


Uzbekistan

BAKER & MCKENZIE

# Doing Business in Uzbekistan

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Baker & McKenzie – CIS, Limited

Tashkent Project Office  
Inconel Business Center,  
Office 705, 7th Floor  
75 Mustaqillik Avenue, Tashkent  
100000 Uzbekistan  
Telephone: +998 71 237 36 43  
Facsimile: +998 71 120 61 40  
[almaty.info@bakernet.com](mailto:almaty.info@bakernet.com)  
[www.bakernet.com](http://www.bakernet.com)

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## PREFACE

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Active in the USSR and the Commonwealth of Independent States (CIS) for over 40 years, with offices in Almaty, Baku, Kyiv, Moscow, St. Petersburg and with a project office in Tashkent, we now have one of the largest legal practices in the CIS, offering expertise (in close cooperation with our offices worldwide) on all aspects of investment in the region including energy and natural resources, corporate law, banking and finance, securities and capital markets, venture capital, competition law, tax and customs, real estate and construction, labor and employment, intellectual property, and dispute resolution.

Active in Uzbekistan since the opening of our Tashkent project office in 1996, the hub of our Central Asian practice is in Almaty.

Since gaining independence in 1991, Uzbekistan has adopted new legislation at a rapid pace. It remains a country in transition and its legal system is in continuing development. *Doing Business in Uzbekistan* has been prepared as a general guide for companies operating in or considering investment in Uzbekistan. It is intended to present an overview of the key aspects of the Uzbek legal system and regulation of business activities in this country.

The information contained in this guide is current as of the date below. We will be pleased to provide you with updates on the material contained in this guide, or to provide you with further information regarding a specific industry or area of Uzbek law in which you may have a particular interest.

Baker & McKenzie - CIS, Limited  
1 January 2009



# **1. UZBEKISTAN - AN OVERVIEW**

## **1.1 Geography and History**

Uzbekistan is the geographic, economic and cultural heart of Central Asia. With over 27 million people, Uzbekistan is by far the most populous of the five Central Asian republics of the Former Soviet Union (FSU). Tashkent, Uzbekistan's capital, has a population of more than 2.5 million. Lying on the ancient Silk Road between Europe and the Far East, the cities of Samarkand, Bukhara and Khiva have been centers of commerce and trade for centuries and have undergone revivals since the dissolution of the Soviet Union. The legendary Uzbek warrior Amir Timur (Tamerlane) conquered vast areas of Asia during the 15th century and every year thousands of tourists visit the famous tile-clad mosques, madrassas and other monuments built during his reign.

Though not the largest Central Asian country in size, Uzbekistan is still larger than the combined area of the United Kingdom, Belgium, Denmark, Switzerland and Austria. It is the only country to border each of the other four Central Asian republics, as well as Afghanistan.

Western and central areas of Uzbekistan are extremely dry and arid. Due to years of excessive irrigation and ecological mismanagement during the Soviet era, the Aral Sea basin (shared with Kazakhstan) has shrunk and lost much of its natural wealth. The region around Tashkent and the Fergana Valley to the east enjoy relatively temperate climates and are rich centers of agriculture, supplying fruit, vegetables, dairy products and other foodstuffs throughout Central Asia and neighboring countries.

## **1.2 Population**

The population of Uzbekistan is approximately 27.4 million.<sup>1</sup> The most significant population centers (apart from Tashkent) are Samarkand, Namangan, Andijan and Bukhara.

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<sup>1</sup> CIA World Factbook July 2008.

### **1.3 Political System and International Relations**

The Republic of Uzbekistan (as it is formally known) declared its independence from the Soviet Union on 31 August 1991. Accordingly, Independence Day is celebrated every year on 1 September. Uzbekistan is a presidential republic and has had a bicameral legislature since 2004. The Head of State is the President, Islam Karimov, who was elected in 1991, reelected by referendum in 1996, and reelected again in 2000 and 2007. The prime minister (currently Shavkat Mirziyayev) is appointed by the President and approved by both Chambers of Parliament (the Oliy Majlis), which exercises legislative power through the Legislative Chamber (the lower chamber) and the Senate (the upper chamber).

A party system has been in development since independence from the Soviet Union. Although there are a number of political parties, groups and various movements, the country's largest party in the Oliy Majlis is the Liberal Democratic Party.

Uzbekistan is a member of the Commonwealth of Independent States (CIS), the United Nations, the International Monetary Fund, the World Bank, the European Bank for Reconstruction and Development, the Organization for Security and Cooperation in Europe, the Asian Development Bank, the Organization of the Islamic Conference, and several other international organizations. Together with Russia, China, Kyrgyzstan, Tajikistan and Kazakhstan, Uzbekistan is a member of the Shanghai Cooperation Organization. Originally formed to deal with border issues, this organization now deals with combating terrorism, drug and weapon smuggling and other issues.

### **1.4 Economic Structure**

Cotton is the most important export product and is produced throughout the country, although cotton production has declined steadily in recent years. The largest production areas are in the Dzhizak, Surkhandarya, Fergana, Bukhara, Syrdarya, Karakalpakstan and Kashkadarya viloyats (regions). Gold production is the country's second most significant export, with much of this production coming from the Muruntau gold mine in the Navoi viloyat. The mining industry also produces significant amounts of silver and copper. Natural gas production is increasing and has recently become one of Uzbekistan's main export commodities. Gross Domestic Product in 2008 was approximately US\$ 26.62 billion.<sup>2</sup> While Uzbekistan possesses some value-adding

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<sup>2</sup> *Ibid.*

industries (including vehicle assembly plants in Andijan and Samarkand and an aircraft factory in Tashkent), much industry is connected with agricultural production and processing of commodities.

## **1.5 Regional Structure**

Uzbekistan consists of 12 viloyats (regions) and the autonomous Republic of Karakalpakstan. As a result of Uzbekistan's highly centralized form of government, the 12 viloyats, the city of Tashkent, and the autonomous Republic of Karakalpakstan have little political power. A 'khokim' or prefect is appointed by the President for each viloyat. Karakalpakstan has its own head of Government, who is subordinate to the President of Uzbekistan.

## **2. ESTABLISHING A LEGAL PRESENCE**

### **2.1 Representative Offices and Branches**

A foreign legal entity may establish a representative office to represent its interests in Uzbekistan. A representative office is a subdivision of a foreign legal entity and is not entitled to conduct business activity which would result in income being generated in Uzbekistan. A representative office acts on the basis of a "Regulation" (similar to a charter or bylaws) and is managed by an individual authorized by the parent company under a power of attorney. A branch is a subdivision of a legal entity in a geographic area other than where the head office is located, which may fulfill all or part of the functions of its parent company, including income-generating business activity. At the present time, however, it is practically impossible to establish a branch of a foreign entity in Uzbekistan. This is mainly due to the absence of the necessary by-laws and other implementing regulations dealing with the process of registration of a branch of a foreign legal entity.

### **2.2 Uzbek Legal Entities**

The following types of commercial legal entities may be formed under Uzbek law:

- Joint stock companies;

- Limited liability companies and additional liability companies;
- General business partnerships and limited business partnerships;
- Production cooperatives; and
- Private enterprises and unitary (state) enterprises.

The legal entities most commonly used by foreign businesses are described below.

## **2.3 Joint Stock Company**

### **2.3.1 General**

A joint stock company (“JSC”) is a legal entity which provides its shareholders with limited liability to the extent of the value of their shareholding. Shareholders who have not fully paid for their shares bear joint and several liability for the JSC’s obligations to the extent of the unpaid portion of the value of their shares. A JSC may be either open or closed. The minimum number of founders of an open JSC is unrestricted, while a closed JSC may be formed by not fewer than three and not more than 50 persons. Shareholders of an open JSC may freely dispose of their shares without the consent of other shareholders. An open JSC may have a public subscription for shares and sell them freely, in compliance with the *Joint Stock Company Law*.<sup>3</sup> Alternatively, an open JSC may have a closed subscription for shares, except in cases where such closed subscription is limited by the company charter and by the *Joint Stock Company Law*.

Shares in a closed JSC may only be issued to its founders or to a predetermined group of people. The number of shareholders in a closed JSC may not exceed 50. If this does occur, the company must be transformed into an open JSC within six months. The transfer of shares in a closed JSC is restricted and shares may not be offered to the public. Shareholders in a closed JSC must first offer any shares they wish to sell to the other shareholders or to the JSC itself, as provided for in the company charter.

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<sup>3</sup> Law “On Joint Stock Companies and Protection of Shareholders’ Rights” dated 26 April 1996, as amended.

### 2.3.2 Charter Capital

The charter capital of a JSC comprises the nominal value of the company's shares acquired by the shareholders. All shares must have the same nominal value. The nominal value of preferred shares distributed may not exceed 20% of the company's charter capital. The minimum actual charter capital of a JSC may not be less than an amount equivalent to US\$ 50,000 (calculated at the official Central Bank exchange rate). Pursuant to the President's Decree No. YP-4053 of 18 November 2008, the actual charter capital of the JSCs to be established on or after 1 January 2009 has been increased to the equivalent of US\$ 400,000. JSCs established prior to 1 January 2009 are required to increase their actual charter capital to this value before 1 January 2010. However, as of 1 January 2009, the JSC Law has not been amended to reflect this new capitalization requirement. A JSC's charter capital may be decreased by reducing the nominal value of shares or by reducing the total number of shares issued (buy-out and cancellation), or increased by raising the nominal value of shares or by issuing new shares. The charter of a JSC may also provide for an authorized charter capital, up to the amount of which the actual charter capital amount may be increased over time. The authorized charter capital comprises the nominal value of the company's authorized shares, in addition to those shares which have already been issued and placed.

### 2.3.3 Shares

Shares in a JSC must be registered. They may be either preferred or common. The nominal price of a share may not be less than 100 Soums.

Preferred shares give their holders a priority right to receive dividends and other rights as stipulated in the *Joint Stock Company Law*.

A shareholder must pay for its shares in full within one year after the registration of the JSC, or for further issues of shares, within the time specified by the decision on such further issuance. Payment for shares may be made in cash or other assets having monetary value, if permitted by the foundation agreement, decision on establishment of a JSC or decision on the issue of shares. If however the nominal value of shares acquired for such assets exceeds an amount equivalent to 200 minimum monthly wages (MMW), such assets must be appraised by an independent appraiser. As of

1 January 2009, the minimum monthly wage is 28,040 Soums (approximately US\$ 19.9 at the official exchange rate). Shares which are not paid for within the required time period are cancelled.

The company charter may specify the forms and terms of distribution of shares: open (offered to an unrestricted number of persons) and closed (offered to a predetermined list of persons). Shares must be paid for at their fair market value, other than on the founding of a JSC, when shares are paid for by the founders at their nominal value. All transactions involving shares in an open JSC must be carried out through a stock exchange or through organized off-exchange trades. A JSC may issue securities which may be further converted into shares pursuant to the terms stipulated in the company charter and in subsequent resolutions of the General Meeting of Shareholders. All shareholders must be registered in the shareholders' register, which must indicate the number of shares issued, their nominal value, the category of registered securities belonging to shareholders and contact details of the registered shareholders.

The Cabinet of Ministers on behalf of the state may introduce, at the time of privatization, a 'Golden Share' in a JSC which has strategic importance for the country, and in which the state has either no share or a shareholding not exceeding 25% of the charter capital. The 'Golden Share' has no monetary value, cannot be disposed of or encumbered, and is not counted in determination of charter capital and payment of dividends. The 'Golden Share' entitles the state to appoint one representative to the General Meeting of Shareholders and Supervisory Board of such a JSC and to veto certain important decisions which may be taken by these bodies.

### 2.3.4 General Meeting of Shareholders

The supreme management body of the JSC is the General Meeting of Shareholders ("GMS"). The GMS is held at least once a year. A meeting of shareholders other than the annual meeting is considered to be an extraordinary meeting.

Issues of high priority connected with the company's management, administration, business policy, corporate structure, financial aspects, elections and certain other issues are within the sole competence of the GMS, as stipulated in the *Joint Stock Company Law* and in the company charter.

With certain exceptions, the decisions which fall within the exclusive competence of the GMS may not be delegated to any other body of the JSC. For most decisions,



a simple majority of voting shares is sufficient (more than 50%). A supermajority vote (75%) at the GMS is required for certain matters as stipulated in the *Joint Stock Company Law*.

The GMS is valid if shareholders collectively holding more than 60% of the votes register and attend. The GMS may be attended either by a shareholder or its proxy. Any shareholder may at any time replace its proxy, and/or attend such meeting in person.

### 2.3.5 Supervisory Board

The Supervisory Board exercises overall management of the JSC, with the exception of those issues referred by the *Joint Stock Company Law* and the company charter to the exclusive competence of the GMS. If there are fewer than 30 holders of voting shares, the company charter may stipulate that the functions of the company's supervisory board be performed by the GMS. In this case, the company charter must designate a particular person or body within the JSC which has the exclusive authority to make decisions on holding the GMS.

The Supervisory Board handles issues of lower priority, mainly covering implementation, preparatory, financial and security market policies, as well as some supervisory and structural functions.

Election of the Supervisory Board and Chairman, the procedure for calling and holding Board meetings, and other issues related to the Board's operation must be specified in the company charter and/or in internal regulations.

### 2.3.6 Executive Body

The Executive Body manages the company's day-to-day activities through a Director (chief executive officer) or a Directorate (collective executive body). The Director or Directorate acts in the name and on behalf of the JSC within the scope of authority delegated by the GMS or Supervisory Board or as provided for in the company charter. The Director and members of the Directorate may incur joint and several liability for their actions.

### 2.3.7 Audit Commission, Internal and External Audit

As required by the Joint Stock Company Law the Audit (usually called Revision) Commission monitors the financial activity of the company. The Audit Commission's competence should be specified in the charter of a JSC and the regulation approved by the GMS.

The Audit Commission may conduct an audit at its own initiative, upon a decision of the GMS or the Supervisory Board, or at the request of shareholder(s) holding in aggregate more than 10% of the voting shares.

Members of the Audit Commission cannot simultaneously be members of the Supervisory Board, or hold any other positions in the management bodies of the JSC.

A JSC having a balance value of more than 1 billion soums must also have an Internal Audit Service. An Internal Audit Service audits and monitors the operations of the executive bodies of a JSC and its branches and representative offices, through checking business and financial documents. The Internal Audit Service is accountable to the Supervisory Board of the JSC and carries out its activity in accordance with the charter and corporate regulations of the JSC, and the regulations adopted by the Cabinet of Ministers of the Republic of Uzbekistan.

For the confirmation and auditing of the annual financial reports and accounts of a JSC in which state shareholding is more than 50%, an external auditor not connected with the company or with its shareholders must be appointed, upon the recommendation of the State Property Committee (GKI).

## 2.4 Limited Liability Company

### 2.4.1 General

A Limited Liability Company ("LLC") is a company established by one or more individuals or legal entities, with a charter capital divided into participatory interests, the size of which is determined by its foundation documents. In contrast to a closed JSC, participatory interests in an LLC are not securities. The foundation documents of an LLC established by two or more participants are the foundation agreement and the company charter. If an LLC is established by only one participant, its foundation document is the company charter.

The participants in an LLC are not liable for its obligations, and they bear the risk of losses connected with the company's activities only up to the limit of the value of their personal contributions. Participants in the company who have not paid up their contributions in full are jointly and severally liable for its obligations to the extent of the unpaid part of the contribution of each of the participants. The liability of the company is limited to the extent of its assets.

### 2.4.2 Charter Capital

The charter capital cannot be less than 50 times the MMW. Each of the participants must pay at least 30% of their declared charter capital contributions at the time of registration of the company, confirmed by a bank document, with the remainder to be paid within one year.

### 2.4.3 General Meeting of Participants

The supreme management body of an LLC is the General Meeting of Participants ("GMP"). The GMP has exclusive powers with respect to those specific issues stipulated in the *Uzbek LLC Law*<sup>4</sup> as being within the competence of the supreme management body. It mainly covers the business, financial, management and structural issues of the company. The meeting is convened not less than once a year. Participants jointly holding not less than 10% of votes have the right to demand an extraordinary GMP at any time and for any reason.

For most decisions, a simple majority of all participants of the LLC is sufficient. A qualified majority vote of two-thirds (66%) is required for issues of high priority such as decisions on the increase or decrease of the charter capital of the LLC. A unanimous vote (100%) is required for amendments to the charter and for reorganizing or liquidating the LLC.

An LLC has a Director (chief executive officer) or a Directorate (collective executive body) responsible for conducting the day-to-day management of the company. The Director or the members of the Directorate are elected at the GMP. The scope of the authority of the Directorate is specified in the foundation documents of the company.

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<sup>4</sup> Law "On Limited Liability and Additional Liability Companies" dated 6 December 2001, as amended.

In contrast to a JSC, there is no mandatory requirement for establishing a Supervisory Board in an LLC. However, an LLC may have a Supervisory Board if this is provided in the foundation documents. In addition, the company is prohibited from issuing securities.

#### 2.4.4 Audit Commission, Internal and External Audit

The Audit (usually called Revision) Commission, or an Auditor, has the right to monitor the financial activity of the Director (or Directorate) and members of the Supervisory Board (if applicable) of an LLC. The charter of an LLC may provide for an external auditor not connected with the company or with its shareholders to act in place of the Audit Commission. An LLC with more than 15 participants must have an Audit Commission (or an Auditor). The members of the Supervisory Board (if applicable), the Director or the Directorate cannot be selected as members of the Audit Commission (or as an Auditor) of an LLC. The members of the commission are normally selected from the participants of the GMP. Nevertheless, a person not connected with the company or with the participants of an LLC may also be selected as the member of the Audit Commission or as an auditor of an LLC. The number of members of the Commission is specified in the company charter. The Audit Commission normally confirms the annual report and accounts of an LLC before their approval by the GMP.

An LLC having a balance value of more than 1 billion soums must also have an Internal Audit Service. An Internal Audit Service audits and monitors the operations of the executive bodies of the LLC and its branches and representative offices, through checking business and financial documents. The Internal Audit Service is accountable to the Supervisory Board of the LLC and carries out its activity in accordance with the charter and corporate regulations of the LLC, and the regulations adopted by the Cabinet of Ministers of the Republic of Uzbekistan.

For the confirmation and auditing of the annual financial reports and accounts of an LLC in which the state's interest is more than 50%, an external auditor not connected with the company or with its participants, and nominated by GKI, must be appointed.

Any other LLC may also at its discretion engage the services of an external auditor.

## **2.5 Additional Liability Company**

### **2.5.1 General**

An Additional Liability Company (“ALC”) is a company established by one or more individuals or legal entities with a charter capital divided into participatory interests, whose size is determined by the foundation documents and which are not securities. The foundation documents of an ALC are the same as for an LLC, *i.e.*, the foundation agreement and the charter (or only the charter if an ALC is established by one person).

An ALC has the same organizational structure as an LLC, the main difference being in the liability of the participants. Participants in an ALC have broader liabilities in comparison to an LLC, the liability of which is limited to the value of the participants’ contributions. In contrast to an LLC, the foundation documents of an ALC may provide for the joint and several liability of its participants to be a multiple of their capital contributions. The multiple must be the same for all participants. If one of the participants becomes insolvent (bankrupt), liability for the company’s obligations is shared among the other participants in proportion to their contributions unless the company’s foundation documents provide otherwise.

## **2.6 Partnerships**

### **2.6.1 General Business Partnership**

A General Business Partnership (“GBP”) is a partnership whose partners, in accordance with the agreement concluded between them, engage in business activity on behalf of the partnership and are jointly and severally liable for its obligations with all their assets.

### **2.6.2 Limited Business Partnership**

A Limited Business Partnership (“LBP”) is a partnership in which there are one or more limited partners (contributors) who do not participate in the partnership’s business and who bear the risk of losses connected with the partnership’s activities only to the extent of their contributions. In addition, an LBP may have partners who are engaged in business on behalf of the partnership and are liable for the obligations of the partnership with all their assets.

A person may be a partner in only one GBP and a partner in only one LBP. A partner in a GBP cannot be a partner in an LBP. A partner in an LBP cannot be a contributor in the same partnership or be a partner in another GBP.

### 2.6.3 Charter Capital and Foundation Documents

The foundation document of both types of partnerships is the foundation agreement. The charter capital of a GBP or an LBP may not be less than 50 MMW.

### 2.6.4 Partners' Rights

A partner may leave either a GBP or an LBP established for a fixed term only on reasonable grounds (as defined in the foundation agreement) and may leave a partnership established for a non-fixed term only with at least three months' advance notice.

Only the partners manage the operations of either a GBP or an LBP, as defined by the foundation agreement of the partnership.

## 2.7 Private Enterprise

### 2.7.1 General

A new organizational structure for conducting business, the private enterprise was first introduced in 2003 under the Law "*On Private Enterprises*".<sup>5</sup> A private enterprise is a commercial entity which is founded and managed by a sole individual. The foundation document is a charter approved by the owner. Current legislation provides additional liability of the owner for obligations of a private enterprise where the legal entity does not have sufficient assets. There is no prohibition on a foreigner establishing this type of entity. However, a private enterprise founded by a foreign individual would not have the privileges granted to enterprises with foreign investments.

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<sup>5</sup> Law "On Private Enterprise" dated 11 December 2003, as amended.

## 2.7.2 Charter Capital and Management of Private Enterprises

There is no legislative minimum applicable to the charter capital amount of private enterprises, which is determined by the owner himself and can be formed by contributions in the form of money, securities or any other assets which have monetary value. As the owner, an individual is presumed to run the company.

# 3. FOREIGN INVESTMENT IN UZBEKISTAN

## 3.1 Forms of Investment

A foreign investor is entitled to engage in investment activity in Uzbekistan by means of:

- Equity participation in companies, banks, trusts, cartels, associations, and other enterprises established together with Uzbek resident legal entities and individuals;
- Establishment of an enterprise wholly owned by a foreign investor;
- Portfolio participation through the acquisition of bonds, shares and share certificates, and other securities issued by Uzbek companies or the Government;
- Total or partial acquisition of tenure rights, rights to immovable property (including land use rights), concession rights effecting the use of subsoil resources, etc.; and
- Other forms of investment which do not conflict with Uzbek legislation.

## 3.2 Enterprises with Foreign Investment

The principal laws governing foreign investment in Uzbekistan are the *Foreign Investment Law* and the *Foreign Investor Guarantees Law*. It should be noted that the *Foreign Investment Law* requires all foreign currency expenses of enterprises with foreign investment to be paid out of their own foreign currency receipts and other permitted sources of foreign currency. Both the *Foreign Investment Law* and the *Foreign Investor Guarantees Law* state that a foreign investor shall be entitled to freely repatriate its earnings, but this may be difficult to implement in practice. The latter law also

provides that companies with foreign participation are protected from certain adverse changes in the legislation for a period of ten years from the date of investment if, upon adoption of such legislation, such company notifies the tax and other appropriate authorities of the applicable privileges (described in Sections 3.3, 3.5 and 5.2.2).

Uzbekistan very strongly favors major foreign investments and discourages investments by small and medium-sized foreign investors. In order to promote the state policy of self-sufficiency, Uzbekistan's foreign investment regime particularly favors foreign investors who produce goods in Uzbekistan which may be exported, or which replace goods that would otherwise be imported.

In an effort to attract such investors, the Presidential Decree "On Additional Incentives and Privileges Granted to Enterprises with Foreign Investments" was enacted on 30 November 1996. It sets out requirements for particular entities to qualify as enterprises with foreign investment. Only those companies which meet these requirements are considered to be an enterprise with foreign investment ("EWFI") and are subject to state registration with the Ministry of Justice. Such requirements include:

- The size of the charter capital of the company must be equivalent to at least US\$ 150,000;
- One of the founders must be a foreign legal entity; and
- The share of foreign investment must comprise not less than 30% of the charter capital.

In addition, if an EWFI receives over 60% of its revenues from the sale of products which it has produced or the sale of its services, then it will be deemed a production enterprise with foreign investment ("PEWFI"). PEWFIs, which also need to be registered with the Ministry of Justice, may receive certain tax, customs and other benefits and incentives.

Companies with foreign participation (both EWFI and PEWFIs), which manufacture certain types of goods and export a certain percentage of their production, may be eligible for general tax incentives described in Sections 5.2.2 and 5.5.1 below.

By a special resolution of the Cabinet of Ministers, a company with foreign investment may be granted extra tax exemptions and other benefits, depending upon the importance of the company's project to the Government, the volume of the investment to be made, and other factors.



It should be noted that only enterprises registered with the Ministry of Justice are considered to be PEWFIs and enjoy the incentives granted by the Government exclusively for production enterprises with foreign investment.

A Presidential Resolution of 11 April 2005 stipulates that direct foreign investments (existing or new) in certain sectors of the economy (production of computer components, textiles, construction materials, dairy products, etc.), without the guarantee assurances of the Government of Uzbekistan, are entitled to tax holidays on profits, property, and certain other taxes provided that a number of other conditions are met, such as requirements to establish business in regions with an abundant labor force, and to reinvest income generated from such privileges into the development of this entity. The aforementioned tax exemptions are granted to qualifying companies with not less than 50% of foreign participation for a period ranging from 3 to 7 years depending on the size of direct private foreign investment.

### **3.3 Registration of Legal Entities**

#### **3.3.1 Charter Capital Requirements**

Procedures for registration (formation) of a legal entity that has foreign ownership differ for entities with over US\$ 150,000 of charter capital and those with less than US\$ 150,000 of charter capital. The former (*i.e.*, an EWFI) must be registered with (formed at) the Ministry of Justice of Uzbekistan or its territorial departments, while the latter (*i.e.*, a company with foreign participation (“CWFP”)) must be registered with (formed at) the local authorities - the local khokimiyats.

#### **3.3.2 Registration of a Legal Entity**

In order to improve procedures for state registration of companies in Uzbekistan (including companies with investment in foreign capital), the Cabinet of Ministers approved the “*Regulation on the Procedure of State Registration and Record of Business Entities and Issuance of Permits*,”<sup>6</sup> in 2003. This Regulation provides a unified checklist of registration documents, irrespective of the amount of foreign capital in the company.

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<sup>6</sup> Regulation on the Procedure of State Registration and Record of Business Entities and Issuance of Permits approved by the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan “On Principal Improvement of the Registration System for Organization of Business Activities” dated 20 August 2003, as amended.

In addition, this Regulation provides for a concept of registration under which most post-registration steps are carried out by the registering body simultaneously with the corporate registration of the company. In particular, the registering body completes the following registrations at the time of the company's corporate registration:

- Registration with tax and statistical agencies;
- Registration with pension, employment, social insurance and road funds;
- Obtaining a permit from the Ministry of Internal Affairs or its divisions for the company stamp and seal; and
- Other permits as may be necessary for business operations (registration of land plot, re-registration of residential premises into office premises, etc.).

In 2006, the President adopted the Regulation "*On Introduction of Notification Based State Registration and Record of Business Entities*,"<sup>7</sup> in accordance with which registration of most types of business entities is expedited and is subject to less scrutiny.

In order to register an EWFI with the Ministry of Justice or a CWFP with the local khokimiyat, the following documents must be submitted to the Ministry of Justice or its relevant territorial departments or to the local khokimiyat:

- Application for state registration;
- Two notarized originals of the foundation documents - either the charter and/or the foundation agreement, subject to the corporate form of the company. It should be noted that notarization of the foundation documents is not required for joint stock companies formed from state enterprises;
- Receipt for a deposit in Soum and hard currency temporary savings accounts as the initial payment of 30% of the charter capital, or (where the initial payment to the charter capital is made in the form of a property contribution) customs certificate confirming import of property or an independent evaluation of the intellectual property to be contributed to the charter capital;
- Receipt for payment of the state registration fee;

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<sup>7</sup> Regulation of President "On Introduction of Notification Based State Registration and Record of Business Entities" dated 24 May 2006.

- EWFI must pay an amount equal to five times the minimum monthly wage, plus an amount equal to US\$ 500. This fee must be paid in the national currency at the official Central Bank exchange rate. The receipt confirming official exchange of currency must be presented to the registering body. The fee for registration of a CWFP shall be established by local khokimiyats;
- Extract from the Trade Register of the foreign founder notarized and legalized in the country of origin by the consulate of the local Uzbek Embassy or (if there is no Uzbek Embassy) by the Ministry of Foreign Affairs of the country of origin and by the Embassy or Consulate of the country of origin in Uzbekistan, with further approval by the consulate department of the Uzbek Ministry of Foreign Affairs, unless the founder is registered in the country with which Uzbekistan has a special juridical cooperation treaty;
- Certificate of registration of the company's name, issued by the relevant statistical agency departments;
- Three samples of sketches of the company's stamp and seal; and
- A letter from the landlord or a certificate of ownership confirming the office address of the foreign enterprise.

The state registration of the company (including post registration procedures) must be completed within a period of two working days, commencing from the date of submission of the registration documents.

The registering body registers the company's foundation documents (the charter and/or the foundation agreement). The sealed and signed Certificate of Registration and registered originals of the foundation documents are issued by the registering body and given to the company, including documents confirming the post-registration procedures.

The company acquires the rights of a legal entity and is deemed to exist after state registration with the registering body (*i.e.*, the Ministry of Justice or its territorial departments, or the local khokimiyat).

In the event of a change in the company's official address, the company must, within ten days, send a notification letter to the registering body, tax, and statistical agencies.

In the event of changes in or amendments to the company's foundation documents, or its reorganization, the company must be re-registered. In the event of amendments to the foundation documents, the company must, within seven business days, submit to the registering body an application for re-registration, with all necessary documents attached. A re-registration fee in the amount of 50% of the initial registration fee must be paid. Change of an official address does not require any payment of a re-registration fee.

### **3.4 Annual Investment Program**

Every year the Government enacts an "Investment Program" listing those projects deemed to be of most significance to the Uzbek economy. These are usually limited to multi-million dollar investment projects involving PEWFIs. Contrary to the perception of many foreign investors, inclusion in the Investment Program does not automatically entitle a particular project to tax, currency conversion, or other incentives. Rather, projects included in the Investment Program are simply eligible for incentives at the discretion of the Government.

The Government may grant the following incentives to investors participating in the Investment Program: temporary tax holidays, a favorable tax regime, accelerated amortization of assets, customs preferences, and others. To obtain these benefits, a participant in the Investment Program is required to obtain a special Government resolution.

### **3.5 Free Industrial Economic Zone**

To attract direct foreign investments, the Decree of the President #UP-4059 dated 2 December 2008 established a free industrial economic zone ("FIEZ") in Navoi viloyat of Uzbekistan. This FIEZ includes a future international air hub which is currently being developed (Navoi airport) and the surrounding area. According to the aforementioned Decree, the FIEZ shall operate for 30 years with an option to extend this period. During the term of the FIEZ, a special tax, currency and customs regime shall be applicable to entities registered within the territory of the FIEZ. These entities are exempt from land, corporate profits, property and infrastructure tax, unified tax payments (for micro firms), school tax and payment to the Road Fund:

- for 7 years where direct investments range between 3 million and 10 million Euro;

- for 10 years where direct investments are between 10 million and 30 million Euro; and
- for 15 years where direct investments exceed 30 million Euro.

The entities are exempt from customs duties provided that manufactured products are fully exported. If products manufactured in the FIEZ are sold on the internal Uzbek market, customs duties will be applicable at 50% on those entities' imports.

## **4. CURRENCY REGULATIONS**

### **4.1 Exchange Controls**

The Soum has been fully convertible for current international transactions since the end of 2003. Specifically, the Cabinet of Ministers of Uzbekistan notified the International Monetary Fund ("IMF") that it accepted the obligations of Article VIII, Sections 2(a), 3 and 4, of the IMF *Articles of Agreement*, with effect from 15 October 2003. According to the IMF, Uzbekistan is the 157th of the IMF's 184 members to have accepted those obligations. As a result, all currency restrictions with respect to the export-import of products and services, the buying and selling of hard currency valuables (precious metals, jewelry checks, etc.), interest transfers, dividend payments from investments abroad, dividends and revenue payments abroad for investments in Uzbekistan, as well as certain other currency conversion restrictions, have been abolished. However, certain administrative difficulties in converting Soum to foreign currency for remittance abroad diminish the effect of currency liberalization in practice.

Uzbek legal entities may not hold bank accounts outside Uzbekistan without permission from the Central Bank. All settlements within Uzbekistan must be made in Soum, except for payments made by nonresidents for certain services in hard currency and some other limited instances established by the Cabinet of Ministers and Uzbek currency law.

### **4.2 Multiple Exchange Rates**

There are multiple exchange rates for the Soum. The first (the official rate) is fixed by the Central Bank of Uzbekistan. The second ( exchange rate) is traded through

the Republican Currency Exchange. The third (the OTC exchange rate) is used by authorized banks at the OTC currency exchange. The fourth (the black market rate) is illegal. Although the volume of currency exchanged on the black market has decreased significantly following the unification of exchange rates and permission of free exchange at exchange booths at the end of 2003, individuals regularly use the black market for currency exchange. The rates of exchange as of 1 January 2009 are:

Official rate: 1,394.90 Soum/US\$ 1;  
(Republican Currency Exchange Rate)

OTC rate: 1,402.00 Soum/US\$ 1.

Exchange booths' rates are usually slightly (1-5%) higher than the Official and OTC rates and on 1 January 2009 constituted 1,402.00-1,405.00 Soum/US\$ 1.

Black market rate is significantly higher (10-50%) than the Official, OTC and exchange booth rates. It varies significantly over the regions and may significantly fluctuate over a period of 1-2 days.

In practice, the Republican Currency Exchange and authorized banks are the only legal sellers of foreign currency. The official rate is fixed once a week by the Central Bank of Uzbekistan and this rate is used for tax, customs, and other official purposes (such as registration of companies with foreign investment or tax payments by nonresidents).

The OTC exchange rate was introduced on 1 July 2000. It is the rate used for the mandatory sale of 50% hard currency receipts, for servicing hard currency credits, and for current international transactions.

### **4.3 Cash Settlement Restrictions**

Settlements between businesses may be performed only through bank transfers, regardless of the type of business. The right of companies to retain petty cash is severely limited. Cash may be withdrawn from bank accounts only for specified purposes, including the payment of wages or benefits, and allowances for business trips.

The disbursement of cash by authorized banks for salary and wage payments is strictly regulated.

## 4.4 Mandatory Conversion of Hard Currency

Most enterprises are obliged to convert 50% of their gross foreign currency income arising from commercial activities related to the export of goods, work or services into Soum at the OTC exchange rate within five days of receipt.

The income to be converted may be reduced by specific foreign currency expenses including transportation, insurance, customs duties, commissions, interest on bank loans, and goods and services related to the production of exports. An exemption is also provided for reinvested revenues resulting from an increase in export or the export of scientific and technological equipment.

The mandatory conversion requirement is applicable to all Uzbek companies (including joint ventures), as well as wholly owned subsidiaries of foreign companies excluding small enterprises exporting own made goods and services which are exempt from mandatory conversion of hard currency receipts. For the purpose of mandatory currency conversion, all monies entering an entity's bank account from export operations are deemed receipts subject to this conversion requirement.

Enterprises with a 50% or more foreign investment share in their charter capital and producing consumer goods are exempt from mandatory conversion of their hard currency receipts for a period of five years from the moment of corporate registration, provided that the share of proceeds from consumer goods is more than 60% of the total revenue of an enterprise. Also, a foreign company's hard currency contribution to the charter capital of an Uzbek joint venture or a foreign company's transfer to the account of its Uzbek representative office to pay for expenses will not be subject to mandatory conversion. Legislation does not mandate conversion of hard currency local earnings (non-export) in those exceptional circumstances in which payment for goods or services provided in Uzbekistan can be made in hard currency. There are special requirements on mandatory conversion of hard currency for cotton export-related activities. But it is recommended that the appropriate authorities be contacted in order to verify the absence of such a conversion requirement in a particular situation.

## 4.5 Converting Local Currency into Hard Currency

As permitted under Section 3 of Article VI of the *IMF Articles of Agreement*, the Government has not extended free convertibility to capital account transactions.

Such transactions (sometimes called operations with capital movement) include investment payments (including long and short-term credits), loans, and the purchase /sale of real estate and securities. Such transactions have to be registered with the Central Bank of Uzbekistan prior to being carried out.

In order to obtain hard currency, a company's authorized bank must, after internal approval of the application, submit an application for currency conversion to the Currency Exchange. The application must specify the exact uses of the hard currency; it cannot be an application for hard currency to be used for general unspecified purposes. A right to convert currency is granted on a case-by-case basis. However, before submitting the application, the company's bank must submit its expert opinion on the application to the Republican Currency Exchange for review. The decision taken by the Currency Exchange is based upon the amount of the country's hard currency reserves, the country's anticipated needs for those reserves, and the merits of the particular application. There is no assurance that the decision will be favorable, no matter how strong the merits. Moreover, in practice, companies engaged in importing consumer goods have been experiencing long delays in obtaining hard currency. This problem has been aggravated in the wake of the global financial crisis which has caused a lack of hard currency inflow to Uzbekistan currency reserves.

## **5. TAXATION**

### **5.1 Principal Taxes**

The main legislation governing taxation in Uzbekistan is the Tax Code, which entered into force on 1 January 2008. Current Uzbek taxes of most interest to foreign investors include the following:

#### **State Taxes:**

- Corporate profits (income) tax;
- Individual income tax;
- Value-added tax;
- Excise tax;



- Subsoil use tax;
- Water use tax;
- Payment to Road Fund;
- Social payment; and
- School tax.

#### Local Taxes and Collections:

- Property tax;
- Land tax; and
- Miscellaneous taxes and collections.

## 5.2 Corporate Profits (Income) Tax

### 5.2.1 Status of Taxpayers

Legal entities founded or registered in Uzbekistan are deemed to be residents of Uzbekistan for tax purposes. They are taxed on their profits gained from Uzbekistan and offshore sources.

Nonresident legal entities operating in Uzbekistan through a permanent establishment pay tax on profits from sources in Uzbekistan associated with the permanent establishment, reduced by the amount of deductions stipulated under the Tax Code in relation to such profit.

Nonresident legal entities' Uzbekistan-source profit which is not associated with a permanent establishment is subject to the tax at the source of payment (*i.e.* withholding tax) without deductions (see Section 5.2.3 below).

### 5.2.2 Applicable Tax Rates

The general corporate profits tax rate in 2009 is 10%.

Certain entities receive the following preferential corporate profits tax treatment:

- a 50% profits tax reduction where the company exports 30% or more of the total sales volume of its products, work or services; and

- a 30% profits tax reduction where the company exports from 15% to 30% of the total sales volume of its products, work or services.

Repatriation of profits of a permanent establishment of a nonresident legal entity is subject to a 10% tax.

A Presidential Decree of 20 June 2005<sup>8</sup> introduced a Unified Tax Payment for micro-firms and small businesses, with certain exceptions. The general rate of this Unified Tax Payment is 10%. In addition to a Unified Tax Payment, micro-firms and small businesses are subject to withholding tax, VAT on services rendered to nonresidents, excise tax, social payments and other certain taxes and collections.

### 5.2.3 Withholding Taxes

Uzbekistan-source income not connected to the activities of a permanent establishment in Uzbekistan is subject to withholding taxes. Such income is taxed at source irrespective of whether the payment was made within or outside Uzbekistan, and the taxable base is comprised of the aggregate income without deductions. Income which relates to activities or services performed outside Uzbekistan is not subject to withholding taxes. The table below summarizes the rates of withholding tax.

**Table 1: Withholding Tax Rates**

Income Source	Withholding Tax Rate
Dividend and interest	10%
Insurance premiums paid for insurance or reinsurance of risks	10%
Telecommunication and freight activities	6%
Royalties, rent, incomes from services provided, including management services, consulting fees, and other incomes except for those already taxed	20%

Withholding tax rates may be reduced by applicable international treaties (see Section 5.7 below).

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<sup>8</sup> Decree of the President of the Republic of Uzbekistan “On Additional Measures to Stimulate Development of Micro-Firms and Small Business” dated 20 June 2005, as amended.

## 5.2.4 Taxable Base

In calculating corporate profits tax, the taxable basis comprises total revenues from sales (of products, work or services, and other income) reduced by the amount of allowable deductions. Deductibility of certain costs is limited by law.

## 5.2.5 Reductions

Taxable profit for corporate profits tax purposes may be reduced by the following amounts:

- Contributions to environmental and charitable funds - up to 1% of taxable profit;
- Costs allocated to the development, expansion and reconstruction of premises used for production purposes - up to 30% of taxable profit;
- Costs allocated to modernization of production and acquisition of new technological equipment, and repayment of loans taken for said purposes within three years of the date such costs are incurred; and
- Dividends due from shares (participation interests) in other legal entities if directed by the recipient to its own capitalization, investments and repayment of loans, if such dividends are paid between 1 January 2009 and 1 January 2014.

## 5.2.6 Deduction of Losses

For corporate profits tax purposes losses from the sale of fixed assets used in business activity for more than three years are deductible from the aggregate income. Losses may, with certain limitations, be carried forward for up to 5 years.

## 5.2.7 Depreciation

For corporate profits tax purposes, the maximum depreciation rates are as follows:

**Table 2: Depreciation Rates**

<b>Group of Fixed Assets</b>	<b>Depreciation Norm</b>
Cars, motorized tractor technology for use on roads, special tools, inventory, accessories, computers and computer equipment	20%
Trucks, buses, specialist vehicles and trailers, machinery, industrial equipment, forging and pressing machinery, construction and agricultural machinery, and equipment and office furniture	15%
Rail, sea, river and air transport, power and heating equipment, electric and turbine equipment, electricity transmission and communications devices, and pipelines	8%
Buildings, constructions and structures	5%
Depreciable assets not included in the above groups	10%

## 5.2.8 Declarations and Payments

The financial year is the calendar year for corporate profits tax purposes. Most legal entities are required to file a tax declaration and financial statements with the tax authorities by 15 February of the following year.

Representative offices of nonresident legal entities and EWFIs are required to file a tax return with the tax authorities by 25 March of the following year.

## 5.2.9 Tax on Repatriation of Income of Permanent Establishments

In addition to profits (income) tax, a permanent establishment of a nonresident legal entity must pay a 10% tax on all profit (income) which it transfers abroad. This tax may be reduced by double tax treaties to which Uzbekistan is a party.

## 5.3 Individual Taxation

### 5.3.1 Status of Taxpayers

Individuals who are physically present in Uzbekistan for 183 days or more in any calendar year (or during any other period of up to 12 months), are considered to

be residents of Uzbekistan for tax purposes. Resident taxpayers are subject to income tax on income gained from sources of their activity both in Uzbekistan and abroad. Nonresidents, however, are taxed only on their income from sources in Uzbekistan.

Certain types of income are exempt from taxation. Such income includes, *inter alia*, alimony, severance pay, and pension income.

### 5.3.2 Rates

Individual income tax is currently payable at the following rates:

<b>Taxable income (less the nontaxable minimum wage)</b>	<b>Tax</b>
Up to six times the minimum monthly wage (MMW) (approximately USD 120)	12%
From six (+1 Soum) to ten times the MMW (approximately USD 200)	Tax on 6 MMW + 17% of the excess
Ten times (+1 Soum) the MMW and greater	Tax on 10 MMW + 23% of the excess

It should be noted that the level of taxable income changes regularly as the nontaxable minimum monthly wage (MMW) is frequently revised. As of 1 January 2009, the minimum monthly wage is 28,040 Soums (approximately, USD 20).

The income tax rate for female employees whose employment involves work in hard or harmful conditions cannot exceed 20%.

Certain types of income (*e.g.*, dividends on shares (participation interests) in small businesses) are exempt from individual income tax.

### 5.3.3 Obligatory Contributions Payable to the Social Funds

As of 1 January 2009, employers are required to pay a unified social tax at a rate of 24%. The tax is distributed to the various social funds as follows:

**Table 3: Social Funds Contributions**

<b>Social Fund</b>	<b>Rate</b>
Pension Fund	23.6 % of the employee's gross salary (plus an additional 0.7% from receipts from products sold or the work and services rendered by that enterprise)
Employment Fund	0.2 %
Trade Union Federation Council	0.2%

The unified social tax is paid by employers.

Employees must pay contributions to the Pension Fund at the rate of 3.5% of salary. This requirement applies to Uzbek citizens and foreign nationals permanently residing in Uzbekistan. Other foreigners are exempt from those contributions. The employer is required to withhold these contributions from the employee's salary.

In accordance with the Law *On Accumulative Pension System*,<sup>9</sup> employers and employees working under a labor agreement must participate in the accumulative pension system, while individual businesses and farms without a legal entity status can join the system voluntarily. Employees participating in the accumulative pension system are entitled to receive accumulated contributions to the Pension Fund after they reach retirement age and meet other retirement criteria.

### 5.3.4 Declaration and Payments

A resident individual in receipt of income that is not from his principal place of work (whether from sources in Uzbekistan or abroad) is required to submit a declaration of aggregate annual income to the tax agency at his place of permanent residence no later than 1 April of the year following the year in which the income was received. Individuals who, in the previous calendar year, have only received income from their employment at their principal place of work, service or study, are not required to submit declarations of the income received in that year.

A foreign individual who becomes a resident before 1 April of any year must submit a declaration of income for the previous year. Should the foreign individual terminate

<sup>9</sup> Law of the Republic of Uzbekistan "On Accumulative Pension Security of Citizens" dated 2 December 2004.

his or her activity and leave Uzbekistan within a calendar year, a declaration of income actually received must be submitted no later than one month before his or her departure.

An individual receiving rent payments must submit a declaration of income and expenditure:

- Within 5 days of the end of the first month from the date on which such income arose; and
- By 15 January of the year following the accounting year.

## **5.4 Other State Taxes**

### **5.4.1 Value-Added Tax**

Value-added tax (“VAT”) is a tax on the value added in the course of the production, sale, and import of goods, work, and services. VAT is payable on turnover related to the sale, export, and import of goods, work, and services. The VAT rate is 20%.

### **5.4.2 Excise Tax**

The types of goods subject to an excise tax, and the applicable rates of this tax are determined by the Cabinet of Ministers.

The excise tax is not levied on the export of goods, work, and services, except to those countries that impose the same tax regime on goods, work, and services exported to Uzbekistan.

Excise tax on exports and imports is discussed in Section 10 below.

### **5.4.3 Subsoil Use Tax**

The Cabinet of Ministers establishes the rates of a subsoil use tax which applies to entities which produce minerals. The rates of this tax vary depending on the type of minerals produced.

#### 5.4.4 School Tax

A Resolution of the Cabinet of Ministers of 28 December 2004 requires all legal entities to pay a tax equal to 1% (reduced by VAT and applicable excise tax amounts) of their annual turnover to the Non-budgetary Fund for School Education Development.

#### 5.4.5 Road Tax

Every legal entity in Uzbekistan must generally pay 1% (with certain variations for different businesses) of their annual turnover to the Road Fund. This tax is intended for development of roads and highways in Uzbekistan.

#### 5.4.6 Water Use Tax

The Cabinet of Ministers fixes the rates of a water use tax. This tax applies to legal entities that use water in their activities for production and technical needs.

### 5.5 Local Taxes and Collections

Both legal entities and individuals are subject to numerous local taxes and collections including those discussed below.

#### 5.5.1 Property Tax

A corporate property tax applies at the rate of 3.5% on the annual average depreciated value of:

- all fixed capital assets; and
- all intangible assets.

There are a number of tax exemptions and benefits. For example, export-oriented entities enjoy the following preferential property tax treatment:

- a 50% property tax reduction where the company's exports represent 30% or more of the total sales volume of its products, work, or services;
- a 30% property tax reduction where the company's exports represent 15% to 30% of the total sales volume of its products, work, or services.



The property of representative offices of foreign legal entities is exempt from property tax.

Property of individuals is taxed at a rate of 0.5%.

## 5.5.2 Land Tax

The land tax is paid at the rates fixed by the Decree of the President of Uzbekistan and varies depending on the type of land.

## 5.5.3 Miscellaneous Taxes

Various local taxes, charges, and fees are payable in the autonomous Republic of Karakalpakstan, the viloyats, and the City of Tashkent including the following:

**Table 4: Local Tax Rates**

<b>Taxes</b>	<b>Marginal rates</b>
Tax on use of gasoline and diesel	120 Soums (approximately, USD 0.09) per liter
Tax on use of gas	120 Soums (approximately, USD 0.09) per kg
Infrastructure development tax	8% of the net profit of the enterprise
Licensing fee on the right to trade spirits	5 MMW (approximately, USD 100) per month of trade
Charge for the right to trade in jewelry and precious metal products	3.5 MMW (approximately, USD 70) per month of trade
Charge for right to render toll parking services	8 MMW (approximately, USD 160) per month

## 5.6 Penalties

Breaches of tax legislation may result in the following penalties (among others):

- in the event of concealing of income (profit), a fine in the entire amount of income (profit) concealed will be imposed on the taxpayer;
- a penalty of 1% per day on the relevant tax due is applied for a failure to file (or for late or incomplete filing of) tax returns. This penalty is limited to a total of 10% of the tax due;

- for engaging in licensed type of activity without a license, a fine in the amount equal to all income (profit) gained from such activity; and
- a penalty of 0.05% of total taxes due is applied for each day of delay in payment of taxes and fees.

Entities not registered with the tax authorities in a timely manner are subject to the following sanctions:

- where activities were performed for any period for up to 30 days without registration with the tax authorities, a penalty of 50 times the MMW (approximately, USD 1,000) (but not less than 10% of income) becomes due; and
- where activities were performed for more than 30 days without registration with the tax authorities, a penalty of 100 times the MMW (approximately, USD 2,000) (but not less than 50% of income) becomes due.

Where a taxpayer commits several breaches of tax legislation, financial sanctions are applied separately in respect of each breach.

## **5.7 Double Taxation Treaties**

As of 1 January 2009, Uzbekistan is a signatory to double taxation treaties with 46 countries, 45 of which are currently in effect. A foreign legal entity which is entitled to receive a full or partial tax exemption under a double taxation treaty must submit to the Uzbek tax authorities, among other things, an official legalized tax residency certificate in the country which concluded the relevant double taxation treaty with Uzbekistan. The documents may be submitted to the tax authorities either prior to the payment of tax or within a year of payment becoming due. A foreign bank institution seeking tax exemption under a double taxation treaty is not required to file a certificate of residency provided that its residency can be identified through publicly available information.

Below is a table listing countries with which Uzbekistan has entered into double taxation treaties, showing dates of signing and entering into force, and indicating the reduced rates of income tax applicable under the treaties in relation to certain categories of income.<sup>10</sup>

**Table 5: Double Taxation Treaties**

<b>Country</b>	<b>Date of Signing</b>	<b>Date of Entering into Force</b>	<b>Dividends<sup>11</sup> (%)</b>	<b>Interest (%)</b>	<b>Royalties (%)</b>
Austria	14/07/00	1/08/01	5 / 10 15	10	5
Azerbaijan	27/05/96	2/11/96	10	10	10
Belarus	22/12/94	11/01/97	15	10	15
Belgium	14/11/96	8/08/99	5 / 10 15	10	5
Bulgaria	24/11/03	21/10/04	10	10	10
Canada	17/06/99	14/09/00	5 / 10 15	10	10

<sup>10</sup> The reduction of income tax rates under most treaties is allowable only upon satisfaction of certain conditions. For example, income tax in relation to royalties under the treaty with the Netherlands may be reduced only if the recipient is the actual owner of royalties. Therefore, the relevant treaty and circumstances at hand must be examined in each particular case in order to ascertain whether a certain category of income is subject to taxation at a reduced rate.

<sup>11</sup> Under certain treaties, the rate of tax in relation to dividends may vary depending on the amount of the charter capital (voting stock, share, interest, etc.) held by the recipient of dividends in the company paying them. For example, under the treaty with the Netherlands, the rate of income tax on dividends should be 5% of the gross amount of dividends if the beneficial owner of the dividends holds directly or indirectly at least 25% of the charter capital of the company paying the dividends; in all other cases the dividends will be taxed at the rate of 15%. Therefore, the relevant treaty and circumstances at hand must be examined in each particular case in order to determine the applicable tax rate with respect to dividends. Following a slash in the table we indicate the minimum amount of the charter capital that must be owned by the recipient of dividends in order to use the reduced rate of tax indicated before the slash; after that we indicate the tax rate which is applicable if the recipient owns less than the mentioned minimum amount of the charter capital.

Country	Date of Signing	Date of Entering into Force	Dividends	Interest (%)	Royalties (%)
China	3/07/96	3/08/96	10	10	10
Czech Republic	2/03/00	15/01/01	10	5	10
Egypt	21/09/99	Not in force	Not available ("n/a")*	n/a*	n/a*
Finland	9/04/98	7/02/99	5 / 10 15	5	5-10 (depending on the type of IP rights )
France	22/04/96	1/10/03	5 / 10 10	5	0
Georgia	28/05/96	20/10/97	5 / 25 15	10	10
Germany	7/09/99	14/12/01	5 / 25 15	5	3-5 (depending on the type of IP rights)
Greece	1/04/97	15/01/99	8	10	8
Hungary	17/04/08	4/07/08	n/a*	n/a*	n/a*
India	29/07/93	25/01/94	15	15	15
Indonesia	27/08/96	11/11/98	10	10	10
Iran	26/04/02	18/01/05	8	10	5
Israel	15/09/98	9/03/99	10	10	5-10 (depending on the type of IP rights )
Italy	21/11/00	26/05/04	10	5	5
Japan	18/01/86	18/01/86	15	10	0-10 (depending on the type of IP rights )
Kazakhstan	12/06/96	21/03/97	10	10	10
Korea	11/02/98	25/12/98	5 / 25 15	5	2-5 (depending on the type of IP rights )
Kuwait	19/01/04	3/05/06	5 / 25 10	8	20
Kyrgyzstan	24/12/96	17/03/00	5	5	15
Latvia	3/07/98	23/10/98	10	10	10
Lithuania	18/02/02	11/11/02	10	10	10

Country	Date of Signing	Date of Entering into Force	Dividends	Interest (%)	Royalties (%)
Luxembourg	2/07/97	1/09/00	5 / 25 15	10	5
Malaysia	6/10/97	10/08/99	10	10	10
Moldova	30/03/95	28/11/95	5 / 10 15	10	15
Netherlands	18/10/01	27/05/02	5 / 25 15	10	10
Pakistan	22/05/95	12/09/96	10	10	15
Poland	11/01/95	29/04/95	5 / 20 15	10	10
Portugal	11/01/01	20/02/03	10 / 30 15	10	10
Romania	6/06/96	17/10/97	10	10	10
Russia	2/03/94	27/07/95	10	10	0
Singapore	24/07/08	12/09/08	n/a*	n/a*	n/a*
Slovakia	6/03/03	20/10/03	10	10	10
Switzerland	3/04/02	15/08/03	5 / 20 15	5	5
Thailand	23/04/99	21/07/99	10	10 (for financial institutions)	15
Turkey	8/05/96	30/09/97	10	10	10
Turkmenistan	16/01/96	27/11/96	10	10	10
Ukraine	10/11/94	13/08/95	10	10	10
United Kingdom	15/10/93	10/06/94	5 / 10 10	5	5
United Arab Emirates	26/10/07	20/12/07	n/a*	n/a*	n/a*
Vietnam	28/03/96	16/08/96	15	10	15
* The text of the Treaty has not been published yet and therefore no information as to the rates was available at the time of preparing of this brochure.					

## **5.8 Export and Import Taxes**

### **5.8.1 Export Duties**

Customs duties were abolished on the export of all kinds of goods, work, and services from 1 November 1997.

The Tax Code provides that VAT is imposed on goods exported from Uzbekistan at a rate of 0%.

An excise tax is not imposed on excisable goods exported by manufacturers except for certain goods determined by the Government.

### **5.8.2 Import Customs Duties**

Import customs duties are only applicable to those goods determined by the Government. Customs duties are paid in Soum before or during customs clearance of the goods. The amount of duty to be paid is generally calculated on the basis of the contract price.

Property brought into Uzbekistan by an EWFI for its own needs is exempt from customs duties, provided that the share of foreign investment in the EWFI comprises not less than 33% of its charter capital. The personal property of an EWFI's foreign employees is also exempt from customs duties.

### **5.8.3 VAT on Imports**

A 20% VAT applies to most goods and materials imported into Uzbekistan.

The VAT is paid in Soum before or during customs clearance of the goods. Generally, the taxable base is the customs value of imported products plus customs duties and excise tax (where it applies).

Most equipment and materials imported by legal entities (including nonresidents of Uzbekistan) using funds, loans, or grants provided by international and foreign governmental, financial, and economic organizations under treaties or agreements concluded by Uzbekistan are exempt from the VAT. Imported technological equipment included on a specified list is also exempt from VAT on import. However, should exempted equipment be sold or transferred free of charge within three years from the date of import, VAT on import would apply retroactively.

#### 5.8.4 Excise Tax on Imports

An excise tax is imposed on certain types of imported goods; the rate of this tax varies depending on the type of goods.

## 6. EMPLOYMENT

### 6.1 Introduction

The employment of nationals and foreign citizens in Uzbekistan is regulated by the *Labor Code*.<sup>12</sup> Labor relations are regulated by collective agreements and individual employment contracts. Employment contracts must meet the standards prescribed by Uzbek law. Foreign and local companies may hire employees directly, without using employment or recruitment agencies.

### 6.2 Workbooks

Uzbek nationals must provide an employer with a workbook containing their personal details and a record of their past and current work history. The workbook is issued for the purpose of determining the amount to be paid from the State Social Insurance Fund for an employee's temporary illness or disability, and for determining an employee's rights to a state pension. Where an employee does not have a workbook, the employer is obliged to supply a new one within five days of commencing employment.

### 6.3 Probationary Period

An employment contract may include a probationary period which cannot exceed three months.

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<sup>12</sup> Labor Code of the Republic of Uzbekistan dated 21 December 1995, as amended.

## **6.4 Minimum Wage**

Wages may not be lower than the minimum monthly wage. As of 1 January 2009, the minimum monthly wage is 28,040 Soums (approximately US\$ 19.9 at the official exchange rate). The Government usually increases the MMW several times per year.

## **6.5 Working Week**

The regular working week is 40 hours. Overtime work may be allowed only with the employee's consent. There are certain categories of work where overtime work is not permissible. Overtime work may not exceed four hours within two days or exceed 120 hours within one year. Overtime work must be compensated at a rate of at least 200% of the employee's regular wage.

## **6.6 Holidays**

Uzbekistan has nine official public holidays. The minimum paid annual leave is 15 working days, at least 12 days of which must be used by the employee at one single time.

## **6.7 Sick Leave**

An employer is not obliged to pay for an employee's leave of absence due to temporary illness or disability, however, in practice most employers provide paid leave of absence to their employees for a limited period of days per year.

## **6.8 Maternity Leave**

Maternity leave is paid for no less than 70 days prior to the birth and 56 days following the birth (up to 70 days in certain cases). Maternity leave is paid for by the employer at the employee's normal salary level but it is effectively reimbursed to the employer through deductions from contributions due to the State Social Insurance Fund by the employer.



## **6.9 Cost of Employment**

Information on mandatory Social Fund contributions for employees and employers is given in Section 5.3.3 above.

### **6.10 Foreign Workers in Uzbekistan**

Companies with foreign employees in Uzbekistan must obtain a foreign labor license from the Agency on Foreign Labor Migration Issues (the “Agency”). The license authorizes the company to engage foreign work force. A licensed company must also obtain a work permit (confirmation) from the Agency for each foreign employee. The permit allows a specific foreign employee to work in Uzbekistan.

The Agency is obliged to issue a foreign labor license within 30 days from the date of submission of all necessary documents. The procedure for issuing work permits for foreign employees is similar to the procedure for obtaining foreign labor licenses.

A foreign labor license and/or employee’s work permit are valid for no more than one year. The fee for a foreign labor license is ten times the minimum monthly wage (*i.e.*, 280,040 Soums). There is no fee for an employee’s work permit.

Foreigners working in representative offices are excluded from the foreign labor license and work permit requirements. However, each foreigner working in a representative office is required to obtain an individual accreditation card from the Agency for Foreign Economic Relations.

## **7. PROPERTY RIGHTS**

### **7.1 General Provisions**

The fundamental laws governing matters relating to real property and real property rights are the *Constitution*,<sup>13</sup> the *Property Law*,<sup>14</sup> the *Civil Code*, the *Land Code*,<sup>15</sup> the *Urban-Planning Code*,<sup>16</sup> and the *Housing Code*.<sup>17</sup>

An owner of real property may (at his own discretion) possess, use, and dispose of that property, as well as the rights to the objects of ownership in his possession. Such objects of ownership in Uzbekistan include: land, subsoil, movable and immovable property, intellectual property rights, money, and securities.

### **7.2 Limitations on Ownership of Land**

The ability to own land (*i.e.*, to have the right to possess, use, and dispose of land) is, in practice, very limited in Uzbekistan.

Legal entities and individuals (including foreigners) may own the land plots beneath small trading and service facilities (*e.g.*, small shops). Individuals and legal entities (both Uzbek and in certain cases foreign) also may own apartments and houses, including the underlying land plot. Uzbek and, in certain cases, foreign citizens, may own small land plots for personal farming, gardening, and dacha construction.

Although the *Land Code* provides the possibility for legal entities (including foreign legal entities) to own land, in practice, ownership of a land plot beneath a medium-sized or large enterprise is not permitted without the authority of a Cabinet of Ministers Resolution or a Presidential Decree. At the time of publication, the only exception to this is with regard to diplomatic representations. Under the Decree

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<sup>13</sup> Constitution of the Republic of Uzbekistan adopted 8 December 1992, as amended.

<sup>14</sup> Law “On Property in the Republic of Uzbekistan” dated 31 October 1990, as amended.

<sup>15</sup> Land Code of the Republic of Uzbekistan dated 30 April 1998, as amended.

<sup>16</sup> Urban-Planning Code of the Republic of Uzbekistan dated 4 April 2002, as amended.

<sup>17</sup> Housing Code of the Republic of Uzbekistan dated 1 April 1999, as amended.

*“On Additional Measures for the Improvement of Activity Conditions of Diplomatic Representations and International Organizations in the Republic of Uzbekistan,”*<sup>18</sup> diplomatic representations may own land in Uzbekistan; however they may do so only for the construction of diplomatic representation buildings, and the construction of residences for heads of diplomatic representations.

Rather than full ownership of land, the enterprise or individual owner (Uzbek or foreign) of an enterprise is typically granted permanent or temporary land use or lease rights. A permanent or temporary land use or lease right includes the right to possess and use the land, but not the right to dispose of it; the state is the ultimate owner of the land subject to permanent use rights. The land use rights of the seller of a structure are transferred, along with any transfer of ownership of the structure.

However, in 2006, the President adopted a Decree *“On Privatization of Land Plots Occupied by Citizens’ and Legal Entities’ Buildings and Structures”*, purporting to permit privatization of land plots underneath buildings and other structures owned by resident individuals and legal entities. The scope of such privatization does not cover vacant land plots or the land plot itself, which cannot be privatized. According to the Decree, all permanent and temporary land use rights shall be either privatized into ownership or converted into long-term leases. The Decree is very general and further legislation is to be adopted to clarify those issues. To date no such implementing legislation has been adopted and therefore the prospects of land privatization are unclear.

The *Law On Foreign Investments* states that foreign investors are entitled to acquire ownership rights to facilities in the commercial and service sectors, and residential premises, together with the land plots on which they are situated, the rights of possession and use of land (including on a lease basis), and natural resources. Land may be leased to foreign investors on the basis of an agreement with the Cabinet of Ministers, for a period of not less than 30 years and not more than 50 years.

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<sup>18</sup> Decree of the President of the Republic of Uzbekistan *“On Additional Measures for the Improvement of Activity Conditions of Diplomatic Representations and International Organizations in the Republic of Uzbekistan”* dated 14 November 1995.

## 7.3 Securing Obligations

While the legal right to mortgage (pledge) real property rights as security for mortgagors' obligations exists in Uzbekistan, the relevant legislation is limited and inconsistent, and the practice of doing so is largely untested.

The *Civil Code* permits a debtor to mortgage a building or construction only with the simultaneous mortgage of the underlying land plot.

It should be noted that the provisions of the *Land Code* conflict with the foregoing rights to mortgage land, stating that a mortgage of land by the possessors and users of land is invalid, although it specifically permits the mortgage of a land plot lease. The *Land Code* does not prohibit the mortgage of land by the owner, but, as noted above, in practice the ability to own land in Uzbekistan is very limited.

The *Civil Code* also permits an entire enterprise or other property complex (including both movable and immovable property) to be mortgaged as a whole. However, legislation on the registration of mortgages of enterprises as a whole has not been adopted and, in practice, the assets of an enterprise can be registered only separately rather than as a whole.

## 8. SPECIFIC INDUSTRIES

### 8.1 Mining, Oil and Gas

Under the *Constitution*, subsoil, minerals, and land are the exclusive property of the State. The mining industry of Uzbekistan is regulated by national laws and implementing regulations. The *Subsoil Law*<sup>19</sup> and the *PSA Law*<sup>20</sup> regulate legal issues pertaining to the use, possession, and disposal of subsoil resources in Uzbekistan. In particular, the *Subsoil Law* establishes the general procedure for obtaining a subsoil license, outlines the relevant regulatory authorities and the scope of their rights, and contains provisions regulating subsoil ownership and use. Mining rights are granted by the Cabinet of

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<sup>19</sup> Law "On Subsoil" dated 13 December 2002 (new edition), as amended.

<sup>20</sup> Law "On Production Sharing Agreements" dated 7 December 2001, as amended.

Ministers of Uzbekistan, represented by the State Committee of the Republic of Uzbekistan on Geology and Natural Resources (the “**Geology Committee**”), on the basis of subsoil use licenses awarded by Geology Committee as a result of tenders or direct negotiations with legal entities and individuals. The Geology Committee, being a principal regulatory body, establishes the terms of and conducts tenders for the grant of subsoil use rights and represents the State in negotiation, execution and monitoring of implementation and compliance with and termination of subsoil use licenses. A subsoil user must sign a Licensing Agreement with the Geology Committee which defines the terms and conditions of subsoil use.

### 8.1.1 Concession Activity

Pursuant to the *Concessions Law*,<sup>21</sup> a concession is a permit issued on behalf of the state to a foreign investor, allowing the latter to engage in a specific type of business activity relating to property, land and subsoil on the basis of a concession agreement.

Despite the fact that the land and subsoil of Uzbekistan are the exclusive property of the state, in cases of strategic necessity, importance and economic expedience for the country, the state may assign the rights to possess and use such property to a concessionaire, at the same time reserving the exclusive right to dispose of the concession property.

Under Uzbek law, the supreme state agency authorized to act as the subject of concession-related relations at law is the Government of Uzbekistan, which may, in its turn, authorize state entities to act on behalf of the Government on concession-related issues.

### 8.1.2 Production Sharing

The *PSA Law* governs relations arising from the conclusion, enforcement and termination of a production sharing agreement (“**PSA**”) between the Government and an investor with respect to the search, exploration, and exploitation of oil, gas, and other mineral resources in Uzbekistan.

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<sup>21</sup> Law “*On Concessions*” dated 30 August 1995.

Under a PSA, the Government grants, on a compensable basis and for a definite term, the exclusive rights to search, explore, and exploit mineral resources on the indicated subsoil area.

Under the *PSA Law*, in exchange for relief from some types of taxes, the investor agrees to give the state a share of the resources that it produces. The investor may pay the state in products or in the form of proceeds from actual sales. The state's share of these resources consists of a royalty (based on a percentage of gross production), and a portion of "profit production." Profit production is defined as the production in excess of the compensation amounts of extracted resources given to the state and the investor, as well as subsoil use fees (*i.e.*, royalties and bonuses).

The *PSA Law* provides the following major guarantees to an investor:

- The ownership right to its share of profit production and the right to export such share freely, without quotas;
- A special legislative "stabilization" clause, providing that should the commercial terms of the PSA become less favorable as a result of subsequent Uzbek legislation, the terms of the PSA will apply. However, this provision does not apply to changes in law relating to safety standards for equipment and work, protection of the subsurface and the environment or health measures; and
- The right to refer disputes to international arbitration.

The *PSA Law* subjects an investor to corporate profits tax, land tax, tax on the use of water resources, a one-time paid fee (bonus) and regular fees for subsoil use (royalty) excluding excess profit tax, unified social insurance payment and excise tax.

## 8.2 Telecommunications

The main statutory acts governing telecommunications activities are the *Telecommunications Law*<sup>22</sup> and the *Informatization Law*.<sup>23</sup> The Agency on Communication

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<sup>22</sup> Law "On Telecommunications" dated 20 August 1999, as amended.

<sup>23</sup> Law "On Informatization" dated 11 December 2003.

and Informatization (“UzACI”) is the authorized state body for administering and regulating telecommunication activities, and is authorized to license activities related to the fulfillment of design, construction, use and rendering services.

## 9. LICENSES

Many activities are subject to licensing in Uzbekistan. The Resolution of the Oliy Majlis “*On the List of Types of Activities Subject to Licensing*,”<sup>24</sup> and the Resolution of the Cabinet of Ministers “*On Measures for the Implementation of Law of the Republic of Uzbekistan on Licensing of Certain Types of Activities*,”<sup>25</sup> constitute the principal legislation in this field.

It should be noted that a number of other types of activities are also subject to licensing requirements (or other government approvals) in accordance with legislation specifically regulating those activities. Examples include banking, import/export activities (see Section 10 below), and certain construction activities.

**Table 6: Licensing Authorities**

<b>Activities Subject to Licensing</b>
<b>State Licensing Authority: Cabinet of Ministers</b>
Development, production, repair and sale of arms and ammunition, protective devices, military equipment and components and instruments (unless used for other purposes), as well as special materials and equipment for their manufacture
Development, production, transport and sale of explosives and toxic substances or articles using the above
Production and sale of protective devices against military poisons

<sup>24</sup> Resolution of the Oliy Majlis “*On the List of Types of Activities Subject to Licensing*” No. 222-11 dated 12 May 2001, as amended.

<sup>25</sup> Resolution of the Cabinet of Ministers “*On Measures for the Implementation of Law of the Republic of Uzbekistan “On Licensing of Certain Types of Activities”*” No. 236 dated 28 June 2002, as amended.

Research and development activities in the area of use of ionizing radiation sources, including design, construction, production and service of technological equipment for ionizing radiation sources, and means of protection against radiation
Extraction, production, excavation, processing, use, storage, service, transport, neutralization, utilization and disposal of ionizing radiation sources
Design, construction, operation and repair of gas main pipelines, oil and oil products' pipelines
Design, construction, operation and repair of bridges and tunnels
Design, construction, operation and repair of defense objects
Transportation of passengers and cargo by railway transport of local and international lines
Transportation of passengers and cargo by airway transport of local and international airlines
Service of aircrafts in airports engaged in rendering air services
Performance of aviation works
Production of electric power by power plants connected to the integrated power system
Liquidation (destruction, recycling, discharge) and processing of surplus military equipment
Production, refining and sale of oil, gas and gas condensate
Production of precious and rare metals and stones
Production and processing of recycled resources and waste containing precious metals and stones
Design, construction and operation of high-risk and potentially dangerous projects
Production of films and TV programs related to documentaries, popular science or animation
Copying and sale of cinema and video programs
Video product rental
Geoseismic and cartographic activity



Activities of non-State educational institutions
Activities of religious educational institutions
Manufacture of jewelry from precious metals and stones
Tourism
Publishing
Tobacco sweating and production of goods with tobacco
Sale of oil products (gasoline, aircraft gasoline, extra gasoline, diesel, aircraft kerosene, black oil, heating oil, oil bitumen, including technical oil and lubricants), excluding pre-packed in factory packs (except sale of oil products through gas and oil change stations)

#### **State Licensing Authority: Ministry of Internal Affairs**

Production, repair and sale of hunting and sporting firearms and blank arms (excluding national knives)
Activity related to the cultivation of crops containing drugs
Design, repair, erection, adjustment and servicing of fire control automation means; guard and fire control alarm systems

#### **State Licensing Authority: Ministry of Public Health**

Medical activity
Import (export), storage, sale, distribution, transportation, development, production and destruction of drugs, psychotropic substances and precursors; use of drugs, psychotropic substances and precursors in scientific and education purposes, for production needs, as well as for medical and veterinary purposes
Pharmaceutical activity

#### **State Licensing Authority: Ministry of Finance**

Activity of insurers and insurance brokers
Auditing activity
Organization of lotteries

**State Licensing Authority: State Property Committee**

Evaluation activity

Exchange (stock) activity

**State Licensing Authority: State Customs Committee**

Establishment of customs warehouses

Establishment of duty free shops

Establishment of warehouses under customs regimes (“free warehouses”)

**State Licensing Authority: Central Bank**

Banking activity

Foreign currency operations of banks, other legal entities and individuals

Production of securities blanks

Activity of pawnshops

Activity of credit unions

Activity of micro-credit organizations

**State Licensing Authority: National Security Service**

Production, repair, sale and operation of encryption equipment

**State Licensing Authority: Uzbek Agency for Communication and Informatization**

Design, construction, operation and rendering services of local telecommunications networks

Design, construction, operation and rendering services of intercity telecommunications networks

Design, construction, operation and rendering services of international telecommunications networks

Design, construction, operation and rendering services of mobile radiotelephone communication networks

Design, construction, operation and rendering services of personal radio call (paging) communication networks
Design, construction, operation and rendering services of data-transmission networks
Design, construction, operation and rendering services of TV and radio transmission networks
<b>State Licensing Authority: State Inspection for Supervision of Power Industry</b>
Power research and expertise
<b>State Licensing Authority: Center for Coordination and Control over Functioning of Securities Market</b>
Professional activity on the securities market
<b>State Licensing Authority: Chief State Department of Veterinary</b>
Veterinary activity
<b>State Licensing Authority: Ministry of Justice of the Republic of Karakalpakstan, regional and Tashkent city Justice Departments</b>
Advocacy (lawyer) services
Notary services
Wholesale distribution of consumer goods, carried out by republican specialized wholesale stock establishments, which are members of the Association of Wholesalers and also regional (viloyat) “Matlubotsavdo” joint stock companies
<b>State Licensing Authority: Entertainment Association “Uzbeknavo”</b>
Concert touring inside and outside of Uzbekistan
Concert services provided at weddings, anniversary and other celebrations

**State Licensing Authority: State Committee for Architecture and Construction**

Development of architecture-construction documentation

Expert examination of construction projects

Repair work at high altitude using industrial alpinism

**State Licensing Authority: Uzbek Agency for Automobile and River Transport**

City, commuter, intercity and international transportation of passengers and cargo by automobile transport

Transportation of passengers and cargo by river transport

**State Licensing Authority: Department for Licensing and Coordination of all types of Passenger Transport of the Tashkent City Khokimiyat**

City transportation of passengers by automobile transport within Tashkent city

**State Licensing Authority: Department for Licensing and Coordination of all types of Passenger Transport of the Tashkent viloyat Khokimiyat**

City and commuter transportation of passengers by automobile transport within the Tashkent viloyat (region)

**State Licensing Authority: Uzstandard Agency**

Production, sale and lease of measuring devices

**State Licensing Authority: Council of Ministers of the Republic of Karakalpakstan, Viloyats and Tashkent city Khokimiyats**

Sale of oil products through gas stations and oil change stations

Design, production, recording, copying and sale of phone records, audio cassettes and laser discs (CDs)

**State Licensing Authority: District (city) Khokimiyats**

Wholesale distribution, except those carried out by republican specialized wholesale stock establishments, which are members of the Association of Wholesalers and also regional (viloyat) “Matlubotsavdo” joint stock companies

**10. EXPORT AND IMPORT REGIME****10.1 General**

Uzbekistan implements a strict import regulation regime. This is due to the Government’s strong local production and export policy, as well as its stringent currency controls.

Registration of contracts with the Ministry for Foreign Economic Affairs, Investments and Trade are required for the import and export of certain economically essential items such as precious metals (and goods made from precious metals), as well as for the import and export of potentially harmful and dangerous goods and products, including military weapons and uranium. Also, export contracts concluded on the basis of government acts also need to be registered with the Ministry for Foreign Economic Affairs, Investments and Trade.

Certain import contracts must also be evaluated by the Ministry for Foreign Economic Affairs, Investments and Trade. However, only entities which finance their import from state budget sources are required to register import contracts. Thus, the two major types of import contracts subject to registration requirements are those which are financed:

- From the state budget; and/or
- With credits under a guarantee from the Uzbek Government.

In addition, import contracts of Uzbek entities which are more than 50% owned by the state, and which do not finance their import from their own sources, are subject to registration with the Ministry for Foreign Economic Affairs, Investments and Trade.

Any import contracts, irrespective whether they are subject to registration or evaluation with the Ministry for Foreign Economic Affairs, Investments and Trade must be recorded by authorized banks and, in the case of imported goods, also by customs agencies.

## **11. PRIVATIZATION**

### **11.1 General Provisions**

The primary law governing matters related to privatization of state property in Uzbekistan is the *Privatization Law*.<sup>26</sup> The *Privatization Law* defines the legal concept of privatization in Uzbekistan, which consists of citizens' and private legal entities' acquisition of state-owned facilities or shares in state-owned JSCs. Privatization in Uzbekistan has lagged behind that of a number of other CIS countries. In the first few years following independence, only apartments and very small businesses (*e.g.*, shops) were privatized, while nearly all industrial enterprises and other medium and large enterprises were kept firmly under state control. However, in late 1998 the Government began to actively promote the privatization of major enterprises in a number of key sectors of the economy. Government Resolutions passed in 2005, 2006 and 2007 envisaged an ambitious privatization program for the forthcoming years. As of January 2009, few of the major enterprise privatizations envisaged by this resolution have been completed, although preliminary work in preparing some of the other enterprises for privatization is underway. In most cases, only 49% of shares in the charter capital of large and important enterprises are offered for privatization.

### **11.2 Facilities Subject to Privatization**

The Government of Uzbekistan determines the facilities subject to privatization under a program of privatization of state-owned facilities during the current and forthcoming years.

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<sup>26</sup> Law "On Denationalization and Privatization" dated 19 November 1991, as amended.

The State Committee of the Republic of Uzbekistan on Management of State Property (the “State Property Committee”) is the key agency involved in the process of privatizing state property. Decisions issued by the State Property Committee are binding upon ministries, departments, concerns, associations, organizations (conglomerations), institutions, and local government authorities.

### **11.3 Forms and Conditions of Privatization**

Privatization in Uzbekistan is usually carried out through 1) transformation of a state enterprise into a joint stock company or other business company and sale of shares in such company; or 2) sale of state assets into private property.

State property is usually sold to individuals and legal entities on a competitive basis, under auctions and tenders, and in other ways, such as direct negotiations, permitted by the laws of Uzbekistan.

### **11.4 Limitations on Facilities Subject to Privatization**

The Government of Uzbekistan has specified a list of enterprises and items of state property which are, and which are not, subject to very limited denationalization, privatization, or purchase. This list primarily includes strategic state-owned facilities that affect national interests. The Government has also specified a list of facilities that may be privatized or denationalized only at the discretion of the Government.

In July 2007, the Government introduced the “golden share” mechanism, which provides the Government with veto power for certain of the most important decisions to be taken by a strategic JSC. The ‘golden share’ does not have any value or percentage in the charter capital of the JSC. Such “golden shares” have been introduced only to certain strategic companies to enable their privatization without risking national interests.

Pursuant to the *Privatization Law*, the following objects are not subject to denationalization and privatization: land (with certain exceptions, as provided in Section 7), subsoil and other natural resources, and objects of cultural and historical value.

## 11.5 Opportunities Available to Foreign Investors

The *Privatization Law* expressly states that, together with citizens and private legal entities, foreign citizens and legal entities, as well as stateless persons residing outside of Uzbekistan, have the right to acquire privatized state-owned facilities.

Foreign investors may participate in the privatization process through the acquisition of:

- Shares in the course of competitive or investment tenders, auctions at stock exchanges, and direct negotiations;
- All or part of an enterprise's shares, enabling them to establish joint ventures or enterprises based entirely on foreign capital;
- Assets of liquidated (bankrupt) enterprises in open competitive bidding, with requirements announced in advance of the auction;
- Real estate at auctions and via direct sale by tender; and
- Competitive sale of state-owned facilities based on investment projects.

Foreign investors may also participate in the privatization process by means of:

- Investment in state enterprises, by increasing the charter capital and transforming the state enterprise into a state/joint stock form of ownership and selling part of the shares equivalent to the increased charter capital to a foreign investor;
- Concession agreements;
- Allocation and exchange of shares in privatized state enterprises in investment funds, securities companies, and investment banks established with the participation of foreign capital; and
- "Turn-key" construction by a foreign investor of a new enterprise where the state holds title to land, or completion of construction of an unfinished structure where the state holds title to part of the structure.



## **12. THE JUDICIAL SYSTEM AND DISPUTE RESOLUTION**

### **12.1 Upper Level of Courts**

The upper level of the Uzbek judicial system consists of: the Constitutional Court, which renders decisions on the constitutionality of acts of the legislative and executive branches; the Supreme Court, which acts as both a court of first instance and an appellate court for civil and criminal cases, and which analyzes court practice and oversees the work of the lower level courts; and the High Economic Court, which has the same functions as the Supreme Court, but deals exclusively with commercial cases involving legal entities (foreign and local) and individual entrepreneurs. Judges of the Constitutional Court, the Supreme Court and the High Economic Court are nominated by the President and approved by a majority vote of the Senate of the Oliy Majlis.

### **12.2 Lower Level of Courts**

The lower level of the Uzbek judicial system includes: regional, city and district courts for civil cases; regional, city and district courts for criminal cases; economic courts; and military courts. A separate Supreme Court also exists for civil and criminal cases, together with an Economic Court for the autonomous Republic of Karakalpakstan.

Judges of the regional, city, and district courts are nominated by the High Qualification Committee under the President, and appointed by the President. Judges of the Supreme and Supreme Economic courts are nominated by the President and approved by the Senate of the Oliy Majlis. Judges of the economic courts are nominated by the Chairman of the High Economic Court and approved by the President.

### **12.3 Settlement of Economic Disputes**

With regard to disputes arising in connection with foreign investments or related activities, the disputing parties have a choice of dispute resolution mechanisms: negotiations, dispute resolution by an Uzbek economic court, or international

arbitration in accordance with the rules of international agreements to which Uzbekistan is a party. Where a contract between two legal entities (local and/or foreign) is governed by Uzbek law and does not specify the jurisdiction for dispute resolution, the regional economic court will hear the dispute upon the petition of one of the parties.

The *Commercial Procedure Code*<sup>27</sup> provides that foreign parties shall have the same procedural rights and duties as Uzbek parties in matters before an Uzbek court. If the parties elect to resolve their dispute in an Uzbek court, they nonetheless may switch to international arbitration at any time before the court renders a decision. Foreign investors typically insist on a contract clause specifying that binding arbitration in a third country will be the exclusive means of resolving disputes.

Uzbekistan is a party to several investment and juridical cooperation treaties with foreign countries containing dispute resolution clauses. Uzbekistan has signed and ratified the *ICSID Treaty*.<sup>28</sup> Thus, certain disputes with the Republic of Uzbekistan may be eligible for arbitration under *ICSID Treaty* auspices. Uzbekistan also has signed and ratified the *New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards*.<sup>29</sup> However, legislation implementing this treaty has not been adopted and enforcement of a foreign arbitral decision against an Uzbek party may be problematic.

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<sup>27</sup> Commercial Procedure Code of the Republic of Uzbekistan dated 30 August 1997, as amended.

<sup>28</sup> Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the ICSID Treaty) of 1965.

<sup>29</sup> New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958.

## 13. INTELLECTUAL PROPERTY

### 13.1 General Provisions

Legislation on intellectual property includes the Copyright Law,<sup>30</sup> The Trademark Law,<sup>31</sup> The Patent Law,<sup>32</sup> The Law on the Selection Achievements,<sup>33</sup> and The Law on Computer Programs and Databases.<sup>34</sup> Intellectual property rights in Uzbekistan include: (1) all rights to industrial property (including inventions, industrial designs, utility models, company names, trademarks, service marks, appellations of origin of goods, etc.), and (2) copyright and related rights.

Uzbekistan is a party to a number of international treaties including the *Convention Establishing the World Intellectual Property Organization*, the *Paris Convention for the Protection of Industrial Property*, the *Patent Cooperation Treaty*, the *Madrid Agreement Concerning the International Registration of Trade Marks*, the *Trademark Law Treaty*, the *Eurasian Patent Convention*, the *Nice Agreement concerning the International Classification of Goods and Services for the Purposes of Registration of Marks*, the *Strasbourg Agreement concerning the International Patent Classification*, the *Berne Convention for the Protection of Literary and Artistic Works*, the *Rome Convention for the Protection of Performers, Phonogram Producers and Broadcasting Organizations*, the *Brussels Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite*, and the *WIPO Performances and Phonograms Treaty (WPPT)*.

Uzbekistan is a “first to file” and not a “first to use” jurisdiction, meaning it is important to register as soon as possible to protect industrial property rights (such as trademarks, inventions, utility models and designs) in Uzbekistan.

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<sup>30</sup> Law “On Copyrights and Related Rights” dated 20 July 2006, as amended.

<sup>31</sup> Law “On Trademarks, Service Marks and Appellations of Origin of Goods” dated 30 August 2001, as amended.

<sup>32</sup> Law “On Inventions, Industrial Designs and Utility Models” (new edition) dated 29 August 2002.

<sup>33</sup> Law “On the Protection of Selection Achievements” (new edition) dated 29 August 2002.

<sup>34</sup> Law “On Computer Programs and Databases” dated 6 May 1994, as amended.

## **13.2 The Patent Agency**

The principal government agency involved in registration matters pertaining to inventions, utility models, industrial designs, selection achievements, trademarks, service marks, appellations of origin, and computer programs in the Republic of Uzbekistan is the State Patent Agency of Uzbekistan (the “Patent Agency”).

## **13.3 The Copyright Agency**

The Uzbek Republican State Copyright Agency is the authorized body in charge of registration of works of science, literature and art (copyrights and related rights).

## **13.4 Inventions, Utility Models, Industrial Designs and Selection Achievements**

Patent protection is given to an invention if it is novel, involves an inventive step and is industrially applicable. A patent for an invention is granted for 20 years. In certain cases, patents can be extended for a term not exceeding five years.

A utility model is granted patent protection if it is novel and industrially applicable. The term is five years, which may be extended for three years.

Patent protection is granted to an industrial design if it is novel, original (creative) and industrially applicable. The term of patent for an industrial design is ten years and may be extended for a further five years. A selection achievement is granted patent protection if it is novel, distinct, uniform and stable.

Patents may be assigned and/or licensed by their owner(s) to natural persons or legal entities. However, an assignment or license agreement must be registered with the Patent Agency to be valid. Infringements of patents entail civil, administrative and criminal liability.

## **13.5 Trademarks, Service Marks and Appellations of Origin of Goods**

Under the Trademark Law, a trademark or service mark is a sign which has been registered according to the Law, and which has become a generally known mark in Uzbekistan, or which is protected without registration under international

agreements to which Uzbekistan is a party, with the intent of distinguishing the goods (services) of one legal entity or natural person from the goods (services) of the same type of other legal entities or natural persons. A “collective” trademark is a trademark of an association or other group which is used to designate a particular product or service which has a common feature or quality. An “appellation of origin of goods” is a geographical name which is used to identify a product as having specific characteristics which are associated with a place of manufacture. Legal protection is given to appellations of origin of goods based on registration with the Patent Agency.

The registered owner may not grant licenses for the use of the appellation of origin of goods. Trademark/service mark registration is granted for a term of ten years, renewable every ten years. Registration of trademarks/service marks can be cancelled on the basis of an application of an interested party if the mark has not been used for a period of five years.

Assignments or licenses for trademarks and service marks must be registered with the Patent Agency.

## **13.6 Copyrights and Related Rights**

The Copyright Law protects works of science, literature and art (copyrights), as well as performances, phonograms, and TV and radio broadcasting or cablecast organizations’ (related rights). Copyright protection is granted to an author without any registration or formalities requirements. Rights to use a copyrighted work may be assigned. The copyright is protected for the lifetime of the author plus 50 years. Infringement of one’s copyright may give rise to civil, administrative and criminal liability.

## **13.7 Computer Programs and Databases**

Computer programs and databases are protected under the *Law on Computer Programs and Databases* and the *Copyright Law*. The production and distribution of infringing copies of computer programs, unlawful alteration of existing programs and their distribution, and unlawful access to legally protected computer information may give rise to civil, administrative and criminal liability.

## **14. LANGUAGE POLICY**

The state language in Uzbekistan is Uzbek.

All state agencies must maintain documentation in the Uzbek language. However, in many instances the state agencies issue or translate documents into other languages (mostly Russian).

Records and data of all organizations and associations should be in the Uzbek language. In practice, such documentation is frequently kept in both Uzbek and Russian.

The general practice in Uzbekistan is that contracts with foreign parties are executed in two languages: Russian and any other language acceptable to both parties. Both versions will have equal force, unless otherwise specified.

Any contract which requires registration or filing with a state agency must be accompanied by a certified translation in Russian or Uzbek. However, certain registration documents for the formation of an Uzbek legal entity must be in Uzbek (documents in Russian alone are not acceptable). This reflects what appears to be strong Government support for the use of the Uzbek language for official documentation, which is slowly leading to a wider use of the Uzbek language.

## **Contacts:**

### **Almaty**

Samal Towers, Samal-2, 8th Floor,  
97 Zholdasbekov Street  
Almaty 050051 Kazakhstan  
Telephone: +7 7272 50 99 45  
Facsimile: +7 7272 58 40 00  
almaty.info@bakernet.com

### **Baku**

The Landmark Building  
96 Nizami Street  
Baku AZ1000 Azerbaijan  
Telephone: +994 12 497 1801  
Facsimile: +994 12 497 1805  
baku.info@bakernet.com

### **Kyiv**

Renaissance Business Center  
24 Vorovskoho St.  
Kyiv 01054, Ukraine  
Telephone: +380 44 590 0101  
Facsimile: +380 44 590 0110  
kyiv\_info@bakernet.com

### **Moscow**

Sadovaya Plaza, 12th Floor  
7 Dolgorukovskaya Street  
Moscow 127006 Russia  
Telephone: +7 495 787 27 00  
Facsimile: +7 495 787 27 01  
moscow.office@bakernet.com

### **St. Petersburg**

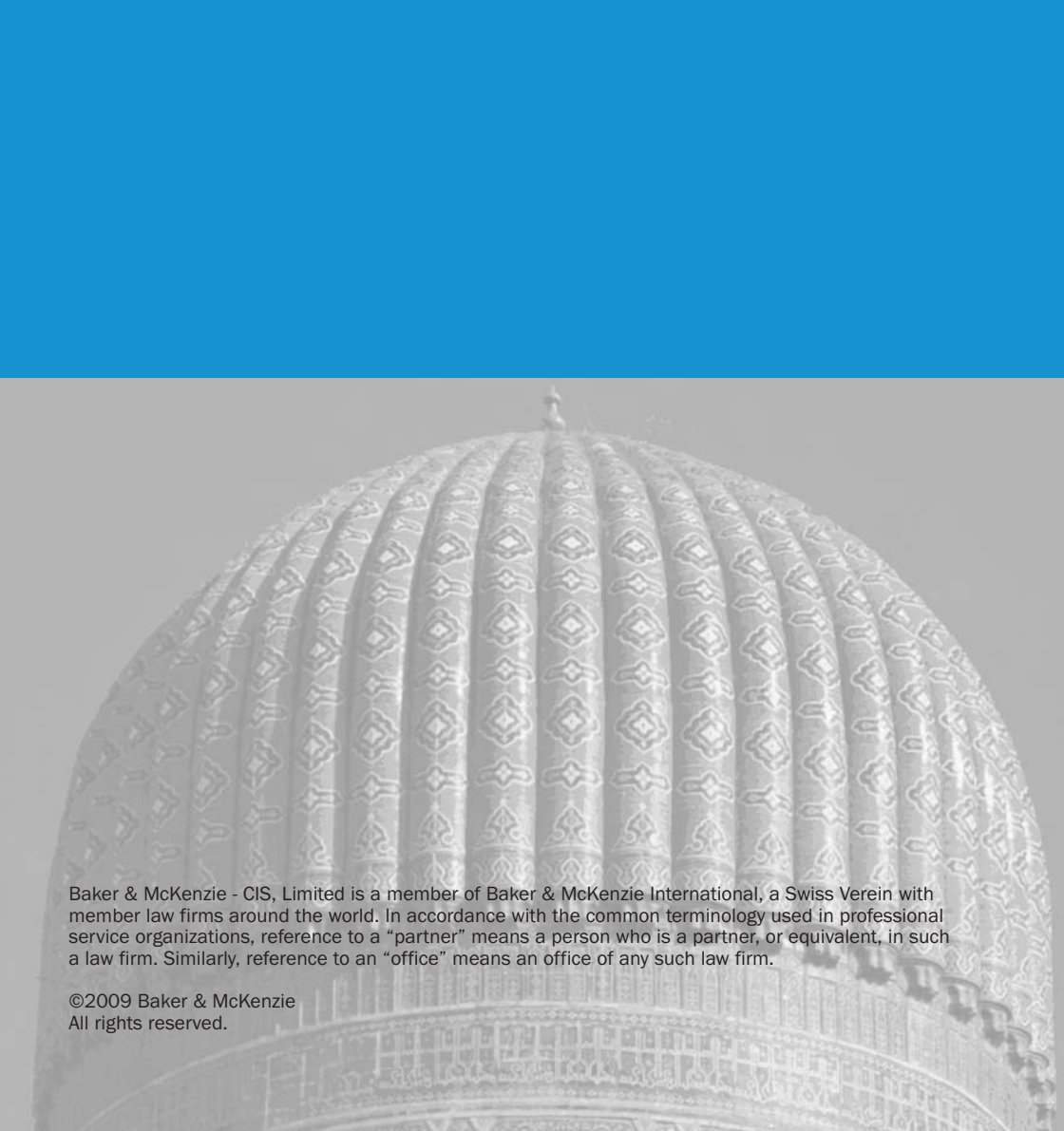
57 Bolshaya Morskaya Street  
St. Petersburg 190000 Russia  
Telephone: +7 812 303 9000 /  
+7 812 325 8308  
Facsimile: +7 812 325 6013  
spb.office@bakernet.com

### **Tashkent Project Office**

Inconel Business Center  
Office 705, 7th Floor  
75 Mustaqillik Avenue  
Tashkent 100000 Uzbekistan  
Telephone: +998 71 237 36 43  
Facsimile: +998 71 120 61 40  
almaty.info@bakernet.com

[www.bakernet.com](http://www.bakernet.com)

Baker & McKenzie - CIS, Limited  
Inconel Business Center,  
Office 705, 7th Floor  
75 Mustaqillik Avenue,  
Tashkent 100000 Uzbekistan



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