



MOTOROLA

December 7, 2001

Case No.: A-834-807
Total Number of Pages: 6
Investigation
IA: Group III, Office IX
Public Document

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PUBLIC DOCUMENT

The Honorable Donald L. Evans
Secretary of Commerce
U.S. Department of Commerce
International Trade Administration
Central Records Unit, Room 1870
14th and Constitution Avenue, N.W.
Washington, D.C. 20230

Attn: Albert Hsu and George Smolik

**Re: Comments on the Requests for Market Economy Status for the
Republic of Kazakhstan--Antidumping Duty Investigation of
Silicomanganese From Kazakhstan (A-834-807)**

Dear Secretary Evans:

Motorola submits the following in response to the Notice published in the Federal Register on November 9, 2001 inviting comments on Kazakhstan's non-market economy ("NME") status. Based on the actual experience of our company in Kazakhstan, and for the reasons discussed more fully below, Motorola supports the requests by the Government of Kazakhstan and Kazchrome for revocation of Kazakhstan's NME status under section 771(18) of the Tariff Act of 1930, as amended ("the Act").

We understand that the Department of Commerce ("Department") considers six factors, listed in Section 771(18)(B) of the Act, in determining whether a country's NME status should be revoked:

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- (i) the extent to which Kazakhstan's currency is convertible into the currency of other countries;
- (ii) the extent to which wage rates in Kazakhstan are determined by free bargaining between labor and management;
- (iii) the extent to which joint ventures or other investments by non-Kazakh firms are permitted in Kazakhstan;
- (iv) the extent of government ownership or control of the means of production;
- (v) the extent of government control over the allocation of resources and over the price and output decisions of enterprises; and
- (vi) such other factors as the Department considers appropriate.

Further, we note that the Department may revoke a country's NME status even if that country has not achieved ideal market economy conditions. Based on recent precedent, the Department has declared that "complete *laissez faire* or a perfectly competitive market economy is not the applicable standard."¹

Motorola's experiences in Kazakhstan indicate that the Government and country have made significant progress during the ten years since independence in establishing the conditions of a market economy. Our business experience in Kazakhstan attests to the fact that the market-based transition has progressed to an extent that satisfies the Department's standard and warrants revocation of the outdated classification of Kazakhstan as a non-market economy country.

Motorola has been in Kazakhstan since 1995. We have established a representative office in Almaty and have signed contracts to supply local customers. In addition, we have distributor

¹ See Memorandum to Robert S. LaRussa, *Antidumping Investigation of Certain Small Diameter Carbon and Alloy Seamless Standard Line and Pressure Pipe from the Czech Republic: Non-Market-Economy ("NME") Country Status* (November 29, 1999) at 16. See Tab 3; see also Memorandum to Troy Cribb, *Antidumping Duty Investigation of Certain Steel Concrete Reinforcing Bars From Latvia - Request for Market Economy Status* (January 10, 2001) at 20. See Tab 4; Memorandum to Robert S. LaRussa, *Antidumping Duty Determinations on Cold-Rolled Carbon-Quality*

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agreements with local and international private telecommunications companies for the supply and resale of our products and services, including cellular systems and handsets, and paging and two-way radio products and systems. We have developed a vast distribution network and customer base among the government, commercial and industrial sectors and anticipate several key business areas in which we will expand our activities in Kazakhstan.

There are a number of other factors which serve as further evidence of Kazakhstan's market-based economy.

First, relative to the country's currency, the tenge is fully convertible and has been fairly stable in recent years. Our local partners are able to freely convert tenge and provide payments in hard currency to Motorola. Motorola has been able to engage in currency exchanges at accessible banks and other financial institutions, and we maintain accounts in both foreign and local currency. Motorola is served by international banks in Almaty. The banking sector is free and considered as one of the most advanced and developed in the region, in terms of adopting relevant international standards and procedures.

Second, from the perspective of labor conditions, potential employees individually negotiate their wages with prospective employers, and employees' salaries are determined by their work experience and skills. Workers are free to move within Kazakhstan and abroad in search of job opportunities.

Third, the climate for foreign investors is considered as attractive as that of neighboring Uzbekistan, Tajikistan and Kyrgystan. Many foreign companies have joint ventures or 100 percent foreign-owned investments, the latter in such areas as oil and gas, banking, tobacco and telecommunications.

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Fourth, Motorola has obtained a numerous type approval certificates for its imported products, and such procedures are done without any discrimination between local and foreign suppliers. International and local Motorola customers have been able to obtain licenses for cellular, paging and public mobile radio network operations in Kazakhstan.

Finally, from the perspective of privatization, most of the purchases made in Kazakhstan by both Government and private companies are done by open tender, and tenders are conducted based upon common international practice. There is little or no government intervention in areas such as pricing. Motorola purchases all goods and services at market prices and is able to negotiate where appropriate. We are not aware of governmental pressure on local companies with which we deal regarding production levels or resource allocation.

Kazakhstan has succeeding in transitioning to a substantial degree from a command to a market economy and is working to reduce burdens on business. The country recently lowered its value-added tax from 20 to 16 percent. The market is easily accessible; Motorola products are sold at prices determined by demand-and-offer market conditions, based upon common market rules and international competitive factors.

Given the above, we urge the Department of Commerce to revoke Kazakhstan's NME status under section 771(18) of the Tariff Act of 1930, as amended ("the Act").

This document has been served in accordance with the attached certificate of service. Please contact the undersigned should you have any questions.

Respectfully Submitted,



Marian Barell Nelson
Vice President and Director
International Trade and Regulatory Strategy

cc: Jean Kemp
Cheryl Werner
Brandon Farlander

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**SILICOMANGANESE
FROM KAZAKHSTAN**

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PUBLIC CERTIFICATE OF SERVICE

I, Marian Barell Nelson, hereby certify that a copy of the attached submission was served on this 7th day of December, 2001, by first class mail on the following parties:

CarrieLyn D. Guymon
O'Melveny & Myers, LLP
555 13th Street, N.W.
Washington, DC 20004-1109

Mr. William D. Kramer, Esq.
VERNER LIIPFERT BERNHARD
MCPHERSON AND HAND
901 15th Street, N.W.
Washington, D.C. 20005


Marian Barell Nelson