonable, objective and impartial manner.

4.105. In what concerns qualification requirements and procedures, technical standards and licensing requirements, paragraph 15 of the Protocol of Financial Services requires member States to ensure that they are based on objective and transparent criteria, do not exceed what is necessary to ensure the quality of the service and, in the case of licensing procedures, do not in themselves constitute a restriction on the supply of services.

4.106. The Protocol of Financial Services also includes general and security exceptions, as well as provisions allowing for the adoption and recognition of prudential measures.⁸⁰ The provisions of the Services and Investment Protocol on transfers and restrictions to safeguard the balance of payments apply to financial service suppliers by virtue of paragraph 8 of the Protocol of Financial Services.

4.107. Finally, the Protocol of Financial Services and Article 103 of the Treaty stipulate that the member States shall harmonize their domestic legislation in the financial sector – in the banking, insurance and securities markets – by 2025. Thereafter, the EAEU member States would create a supranational body for financial market regulation which would be established in Almaty, Kazakhstan, in 2025. As April 2018, member States were discussing elements of a document on the "Concept of single financial market", that will further the original principles and indicate goals, timing and tools for the establishment of a single financial services market. Upon completion the document will be presented to the Supreme Council.⁸¹

⁷⁹ These are: 1) insurance services relating to: a) international maritime and commercial air transport, commercial space launches and freight (including satellites), where the insurance covers, fully or partially, the transported goods, vehicles transporting goods and liability in connection with transportation; b) the international transit of goods; 2) reinsurance and services auxiliary to insurance, such as consulting, actuarial services, risk appraisal and claims settlement; 3) the provision and transfer of financial information, processing of financial data and related software of other financial services providers; 4) advisory and other auxiliary services, including the provision of reference materials, regarding services on the securities market and banking services, except intermediary services, services related to credit analysis, research and advice on direct and portfolio investments, advice on the acquisition and reorganisation of corporations and corporate strategy.

⁸⁰ Annex 17, paragraphs 19, 31-32, 34-35.

⁸¹ Annex 17 (Paras. 4–11) regulates the liberalization of financial services subject to each Member exemptions and limitations indicated in Appendices 1 and 2 to the Protocol. These measures are to be

4.6.3 Energy

4.108. Section XX of the Treaty covers trade in energy services and is complemented by Annexes 21, 22 and 23. It requires the member States to coordinate policies in the energy sector and to gradually create common energy markets for electricity, natural gas, petroleum and petroleum products respectively.⁸² The regulations summarized below appear to represent an intermediate stage in the integration process before the envisaged common energy markets are established. The rules, as they stand, cover only a limited number of energy services, which mainly include electricity supply, natural gas transportation and the transportation of petroleum and petroleum products. These services seem to be predominantly supplied by "natural monopolies".

4.6.3.1 Electricity services

4.109. Articles 81-82 of the Treaty and the Protocol on the Access to the Electricity Services Supplied by Natural Monopolies (Annex 21) govern access to services provided by natural monopolies in the electricity sector, including the principles of their pricing and tariff policies.

4.110. Pursuant to Article 104 of the Treaty (Transitional Provisions for Section XX), Annex 21 remains applicable pending the entry into force of the common electricity market on 1 January 2019. In the meantime, the member States were required to submit by 1 July 2016 the programme of measures necessary for the establishment of the common electric power market (CEPM) with the implementation deadline of these measures set for 1 July 2018. The initial phase was concluded with the adoption of the Supreme Council Decision N° 12/15 "On Concept of forming the common electric power market of the EAEU". Since that time, work has continued and it has been agreed that the CEPM will be implemented using the existing trading platforms of its countries (instead of providing for the creation of a new one). Other issues being discussed include approaches to the arrangement of centralized trade in electric power, formation of demand and supply curves in certain member States, and the functional structure of the Union's CEPM.

4.111. Annex 21 defines "access to the services of natural monopolies in the electricity sector" as the ability of entities from the domestic market of one member State to use such services within the territory of another member State. Paragraph 6 provides the general principles regarding the granting of access (such as the obligation of equal treatment with respect to requirements) and conditions it upon the member States' technical capacities and the fulfilment of their domestic energy needs, established in accordance with the hierarchy of priorities listed in paragraph 7. Pursuant to paragraph 11 of Annex 21, tariffs for the electricity services supplied by natural monopolies within the common markets of the member States must not be higher than the analogous tariffs applicable to domestic market participants.

4.112. Annex 21 also sets out the general principles for interstate electricity transmission and for the establishment of the common electricity market. In Supplement 1 to Annex 21 the member States agree to a single methodology regarding interstate electricity transmission, which addresses, *inter alia*, issues of pricing, technical conditions and volumes of transmission.

4.6.3.2 Natural gas transportation services

4.113. Article 83 of the Treaty and the Protocol on the Access to the Natural Gas Transportation Services through Gas Pipelines Supplied by Natural Monopolies (Annex 22) govern access to services of natural monopolies in natural gas transportation, including the principles of their pricing and tariff policies. Annex 22 applies only to natural gas originating from the territory of the member States, to the exclusion of natural gas originating from third parties or of matters of natural gas transportation from and into the EAEU. Section XVIII of the Treaty (Natural Monopolies) applies in addition to Annex 22.

4.114. Pursuant to Article 104 of the Treaty, Annex 22 remains applicable pending the entry into force of the common gas market on 1 January 2025. Before this date, bilateral agreements

gradually eliminated in those sectors where harmonization of legislation and licences has been established (Paras. 36 and 37 of Annex 17).

⁸² Articles 81 – 84 of the Treaty.

concerning the supply of gas between the member States remain in force, unless the member States agree otherwise. They must also submit by 1 January 2016 the outline and by 1 January 2018 the programme of measures necessary for the establishment of the common gas market, with the implementation deadline of these measures set for 1 January 2024. In May 2016, the Supreme Council approved the Decision "On the Concept of forming a common gas market of the EAEU" (Decision N° 7/16). The final Programme, including the list of particular actions required to launch the project, is under preparation. Some of them are related to conducting stock trading and providing appropriate rules for that; implementation of pricing and tariff policy in the common gas market, including formation of stock exchange and off-exchange price indicator; and the harmonization of the laws of the member States governing the gas sector.

4.115. Paragraph 3 of Annex 22 provides for the gradual formation of the common gas market of the EAEU. Paragraph 5 of Annex 22 conditions access to the gas transportation services supplied by natural monopolies, to be granted in accordance with the provisions of Annex 22, on the accomplishment by the member States of a number of steps. Such steps include the creation of an information exchange system and mechanisms for declaring energy balance forecasts, the harmonisation of gas norms and standards, and the maintenance of market prices.

4.116. Once these measures have been adopted, in accordance with paragraph 7 of Annex 22, the member States must grant economic entities of the other member States access to gas pipelines within their territories on equal terms with their domestic producers that are not owners of these pipelines. This obligation also covers tariffs for the transportation of gas. The access required under paragraph 7 of Annex 22 is subject to the technical capacities of the pipeline networks.

4.6.3.3 Services related to petroleum and petroleum products

4.117. Article 84 of the Treaty and the Protocol on the Establishment of Common Petroleum and Petroleum Products Markets (Annex 23) govern the organisation, management, functioning and development of the petroleum and petroleum products common markets. Section XVIII of the Treaty (Natural Monopolies) applies in addition to Annex 23.

4.118. Pursuant to Article 104 of the Treaty, Annex 23 remains applicable pending the entry into force of the common petroleum and petroleum products markets on 1 January 2025. The member States must submit by 1 January 2016 the outline and by 1 January 2018 the programme of measures necessary for the establishment of the common petroleum and petroleum products markets, with the implementation deadline of these measures set for 1 January 2024. In May 2016, the Supreme Council approved Decision N° 8/16 "On the Concept of forming common markets of oil and petroleum products of the EAEU". There is agreement that trade in oil and oil products will take place within a "common exchange space", on the basis of interaction among the trade platforms of the EAEU member States. Other issues being addressed in during the development of the Programme include *inter alia* the definition of the implementation stages, regulations to control access to oil transport infrastructure and trade regulations for the shared market space.

4.119. Paragraph 6 of Annex 23 obliges the member States, in accordance with international agreements between them and subject to technical capacity, to provide conditions for: (i) the guaranteed possibility of long-term transportation of petroleum and petroleum products through the existing networks; (ii) access by economic entities of the member States to networks for the transportation of petroleum and petroleum products within their territories on the same conditions as for domestic economic entities. Moreover, paragraph 7 of Annex 23 prohibits the member States from setting tariffs for the transportation of petroleum and petroleum products through transportation networks in excess of those applicable to the domestic market participants.

4.6.4 Transport services⁸³

4.120. Section XXI of the Treaty regulates transport services and applies to automobile, air, maritime and rail transport, taking into account the provisions of Sections XVIII (General Principles

⁸³ A brochure prepared by the Commission containing the EAEU rules concerning transport, infrastructure and natural monopolies, statistical information as well as the Commission's regulatory functions can be found in http://www.eurasiancommission.org/ru/Documents/transport_eng.pdf.

and Rules of Competition) and XIX (Natural Monopolies). Section XXI is complemented by the Protocol on the Coordinated Transport Policy of the member States (Annex 24). The EAEU Treaty sets the objective of the creation of a common transport area within the EAEU, in stages.

4.121. At its meeting in December 2016, the Supreme Council approved Decision N° 19/16 that sets guidelines for the coordinated (agreed) transport policy as well as the implementation stages.⁸⁴ According to Decision N°s 2 and 3 of the Eurasian Intergovernmental Council dated 14 August 2017 and 25 October 2017, respectively,⁸⁵ the Commission together with the Parties prepared two Action Plans ("Road Maps") for the implementation of the Basic Transport Policy Guidelines, for air transport and for the remaining modes of transport.

4.122. The Road Maps, covering the period 2018-2020, were approved by the Commission Collegium and by the Transport Infrastructure Advisory Committee in 2017. Their implementation will lead to the adoption of three international agreements on road, railway and water transport⁸⁶ as well as the completion of work on the Agreement on Navigation.

4.123. The implementation of the Action Plans will create a basis for the removal by 2025 of all existing restrictions in transport, which are needed in order to build the EAEU common market for transport services. The possibility of making extensive use of the digital economy - intelligent transport systems, electronic diagnostics of vehicles, digital logistics, electronic document circulation, etc. - is at the core of the EAEU transport agenda.

4.124. Road transport services are regulated by paragraphs 4-9 of Annex 24, together with Supplement 1 on Transport control at the External Borders of the EAEU.⁸⁷ In accordance with paragraph 4 of Annex 24 to the EAEU Treaty, international road cabotage is carried out by carriers registered in the territory of one of the member States without obtaining a permit, between the member State where the carriers are registered and another member State; transit through the territory of other member States; and between other member States. Meanwhile, in accordance with paragraph 5, different levels of liberalization of road cabotage are allowed between member States. Therefore, a "Program of gradual liberalization of road cabotage carried out by carriers registered in the territory of one of the EAEU member States between points located in the territory of another member State of the EAEU for the period from 2016 to 2025" was adopted by Supreme Council Decision N° 13 of 8 May 2015;⁸⁸ this is presented in Table 4.4. The road map provides for the development of intelligent transport systems and passenger transportation; the development and maintenance of road infrastructure; the improvement of road transport services quality and its efficiency; and ensuring professional competence of workers involved in international road transportation.

⁸⁴ Supreme Council Decision N° 19/16 "On the main directions and stages of the implementation of the coordinated (agreed) transport policy of the member states of the EAEU", https://docs.eaeunion.org/docs/en-us/01413536/scd_11042017_16 (in Russian).

⁸⁵ Decision of the Eurasian Intergovernmental Council N° 2 "On the approval of the action plan ("road map") for the implementation of the Basic directions and stages of the implementation of the coordinated (coordinated) transport policy of the member states of the EAEU in terms of air transport for 2018-2020" and Decision of the Eurasian Intergovernmental Council N° 3 "On the approval of the action plan ("road map") for the implementation of the Basic directions and stages of the implementation of the coordinated (coordinated) transport policy of the member states of the EAEU for 2018-2020", available at https://docs.eaeunion.org/docs/ru-ru/01314587/icd_15082017_2 and https://docs.eaeunion.org/docs/ru-ru/01315092/icd_26102017_3, respectively (Russian only).

⁸⁶ Agreements on the harmonization of the weight parameters of motor vehicles; on improvement of the mechanism for controlling the movement of heavy-weight and over-size vehicles; and on the organization of the exchange of information on goods and vehicles of international transportation in railway communication with third countries. That will involve the adoption of more than 20 recommendations of the Commission, including digitalization of the transport space, support of the New Silk Road project; development of transport corridors, transit and logistics capabilities, and multimodal transport.

⁸⁷ According to the Commission, road transport accounts for more than 82% of the total volume of cargo transportation and 94% of passenger transportation in the EAEU (see <http://www.eurasiancommission.org/en/nae/news/Pages/24-04-2017.aspx>)

⁸⁸ The Decision was signed by all of the four EAEU member States at that time. The Kyrgyz Republic joined the Program in accordance with the decision of the Supreme Council N° 39 as of 21 December 2015.

Table 4.4 Stages of road cabotage liberalization in the EAEU

Stage	Permitted cabotage operations	Number of days required for cabotage	Conditions to perform cabotage
1 st 2016–2017	1	Within 3 days	After the completion of international transportation from non-member States, in trail on the territory of certain regions.
2 nd 2018–2019	1	Within 7 days	The vehicle should have a special permit and a logbook issued by the competent authority.
3 rd 2020–2024	1	Within 7 days	After the completion of international transportation from non-member States, in trail on the territory of any regions only after preliminary informing (filing an application in electronic form) by the carrier to the transport control body
4 th from 2025	3	Within 7 days	After the completion of international transportation, on the territory of any regions, only after preliminary informing (filing an application in electronic form) by the carrier to the transport control body

Source: EEC.

4.125. Air transport services (only in the context of civil aviation) are regulated by paragraphs 10-14 of Annex 24. Paragraph 13 provides that flights take place in accordance with the international agreements of the member States and authorisations delivered pursuant to domestic legislation. The member States also recognize that each member State has complete and exclusive sovereignty over the airspace above its territory. The creation of a common market involves issues such as rates and charges for the provision of airport and air navigation services in the member States, removal of restrictions on destinations and frequencies assigned to carriers and a mechanism restraining unfair competition. The road map provides for the harmonization of the legislation of EAEU member States in accordance with the norms and principles of international law in the field of civil aviation (in particular the International Civil Aviation Organization, ICAO); the reduction of the negative impact of civil aviation on the environment; ensuring fair and bona fide competition and the creation of conditions for the renewal of aircraft fleet in the field of civil aviation; modernization and development of ground infrastructure facilities of airports in accordance with ICAO standards and recommended practices; ensuring the security of flights and aviation security; and the expansion of air traffic.

4.126. Disciplines for maritime transport services are included in paragraphs 15-17 of Annex 24, which foresee in particular the conclusion of a shipping agreement between the member States. The Shipping Agreement is expected to be concluded in 2018i; it will enter into force following the conclusion of domestic ratification procedures in EAEU member States. The Agreement provides mutual recognition of ship documents and qualification documents of the ship's captain and crew members of vessels flying the flags of the EAEU States in the inland waterways of the Union countries. It also establishes the conditions of navigation for transportation and towage purposes on adjacent inland waterways, as well as during transit and bilateral transportation. The road map provides, as regards maritime transport, for member States to develop a consolidated position in international organizations and the simplification of procedures in their ports in the context of transportation to third countries, etc. For inland waterways transport, it foresees the signing of the international agreement on shipping and identification/agreement on areas to be harmonized, etc..

4.127. Railway transport services are regulated in paragraphs 18-19 of Annex 24 and its Supplement 2. The latter contains further rules on access to rail transport and on tariff policies, while its two appendices provide the rules on access to infrastructure services for rail transport within the framework of the EAEU (Appendix 1) and on the provision of infrastructure services for rail transport (Appendix 2). The road map provides for the improvement of conditions for the functioning of the common transport space (e.g. creating legal conditions for the exchange of

information, agreed approaches for the creation and development of rapid and high-speed passenger transport between EAEU member States); and creating conditions for the functioning of the general market for rail transport services, with the exception of transportation services and infrastructure services (e.g. determining possible additional rail transport services and developing proposals for their convergence).

4.7 Other provisions on investment

4.128. Section VII on Investment contains disciplines regarding compensation, expropriation, transfer of rights of investors, and settlement of investment disputes. Key investment protection guarantees include fair and equitable treatment (paragraph 68), freedom of transfers (paragraph 75) and compensation for losses on their investments as a result of civil unrest, military action, revolution, state of emergency and similar situations (paragraphs 77-78). In case of expropriation, adequate compensation corresponds to the market value of the expropriated investments paid within the period stipulated in the legislation of the recipient State but not later than three months from the date of expropriation and transferred in a freely convertible currency (paragraphs 79-81). Provisions regarding dispute settlement are addressed in Section 5. 6 of this Factual Presentation.

5 GENERAL PROVISIONS OF THE AGREEMENT

5.1 Transparency

5.1. Transparency in the drafting, adoption and application of measures and mechanisms of the EAEU's foreign trade policy is specified as one of the basic principles in executing trade policy (Article 33:2). The work of the Commission is of major relevance in this context, with the principles of transparency, openness and objectivity guiding its work (paragraph 2 of the Protocol on the on the Eurasian Economic Commission). Transparency provisions are spread throughout the EAEU Treaty, its Protocols and other legal instruments that form part of the EAEU system.

5.2. Article 69 of the Treaty prescribes that all legal acts of the member States affecting trade in services, establishment, activities and investments must be published in an official source. The member States must also generally ensure the publication of the drafts of their legal acts in order to provide the possibility for public discussion.

5.2 Current payments and capital movements

5.3. The creation of a Single Economic Space is an important element of the EAEU. In that respect, Members are to coordinate their macroeconomic and monetary policies. Macroeconomic policy (Articles 62-63) shall aim at achieving the balanced development of the economies of the member States. The Commission is in charge of monitoring the implementation of their coordinated macroeconomic policy, in accordance with the rules and disciplines in Annex 14 to the Treaty. A coordinated monetary policy (Article 64 and Annex 15) is also envisaged, with the aim of deepening economic integration, developing monetary and financial cooperation, ensuring free movement of goods, services and capital in the territories of the member States, enhancing the role of national currencies of the member States in foreign trade and investment transactions, as well as providing for the mutual convertibility of these currencies.

5.4. As regards the coordination of monetary policy, Annex 15 lists 15 measures to be implemented *inter alia* the establishment of official exchange rates for national currencies, integrated currency markets and improved payments mechanisms. The Annex also specifies how competent authorities are to cooperate in monetary policy. Member States' exchange rate policies will be implemented by a separate body, composed of the heads of central banks.

5.5. Nine specific actions are listed in order to approximate and liberalize member States' regulations on currency relations, including:

- a. a gradual elimination of monetary restrictions on transactions and opening or maintenance of accounts by residents of member States in banks located in the territories of the member States.

- b. listing monetary transactions between residents of the member States not subject to restrictions;
- c. defining requirements for repatriation of funds by residents of member States while preserving national sovereignty;
- d. harmonization of: requirements for the repatriation of funds by residents of member States and for accounting and control of monetary transactions; and rules on liabilities for the breach of monetary legislation of the member States; and
- e. ensure free movement of cash and monetary instruments by residents and non-residents of the member States within the customs territory of the EAEU.

5.6. Section V of Annex 15 provides the criteria for imposing monetary restrictions, as follows:

- a. they shall be used only in the event that the situation cannot be resolved by other economic policy measures, and in the following exceptional cases:
 - i. the implementation of liberalization measures may lead to the deterioration of the economic and financial situation in a member State or may be harmful for its security interests and impede maintenance of public order;
 - ii. negative development in the balance of payments, which may result in a decrease in the gold reserves of a member State below acceptable levels; and
 - iii. sharp fluctuations in the national currency of a member State.
- b. restrictions shall not last more than 1 year; and
- c. other member States and the Commission shall be notified of the restrictions introduced no later than 15 days from the date of their introduction.

5.7. The EAEU Commission is not delegated with decision-making authority in fiscal and monetary policy which remains under the competence of the member States.

5.8. Pursuant to paragraph 8 of Annex 16, a member State must not adopt new restrictions and shall withdraw existing restrictions on international transfers and payments relating to trade in services, establishment, operation and investments. In particular, no restrictions are allowed on:

- a. revenues;
- b. funds in repayment of loans and debt recognized by member States as an investment;
- c. funds received by the investor in connection with the partial or complete liquidation of the business entity or sale of investments or as compensation for damage (in accordance with the Investment Section of Annex 16);
- d. salary and other remuneration received by investors as well as citizens of other member States who are permitted to work in connection with investments in the territory of the consuming State.

5.9. The member States however affirm their rights and obligations arising from their IMF membership, which in some cases may include the application of certain restrictions otherwise inconsistent with the provisions of Annex 16.

5.10. Transfers may be made in any freely convertible currency, the conversion of which is carried out without undue delay at the exchange rate applicable in the territory of a member State on the date of transfer.

5.3 Exceptions

5.11. General exceptions clauses exist both with respect to intra-EAEU trade on goods and *vis-à-vis* trade with third parties.

5.12. General exceptions to internal trade in goods are contained in Article 29 of the EAEU Treaty; they reflect some of the exceptions of GATT Articles XX and XXI. More precisely, they authorize member States to apply restrictions in their mutual trade in goods provided these measures do not serve as unjustifiable discrimination or a disguised restriction on trade, if such restrictions are necessary for the protection of (i) human life and health; (ii) public morals and public order; (iii) the environment; (iv) animal and plant species and cultural values; and for the implementation of (v) international obligations; and (vi) the defense and security of the member State. Accordingly, sanitary, veterinary as well as quarantine measures could be imposed on internal trade in accordance with the procedures of Articles 56-59 of the Treaty, and the movement ("turnover") of certain categories of goods can be limited.

5.13. General exceptions to the prohibition on QRs as well as to exclusive rights are regulated by Section VII of the Protocol on NTMs. Though using different language, they include all the exceptions under GATT Articles XX and XXI; QRs may also be imposed if they are necessary to protect the environment or to ensure the implementation of legal acts not contravening international commitments and related to the application of the customs law, preservation of the environment, protection of intellectual property and other legal acts (paragraph 38).⁸⁹

5.14. The introduction/termination of any such measure by an EAEU member State is subject to approval by the Commission on the basis of a request. If the Commission rejects the introduction of the restriction, the member State may nevertheless unilaterally impose temporary measures on trade with third parties, in accordance with the following procedures (Section X):

- a. prior notification (of at least three calendar days) is made to the Commission. Upon receipt of the proposal, the Commission considers whether to impose such measure in the customs territory of the EAEU. If the Commission agrees with the proposal, it shall regulate the measure; if not it informs the member State imposing the measure and customs authorities of other member States of the duration of the measure, which shall not be longer than 6 months;
- b. from the date of introduction of the measure, the other member States shall only authorize exports or imports of the good concerned, to or from the member State imposing the measure if an authorized body of that member State has issued a license.

5.15. Section XV of the Treaty provides for exceptions modelled on Articles XIV and XIV *bis* of the GATS. Article 65.6 replicates paragraph 1 of Article XIV *bis* of the GATS; Article 65.7 reproduces Article XIV of the GATS, with a somewhat different provision for measures aimed at ensuring the equitable or effective imposition or collection of direct taxes (Article XIV(d) of the GATS); Article 65.8 replicates the language of the chapeau to Article XIV of the GATS.

5.4 Accession and Withdrawal

5.16. Article 108 foresees that "EAEU membership is open to any State that shares its aims and principles, on terms agreed by the member States". Supreme Council Decision N° 25/15 further regulates accession to, and withdrawal from, the EAEU.

5.17. Acceptance of a request for accession requires consensus within the Supreme Council. The terms of an accession are negotiated and agreed upon within a working group of representatives of the candidate country, member States and bodies of the EAEU. A Road Map ("Program of Actions") for accession is established and approved by the Supreme Council. The conclusion of accession negotiations are confirmed by a consensus decision of the Supreme Council on a Treaty of Accession, subject to domestic ratification procedures.

⁸⁹ In accordance with the Protocol on NTMs, unilateral non-tariff measures were introduced by the Russian Federation for a period not exceeding six months –e.g. in an exceptional case for preventing a critical shortage in the domestic market of waste paper, which is essential for the internal market, for a period of four months.

5.18. Any member State may withdraw from the Union on the basis of a written notice sent to the Commission indicating such an intention. The Supreme Council is to launch the process of settlement, including of financial obligations. Withdrawal from the Union, including from all international treaties concluded within its framework, shall be effective upon the expiry of 12 months from the date of receipt of the notice by the Commission. Within that period, the member State may reverse its decision and so inform the Commission through a written notice.

5.19. From the date of the written notice of withdrawal, the rights and obligations of that member State are modified, in accordance with the terms of Section III of the Supreme Council Decision N° 25/15. All officials and civil servants of that member working in all bodies of the Union shall end their working relations at the latest on the date of termination of membership in the Union

5.20. Article 109 provides for the possibility for any State to apply for Observer status, on the basis of a request to the Chairman of the Supreme Council. The Supreme Council shall decide on the granting or refusal of such a status. In 2017, EAEU member States began working on a regulation on rights and obligations of a State which had obtained an Observer Status.

5.5 Institutional framework

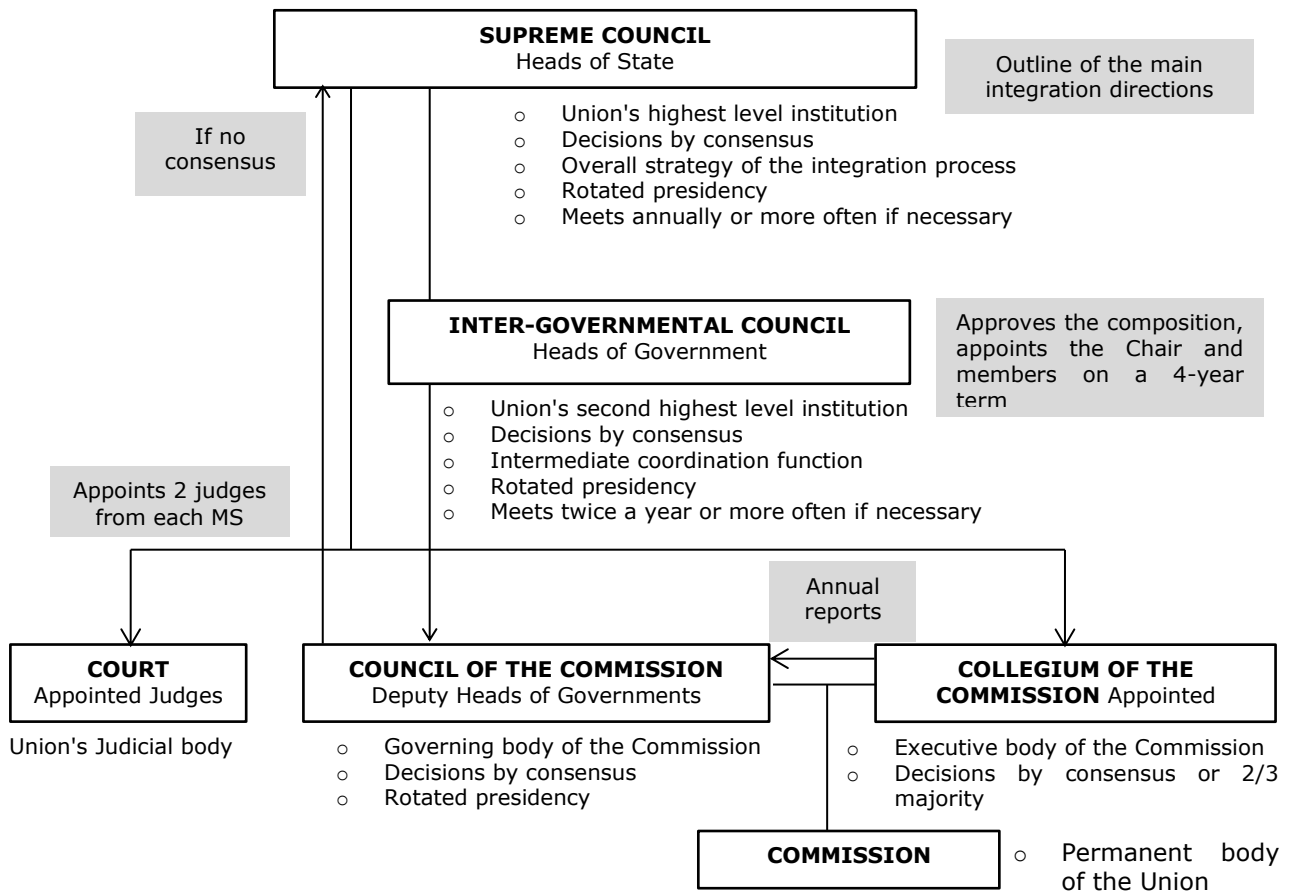
5.21. Articles 8-19 of the EAEU Treaty establish the institutional framework of the Union; the Regulation on the Eurasian Economic Commission is included in Annex 1 to the Treaty. According to Article 8 of the Treaty, the institutions of the Union are:

- a. the Supreme Eurasian Economic Council. This is the highest body of the Union and it is composed of the Heads of the member States. In accordance with the Protocol of 15 March 2018 amending EAEU Treaty, the Supreme Council can also be composed of Prime Ministers which have the power of taking decisions at this level. The Supreme Council meets at least once a year and its decisions are taken by consensus (Article 13);
- b. the Eurasian Intergovernmental Council (the "Intergovernmental Council");
- c. the Eurasian Economic Commission, which comprises the Council and the Collegium; and
- d. the Court of the EAEU (hereafter the "Court"; see next Section).

5.22. The Chair of the Supreme Council, the Intergovernmental Council and the Council of the Commission shall be held by rotation in the order of the Russian alphabet by one member State of the EAEU, for one calendar year without the right to prolongation. The Chairperson of the Collegium of the Commission is appointed for a term of four years by the Supreme Council on the basis of rotation without prolongation.

5.23. Chart 5.1 summarizes the institutional framework of the EAEU.

Chart 5.1 EAEU Institutions



5.24. The Supreme Council is responsible for the strategy and direction of integration, as well as the Union's functioning. It meets at least once a year. Its core powers are (Article 12):

- determining the integration strategy of the Union and taking decisions to further its objectives;
- approving the composition and appointing the members of the Collegium of the Commission;
- appointing the judges of the Court;
- approving the budget of the Union and determining the shares of the member States' contributions;
- repealing or amending decisions by, or considering issues lacking consensus in, the Intergovernmental Council or the Commission;
- determining accession to and secession from the Union; and
- deciding to enter, on behalf of the Union, into negotiations with third parties, expressing consent to be bound by a treaty, or deciding to terminate, suspend or withdraw from it.

5.25. The Intergovernmental Council consists of the Heads of Governments of member States. It meets as often as necessary, but not less than twice a year. It is responsible for the implementation of the Treaty and other legal instruments as well as decisions of the Supreme

Council; its decisions are adopted by consensus (Article 17). Its main competences (Article 16) include *inter alia* considering issues lacking consensus in the Council of the Commission; submitting candidates for the Council and Collegium of the Commission to the Supreme Council; repealing, amending or suspending decisions of the Council or the Collegium of the Commission.

5.26. The Commission (Article 18) is the permanent, supranational regulatory body of the Union. Decisions, instructions and recommendations of its Council are adopted by consensus on the basis of a vote, while those of its Collegium are taken either by qualified majority or, for sensitive issues so defined by the Supreme Council, by consensus.⁹⁰ The competences and rules relevant for the functioning of the Commission are further elaborated in the Regulation on the Eurasian Economic Commission in Annex 1 to the EAEU Treaty. Section I includes general provisions; Sections II and III address respectively the Council and the Collegium of the Commission while Section IV refers to the Commission's Departments. Further allocation of power and functions of the Commission's bodies were determined by various Regulations.⁹¹

5.27. Competences of the Commission include ensuring the implementation of the Union's laws, functioning as the depository of legal instruments, establishing the EAEU budget and the trade regime with third parties and, upon authorization, signing institutional treaties in its areas of competence. The decisions of the Commission are mandatory and have direct effect in the member States. The Commission has competence on a wide range of issues, including customs tariffs and non-tariff measures, standards and SPS measures, macroeconomic policy, competition policy, subsidies, energy policy, monopolies, procurement, labour migration, financial markets, etc.

5.28. The Commission plays a proactive role in providing assistance to member States in accessing third-party markets and monitoring their restrictive measures against EAEU member States (Article 39 of the Treaty). Jointly with member States, the Commission shall conduct consultations and participate in trade disputes with the relevant third party in case of adoption of any measure in respect of the EAEU.

5.29. The Commission is also responsible for deciding on the introduction of duly authorized retaliatory measures towards third-parties in the customs territory of the EAEU. If such retaliatory measures are related to agreements concluded before 1 January 2015, the member States may unilaterally apply tariffs that are higher than those of the CET and unilaterally suspend tariff preferences provided that the administration mechanisms of such measures do not violate the provisions of the Treaty.

5.30. In particular as regards the customs regime, the competence and limits of the Commission are as follows:

- a. managing the nomenclature of the customs union (Articles 45 and 101:4 of the EAEU Treaty, and Article 19 of the Customs Code). A Commission decision to modify the Union's nomenclature is adopted upon a proposal by the customs authorities of any EAEU member State; technical issues⁹² relating to the nomenclature are however of the exclusive competence of the state executive body of the Russian Federation in charge of customs affairs;

⁹⁰ The list of sensitive issues is defined in Annex II to the Regulation of the Eurasian Economic Commission, adopted by the Decision of the Supreme Council N° 98 of 23 December 2014. The list contains 44 issues on which decision of the Collegium is taken by consensus.

⁹¹ These Regulations also determine the procedures of both bodies, the preliminary publication of draft decisions of the Union's bodies on the EAEU website, the assessment of the regulatory impact of the draft decisions of the Commission and the interaction with EAEU member States. They are available at http://docs.eaeunion.org/docs/ru-ru/0147030/scd_25122014_98, http://docs.eaeunion.org/docs/ru-ru/0148751/scd_19102015_21, http://docs.eaeunion.org/docs/ru-ru/0148753/scd_19102015_22, http://docs.eaeunion.org/docs/ru-ru/01410320/scd_01062016_4, http://docs.eaeunion.org/docs/ru-ru/01413558/scd_11042017_27, http://docs.eaeunion.org/docs/ru-ru/01413586/scd_17042017_8, http://docs.eaeunion.org/docs/ru-ru/01413590/scd_17042017_9 and http://docs.eaeunion.org/docs/ru-ru/01415217/scd_10112017_16 (Russian only).

⁹² Including e.g. monitoring HS changes, submitting proposals so that the EAEU nomenclature complies with international standards and the drawing-up concordance tables basis of the Commodity Nomenclature of Foreign Economic Activity

- b. setting tariff rates and tariff-rate quotas in the CET (Article 45 of the EAEU Treaty). Any decision taken by the Commission to modify tariffs is subject to approval by the Eurasian Supreme Council;
- c. dealing with tariff exemptions and tariff preferences (Articles 43 and 101:5 of the EAEU Treaty, and Article 49 of the Customs Code). The establishment of a common list of tariff exemptions, as well as their conditions, procedures and list of beneficiary countries is of the competence of the Commission; and
- d. the Commission has competence to determine the conditions and procedures for applying the EAEU's common system of tariff preferences, including approval of the list of developing/least-developed countries, as well as goods which benefit from it

5.31. The Commission also assists member States with respect to the elimination of restrictive measures in their trade with third parties - in particular for access to markets, monitoring of restrictions and in the context of trade disputes (Article 39); and decides on the introduction of retaliatory measures on trade with a third-party (Article 40);

5.32. The Council of the Commission, consisting of deputy Heads of Governments of member States, operationalizes the integration processes and manages the work of the Commission; planning future integration is among its key responsibilities. It adopts its decisions, instructions and recommendations by consensus. In case consensus is not reached the issue is handed over to the Supreme Council or the Intergovernmental Council. Proposals to alter or reverse Collegium decisions may be submitted by an EAEU Party or a member of the Council within 15 days from their publication; detailed procedures are laid down on the stages and timeframes for the consideration of such a request.

5.33. The Collegium is the Commission's executive body. Its composition, approved by the Supreme Council for a four-year term subject to extension, is based on the principle of equal representation of member States. The Collegium presents to the Council of the Commission an annual report on its activities. Its members are employees of the Commission and are independent from State bodies. The following are some of the Collegium's functions:

- a. developing proposals concerning the integration process and consolidating proposals submitted by the member States;
- b. implementing decisions and instructions adopted by the Supreme and Intergovernmental Councils, as well as decisions of the Council of the Commission;
- c. developing recommendations on the issues of formation, functioning and development of the Union;
- d. representing the Commission in judicial bodies, including the Court of the Union;
- e. drafting international treaties, decisions of the Council of the Commission and other documents necessary for the realisation of the Commission's competences.

5.34. Since the entry into force of the EAEU in 2015, the composition of these bodies has been modified at least twice on the occasion of the accessions of Armenia and the Kyrgyz Republic. The Collegium is composed of ten members, two from each member State, one of which acts as the Chair.⁹³ The Commission's activities are divided into ten functional areas headed by its Member of the Collegium, totalling 23 Departments.⁹⁴ The Commission's headquarters are in Moscow.

⁹³ Transition clauses in both Armenia's and Kyrgyz Republic's Accession Treaty provides that from their accession up to February 2016, they would be represented in the Collegium by respectively three and two members, each holding a single vote, without assignment of areas of competence.

⁹⁴ The Collegium's Chairman is in charge of the Departments of Protocol and Organization; Finance; Legal; Administrative and Information Technology. The remaining 18 departments are distributed under nine functional areas: Development of Integration and Macroeconomics; Economy and Financial Policy; Industry and Agriculture; Trade; Technical Regulation; Customs Cooperation; Energy and Infrastructure; Competition and Antitrust Regulation; and Internal Markets, Information Support, Information & Communication Technologies.

5.6 Dispute settlement

5.35. The EAEU Treaty establishes, under Article 19, a permanent judicial body – the Court of the EAEU (hereafter "the Court"). The Court comprises two judges from each member State appointed by the Supreme Council. Detailed provisions about the Court are found in the Statute of the Court⁹⁵ and in its Rules of Procedure (respectively, in Annex 2 to the Treaty, and as per Decision N° 101 of the Supreme Council, of December 2014).

5.36. The Court operates in both the settlement of disputes - referred to as "contentious proceedings" - and in advisory opinion proceedings, where it interprets the legal instruments under its jurisdiction, namely the EAEU Treaty, intra-Union treaties and decisions by the Union's bodies. Member States may confer on the Court jurisdiction over other disputes if the Treaty, an intra-Union treaty, an international treaty of the Union with a third party, or another international treaty concluded between the member States, expressly provides that such disputes shall be settled by the Court (paragraph 40 of the Statute). Only the Court may rule on whether it has jurisdiction to consider a particular dispute; claims for damages or any other pecuniary claims cannot be ruled on by the Court.

5.37. In dispute settlement, the Court reviews the conformity of the concerned law *vis-à-vis* superior laws. In addition, the Court has the power to declare that a member State has failed to observe the Treaty, an intra-Union treaty or a decision by a body of the Union; or that the Commission's action or omission is contrary to the Treaty or an intra-Union treaty.

5.38. Member States and business entities⁹⁶ may apply to the Court in contentious proceedings. While member States may initiate proceedings on all of the issues referred to in paragraph 5.36. above, a business entity may do so only on decisions, actions or omissions of the Commission that concern the entrepreneurial or other economic rights of that business entity. There are no Court fees except for business entities filing a claim; the fees will be returned to the business entity in case the claim is successful. If another member State or the Commission considers that the dispute may affect its interests, it may request to join the case as third-party.

5.39. A member State, a body of the Union as well as employees of the bodies of the Union (*vis-à-vis* employment issues) are entitled to file a request for an advisory opinion of the Court as regards an interpretation of the Treaty, intra-Union treaties and decisions by the Union's bodies.

5.40. Article 50 of the Statute of the Court defines the sources of law to be applied by the Court in adjudicatory processes. These include: the universally recognized principles and rules of international law; the EAEU Treaty, intra-Union treaties and other international treaties to which the parties to the dispute are parties; decisions and orders of the bodies of the Union; and international custom as evidence of general practice accepted as law. The application to the Court in relation to any intra-Union treaty or a decision by the Commission does not lead to the suspension of the treaty or the decision, unless explicitly provided for by the EAEU Treaty.

5.41. Court procedures and composition differ according to the matter under consideration:

- a. the Grand Chamber, consisting of all judges of the Court, deals with contentious cases brought by member States and requests for advisory opinions;
- b. the Chamber, consisting of only one judge from each member State deals with disputes initiated by business entities; and
- c. the Appellate Chamber, composed of the judges that did not participate in the hearing of the case by the Chamber whose judgement is under appeal, hears appeals on judgements by the Chamber, which must be submitted within 15 calendar days following the issuance of the judgement (Article 62 of the Rules of Procedure).

⁹⁵ The Court Statute contains eight Sections: General Provisions and Legal Status of the Court; Composition of the Court; Court administration and Status of officials and other employees; Court jurisdiction; Court procedure; Specialized groups; Judicial acts and Final provisions.

⁹⁶ A business entity is defined in paragraph 39:2 of the Statute of the Court as a legal entity registered under the laws of a Member State or a third state, or a natural person registered as a business under the laws of a Member State or a third state.

5.42. The applicant is to first attempt to settle a dispute through consultations, negotiations, or other pre-trial means before submitting it to the Court; a claim may be brought to the Court three months after the date of the receipt of application to settle the dispute unless the disputing parties agree to submit the dispute to the Court before the end of this period (paragraphs 44 and 45 of the Statute of the Court). At any stage of the hearing of a case the dispute may be settled by the disputing parties (paragraph 67 of the Statute).

5.43. To assist the Court in discharging its duties in disputes involving industrial subsidies, measures of support in agriculture or the application of trade defence measures, Chapter VI of the Statute of the Court envisages the creation of expert review groups (consisting of three experts). Reports by expert review groups are not binding on the Court, except their conclusions concerning the application of compensatory measures in cases where an industrial subsidy or measures of support in agriculture were found to exist (paragraph 92:3 of the Statute of the Court).

5.44. In accordance with paragraph 96 of its Statutes, the Court must issue a final judgement on the matter or an advisory opinion within 90 days of receipt of the application. In disputes involving industrial subsidies, measures of support in agriculture, or the application of trade defence measures, this period may be extended to 135 days (Article 37.2 of the Rules of Procedure). Article 68 of the Rules of Procedure prescribes that the Appellate Chamber must review the appeal within 45 calendar days following the date of its receipt.

5.45. The Court's judgements in dispute settlement cases are binding, which is not the case for its advisory opinions. The Court adopts its judgements and advisory opinions by majority vote with the presiding judge voting last (Articles 77.3 and 85 of the Court's Rules of Procedure). Its judgements may not amend, annul or create legal rules. The means of implementation of its judgements is determined by the disputing parties (paragraph 103 of the Statutes of the Court). In case of non-compliance with the judgement, the Supreme Council may decide on the matter.

5.46. If the Court declares a decision by the Commission, in whole or in part, inconsistent with the Treaty or an intra-Union treaty, that decision will remain in force until the Commission implements the judgement. The departure from this rule is provided in paragraph 112 of its Statutes, which grants the Court the power to suspend the Commission's decisions found to be non-compliant. The Commission must comply with such a judgement of the Court within a reasonable period of time not exceeding 60 calendar days from the date of the judgement, unless the judgement provides for a different deadline.

5.47. Investor-State disputes are considered in accordance with the Services and Investment Protocol. The dispute that cannot be settled through negotiations within a 6-month period shall be submitted, at the choice of the investor, to either: the Court of the host State; International Commercial Arbitration at the Chamber of Commerce of any member State agreed by the parties to the dispute; an ad-hoc arbitration court; or the International Centre for Settlement of Investment Disputes. Arbitration awards are final and binding upon the parties. Each member State undertakes to enforce this decision in accordance with its legislation (paragraph 85).

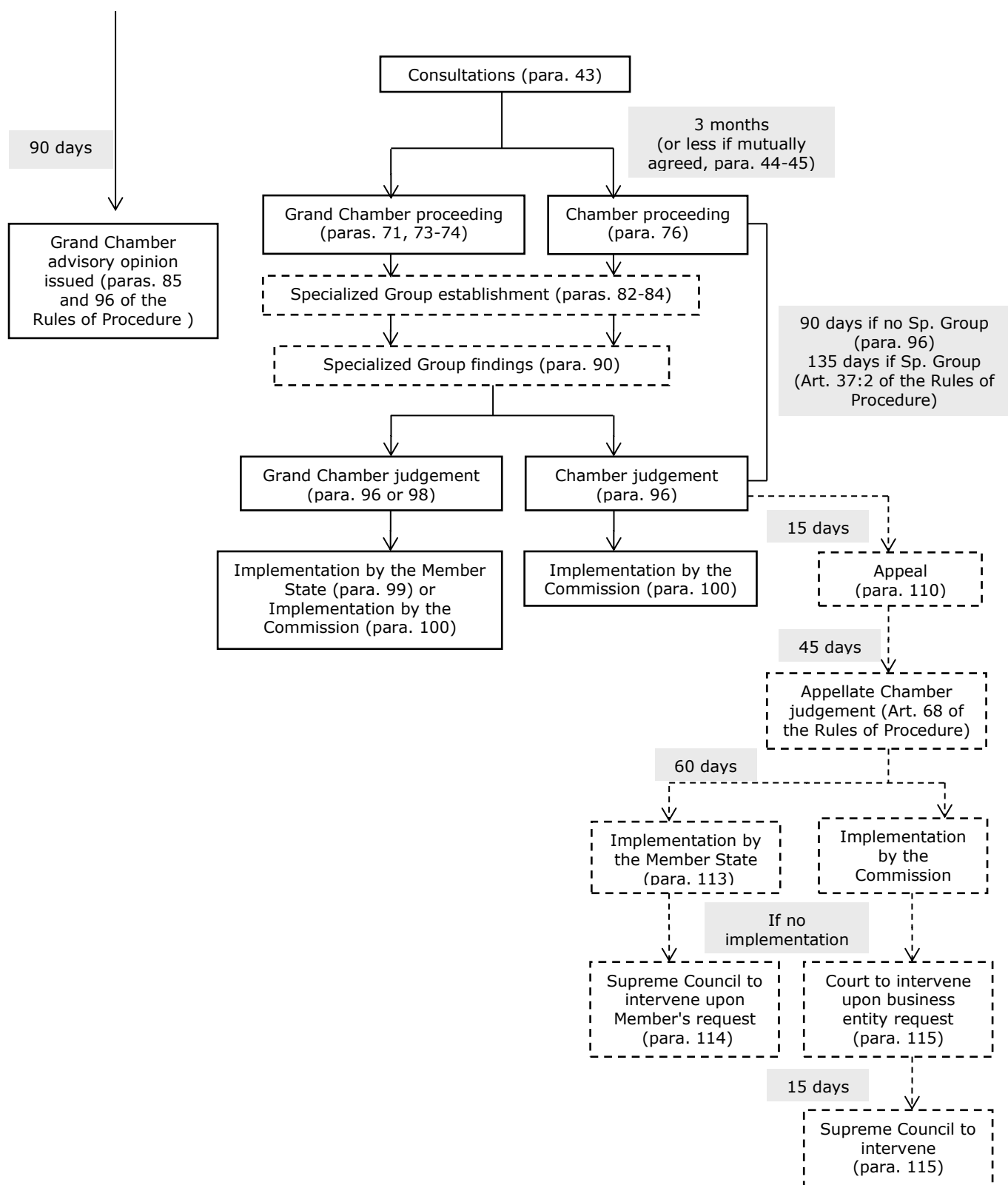
5.48. Chart 5.2 below summarises the main steps of the dispute settlement mechanism established by the Treaty.

Chart 5.2 Summary of the EAEU's Dispute Settlement and Advisory Proceedings**Advisory Opinion**

(para. 46–47 of the Statute)

Dispute Settlement/Contentious Proceedings

(para. 39 of the Statute)



5.7 Relationship with other agreements concluded by the Parties

5.49. The EAEU Treaty's disciplines as regards trade agreements with non-parties are contained in Articles 7, 33-35, 38 and 102. The Treaty differentiates between trade agreements concluded by the EAEU collectively and those of its member States, in particular:

- a. With regard to foreign trade, MFN treatment shall be applied within the meaning of the GATT 1994 in cases and under the conditions where the use of MFN treatment is provided for by international treaties of the Union with a third party, as well as by international treaties of the member States with a third party;
- b. member States are not allowed to conclude individual RTAs providing tariff preferences to a third party; these are reserved for the EAEU collectively. The granting of tariff preferences by the member States in accordance with their respective RTAs which had entered into force before 1 January 2015 is allowed by Article 102.1 of the EAEU Treaty, but such RTAs are subject to further unification.

5.50. Article 50 of the EAEU Treaty clarifies that free-trade agreements concluded between the EAEU and a third country may provide for the right to apply measures to protect the internal market on a bilateral basis, different from safeguard, anti-dumping and countervailing measures, including those in relation to agricultural imports. The decision to apply such measures shall be taken by the Commission.

5.51. Table 5.1 lists all other RTAs notified and not notified to the GATT/WTO and in force to which EAEU member States, either individually or collectively, are Parties.

Table 5.1 EAEU member States: Participation in other RTAs (notified and non-notified in force), as of April 2018

RTA Name	Date of entry into force	Coverage	GATT/WTO Notification	
			Year	WTO Provision
EAEU member States - Collectively				
EAEU – Viet Nam	05-Oct-16	Goods & Services	2017	GATT Art. XXIV & GATS Art. V
EAEU - Accession of the Kyrgyz Republic	12-Aug-15	Goods & Services	2015	GATT Art. XXIV & GATS Art. V
EAEU - Accession of Armenia	02-Jan-15	Goods & Services	2014	GATT Art. XXIV & GATS Art. V
Individual EAEU member States				
BELARUS				
Treaty on a Free Trade Area between members of the CIS ^a	20-Sep-12	Goods	2013	GATT Art. XXIV
Ukraine - Belarus ^b	11-Nov-06	Goods	2008	GATT Art. XXIV
Common Economic Zone (CEZ) ^c	20-May-04	Goods	2008	GATT Art. XXIV
Russian Federation - Belarus - Kazakhstan	03-Dec-97	Goods	2012	GATT Art. XXIV
Belarus-Serbia	31-Mar-09 ^d	Goods	Not applicable; non-WTO Members	
KAZAKHSTAN				
Treaty on a Free Trade Area between members of the CIS ^a	20-Sep-12	Goods	2013	GATT Art. XXIV
CEZ ^c	20-May-04	Goods	2008	GATT Art. XXIV
Armenia - Kazakhstan ^b	25-Dec-01	Goods	2004	GATT Art. XXIV
Georgia – Kazakhstan	16-Jul-99	Goods	2001	GATT Art. XXIV
Ukraine - Kazakhstan ^b	19-Oct-98	Goods	2008	GATT Art. XXIV
Russian Federation - Belarus - Kazakhstan	03-Dec-97	Goods	2012	GATT Art. XXIV
Kyrgyz Republic - Kazakhstan ^b	11-Nov-95	Goods	1999	GATT Art. XXIV
Kazakhstan - Serbia	10-Jan-12	Goods	Non-notified	
RUSSIAN FEDERATION				
Treaty on a Free Trade Area between members of the CIS ^a	20-Sep-12	Goods	2013	GATT Art. XXIV
Russian Federation - Serbia	03-Jun-06 ^e	Goods	2012	GATT Art. XXIV
CEZ ^c	20-May-04	Goods	2008	GATT Art. XXIV
Russian Federation - Belarus - Kazakhstan	03-Dec-97	Goods	2012	GATT Art. XXIV
Georgia - Russian Federation	10-May-94	Goods	2001	GATT Art. XXIV

RTA Name	Date of entry into force	Coverage	GATT/WTO Notification	
			Year	WTO Provision
Russian Federation - Turkmenistan	06-Apr-93	Goods	2013	GATT Art. XXIV
Russian Federation - Uzbekistan	25-Mar-93	Goods	2013	GATT Art. XXIV
Russian Federation - Azerbaijan	17-Feb-93	Goods	2012	GATT Art. XXIV

- a WTO Notifications (WT/REG343/N/1-2) indicate that the parties to this Treaty are as follows: Armenia, Belarus, Kazakhstan, Kyrgyz Republic, Republic of Moldova, Russian Federation, Tajikistan and Ukraine.
- b Article 23.2 of the Treaty on a Free Trade Area between Members of the CIS states that: "The Parties have agreed that from the date of entry into force of this Treaty, they will take measures for terminating bilateral international treaties existing between them in the manner and within the terms stipulated by such treaties, unless the Parties have not agreed otherwise". In this regard, relevant authorities indicated that all corresponding bilateral agreements are still in force.
- c CEZ Parties are: Belarus, Kazakhstan, Russian Federation and Ukraine. The CEZ is a framework agreement and does not introduce any kind of preferential treatment among its parties.
- d Provisional application.
- e Provisional application of the Agreement by all signatory parties since 3 June 2006. Amended Protocols have been in force as of 3 April 2009 and 22 July 2011.

Source: WTO Secretariat.

5.8 Government procurement

5.52. EAEU disciplines on government procurement are contained in the Treaty's Section XXII on "Government (Municipal) Procurement" (Article 88) and the "Protocol on Regulation of Procurement" (Annex 25). Its disciplines apply to procurement of goods and services, excluding procurement constituting a State secret(s) as well as member States' Central banks procurement for administrative purposes, construction work and capital repair, which take place in accordance with their internal rules for procurement.

5.53. Section II of Annex 25 and relevant Appendixes lay down the disciplines applying for different forms of procurement methods, as follows:

- open tender, where two-stage procedures and preliminary qualifying selection can be applied - paragraph 1 of Appendix 1;
- price proposals request (request for price quotations) - paragraph 5 of Appendix 1;
- request for proposals, if provided by the procurement legislation of a member State - paragraph 6 of Appendix 1, Appendix 2 and relevant parts of Appendix 3;
- open electronic auction - paragraph 7 of Appendix 1 and appendix 4;
- commodity exchanges, if provided by the procurement legislation of a member State - Appendix 4; and
- procurement from a single source or a single supplier - paragraph 10 of Appendix 1 and Appendix 3.

5.54. As of 1 January 2015, national treatment is granted in all procurement of goods, works and services by each member State (Annex 25, Section III). Member States shall endeavour to conclude all the procurement agreements/contracts in electronic form by 2016. As for exemptions from national treatment the Member States may introduce them in exceptional cases and for a period not exceeding two years. No monetary thresholds apply. Member States maintain their national legislation on procurement.

5.55. As provided for in paragraph 29 of Annex 25, for the purposes of openness and transparency in government procurement, each EAEU member State was to create a web-portal on government procurement. The EAEU does not have a single web-portal on government procurement. The web-portal of each EAEU member State contains legal acts in the sphere of

procurement, the register of unfair suppliers⁹⁷ and the following information on public procurement: notice of procurement; procurement documentation and any additional clarifications (including the draft procurement contract); changes to such notices and/or documentation; protocols executed in the course of the procurement process; information on the result of the procurement procedure; details of procurement contracts; information about the result of execution of the procurement agreement and on the receipt of complaints (their contents, decisions upon consideration and warrants). All documents are also available in Russian, in addition to the national language.

5.56. The Commission and member States' procurement regulatory and supervisory authorities hold regular meetings (at least three times a year) to discuss law enforcement, information exchange, harmonization of legislation and the joint development of a methodological manual for procurement services.

5.57. As of January 2018, the Russian Federation is in the process of accession to the WTO's Government Procurement Agreement while Kazakhstan has observer status.

5.9 Intellectual property rights

5.58. EAEU disciplines on intellectual property addressing all categories under the WTO Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement are contained in the Treaty's Section XXIII on "Intellectual Property" (Articles 89-91) and the "Protocol on Protection and Enforcement of Intellectual Property Rights" (Annex 26). WTO disciplines on anti-competitive practices are also not addressed in the Treaty.

5.59. Besides, the "Draft Agreement on Trademarks, Service Marks and Appellations of Origin of the EAEU"⁹⁸ (hereafter the "Draft Agreement on EAEU Trademarks") was approved by Collegium Disposition N° 23/2016. This Agreement is expected to enter into force in 2019, following the completion of ratification procedures (see paragraph 5.63. below). The Agreement foresees the introduction of the "EAEU trademark" and "appellation of origin of the EAEU goods", simultaneously protecting rights to EAEU trademarks and EAEU appellation of origin in all of the EAEU territory.

5.60. The Russian Federation accepted amendments to the TRIPS Agreement in September 2017; Kazakhstan fully implemented the TRIPS Agreement in November 2015. National treatment is granted in line with Article 3 of the TRIPS Agreement (Article 90.1).

5.61. While member States are allowed to maintain their domestic legislation on intellectual property rights (IPRs), Article 89 provides for cooperation towards their harmonization. Articles 90 and 91 stipulate that member States perform their activity in the protection and enforcement of IPRs in accordance with international treaties. Further enforcement provisions are foreseen with regard to IPRs, including measures provided in the EAEU Customs Code and international treaties and acts of the EAEU on customs regulations (Section XIII of the Protocol on IPRs). IPR holders can apply for the registration of their IPRs in the national customs register of IP objects of their own State or in the unified customs register of IP objects of the EAEU member States.

5.9.1 Copyright and Related Rights

5.62. The terms of protection in EAEU members States are as follows:

- a. with respect to works of science, literature and arts, they last for the life of a natural person plus 50 years in Belarus and plus 70 years in Kazakhstan and the Russian Federation;
- b. for performers and producers of phonograms, the life of a natural person plus 70 years in Kazakhstan and plus 50 years in Belarus and the Russian Federation, computed from

⁹⁷ Unfair suppliers are potential suppliers who avoided concluding procurement agreements; suppliers that did not fulfil, or fulfilled unduly, their commitments under procurement agreements; and suppliers with whom the customer had unilaterally terminated the procurement agreement during its execution whenever it had been established that the selection had been based on false information.

⁹⁸ https://docs.eaeunion.org/docs/en-us/0149745/clco_10032016_23 (in Russian).

the end of the calendar year in which the fixation was made or the performance took place.

5.9.2 Registration of trademarks, service marks and appellations of origin

5.63. The term of registration of trade marks is 10 years, with unlimited renewal for a maximum period of 10 years each time (Annex 26, Sections III-V). The Draft Agreement on EAEU Trademarks regulates relations in connection with registration, legal protection and use of trademarks/appellation of origin of the EAEU in its member States. In particular, the Agreement provides for the submission of one application for the Union trademark/appellation of origin in any of the patent offices of the member States; obtaining a single protective title in the territory of the Union; a single window for the Applicant's needs; a Single Register for the Union's trademarks and one for the Union's appellations of origin, both posted on the official website of the Union; and comprehensive legal protection. The Union's trademarks/appellations of origin will co-exist alongside national ones, and brand owners will have the option of applying for one or the other, or both. Under the Union's regime, a brand owner may file an application in the local national trademarks office of any one of the member States where it has an accredited place of business. Examination of the application is done by all of the national offices. A favorable decision leads to the grant of a trademark; in cases of a negative opinion by a member State, an appeal can be filed. In the absence of an appeal, or if the appeal is rejected, the application is rejected. The applicant can therefore either try to overcome the negative opinion by narrowing the list of goods or alternatively move towards applying for trademarks/GIs in individual member States. The Agreement also allows the conversion of a national application into an Union application. An Union Trademark registration can be enforced, or invalidated, in each member State under its local laws. The principle of the regional exhaustion of exclusive rights applies to trademarks and EAEU trademarks.

5.9.3 Geographical indications

5.64. Geographical indications (GIs) are protected in the territory of a member State if such protection is provided under its legislation or international treaties of which it is a member (Annex 26, Section VI). Provisions on the appellation of origin of goods define the denomination which is recognized as appellation of origin, legal means for interested parties to prevent the misuse of denomination, or acts of unfair competition in individual member States (Annex 26, Section VII). Once the Draft Agreement on EAEU Trademarks is in force, the appellation of origin of EAEU goods will be protected in the territory of all member States in accordance with the provisions of that Agreement (Annex 26, Section VIII).

5.9.4 Patent rights

5.65. Patent terms are the same as in the TRIPS Agreement, at 20 years for inventions and five years for utility models and for industrial designs (Annex 26, Section IX). The protection of plant varieties and animal species is provided in accordance with the legislation of member States (these are addressed in Annex 26, Section X on "Selection achievements").

5.9.5 Topographies of integrated circuits

5.66. Topographies are protected in accordance with the legislation of member States (Annex 26, Section XI). Besides, under the EAEU Treaty, authors of topographies of integrated circuits have exclusive rights over them for 10 years (as in the TRIPS Agreement), and a right over their ownership. If so provided by member States legislation, rights holders might also have the right of remuneration for their use.

5.9.6 Trade secrets

5.67. Trade secrets shall be understood as data of any character (industrial, technical, economic, organizational, etc.), including the results of intellectual activity in the scientific-research sphere, as well as data on methods of professional activity that have valid or potential commercial value (Annex 26, Section XII). Legal protection for trade secrets (know-how) is provided according to the legislation of member States.

5.9.7 Enforcement

5.68. While the enforcement of IPRs is under national legislation, Section XIII of Annex 26 states that the coordination of member States' activities of enforcement of IPRs within the EAEU will be carried out in accordance with international treaties concluded within the EAEU. EAEU member States have developed two international treaties on enforcement of IPRs, namely the "Treaty on Coordination of Enforcement of IPRs" of 8 September 2015 and the "Regulation on information interaction of the authorized bodies of the member States of the EAEU and the Eurasian Economic Commission in the field of enforcement of IPRs" of 30 August 2016 (entered into force on 19 July 2016 and 1 October 2016, respectively).

5.10 Other

5.10.1 Competition

5.69. The Treaty contains disciplines regarding competition policy, in Section XVIII (Articles 74-77) and the Protocol on Common Principles and Rules of Competition (Annex 19). They establish common principles and rules of competition aimed at preventing anti-competitive actions in the territories of member States, and actions having a negative impact on competition in the trans-boundary markets in the territories of two or more member States. EAEU rules on competition apply to natural monopolies taking into account the specific disciplines relating to natural monopolies.

5.70. The main disciplines include:

- a. prohibitions of coordinated business activities under certain conditions, horizontal and vertical agreements under certain conditions, unfair competition (Article 76);
- b. control over the observance of these rules and penalties for their violation (Annex 19);
- c. disciplines on the introduction of State price regulation of specific goods and services in specific circumstances, such as emergencies, natural disasters, national security issues, and interim measures for certain types of goods in specific territories (Article 77 of the Treaty and Section VII of Annex 19)⁹⁹. While the Commission, upon request by an EAEU member State, can decide on the need to repeal the regulated price, its competence does not extend to the services sector, natural monopolies, state procurement and intervention, nor to a list of goods, including natural gas; liquefied gas for household needs, electric and heating energy, etc.;¹⁰⁰ and
- d. interaction between competent authorities of the member States and the Commission.

5.71. The Commission may request all information necessary for ensuring the observance of common competition rules in transboundary markets. Information – also of a confidential nature – is to be supplied by member States' bodies, local executive bodies, other bodies or organizations performing relevant functions, juridical persons and individuals. The EAEU Commission submits an annual report to the Supreme Council on the state of competition in transboundary markets and measures taken to prevent violations of common rules of competition. The approved report and all decisions in cases of violations of common competition rules are published on the official website of the Commission.

5.10.2 Labour

5.72. Beyond mode 4-related issues, the Labour Migration Section of the EAEU Treaty calls on member States to cooperate and coordinate policies in this area (Article 96 of the Treaty). The following disciplines apply *vis-à-vis* "member State workers",¹⁰¹ defined as "a person who is a citizen of a member State lawfully residing and lawfully performing work within the territory of the

⁹⁹ All three member States have regulated prices for a number of goods and services.

¹⁰⁰ The other products are vodka, liquor and other alcohol products with strength above 28% (minimum price); ethyl spirits from food raw material (minimum price); solid and heating fuel; production of nuclear energy cycle; kerosene for household needs; oil products; pharmaceuticals; and tobacco products

¹⁰¹ The same applies to their family members.

State of employment, of which he is not citizen and who does not permanently reside in it (Article 98):

- a. their social welfare/insurance is provided on the same terms and conditions as those of citizens of the State where they are employed, except as it relates to pensions;
- b. retirement is regulated by the legislation of the State of permanent domicile. As of April 2018, discussions were being held on a draft agreement on unified pension regulation;
- c. they have the right to join trade unions on par with the citizens of the State where they are employed;
- d. they are subject to rights and obligations stipulated by the legislation of the State where they are employed and of the employer; and
- e. revenues received as a result of their work in the territory of the State where they are employed shall be subject to taxation in accordance with international agreements and the legislation of the State where they are employed subject to the provisions of the EAEU Treaty.

5.73. A Protocol on the Provision of Medical Care to the Member States Workers and to their Family Members is contained in Annex 30 to the EAEU Treaty.

5.10.3 Other

5.74. The Treaty contains disciplines and provides for Members to carry out coordinated policy in various other fields, including information and information technology (Article 23 and Annex 3) and consumer rights protection (Articles 60-61).

5.75. A series of disciplines are spelled out concerning taxes and taxation (Articles 71-73). In particular, they provide for national treatment of like products as regards taxation. The harmonization of excise taxes on the most sensitive excisable goods is also foreseen.

5.76. Beyond specific references to the protection of the environment in the context of e.g. general exceptions, exceptions to the internal market, TBT, etc - all of which are referred to elsewhere in this Factual Presentation - the EAEU Treaty has no specific legal instrument dealing with this issue.

ANNEX 1

1. Table A1.1 presents the structure of the CET/Russian Federation applied tariff from 2010 to 2016, when the Russian Federation became a WTO Member. The average MFN applied rate initially increased from an average of 10.2% in 2010 to 10.4% in 2012, when the customs union was established and the Russian Federation acceded to the WTO, but has since been progressively reduced to 8.7% in 2015 and 8.3% in 2016. In terms of categories of products, in 2015 WTO Members faced an average tariff of 7.1% when exporting a non-agricultural product to Russian Federation, while average tariffs imposed upon their exports of agricultural products were twice as high (i.e. 14.5%). In 2015, slightly less than one-fifth of the tariff lines for non-agricultural tariffs were duty-free; the corresponding figure for agricultural products was 6.4%. If only dutiable lines are considered, other EAEU member States benefitted in 2015 from an average margin of preference of 15.6% for agricultural products and of 8.6% for non-agricultural products. Figures for 2015 and 2016 also apply to Belarus.

Table A1.1 Russian Federation and Belarus (2015-2016): Indicators of applied tariffs, CET

Year	All Products				Agricultural Products ^a				Non-agricultural products			
	No. of lines	Average applied tariff		% of duty-free	No. of lines	Average applied tariff		% of duty-free	No. of lines	Average applied tariff		% of duty-free
		Overall	On dutiable			Overall	On dutiable			Overall	On dutiable	
2010	11,170	10.2	12.0	14.2	2,453	16.7	17.7	5.1	8,717	8.6	10.3	16.7
2011	11,237	10.2	12.0	14.4	2,486	16.6	17.8	6.1	8,751	8.5	10.3	16.8
2012	11,123	10.4	12.1	14.0	2,579	16.7	17.7	5.2	8,544	8.6	10.3	16.7
2013	11,281	10.1	11.8	14.2	2,648	15.9	17.0	6.0	8,633	8.4	10.1	16.7
2014	11,638	9.4	11.1	14.8	2,683	15.2	16.3	6.3	8,955	7.8	9.4	17.3
2015 ^b	11,711	8.7	10.2	14.9	2,684	14.5	15.6	6.4	9,027	7.1	8.6	17.4
2016 ^b	11,610	8.3	10.0	16.1	2,683	14.5	15.5	6.3	8,927	6.5	8.1	19.0
2017-2020	...	...	...	...	...	...	...	...	...	...	...	...

Note:

a WTO Definition.

b Also with respect to Belarus.

... Not available.

Tariffs as of 1 January.

No data yet on the MFN tariffs of Russia for the years 2017 to 2019.

For the calculation of averages, specific rates are excluded and the ad valorem parts of alternate rates are included.

For 2016, the calculation of averages include AVEs where the data is sourced from the WTO TPR of Russia for 2016; excludes products subject to in-quota rates.

Based on the HS 2007 nomenclature (2010-2011) and HS 2012 nomenclature (2012-2016).

Source: WTO Secretariat estimates based on WTO-IDB, WTO-TPR databases and Trade Analysis Information Systems (TRAINS).

2. The structure of Kazakhstan's tariff in 2015, upon its accession to the WTO, and in 2016 is presented in Table A1.2. The average MFN applied rate decreased from 8.0% in December 2015 to 7.4% in December 2016 – both lower than the CET. In terms of categories of products, in 2015 WTO Members faced an average tariff of 12.3% when exporting an agricultural product to Kazakhstan, while the average was around half of that for non-agricultural products – 6.8%. In 2015, 6.7% of the tariff lines on agricultural products were duty-free, while the equivalent figure for non-agricultural products was 17.7%. If only dutiable lines are considered, Belarus and Russian Federation – Kazakhstan's partners in the Union – benefitted in 2015 from an average margin of preference of 13.3% for agricultural products and of 8.3% for non-agricultural products.

Table A1.2 Kazakhstan: Indicators of applied tariffs

Year	All Products				Agricultural Products ^a				Non-agricultural products			
	No. of lines	Average applied tariff		% of duty-free	No. of lines	Average applied tariff		% of duty-free	No. of lines	Average applied tariff		% of duty-free
		Overall	On dutiable			Overall	On dutiable			Overall	On dutiable	
2015 ^b	11,711	8.0	9.5	15.2	2,684	12.3	13.3	6.7	9,027	6.8	8.3	17.7
2016 ^c	11,610	7.4	8.9	16.1	2,683	11.8	12.6	6.6	8,927	6.1	7.6	18.9
2017-2023	...	...	...	...	...	...	...	...	...	...	...	...
2024	All tariff lines are harmonized with the CET.											

Note:

a WTO Definition.

b Kazakhstan's 2015 tariffs as of 1 December 2015 - 30 November 2016.

c Kazakhstan's 2016 tariffs as of 1 December 2016 - 30 November 2017.

... No information from 2017 to 2019 as Kazakhstan's list of exceptions differs per year.

For the calculation of averages, specific rates are excluded and the ad valorem parts of alternate rates are included.

Based on the HS 2012 nomenclature.

Source: WTO Secretariat estimates based on WTO-TPR database and Kazakhstan authorities and WTO-IDB.

ANNEX 2**LIST OF TERMINATED AGREEMENTS UNDER ANNEX 33 OF THE EAEU TREATY****Table A2.1 List of terminated Agreements under Annex 33 of the EAEU Treaty**

Nº	Titles of the International Treaties
I. International Treaties that shall be terminated on the date of entry into force of the EAEU Treaty	
1.	Treaty on Creation of the Common Customs Territory and Formation of the Customs Union of 6 October 2007.
2.	Protocol on the Order of Entering into Force of the International Agreements Forming the Legal Base of the Customs Union, Withdrawal from and Accession to Them of 6 October 2007.
3.	Agreement on Customs Statistics of External and Mutual Trade in Goods of the Customs Union of 25 January 2008.
4.	Agreement on Single Customs and Tariff Regulation of 25 January 2008.
5.	Agreement on Single Non-Tariff Regulation Measures with regard to the Third Countries of 25 January 2008.
6.	Agreement on Application of Special Safeguard, Anti-dumping and Countervailing Measures with regard to the Third Countries of 25 January 2008.
7.	Agreement on Principles of Levying of Indirect Taxes when Exporting and Importing Goods, Performing Works and Rendering Services in the Customs Union of 25 January 2008.
8.	Protocol on Granting Tariff Concessions of 12 December 2008.
9.	Protocol on Unified Application of Rules for Determination of Customs Valuation of Goods Transferred Across the Customs Border of the Customs Union of 12 December 2008.
10.	Protocol on Exchange of Information Required for Customs Valuation and Control Over Customs Value of Goods between Customs Bodies of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation of 12 December 2008.
11.	Protocol on Conditions and Procedure for Use in Exceptional Cases of the Rates of Import Customs Duties Other than Common External Tariff Rates of 12 December 2008.
12.	Agreement on Types of Customs Procedures and Customs Regimes of 12 December 2008.
13.	Agreement on Order of Declaration of Customs Value of Goods Transferred Across the Customs Border of the Customs Union of 12 December 2008.
14.	Agreement on Order of Declaration of Goods of 12 December 2008.
15.	Agreement on Order of Calculation and Payment of Customs Fees in member states of the Customs Union of 12 December 2008.
16.	Agreement on Order of Control over Accuracy of Customs Valuation of Goods Transferred Across the Customs Border of the Customs Union of 12 December 2008.
17.	Agreement on Order of Customs Clearance and Customs Control in member states of the Customs Union of 12 December 2008.
18.	Agreement on Secretariat of the Customs Union Commission of 12 December 2008.
19.	Agreement on Conditions and Mechanisms of Application of Tariff Quotas of 12 December 2008.
20.	Agreement on the Introduction and Application of Measures Affecting Foreign Trade in Goods on the Common Customs Territory with Regard to the Third Countries of 9 June 2009.
21.	Agreement on the Rules of Licensing in the Area of Foreign Trade in Goods of 9 June 2009.
22.	Protocol on Order of Levying of Indirect Taxes and Mechanism of Control Over Their Payment on Exportation and Importation of Goods in the Customs Union of 11 December 2009.
23.	Protocol on Order of Levying of Indirect Taxes When Performing Works and Rendering Services in the Customs Union of 11 December 2009.
24.	Protocol on Order of Transferring of Foreign Trade Statistics and Mutual Trade Statistics Data of 11 December 2009.
25.	Protocol on the Status of the Centre for Customs Statistics of the Commission of the Customs Union of 11 December 2009.
26.	Agreement on Mutual Recognition of Accreditation of Certification (Conformity Assessment) Bodies and Testing Laboratories (centres) Performing Conformity Assessment of 11 December 2009.
27.	Agreement on the Movement of Goods Subject to Mandatory Conformity Assessment on the Customs Territory of the Customs Union of 11 December 2009.
28.	Agreement of the Customs Union on Veterinary and Sanitary Measures of 11 December 2009.
29.	Agreement of the Customs Union on Plant Quarantine of 11 December 2009.
30.	Agreement of the Customs Union on Sanitary Measures of 11 December 2009.
31.	Protocol of 11 December 2009 on Amendments to the Agreement on Principles of Levying of Indirect Taxes when Exporting and Importing Goods, Performing Works and Rendering Services in the Customs Union of 25 January 2008.
32.	Agreement on Establishment and Application of Procedure of Entering and Distribution of Import Customs Duties in the Customs Union (other duties, taxes and fees of equivalent effect) of 20 May 2010.
33.	Protocol of 21 May 2010 on Amendments to the Agreement of Customs Union on Plant Quarantine of 11 December 2009.

№	Titles of the International Treaties
34.	Protocol of 21 May 2010 on Amendments to the Agreement of Customs Union on Veterinary and Sanitary measures of 11 December 2009.
35.	Protocol of 21 May 2010 on Amendments to the Agreement of Customs Union on Sanitary Measures of 11 December 2009.
36.	Protocol on Certain Temporary Exemptions from the Mode of Operation of Uniform Customs Territory of the Customs Union of 5 July 2010.
37.	Agreement on Application of Information Technologies in Exchange of Electronic Documents in Foreign and Mutual Trade within the Uniform Customs Territory of the Customs Union of 21 September 2010.
38.	Agreement on Establishment, Operation and Development of Integrated Information System of Foreign and Mutual Trade of the Customs Union of 21 September 2010.
39.	Agreement on Common Principles and Rules of Technical Regulation in the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation of 18 November 2010.
40.	Protocol on the Order on Submission to Authority Conducting the Investigation the Information including Confidential Information for the Purposes of Safeguards, Anti-dumping and Countervailing Investigations of 19 November 2010.
41.	Agreement "On Application of Safeguard, Anti-dumping and Countervailing Measures to the Third Countries in the Transitional Period" of 19 November 2010.
42.	Agreement on Legal Status of Natural Persons and Members of Their Families of 19 November 2010.
43.	Agreement on Rules of Access to Services of Natural Monopolies in the Sphere of Electro Energy, including Basics of Pricing and Tariff Policy of 19 November 2010.
44.	Agreement on State (Municipal) Procurement of 9 December 2010.
45.	Agreement on Common Rules of State Support of Agricultural Sector of 9 December 2010.
46.	Agreement on Common Rules for Granting Industrial Subsidies of 9 December 2010.
47.	Agreement on Common Principles and Rules of Competition of 9 December 2010.
48.	Agreement on Common Principles and Rules of Regulation of Activities of Natural Monopolies of 9 December 2010.
49.	Agreement on Common Principles of Regulation in the Sphere of Protection of Intellectual Property Rights of 9 December 2010.
50.	Agreement on Organization, Management, Functioning and Development of Common Markets of Oil and Oil Products of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation of 9 December 2010.
51.	Agreement on Rules of Access to the Services of Natural Monopolies in the Sphere of Gas Transportation, Including Basics of Price and Tariff Formation of 9 December 2010.
52.	Agreement on Regulation of Access to the Services of Railway Transport, Including Basics of Tariff Policy of 9 December 2010.
53.	Agreement on Coordinated Macroeconomic Policy of 9 December 2010.
54.	Agreement on Coordinated Principles of Monetary Policy of 9 December 2010.
55.	Agreement on Establishing Conditions on Financial Markets for Free Movement of Capital of 9 December 2010.
56.	Agreement on Trade in Services and Investments of 9 December 2010.
57.	Agreement on Transport (automobile) Monitoring on the External Border of the Customs Union of 22 June 2011.
58.	Protocol of 18 October 2011 on Amendments and Addenda to the Agreement on Application of Safeguard, Anti-dumping and Countervailing Measures to the Third Countries between the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation of 25 January 2008.
59.	Protocol on Procedure for Exchange of Information related to Payment of Import Customs Duties of 19 October 2011.
60.	Treaty on Eurasian Economic Commission of 18 November 2011.
61.	Treaty on Interaction of Competent Authorities of member States of the Agreement on Coordinated Principles of Monetary Policy of 9 December 2010, implementing currency control of 15 December 2011.
62.	Agreement on Informational Interaction in the field of Statistics of 29 May 2013.
63.	Protocol of 24 August 2012 on amendments to the Protocol on Conditions and Procedure for Use in Exceptional Cases of the Rates of Import Customs Duties Other than Common Customs Tariff Rates of 12 December 2008.
64.	Protocol of 21 June 2013 on amendments to the Agreement on Conditions and Mechanisms of Application of Tariff Quotas of 12 December 2008.
65.	Protocol of 25 September 2013 on amendments to the Agreement on Common Customs Tariff Regulation of 25 January 2008.
II. International treaties that shall be terminated on the date of entry into force of relevant decisions of the Commission according to Article 102 of the EAEU Treaty	
1.	Agreement on Single Rules of Determination of Country of Origin of 25 January 2008.
2.	Protocol on Common System of Tariff Preferences of the Customs Union of 12 December 2008.
3.	Agreement on Rules Determining the Origin of Goods from the Developing and Least-Developed Countries of 12 December 2008.

ANNEX 3**COMMON LIST OF GOODS SUBJECT TO NTMS IN TRADE WITH THIRD COUNTRIES¹****Table A3.1 Goods subject to NTMs in all EAEU member States**

Description	Measure and territorial scope
1. Goods for which transportation through the customs border of the EAEU is prohibited	
1.1 Ozone destroying substances and products containing such substances	<p>Import/export prohibition of ozone depleting substances and products containing such substances, except for:</p> <ul style="list-style-type: none"> - goods in transit; - use of ozone depleting substances exclusively as a raw material for the manufacture of other chemicals, which are not ozone depleting substances; - specific cases of ozone-depleting substances under the Montreal Protocol on Substances that Deplete the Ozone Layer, 16 September 1987; - fire extinguishers containing substances from group II, Annex A I; - ozone depleting substances are reduced or utilized - products which are controlled by the export control system of the EAEU Member State being a country of consignment or destination. <p>Ozone depleting substances from section 2.1 of this list are prohibited to import and export from and to countries non-members of Montreal Protocol, except the states which satisfy requirements of Montreal Protocol</p>
1.2 Hazardous wastes	Import prohibition, including goods in transit
1.3 Printed information or information on audio-visual and other devices	Import/export/transit prohibition
1.4 Plant protection chemicals and other persistent organic pollutants subject to Annexes A and B of the Stockholm Convention on persistent organic pollutants (adopted 22 May 2001)	Import prohibition, except for goods in transit
1.6 Service or civil weapon, its main parts and cartridges	<p>Import/export/transit prohibition, except for goods subject to the export control system</p> <p>* Not applied to some kinds of long-barrelled firearms and parts for cartridges exported from the customs territory of the Eurasian Economic Union</p>
1.7 Implements for catch of aquatic biological resources	Import prohibition
1.8 Products made from harp seal and harp seal cubs	<p>Import prohibition</p> <p>* Not applied to products for personal use or products obtained from hunting carried out by indigenous peoples living in arctic and subarctic regions which should be confirmed by the certificate issued by the authorized institution</p>
1.9 Live sable	Export prohibition
2. Goods for which transportation through the customs border of the EAEU is restricted	
2.1 Ozone destroying substances	Import and export licensing, except for goods in transit
2.2 Plant protection chemicals (pesticides)	Import licensing
2.3 Hazardous wastes	<p>Import and/or export licensing</p> <p>* Not applied to the export of tyres, including pneumatic ones, for use in civil aircraft</p>

¹ For ease of reference, the presentation of the lists in this Annex differs from that of the Decision. In particular, the HS codes are not reproduced and products have been split in accordance to whether restrictions were applied in all EAEU member States or only some of them. The numbers in column 1 have however been kept as under the Decision. For a full list of the HS codes, please see Annex 6 of WT/ACC/KAZ/93.

Description	Measure and territorial scope
2.4 Mineralogical and paleontological collections and collectibles, fossils of animal bones	Export licensing
2.6 Wild live animals, certain wild growing plants and wild medicinal herbs	Export licensing
2.7 Species of wild fauna and flora subject to the Convention on international trade in endangered species of wild fauna and flora (adopted 3 March 1973)	Export/import/transit restriction. The goods included into this list are transported through the customs border of the EAEU member States in accordance with the order established by the Convention on international trade in endangered species of wild fauna and flora as of 3 March 1973)
2.8 Rare and endangered species of wild animals and wild growing plants inscribed in the "Red books" of the EAEU member States	Export licensing, except transit
2.9 Precious gems	Export/import restriction
2.10 Precious metals and commodities containing precious metals	Export/import/transit licensing * Not applied to refined precious metals in the form of bullions, plates, powders and granules as well as untreated precious metals ** Applied only to precious metals with or without gemstones inserted *** Applied only to precious metals or rolled precious metals
2.11 Mineral raw materials (only untreated stones)	Export licensing
2.12 Drugs, substances with psychotropic effects and their precursors	Import and export licensing
2.13 Toxic substances except for precursors of the drugs and substances with psychotropic effects	Import licensing * Not applied to toxic substances, subject to the export control system
2.14 Medicines and pharmaceutical substances	Import licensing
2.16 Civil radio-electronic equipment and/or high-frequency devices including those which are built-in or form a part of other goods	Import licensing
2.17 Special technical devices for undercover obtaining of information	Import and export licensing
2.19 Encryption devices	Import and export licensing
2.20 Cultural values, documents of the national archive funds, originals of the archive documents	Export licensing
2.21 Human organs and tissues, blood and its components, human biological materials	Import and/or export licensing
2.22 Service and civil weapon, its main parts and cartridges	Import, export and transit licensing
2.23 Information on subsoil	Export licensing

Source: Collegium Decision No 30/15.

Table A3.2 Goods subject to NTMs in some EAEU member States

Description	Measure and territorial scope
1. Goods for which transportation through the i.e. Import / Export / Transit prohibition	customs border of the EAEU is prohibited –
1.5 Timber, recovered paper, paperboard and wastepaper	Export prohibition, only for goods originating from Kazakhstan
2. Goods for which transportation through the customs border of the EAEU is restricted (i.e. generally requiring a licence)	
2.24 Goods with quantitative restrictions for export: ferrous and non-ferrous wastes and scrap	Export licensing, only for goods originating from Belarus
2.25 Goods subject to restrictions	Export and/or import restriction. * Applied to goods imported to Kazakhstan ** Applied to goods originating from Belarus when exported from the customs territory of the EAEU.
2.26. Goods subject to exclusive export or import right	Export or import restriction. Applied to: * Goods originating from the Russian Federation when exported to the customs territory of the EAEU ** Goods originating from Belarus when exported to the customs territory of the EAEU *** Goods originating from third countries which are imported by Belarus. Application of the exclusive right is regulated by Belarus legislation
2.28. Goods subject to restrictions according to commitments in the accession of the EAEU member States to the WTO	Export restriction. Applied to * Goods originating from the EAEU member States which imposed tariff quotas in their accession commitments to the WTO

Source: Collegium Decision No 30/15.

ANNEX 4

TRQS UNDER THE EAEU TREATY

Table A4.1 EAEU annual TRQs by member States, 2015-2018

	BLR	KAZ ^a	RUS
Fresh and chilled beef	-	21,000 tonnes IQ: 15% - OQ: 40% (KAZQ001) 0201100001 0201202001 0201203001 0201205001	40,000 tonnes IQ: 15% - OQ: 50% (RUSQ001) 0201 10 000 8 0201 20 200 8 0201 20 300 8 0201 20 500 8 0201 20 900 8 0201 30 000 8
Frozen beef	-	0201209001 0201300004 0202100001 0202201001 0202203001 0202205001 0202209001 0202301004 0202305004 0202309004	530,000 tonnes IQ: 15% - OQ: 50% (RUSQ002) 0202 10 000 8 0202 20 100 8 0202 20 300 8 0202 20 500 8 0202 20 900 8 0202 30 100 8 0202 30 500 8 0202 30 900 8
Fresh, chilled or frozen pork	20,000 tonnes 0203 11 100 0 0203 11 900 0 0203 12 110 0 0203 12 190 0 0203 12 900 0 0203 19 110 0 0203 19 130 0 0203 19 150 0 0203 19 550 0 0203 19 590 0 0203 19 900 0 0203 21 100 0 0203 21 900 0 0203 22 110 0 0203 22 190 0 0203 22 900 0 0203 29 110 0 0203 29 130 0 0203 29 150 0 0203 29 550 2 0203 29 550 8 0203 29 550 8 0203 29 590 0 0203 29 900 2 0203 29 900 8	-	400,000 tonnes IQ: duty-free – OQ: 65% (RUSQ003) 0203 11 100 0 0203 11 900 0 0203 12 110 0 0203 12 190 0 0203 12 900 0 0203 19 110 0 0203 19 130 0 0203 19 150 0 0203 19 550 0 0203 19 590 0 0203 19 900 0 0203 21 100 0 0203 21 900 0 0203 22 110 0 0203 22 190 0 0203 22 900 0 0203 29 110 0 0203 29 130 0 0203 29 150 0 0203 29 550 2 0203 29 550 8 0203 29 590 0 0203 29 900 2 0203 29 900 8
Of which Pork trimming (RUS)			30,000 tonnes IQ: duty-free – OQ: 65% (RUSQ004) 0203 29 550 2 0203 29 900 2

	BLR	KAZ ^a	RUS
Fresh, chilled or frozen poultry	-	128,000 tonnes IQ: 15% - OQ: 55% (KAZQ002) 0207142001, 0207146001	250,000 tonnes IQ: 25% - OQ: 85% (RUSQ005) 0207 14 200 0 0207 14 600 0
Fresh, chilled or frozen poultry	10,000 tonnes IQ: 25% - OQ: 85% 0207 13 100 1 0207 14 100 1	12,000 tonnes IQ: 15% - OQ: 55% (KAZQ003) 0207131001, 0207141001 0207271001, 0207273001 0207274001, 0207276001 0207277001, 0207111001 0207113001, 0207119001 0207121001, 0207129001 0207132001, 0207133001 0207134001, 0207135001 0207136001, 0207137001 0207139101, 0207139901 0207143001, 0207144001 0207145001, 0207147001 0207149101, 0207149901 0207241001, 0207249001 0207251001, 0207259001 0207261001, 0207262001 0207263001, 0207264001 0207265001, 0207266001 0207267001, 0207268001 0207269101, 0207269901 0207272001, 0207275001 0207278001, 0207279101 0207279901, 0207412001 0207413001, 0207418001 0207423001, 0207428001 0207430001, 0207441001 0207442101, 0207443101 0207444101, 0207445101 0207446101, 0207447101 0207448101, 0207449101 0207449901, 0207451001 0207452101, 0207453101 0207454101, 0207455101 0207456101, 0207457101 0207458101, 0207459301 0207459501, 0207459901 0207511001, 0207519001 0207521001, 0207529001 0207530001, 0207541001 0207542101, 0207543101 0207544101, 0207545101 0207546101, 0207547101 0207548101, 0207549101 0207549901, 0207551001 0207552101, 0207553101 0207554101, 0207555101 0207556101, 0207557101 0207558101, 0207559301 0207559501, 0207559901 0207600501, 0207601001 0207602101, 0207603101 0207604101, 0207605101 0207606101, 0207608101 0207609101, 0207609901	100,000 tonnes IQ: 25% - OQ: 85% (RUSQ006) 0207 14 100 0

	BLR	KAZ ^a	RUS
Fresh, chilled or frozen poultry	900 tonnes IQ: 25% - OQ: 85% 0207 26 100 1 0207 27 100 1	-	14,000 IQ: 25% - OQ: 85% (RUSQ007) 0207 27 100 0 0207 27 300 0 0207 27 400 0 0207 27 600 0 0207 27 700 0
Whey and modified whey	-	-	15,000 tonnes IQ: 10% - OQ: 15% (RUSQ009) 0404 10 120 1 0404 10 160 1

Note: Excludes TRQ granted in the context of the EAEU-Viet Nam Agreement.

a 2016-2018.

- No TRQ.

IQ In-quota rate.

OQ Out-of-quota rate.

Source: G/AG/N/RUS/12, G/AG/N/RUS/16 and G/AG/N/KAZ/3 and Decisions of the Collegium of the Commission, as follows: for 2015 TRQs, No 131/14; for 2016 TRQs: No 99/15; for 2017 TRQs: No 97/16; and for 2018 TRQs: No 97/17

ANNEX 5**EAEU SPS AND TBT REGULATIONS AVAILABLE IN EAEU'S WEBSITE, IN ENGLISH**

Documents and Decisions listed in the table below, in the field of technical regulation, sanitary, veterinary and phytosanitary measures can be found in English (unofficial translation), in a consolidated form, in the EAEU Commission's website, under <http://www.eurasiancommission.org/en/act/txnreg/Pages/acts.aspx>

Table A5.1 EAEU regulations on SPS and TBT available in the EAEU website, in English

N°	Title	Date
Decisions of the EurAsEC Interstate Council		
321	"On Recommendations on Model Structure of Technical Regulation of the EurAsEC "	27.10.06
Decision of the CU Commission		
893	Changes Introduced into Veterinary (Animal Health) Standard Requirements Set to the Goods Belonging to Veterinary Control (Supervisory Control).	09.12.11
726	On Veterinary Measures	15.07.11
721	On Application of International Standards, Recommendations, and Guidelines	22.06.11
625	On Ensuring the Harmonization of Regulations of the CU in the Application of Sanitary, Veterinary and Phytosanitary Measures with International Standards	07.04.11
621	Regulation on Procedures For Application of the Model Schemes of Conformity Assessment (Confirmation) with the Technical Regulations of the CU	07.04.11
620	On the Unified List's Update with Regard to Products Subject to Mandatory Conformity Assessment (Confirmation) within the Framework of the CU with Issuance of Single Documents, Approved By CU Commission Decision No. 319 of June 18, 2010	07.04.11
607	About Forms of Single Veterinary Certificates on Imported on Customs area of the CU of the Republic of Belarus, the Republic of Kazakhstan and the Russian Federation Under Control Goods From Third Countries	07.04.11
526	Unified List of Products for which Mandatory Requirements are Established in the CU	28.01.11
318	On Assurance of Plant Quarantine in the CU	18.06.10
317	About Application of Veterinary and Sanitary Measures in the CU	18.06.10
299	On Application of Sanitary Measures in the CU	28.05.10
Decisions of the Collegium of the Eurasian Economic Commission		
294	On Regulation on Importation into the CU Territory of Products (Goods) for which Mandatory Requirements are Established within the CU	25.12.12
306	On Approval of the Regulation on Procedures For Development and Approval the Lists of International and Regional Standards, and in their Absence - the National (State) Standards of member States of the CU, that Ensure Compliance with Technical Regulations of the CU and Necessary for Conducting Conformity Assessment (Confirmation)	12.12.12
Decision of the Council of the Eurasian Economic Commission		
94	On Regulation on Common System of Joint Inspections of Objects and Sampling of Goods (Products), Subject to Veterinary Control (Supervision)	09.10.14
226	On Recognizing some of the Decisions of the CU Commission as Repealed with Regard to Adoption of Declaration of Conformity of Products with Mandatory Requirements within the CU of Common Form	13.11.12
103	On Approval of the Schedule For Development of Technical Regulations of the CU in 2012-2013	23.11.12
102	On Amendments to the Unified List of Products for which Mandatory Requirements are Established within the CU	23.11.12
161	On the Consultative Committee for Technical Regulation Application of Sanitary, Veterinary and Phytosanitary Measure	18.09.12
Agreement on Common Principles and Rules For the Circulation of Medical Devices (Medical Products and Medical Equipment) in the Framework of the Eurasian Economic Union		

ANNEX 6

LIST OF PRODUCTS REFERRED TO IN VARIOUS EAEU DECISIONS ON SPS AND TBT

Table A6.1 Common list of goods subject to veterinary controls (109) and veterinary requirements (110)

0101	0402	ex 1212 99 950 0	ex 2302
0102	0403	1213 00 000 0	ex 2303
0103	0404	1214	ex 2304 00 000
0104	0405	ex 1301 90 000 0	ex 2306
0105	ex 0406 ^a	1501	2308 00
0106	0407	1502	2309
0201	0408	1503 00	ex group 29
0202	0409 00 000 0	1504	ex group 30
0203	0410 00 000 0	1505 00	3101 00 000 0
0204	0502	1506 00 000 0	ex 3501
0205 00	0504 00 000 0	1516 10	3502
0206	0505	1516 20	3503 00
0207	0506	1518 00	3504 00
0208	ex 0507	1521 90	ex 3507
0209	0510 00 000 0	1601 00	ex 3808
0210	0511	1602	3821 00 000 0
ex 0301	0511 99 859 2	1603 00	ex 3822 00 000 0
ex 0301	ex 0511, ex 9601, ex 9705 00 000 0	1604	4101
0302	ex 1001 19 000 0	1605	4102
0303	ex 1001 99 000 0	ex 1902 20	4103
0304	ex 1002 90 000 0	ex 1904 20	4206 00 000 0
0305	ex 1003 90 000 0	ex group 20	4301
0306	ex 1004 90 000 0	ex 2102 20	5101
0307	ex 1005 90 000 0	ex 2104	5102
0308	ex 1201 90 000 0	ex 2105 00	5103
ex 0401	ex 1208	ex 2106	ex 9508 10 000 0
ex 0401	ex 1211	2301	ex 9705 00 000 0
ex 3923, ex 3926, ex 4415, ex 4416 00 000 0, ex 4421, ex 7020 00, ex 7309 00, ex 7310, ex 7326, ex 7616, 8436 10 000 0, ex 8436 21 000 0, ex 8436 29 000 0, ex 8436 80 900 0, ex 8606 91 800 0, ex 8609 00, ex 8716 39 800			

- a One group of products – ex 0406 (Processed cheese containing sausage, meat, meat offal, blood, fish, crustaceans, mollusks or other aquatic invertebrates, or the products of group 04 CU HS or any combination of these products) is included in the veterinary requirements list but not in the list for veterinary controls.

Source: Decision N° 317/10 of the CU Commission and amendments.

Table A6.2 Common list of regulated goods with phytosanitary risk

HS Code		
High phytosanitary risk (81)		
ex 0106 41 000, ex 0106 49 000	0808	1209
0601	0809	1211 - except 1211 30 000 0, 1211 40 40 000 0
0602, except 0602 90 100 0	0810	1212 91
0603 11 000 0 - 0603 19 800 0	0813	1212 92 000 0, 1212 99 410 0, 1212 99 490 0
ex 0603 90 000 0	ex 0901 11 000, ex 0901 12 000	1212 94 94 000 0, ex 1212 99 950 0
0604 20 200 0	1001	ex 1213 00 000 0, ex 1401 90 000 0
0604 20 400 0	1002	ex 1214
ex 0604 20 900 0, ex 0604 90 910 0	1003	1801 00 000 0
0701	1004	1802 00 000 0
0702 00 000	1005	ex 2302
0703	1006	ex 2304 00 000
0704	1007	ex 2305 00 000 0
0705	1008	ex 2306
0706	1101 00	ex 2530 90 000 9
0707 00	1102	2703 00 000 0
0708	1103	ex 3002 90 500 0, ex 3002 90 900 0
0709	1104	3101 00 00 000 0
0712 90 90 110 0	1106 10 000 0	4401 10 10 000, 4401 21 000 0, 4401 22 000 0, ex 4401 39
0713	1107	ex 4403 - except 4403 10 000
ex 0714	1201	4404
0801	1202	ex 1404 90 000 9, ex 4401 39 900 0
0802	1203 00 000 0	4406 10 000 0
0803	1204 00	4407
0804	1205	ex 4409
0805	1206 00	ex 4415
0806	1207	ex 4418 40 000 0
0807	1208	ex 9705 00 000 0
Low phytosanitary risk (43)		
ex 0505 90 000 0	ex 1903 00 000 0	4808 10 000 0
ex 0506 90 000 0	ex 2103 90 900 9	ex 4819 10 000 0
0712 20 20 000 0	ex 2308 00 400 0	5001 00 000 0
0712 31 000 0, 0712 32 000 0, 0712 33 000 0, 0712 39 000 0	ex 2309 90 950 0 7	5003 00 000 0
0712 90 90 - except 0712 90 110 0	ex 2309 90 990 0	5101 11 000 0
ex 0901 21 000	2401	5102
ex 0901 22 000	ex 3203 00	5103 10 10 100 0
0901 90 100 0	ex 4101, ex 4102, ex 4103	5201 00
0902 10 000, 0902 20 000 0	ex 4408	5202
ex 0902 30 000, 0902 40 000 0	ex 4416 00 000 0	5301
0903 00 000 0	ex 4418 10	5302
ex 0904-0910	ex 4418 20	5303
ex 1401	ex 4418 50 000 0	5305 00 00 000 0
1404 20 000 0	ex 4601	
ex 1404 90 000	ex 4602	

Source: Decision N° 318/10 of the CU Commission.

Table A6.3 Unified list of products for which EAEU technical regulations are to be developed (66)

Goods	
Machinery and equipment	Perfumes and cosmetics
Low-voltage equipment	Oral hygiene products
High-voltage equipment	Packaging
Devices operating on gaseous fuels	Personal protective equipment
Equipment operating under excess pressure	Means of fire safety
Vessels working under pressure	Fire extinguishing means
Equipment for use in hazardous environments	Medical products
Rides, equipment for children's playgrounds	Sanitary products
Elevators	Furniture products
Wheeled vehicles	Chemical products
Tractors	Synthetic detergents
Agricultural machinery	Household chemical goods
Machinery for forestry	Paints and solvents
Tires	Fertilizers
Rolling stock of railways, including high-speed	Plant protection products
Metro Rolling Stock	Petrol, diesel and marine fuel, jet fuel and heating oil
Light rail vehicles and trams	Lubricants, oils and special fluids
Objects of sea transport	Devices and systems of water, gas, heat, electricity
Objects of inland waterway transport	Devices and systems of oil and refined products
Boats	Food products
Buildings and facilities	Alcoholic products
Building materials and products	Feed and feed additives
Rail transport infrastructure, including high-speed	Grain
Underground railway (metro) infrastructure	Tobacco products
Highways	Hunting and sporting weapons, ammunition
Pyrotechnic compositions and goods containing them	Telecommunications facilities
Explosives for civilian use and products containing them	Coal and its products
Production of light industry (ready-made piece-goods, carpets, knitted goods, clothing and leather goods, shoes, furs and fur products)	Liquefied hydrocarbon gases for using as fuel
Toys	Materials, contacting with the buff
Products for children and adolescents	Products for civil defence and natural and man-caused fire and disaster prevention
Products for children care	Oil, prepared for transportation and (or) using
Cookware	Natural gas, prepared for transportation and (or) using
Products for sanitary and hygienic purposes	Mainland pipelines for transportation of liquid and gas hydrocarbons

Source: Decision N° 102/12 of the EAEU Council, which amends Decision N° 526/11 of the CU Commission.

Table A6.4 Unified list of products subject to mandatory conformity assessment, pending the adoption of EAEU technical regulations (originally, 25 groups of products)

Chapters	Groups of Products
List as of April 2018: 6 groups of products	
Chapter 3. Lighting equipment	8. Lighting equipment (3 sub-groups) 9. Lamps (4 sub-groups) 10. Accumulators and batteries (2 sub-groups)
Chapter 16. Dishes	27. Dishes (for adults) (3 sub-groups) 28. Child's dishes (2 sub-groups)
Chapter 17. Food for animals, birds and fish	29. Combined feed including those produced on mobile units (20 sub-groups) 30. Protein fodder (15 sub-groups)
Chapter 20. Cleaning agent	33. Synthetic cleaning agent for clothes laundering, soap, detergent, powdery cleaning agent (3 sub-groups)
Chapter 21. Sanitary ware	34. Sanitary ware articles (2 sub-groups)
Chapter 25. Matches	38. Matches for everyday use (1 sub-group)

Chapters	Groups of Products
Products excluded from the List following the adoption of EAEU technical regulations	
Chapter 1. Low voltage equipment	1. Electro-technical products (7 sub-groups) 2. Machinery and instruments for kitchen works (2 sub-groups) 3. Small-scale climate instruments and molding heat energy (4 sub-groups) 4. Sanitary and hygienic instruments (15 sub-groups) 5. Electromechanical hand tools with integrated electric motor (3 sub-groups) 6. Other electrical (household) appliances (14 sub-groups)
Chapter 2. Everyday electronic radio equipment	7. Mains-operated everyday electronic radio equipment on alternating current (7 sub-groups)
Chapter 4. Equipment which work on firm, liquid or gaseous fuel	11. Warming and heating devices (6 sub-groups)
Chapter 5. Computer aids	12. Computing engines and related equipment (1 sub-group)
Chapter 6. Travel industry production	13. Materials for road construction (3 sub-groups)
Chapter 7. Agricultural equipment	14. Agricultural equipment (20 sub-groups)
Chapter 8. Light industrial goods	15. Safety shoes (7 sub-groups) 16. Industrial clothes (12 sub-groups) 17. Light industry articles for children (14 sub-groups) 18. Other light industry's articles (3 sub-groups)
Chapter 9. Toys and products for children	19. Toys (2 sub-groups) 20. Goods for children (2 sub-groups)
Chapter 10. Tobacco goods	21. Tobacco goods (2 sub-groups)
Chapter 11. Watch	22. Electrical and electronic watch powered by alternating current (2 sub-groups)
Chapter 12. Small-size boats	23. Small-size boats (1 sub-group)
Chapter 13. Furniture (except of designed build-from-scratch)	24. Furniture (4 sub-groups)
Chapter 14. Glass container	25. Glass container for packing and for food liquids (2 sub-groups)
Chapter 15. Shipping materials	26. Metal lids (1 sub-group)
Chapter 18. Personal protection equipment	31. Security facilities for hearing protection, respiratory organs protection, eyes protection, head protection, face protection (6 sub-groups)
Chapter 19. Oil products	32. Motor and transmission oil in consumer container (capacity not more than 5ltonnes) for everyday consumption (5 sub-groups)
Chapter 22. Finished food substances	35. Fish articles and other food products (16 sub-groups)
Chapter 23. Perfumery and make-up	36. Perfumery and make-up (15 sub-groups)
Chapter 24. Spare parts for mechanical transport	37. Tyres (except of refurbished) (1 sub-group)

Note: The HS codes are contained in the relevant Decisions.

As amended by various Decisions that excluded from the List products for which EAEU technical regulations were adopted.

Source: CU Commission Decision N° 620/11.

ANNEX 7**DEFINITIVE ANTI-DUMPING MEASURES IN FORCE IN THE EAEU AS OF 1 JANUARY 2015 –
30 NOVEMBER 2015 - 31 DECEMBER 2015****Table A7.1 Definitive anti-dumping measures in force in the EAEU AS of 1 January 2015,
30 November 2015 and 31 December 2015**

Country/ Customs Territory	Product, investigation ID number	Measure(s)	Date of original imposition; publication reference ¹	Date(s) of extension; publication reference(s)
Measures in force as of 1 January 2015				
China	Cold-rolled flat steel products with polymer coating; ID: AD-8-CN	Duties	01.07.2012 Decision of the Commission No. 49 dated 24.05.2012, published on the website	01.07.2017 Decision of the Commission No. 45 dated 11.05.2017, published on the website
	Cold-worked seamless pipes and tubes of stainless steel; ID: AD-11-CN	Duties	15.05.2013 Decision of the Commission No. 65 dated 09.04.2013, published on the website	
	Enamelled baths of cast iron; ID: AD-12-CN	Duties	26.05.2013 Decision of the Commission No. 64 dated 09.04.2013, published on the website	
	Rolling-element bearings (excl. needle roller bearings); ID: AD-3-CN	Duties	21.01.2008 Resolution of the Government of the Russian Federation dated 13.12.2007 № 868 published in "Российская газета" dated 21.12.2007 No. 287; Decision of the Commission of the Customs Union No. 705 dated 22.06.2011, published on the website	19.10.2013 Decision of the Commission No. 197 dated 17.09.2013, published on the website
Germany	Light commercial vehicles; ID: AD-10-DE	Duties	15.06.2013 Decision of the Commission No. 113 dated 14.05.2013, published on the website	
India	Graphite electrodes; ID: AD-9-IN	Duties	26.01.2013 Decision of the Commission No. 288 dated 25.12.2012, published on the website	
Italy	Light commercial vehicles; ID: AD-10-IT	Duties	15.06.2013 Decision of the Commission No. 113 dated 14.05.2013, published on the website	
Turkey	Light commercial vehicles; ID: AD-10-TR	Duties	15.06.2013 Decision of the Commission No. 113 dated 14.05.2013, published on the website	

¹ All Decisions can be accessed at the Commission website, <http://eec.eaeunion.org>.

Country/ Customs Territory	Product, investigation ID number	Measure(s)	Date of original imposition; publication reference ¹	Date(s) of extension; publication reference(s)
Ukraine	Certain steel pipes and tubes; ID: AD-1-UA	Duties	31.01.2006 Resolution of the Government of the Russian Federation No. 824 dated 29.12.2005 published in "Российская газета" dated 31.12.2005 No. 297, Decision of the Commission of the Customs Union No. 702 dated 22.06.2011, published on the website	09.03.2011 Resolution of the Government of the Russian Federation dated 31.01.2011 No.41 published in "Российская газета" dated 09.02.2011 No. 26 19.11.2015 Decision of the Commission No. 133 dated 06.10.2015, published on the website 03.07.2016 Decision of the Commission No. 48 dated 02.06.2016, published on the website
	Forged work- rolls; ID: AD-7-UA	Duties	27.06.2011 Resolution of the Government of the Russian Federation No. 406 dated 20.05.2011 published in "Российская газета" dated 27.05.2011 No. 113, Decision of the Commission of the Customs Union No. 904 dated 09.12.2011, published on the website	27.06.2014 Decision of the Commission No. 68 dated 13.05.2014, published on the website 28.02.2015 Decision of the Commission No. 3 dated 20.01.2015, published on the website
New Measures as of 30 November 2015				
China	Citric acid; ID: AD-15-CN	Duties	10.04.2015 Decision of the Commission No. 15 dated 10.03.2015, published on the website	
	Stainless steel flatware; ID: AD-14-CN	Duties	19.06.2015 Decision of the Commission No. 56 dated 19.05.2015, published on the website	
	Seamless steel oil country tubular goods ID: AD-16-CN	Undertaking	23.09.2015 Decision of the Commission No. 101 dated 18.08.2015, published on the website 23.09.2015 Decision of the Commission No. 101 dated 18.08.2015, published on the website (amended by Decision of the Commission No. 63 dated 08.06.2017)	
Decision already taken in November 2015, application only as of December 2015				
China	Crawler dozers; ID: AD-17-CN	Duties	12.12.2015 Decision of the Commission No. 148 dated 10.11.2015, published on the website	
	Commercial vehicles tyres; ID: AD-18-CN	Duties	18.12.2015 Decision of the Commission No. 154 dated 17.11.2015, published on the website	

Source: G/ADP/N/265/RUS, G/ADP/N/280/RUS, G/ADP/N/294/RUS and G/ADP/N/300/RUS.
G/ADP/N/280/KAZ, G/ADP/N/294/KAZ and G/ADP/N/300/KAZ.

ANNEX 8**TERMINATED AGREEMENTS FOLLOWING THE ENTRY INTO FORCE OF THE EAEU CUSTOMS CODE****Table A8.1 Terminated Agreements following the entry into force of the new EAEU Customs Code**

№	International Treaties terminated and incorporated in the EAEU Customs Code
1.	Agreement on determination of customs value of goods transferred across the customs border of the Customs Union dated 25 January 2008;
2.	Agreement on mutual administrative support of the customs authorities of the member-states of the Customs Union dated 21 May 2010;
3.	Agreement on information exchange requirement between the customs authorities and other state authorities of the member-states of the Customs Union dated 21 May 2010;
4.	Agreement on specifics of the customs transit of goods transferred by railway transport within the customs border of the Customs Union dated 21 May 2010;
5.	Agreement on provision and exchange of preliminary information on goods and transport transferred across the customs border of the Customs Union dated 21 May 2010;
6.	Agreement on unified customs register of intellectual property objects of the member-states of the Customs Union dated 21 May 2010;
7.	Agreement on specifics of the customs operations in respect of goods sent via international post dated 18 June 2010;
8.	Agreement on exemption from application of certain forms of customs control performed by the customs authorities of the member-states of the Customs Union dated 18 June 2010;
9.	Agreement on free warehouses and the customs procedure of free warehouse dated 18 June 2010;
10.	Agreement on specifics of transport use in international transportation for transportation of passengers as well as trailers, semi-trailers, containers and railway rolling stock performing transportation of goods and (or) luggage for internal transportation within the customs border of the Customs Union dated 18 June 2010;
11.	Agreement on procedure of movement of cash and (or) monetary instruments by individuals across the customs border of the Customs Union dated 5 July 2010;
12.	Agreement on organization of information exchange for realization of analytical and control functions of the customs authorities of the member-states of the Customs Union dated 19 October 2011.

ANNEX 9

SUMMARY OF SUPREME COUNCIL DECISION N° 112/14

Table A9.1 Number of non-conforming measures with the Protocol on Services and Investment, by EAEU member States and by type of measure

	BLR	KAZ	RUS
TOTAL	28	30	38
<i>Of which:</i>			
State-owned enterprises (para. 16)	1	4	4
Exclusive rights (para. 17)	3	3	4
National treatment (para. 23)	20	21	27
Establishment (para. 26)	26	21	32
MFN (para. 28)	2	4	7
QRs (para. 31)	23	16	26
Performance requirements (para. 33)	2	4	3
Mode 4 (para. 35)	3	9	12

Source: Supreme Council Decision No 112/14.

ANNEX 10

SERVICES SECTORS FOR WHICH A SINGLE SERVICE MARKET IS/WILL BE IN OPERATION IN THE EAEU, IN ACCORDANCE WITH COUNCIL DECISIONS AS OF DECEMBER 2016

1. The Table below lists sectors and sub-sectors for which a single services market is/will be in operation within the EAEU and their corresponding liberalization plans, in accordance with the Supreme Council Decisions N° 110 of 2014, N° 17 of 8 May 2015, N°s 30 and 31 of 16 October 2015 and N°s 22 and 23 of 26 December 2016.

Table A10.1 EAEU services liberalization¹

№2	Sectors and Sub-sectors	From CPC ³	Single Market by		
			BLR	KAZ	RUS
BUSINESS SERVICES					
II.19	Services in the field of reporting and accounting	82213, 82219 and 82220	2021		
I.26	Taxation services	823	2015		
I.32	Consultation services related to architecture	83211	2015		
Professional Services, except services pertaining to hazardous, complex and heritage objects					
I.6.	Engineering services	8334	2015	2024	2015
I.7.	Complex services	8331, 83342 and 83343			
I.8.	Urban planning services	83221, 83222, 83333			
I.9	Landscaping services (except heritage objects)	83222	2015		
Professional Services in relation to hazardous, complex and heritage objects					
II.2	Engineering services	8335 and 8339	2021	2024	2021
II.4	Urban planning	8322			
All other business services					
II.3	Integrated services in engineering related areas With highways, streets, roads, railways, Runways, bridges, aboveground and underground Motorways, tunnels and harbours, waterways, Water facilities, main pipelines, Lines and lines of energy, pipelines And cables and associated structures	83312	2021	2024	2021
I.31	Consultation services related to installation of computers		2015		
I.27	Software application services	83142			
I.28	Data processing services	84300 and 85960			
I.29	Database-related services	84300			
I.30	Services related to computing machines, including technical maintenance and repair of computing machines, and related data preparation services	83160	2020		
II.21	Conducting research and development Experimental developments in the field of natural sciences in the part of applied research	81110, 81120, 81130, 81140, 81150 and 81190			
II.20	Conducting research and implementation In the field of social and human sciences	81210, 81220, 81230, 81240 and 81290			
II.8	Services related to immovable property, own Or leased (with the exception of real estate brokerage services)	72111, 72 112, 72121, 72122, 72130 and 72212			

¹ The table is structured in accordance with MTN.GNS/W/120. Sectors/sub-sectors are listed in a summary manner, as compared to the full text of each of the Decisions.

² The N° are structured as follows: "I" means the sectors/sub-sectors are listed in Decisions N° 110 of 2014 and N°s 17 and 31 of 2015; "II" refers to sectors/sub-sectors listed in Decisions N° 30 of 2015 and N°s 22 and 23 of 2016. The number after that refers to the number (of the sector/subsector) as reflected in the relevant Decisions.

³ The Decisions are based on CPC version 1.

N ^{o2}	Sectors and Sub-sectors	From CPC ³	Single Market by		
			BLR	KAZ	RUS
II.9	Property valuation services	72240 and 85990	2020		
II.5	Rental and leasing services for pleasure boats without operator	73240	2019		
I.24	Lease of cars and equipment without an operator as part of rent and leasing services	73112, 73114, 73121 - 73123	2015		
I.25	Hire of personal items as part of leasing services and rent of all types of consumer equipment, used for leisure	73210	2015		
II.6	Services in the field of advertising	83610, 83620, 83631 and 83690	2019		
II.7	Audit services	82211 and 82212	2022		
I.35	Market research and opinion polling services	83700	2015		
I.33	Consultation services in connection with managerial issues (excluding financial services specified in Part XVI of the EAEU Agreement)	83111			
I.34	Services (excluding financial services specified in Part XVI of the EAEU Agreement), related to consultations on managerial issues	83112 - 83114			
II.11	Services for technical testing and analysis (laboratory And on the ground) (with the exception of works for the purposes of evaluation (confirmation) Conformity of production to the established requirements)	83561 - 83564 and 83569	n.p.	n.p.	n.p.
I.10	Services related to agriculture	861, 86110 and 86121	2015		
I.11	Service related to forestry and timber stockpiling	86140			
I.12	Services related to game management	86130			
I.36	Service on personnel accommodation and recruitment of personnel, excluding activity related to employment services for citizens of a EAEU member state outside of such member state	85111	2015		
I.23	Services related to maintenance and repair of equipment, including repair of personal items and household goods (excluding sea vessels and aircraft and other transport equipment)	8715 and 87290	2015	...	2015
I.37	Services related to cleaning of premises, specifically cleaning and hygiene of residential buildings or commercial, administrative and industrial buildings (excluding disinfection)	85330	2015		
I.38	Photographic services	8381, 83811 - 83815, 83819 and 83820			
I.39	Organization and conducting of negotiations and sessions	85970 and 85990			
I.40	Interpreting and translation services, related to translation of texts from one language into another	83910	2015		
II.12	Geological, geophysical and other services Research work in the part of scientific advisory services in Geology, geophysics, geochemistry and other sciences related to Search for deposits of solid minerals, oil, gas and Groundwater, except for field works	83510	2019	2024	2019
II.13	Services for underground surveying survey	83520			
II.14	Services for land surveying survey	83530			
II.15	Mapping services	83540			
II.16	Services for weather forecasting and meteorology	83550			

№ ²	Sectors and Sub-sectors	From CPC ³	Single Market by		
			BLR	KAZ	RUS
COMMUNICATION SERVICES					
II.17	Services associated with the production and distribution of Film and video films	96121 and 96141	2019		
II.18	Services for demonstration of video films	96152	2019		
I.42	Sound recording services	96111	2015	2016	2015
CONSTRUCTION AND RELATED ENGINEERING SERVICES					
General construction works (except hazardous and complex objects ^a and heritage objects ^b)					
I.1.	For erection of buildings of any purpose	54111, 54112, 54121, 54122 and 54129	2015	2024	2015
I.2.	Construction of civil engineering sites (except services pertaining to hazardous, complex and heritage objects)	542, 54210, 54220, 54230, 54241, 54242, 54251, 54252, 54260, 54270 and 54290			
I.3	Assembly and erection of buildings from prefabricated elements and works on equipment assembly	54400 and 546			
I.4.	Construction and finishing works at the closing stage	547, 54710, 54720, 54730, 54740, 54750, 54760, 54770 and 54790			
I.5.	Pre-construction works, special construction works, demolition of buildings and renting of construction equipment with an operator	543, 54310, 54320, 54330, 54341, 54342, 54511, 54512, 54521, 54522, 54530, 54540, 54550, 54560, 54570, 54590 and 54800			
General construction works					
II.1	For the construction of facilities of Civil construction	54210, 54220, 54230, 54241, 54242, 54251, 54252, 54260, 54310, 54320, 54330, 54342 and 54800	2021	2024	2021
DISTRIBUTION SERVICES					
I.13 I.14	Retail trade services ^c	611 and 612 621 – 623	2015	2016	2015
I.15	Services of commission agents, including broker services, excluding financial services specified in Part XVI of the agreement on the EAEU	612			
I.16	Franchise services	73340			
TOURISM AND TRAVEL RELATED SERVICES					
I.17	Services of hotels and public catering enterprises (excluding sale (serving) of alcohol)	63110, 63210, 63220, 63230 and 6330	2015	2016	2015
II.10	Services travel agency and travel agencies (Services of tour operators and travel agents)	67811 and 67812	2019	2019	2019
RECREATIONAL, CULTURAL AND SPORTING SERVICES (other than audiovisual services)					
I.41	Entertainment services (theatres, concerts, circuses, etc.)	96210	2015		
I.43	Service related to organization of sports and other recreational activities (excluding gambling services)	96510, 96520, 96590, 96610, 96620 and 96990	2015		
TRANSPORT SERVICES					
I.22	Technical maintenance and repair of equipment for car transport	87141	2015	...	2015
I.18	Cargo treatment services	67190 and 64339			
I.19	Services of warehouses and goods sheds	67290			
I.20	Services of cargo agencies	67910			

N ^{o2}	Sectors and Sub-sectors	From CPC ³	Single Market by		
			BLR	KAZ	RUS
I.21	Other intermediary services, services related to processing of shipping documents, cargo inspection, weighing and other similar services				

... Not available.

n.p. Not provided.

a "Hazardous and complex objects" includes hazardous, highly dangerous and technically complex objects of capital construction, including e.g. nuclear facilities, subway systems, pipelines, etc.;

b "Heritage objects" refer to the conservation of cultural heritage objects (historical and cultural sites).

c With the exception of: for Belarus: sale of ethanol, alcohol and alcohol-containing products, tobacco products; and (ii) for Kazakhstan and Russian Federation: sale of weapons and weapons systems, military equipment and munitions, explosives and associated equipment, precious metals and stones, drugs and psychotropic substances, sturgeon and caviar, ethanol, alcohol and alcohol-containing products, tobacco and tobacco-containing products, parapharmaceutical and medicinal products (exception – until 2016), etc.