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**Working Party on the
Accession of Albania**

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Additional Questions and Replies

The following replies to questions raised by Members have been received from the Ministry of Economic Co-operation and Trade of the Republic of Albania, with the request that they be circulated to Working Party members.

The replies in this document should be read in conjunction with the following documents:

- New Albanian Legislation and Status of Draft Legislation (WT/ACC/ALB/33);
 - Information Concerning Progress in the Privatisation Process (WT/ACC/ALB/28);
 - Memorandum on Restrictions and Prohibition for Importable Products (WT/ACC/ALB/35);
 - Memorandum on Restrictions and Prohibition for Exportable Products (WT/ACC/ALB/34);
 - Memorandum on Compliance with Technical Barriers to Trade (WT/ACC/ALB/32);
 - Memorandum on Compliance with Sanitary and Phytosanitary Measures (WT/ACC/ALB/31);
 - Memorandum on Conformity with Trade-Related Investment Measures (WT/ACC/ALB/30);
 - Memorandum on Conformity with Trade-Related Aspects of Intellectual Property Rights (WT/ACC/ALB/36);
 - Revised Draft Schedule on Agriculture (WT/ACC/SPEC/ALB/4/Rev.1); and,
 - Revised Draft Schedule on Services (WT/ACC/SPEC/ALB/5/Rev.2).
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II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE

2. Economic Policies

(a) Main directions of ongoing economic policies

Question 1.

Re: Question 4. (WT/ACC/ALB/23/Rev.1). Does the Albanian legislation foresee measures aimed at the economic development of specific areas or regions of the country or aimed at the development of specific sectors?

Answer:

There are no tax exemptions or reductions to certain sectors and/or geographical areas. Those policies that are general (applying to general national programmes or all sectors of the economy) are WTO compatible.

Question 2.

Re: Question 8. (WT/ACC/ALB/23/Rev.1). Could Albania specify the "certain conditions" under which foreigners can lease agricultural land.

Answer:

According to the Law on Leasing Agricultural Land, Meadows, Forestry and Pastures Which are State-Owned Property, No. 8337, dated 30 April 1998, foreigners can lease agricultural land for 99 years. The criteria for calculating the duration of leasing land is the same for juridical, physical, domestic and foreign persons.

- **Price control**

Question 3.

Please give an update on Albania's price controls, if any.

- **Please provide details on the scope and operation of the regulatory control of the commodities where controls remain.**

- **Does the Government of Albania plan to eliminate these controls in the future? If so, is there a timetable for elimination?**

Answer:

No changes in the list prescribed in Chapter III of WT/ACC/ALB/25

Question 4.

Re. Question 25 of WT/ACC/ALB/23/Rev.1. This answer refers to cessation of minimum pricing practices when the customs code comes into force. Has the code been finalised, and if so, can we have a copy for examination?

Answer:

According to the Law on Customs Code of the Republic of Albania, No. 8449, dated 27 January 1999, the practice of minimum pricing has ceased. In Chapter 3, Article 33-40 customs valuation is defined and in compliance with WTO procedures. A copy of the Customs Code was submitted to the WTO Secretariat in 1998 (WT/ACC/ALB/24).

- **Privatisation policy**

Question 5.

The Albanian Government reports that there are no State-trading enterprises under GATT 1994 Article XVII, that a few foreign trade enterprises previously enjoyed a monopoly on import and export activities, but that this ended in 1991 with the passage of the Law on State Enterprises.

Legislation in 1991 gave all enterprises in Albania the right to import and export freely in accordance with the principles of a market-based economy. Amendments to the Law on State Enterprises after 1991 transformed remaining State enterprises into commercial or share-holding companies for privatisation.

Albania confirms in WT/ACC/ALB/23/Rev.1 the right of all enterprises, public or private, to import or export and that all enterprises, public or private, have the right to purchase and sell goods on the international market without respect to origin.

We would like to see this information reflected in the draft Working Party Report in an appropriate form.

Answer:

See the Memorandum on the Updated Situation in the Privatisation Process (document WT/ACC/ALB/28).

III. FRAMEWORK FOR MAKING AND ENFORCING POLICIES AFFECTING FOREIGN TRADE IN GOODS AND TRADE IN SERVICES**1. Power of the Executive, Legislative and Judicial Branches of Government****Question 6.**

Please describe the process by which Albania will ratify the protocol package containing the terms of its accession to the World Trade Organization.

Please indicate the status of WTO provisions after ratification *vis-à-vis* laws still in place in Albania that may not conform to its provisions.

- **How will Albania's goods and service market-access commitments be enacted in law?**
- **Will the WTO provisions be self-executing? Will it be necessary to repeal conflicting laws and regulations to enforce WTO provisions?**

Answer:

According to Law No. 8417, dated 21 October 1998 "On the approval of Constitution of the Republic of Albania", membership of Albania in the WTO shall be ratified by a special law in the Albanian Parliament.

See Articles 121-123 of the "Constitution of Albania", a copy of which is deposited in the Secretariat of WTO (document WT/ACC/ALB/26/Add.2).

The Council of Ministers Decision No. 492 dated 29 July 1998 approved the setting up of the Albanian Secretariat for Co-ordination of Relations with the WTO and the Albanian Negotiators Group, which is composed of the members of all ministries and institutions related to WTO issues.

Based on the Law No. 8371 dated 9 July 1998 "On Concluding of International Treaties and Agreements", all agreements in which the Government of Republic of Albania is subject, are approved in principle by the Council of Ministers, and the authority on discussions and signing is of the Prime Minister's competence. According to the Council of Ministers Decision No. 749, dated 27 November 1998, "Strategy on the Third Round of Negotiations for the Albania Accession in WTO", the Albanian Offer on Goods and Services, was approved.

According to the Constitution of the Republic of Albania, the ratifying of the WTO Accession Agreement is approved by the Parliament of Albania. After its accession to the WTO, the Albanian State, through the Albanian Secretariat for Relations Co-ordination with WTO, will supervise the accurate implementation of Albania's obligations and commitments to the WTO and its Members.

3. Division of Authority Between Central and Sub-Central Governments

Question 7.

Please indicate the sub-central authority to enact measures covered by the WTO Agreements. What authority is held by the Government of Albania to override decisions by sub-central authorities that conflict with WTO provisions. How do traders secure central government action to enforce WTO provisions, e.g., will the government act on its own capacity, or do traders need to go through the courts or other enforcement mechanisms to secure action?

Answer:

As part of the trading system, foreign trade policy is treated by the Ministry of Economic Co-operation and Trade, as well as by all related ministries. Its implementation is carried out by the relevant ministries and institutions of the public sector in Albania.

From the point of view of the public administration, the Albanian Secretariat for Relations with the WTO, is the structure which is responsible for supervising the implementation of all commitments generated by the membership of Albania in the WTO, and all benefits derived by such membership. Within the ministries structure, there is the Albanian Negotiators Group, whose members are responsible for fulfilling, from their relevant point of view, implementation of the obligations and realisation of benefits derived by Albanian membership in the WTO.

6. Description of Judicial, Arbitral, or Administrative Tribunals or Procedures

Question 8.

Please outline the administrative appeals process for customs and other issues covered by WTO provisions and the right of appeal to an independent tribunal, whether or not judicial, by traders.

Answer:

In Albania there are three degrees of appeal within the judicial system. The first degree, is composed of *First Degree Courts*, which function in all districts of Albania. These have relevant sections of different complaints (penal, civil, administration, family section, etc.). The second degree, consists of the *Appeal Court*, with branches in 5 districts in Albania, having under their jurisdiction the relevant territory defined by the Law approved by Parliament. The third degree, consists of the appeal of the *High Court*, with its centre in the capital of Albania. This court is composed of three colleges: Penal, Civil and Administrative, which are responsible for reviewing and analysing complaints by relevant areas.

The Constitutional Court is the Head of juridical system, which guarantees the respect of Constitution of Republic of Albania, and carries out its final interpretation. This court is subject only to the Constitution. See the Constitutional Law of Albania, parts 8 and 9.

IV. POLICIES AFFECTING TRADE IN GOODS

1. Import Regulation

(a) Registration requirements for engaging in importing

Question 9.

Does Albania maintain activity licensing for some occupations (e.g., to wholesale or import alcoholic beverages, to distribute tobacco products) that provides for additional requirements to engage in trade? If so, please list the activities covered and the procedures for obtaining these licences.

Answer:

Albania has supplemented documentation on SPS, TBT and import licensing by harmonised code, and has indicated that it will be in compliance with WTO principles (with regard to the establishment of a single unit that will serve as a contact point, according to Article No. 15 of new Law "On Standardisation", Albania will need about 2 years). See the Memoranda on Conformity with SPS, Conformity with TBT and Import Licensing and Prohibitions on Importable Products (documents WT/ACC/ALB/31, 32, and 35, respectively). There are no non-tariff measures other than those measures described in the memorandum.

(b) Characteristics of national tariff

Question 10.

What is the current status of "special duties" as discussed in WT/ACC/ALB/11?

Answer:

The Government of Albania remains committed to Trade Reform and to the maintenance of a liberal trade-regime. Actually, the Government passed the new structure of tariffs, rationalising it, and design offsetting fiscal measures, whose initial steps will be taken in March 1999. It involves a phased reduction in the average tariff rate over the medium term, through a combination of reductions in the level, number and dispersion of rates. This, in order to achieve a simple and transparent tariff structure with relatively low (through reducing maximum tariffs rates from 30 to 20 per cent, in March 1999, and 15 per cent on 2001) and more uniform tariff rates. The excise tax is uniform for foreign and domestic goods.

Albania has no export taxes. Albania will eliminate all export prohibitions at the time of accession (see the Memorandum on Export Licensing and Prohibitions on Exportable Products, document WT/ACC/ALB/34).

(c) Tariff quotas, tariff exemptions

Question 11.

Albania's Law No. 8163 (7 November 1996) exempts goods imported for investment from customs duties. This exemption does not apply to the physical and/or juridical persons granted the title "promoted person", nor to projects and investments approved prior to the date of the law (section IV.1(e), WT/ACC/ALB/23/Rev.1).

- **With regard to "promoted persons" and previously approved investments, please provide additional information on the definition of such entities, their foreign trade activity and the rationale for exclusion from duty free importation for investment purposes under Law No. 8163.**
- **Please indicate any requirements in Law No. 8163 attached to the tariff exemptions.**

Answer:

Since 1 January 1998 all machinery and equipment imported as investments are not exempted from customs duties.

(d) Other duties and charges, specifying any charges for services rendered

Question 12.

Please report on Albania's customs charges, listing them and indicating how it is related to the cost of the service.

Answer:

Albania confirms that according to its custom charges, it has no "other duties and charges".

(e) Quantitative import restrictions, including prohibitions, quotas and licensing systems**Question 13.**

The list of "prohibited imports" in WT/ACC/ALB/25 makes it clear that Albania operates an import licensing regime to address concerns related to threats from import to plant, animal and human health and safety.

Nevertheless, Albania now states in WT/ACC/ALB/23/Rev.1 that it has abolished all import licence requirements along with quantitative restrictions, and the responses to Questions 16-21 on import licensing are very unclear. Albania has stated that it applies technical regulations and other criteria for importation at the border that require importers to secure certification and permits to import certain kinds of goods.

Article XI of the GATT 1994 and the WTO Agreements on Import Licensing Procedures, Technical Barriers to Trade and Sanitary and Phytosanitary requirements clearly cover such requirements.

- Please review these questions and Albania's responses and provide the information requested.
- Please review Albania's current system of border controls: (a) list all products subject to such technical regulations and other criteria, and (b) outline the criteria and procedures to which they are subject.
- Please indicate how Albania's legislative regime for granting import permits and licences meets the requirements of the WTO Agreement on Import Licensing. In those areas where compliance is lacking, please indicate Albania's plans for enacting these provisions in law or regulation.
- We think that there is confusion in Albania's statements on licensing and we urge Albania to review its regime in this regard with a view to bringing it into line with the requirements of the Agreement on Import Licensing Procedures.

Answer:

Albania has supplemented documentation on SPS, TBT and import licensing by harmonised code, and has indicated that it will be in compliance with WTO principles (with regard to the establishment of a single unit that will serve as a contact point, according to Article No. 15 of the new Law "On Standardisation", Albania will need about 2 years). See the Memoranda on Conformity with SPS, Conformity with TBT and Import Licensing and Prohibitions on Importable Products (documents WT/ACC/ALB/31, 32 and 35, respectively). There are no non-tariff measures other than those measures described in the memoranda.

Medicines and Drugs**Question 14.**

Concerning the requirement that imported medicines and drugs must have an import licence:

- Are these automatic or non-automatic licences? If automatic, please indicate the time-frame within which they must be granted. If non-automatic, please describe in detail

the criteria that the imported medicines and drugs must meet to qualify for the licence. Is "verification" the only criterion? What is "verified"?

- **Does Albania have a similar registration and licensing system in place for the sales of domestic production of similar articles? To what extent are the requirements listed in WT/ACC/ALB/18 applied to domestic production of similar goods and how is it done?**

Answer:

Albania has supplemented documentation on SPS, TBT and import licensing by harmonised code, and has indicated that it will be in compliance with WTO principles (with regard to the establishment of a single unit that will serve as a contact point, according to Article No. 15 of the new Law "On Standardisation", Albania will need about 2 years). See the Memoranda on Conformity with SPS, Conformity with TBT and Import Licensing and Prohibitions on Importable Products (documents WT/ACC/ALB/31, 32 and 35, respectively).

Pesticides

Question 15.

Why has Albania not included material on its registration requirement for imported pesticides in WT/ACC/ALB/19?

Please answer for pesticides the same questions as asked above on medicines and drugs.

Answer:

Albania has supplemented documentation on SPS, TBT and import licensing by harmonised code, and has indicated that it will be in compliance with WTO principles (with regard to the establishment of a single unit that will serve as a contact point, according to Article No. 15 of the new Law "On Standardisation", Albania will need about 2 years). See the Memoranda on Conformity with SPS, Conformity with TBT and Import Licensing and Prohibitions on Importable Products and Export Licensing and Prohibitions on Exportable Products (documents WT/ACC/ALB/31, 32, 35 and 34, respectively).

Seeds and Seedlings

Question 16.

Albania states that "if the requested varieties for import are not included in the respective Albanian Catalogue, but from a country of the European Communities, the importation may be allowed, only after the approval of the Ministry of Agriculture and Food on the request of the State Entity of Seeds and Seedlings (SESS)".

The statement that "importation may be allowed" implies that importation may also not be allowed.

- **What conditions need to be met in order for seeds to be imported? When and on what basis would importation not be allowed? Why is the European Communities singled out for this special treatment? What would the status be for varieties originating in Asia or North America?**
- **Why would new varieties of seeds and seedlings not be allowed to be imported?**

- **This process appears to be inconsistent with GATT Article I since it affords preferential treatment for the importation of seeds and seedlings from the European Communities and discriminates against products from other destinations.**
- **It also appears to be inconsistent with GATT Article XI by effectively imposing a ban on seeds and seedlings not listed in the catalogue.**
- **Moreover, as this process would constitute a form of non-automatic licensing as described in Article 3 of the Agreement on Import Licensing Procedures, we seek confirmation, based on a point-by-point comparison of Albania's regime with the provisions on non-automatic licensing contained in the Agreement.**
- **At a minimum, Albania should establish a transparent licensing system that identifies products covered, reasons for restrictions and criteria for obtaining an import licence.**
- **We understand that Albania may have technical reasons for imposing these restrictions, the technical requirements must be consistent with WTO provisions, including the SPS Agreement.**
- **Lacking justification consistent with requirements in the SPS Agreement, such as conducting an appropriate risk assessment, demonstrating scientific evidence, and ensuring that measures are applied in a non-discriminatory manner, we do not believe that Albania's restrictions or requirements of seeds and seedlings are justified.**

Answer:

Albania has supplemented documentation on SPS, TBT and import licensing by harmonised code, and has indicated that it will be in compliance with WTO principles (with regard to the establishment of a single unit that will serve as a contact point, according to Article No. 15 of the new Law "On Standardisation", Albania will need about 2 years). See the Memoranda on Conformity with SPS, Conformity with TBT and Import Licensing and Prohibitions on Importable Products and Export Licensing and Prohibitions on Exportable Products (documents WT/ACC/ALB/31, 32, 35 and 34, respectively). There are no non-tariff measures other than those measures described in the memoranda.

Live animals

Question 17.

Albania states that the Ministry of Agriculture and Food is in charge of organising the licensing procedures for imports and exports of live animals and for imports of seeds and seedlings.

- **Is the licensing on live animals statistical or restrictive licensing?**

In Question 21 of WT/ACC/ALB/23/Rev.1 Albania states that "by decision of the Central Commission of Improvement of Race (CCIR) the applicants are given the requested "permission" on the base of which the Albanian Veterinary Service issues the licence for import/export of the requested materials".

- **What are the technical criteria for receiving the "permission" granted by CCIR necessary to receive an import or export licence for live animals? Are there any quantitative criteria?**

- **If "permission" is denied how may applicants appeal the decision?**
- **Please indicate how the regulations associated with receiving the "permission" and the licence are consistent with the provisions of the WTO Agreement on Import Licensing Procedures?**
- **Please indicate how the criteria for receiving the "permission" are consistent with the provisions of the WTO Agreement on Sanitary and Phytosanitary Measures.**

Answer:

Albania has supplemented documentation on SPS, TBT and import licensing by harmonised code, and has indicated that it will be in compliance with WTO principles (with regard to the establishment of a single unit that will serve as a contact point, according to the Article No. 15 of the new Law "On Standardisation", Albania will need about 2 years). See the Memoranda on Conformity with SPS, Conformity with TBT and Import Licensing and Prohibitions on Importable Products, and Export Licensing and Prohibitions on Exportable Products (documents WT/ACC/ALB/31, 32, 35 and 34, respectively).

Question 18.

Could Albania provide an exhaustive list of products that are submitted upon importation to quantitative restrictions, licensing or special authorisation requirements, or special technical requirements?

Answer:

Albania has supplemented its documentation with a Memorandum on Import Licensing and Prohibitions on Importable Products (WT/ACC/ALB/35). There are no non-tariff measures other than those measures described in the memorandum.

(f) Import licensing procedures

Question 19.

In Question 18 of WT/ACC/ALB/23/Rev.1, Albania indicates that there are no import licensing requirements or restrictions, provided the importer meets the technical regulations. Can Albania explain the nature of these technical regulations? Which law are they contained in? Are they applied in a manner that is consistent with WTO rules? Which government authority is responsible for their enforcement? Is there an appeal process available for an importer that fails to meet these regulations?

Answer:

Albania has supplemented documentation on SPS, TBT and import licensing by harmonised code, and has indicated that it will be in compliance with the WTO. See the Memoranda on Conformity with SPS, Conformity with TBT and Import Licensing and Prohibitions on Importable Products (documents WT/ACC/ALB/31, 32 and 35, respectively).

Question 20.

Re: Question 18. (WT/ACC/ALB/23/Rev.1). Could Albania specify which import activity is subject to technical regulation and the content of such regulations? Do these regulations apply also in case of temporary imports?

Answer:

Albania has supplemented documentation on SPS, TBT and import licensing by harmonised code, and has indicated that it will be in compliance with WTO principles (with regard to the establishment of a single unit that will serve as a contact point, according to Article No. 15 of the new Law "On Standardisation", Albania will need about 2 years). See the Memoranda on Conformity with SPS, Conformity with TBT and Import Licensing and Prohibitions on Importable Products (documents WT/ACC/ALB/31, 32 and 35, respectively).

Question 21.

Re: Question 19. (WT/ACC/ALB/23/Rev.1). Does Albania recognise foreign university-level pharmaceutical qualifications and work experience?

Answer:

Albania is in the process of setting up a unit under the jurisdiction of the Ministry of Education and Science, which will perform the issues of recognising foreign university diplomas concerning all areas, including the pharmaceutical qualifications. Although, up to now, within professional licences in the pharmaceutical sector, we are dealing with foreign undergraduates, and recognising their work experience. See the Memoranda on Import Licensing and Prohibitions on Importable Products and Export Licensing and Prohibitions on Exportable Products (document WT/ACC/ALB/34).

(h) Customs valuation**Question 22.**

We are confused as to the legal regime in place for customs valuation at the present time. Albania states in WT/ACC/ALB/23/Rev.1 that Law No. 8187 "On the Customs Valuation" was approved by the Albanian Parliament on 23 January 1997, and that a draft Customs Code is in preparation that also contains customs valuation provisions.

- **Please give a status report on Albania's efforts to bring its customs valuation regime into line with the WTO Agreement on the Implementation of Article VII of the GATT 1994. In particular, please list all relevant legislation and regulations in place and whether it has been provided to the Working Party for review.**
- **Please indicate when minimum import prices will be fully abolished and replaced by use of transaction value and the hierarchy of alternative valuation methods listed in the Agreement.**
- **Please confirm that the seven prohibited valuation methods provided for in Article 7 of the Agreement have been abolished in Albania's customs valuation regime and cite the provisions of Albanian law that confirm this.**

Answer:

According to the Law on Customs Code of the Republic of Albania, No. 8449, dated 27 January 1999, the practice of minimum pricing has ceased. In Chapter 3, Article 33-40 customs valuation is defined and in compliance with WTO procedures. A copy of the Customs Code was been submitted to the WTO Secretariat in 1998 (WT/ACC/ALB/24). With regard to rules of origin, the Customs Code, Chapter 2, Article 29-32, describes the procedures to define origin of imported and exported products into and out of the Republic of Albania.

Question 23.

Re: Question 24. (WT/ACC/ALB/23/Rev.1). Please update the Working Party on the elimination of minimum customs values and on the implementation of the Customs Valuation Agreement.

Answer:

According to the Law on Customs Code of the Republic of Albania, No. 8449, dated 27 January 1999, the practice of minimum pricing has ceased. In Chapter 3, Article 33-40 customs valuation is defined and in compliance with WTO procedures. A copy of the Customs Code was been submitted to the WTO Secretariat in 1998 (WT/ACC/ALB/24). With regard to rules of origin, the Customs Code, Chapter 2, Article 29-32, describes the procedures to define origin of imported and exported products into and out of the Republic of Albania.

(j) Pre-shipment inspection

Question 24.

In WT/ACC/ALB/8/Add.9, Albania stated that it was preparing a law on pre-shipment inspection. Did that legislative initiative go forward? Is there a current time table for implementation?

If the proposed PSI programme is in place, please describe what services are provided, whether or not mandatory, and how the Government of Albania contracts for their services and disciplines their activities. What is the cost structure for traders making use of any mandated PSI services?

Is Albania prepared to take responsibility for the activities of the PSI firms that operate in its name and ensure that they observe WTO provisions?

Answer:

According to the Law on Customs Code of the Republic of Albania, No. 8449, dated 27 January 1999, Parliament has added an article that only creates the possibility to have such service, if it is necessary.

- (k) Application of internal taxes on imports
- Excise tax

Question 25.

Albania reports that Law No. 7678 dated 3 March 1993 "On Excise Taxes in the Republic of Albania" has been revised by Law No. 8247 dated 2 October 1997 "On some changes to Law No. 7678" and that there is a new "Law on Excise Taxes".

WT/ACC/ALB/23/Rev.1 states, however, that Albania's proposed excise tax amendments leave discriminatory rates in place for the following: tobacco and cigarettes, soft drinks, mineral and carbonated water, alcoholic beverages and some petroleum by-products.

In response to Question 42 (WT/ACC/ALB/23/Rev.1) about differential levels of excise taxes on imported and domestic goods. Albania stated that it will "equalise the level of excise tax on foreign and domestic goods". This is essentially the same answer given two years ago in WT/ACC/ALB/8.

- Please submit the HS numbers of all goods subject to excise taxation and explain the method of excise tax calculation for each good.
- Please explain precisely the steps Albania is taking to bring its discriminatory excise taxes into conformity with GATT Article III prior to accession, and the time table Albania has for taking such measures.
- We seek a comprehensive report from Albania to the Working Party on the scope, level, and status of its current excise taxes, listing the products subject to these taxes by product and by HS number.

In WT/ACC/ALB/25, Albania states that draft legislation was expected to be approved in October 1998 and slated for implementation on 1 January 1999 that will equalise excise taxes on imports and domestic goods.

- Please detail the status of this legislation and other specific steps Albania is taking to eliminate discrimination against imported items in terms of the level of tax levels applied.
- Please discuss Albania's plans to eliminate the tax level of differences among various distilled alcoholic beverages in conformity with recent dispute settlement decisions, i.e., that different types of distilled spirits cannot be taxed at different rates.

Answer:

Albania has eliminated the discrimination in excise tax rates between foreign and Albanian products in January 1999, according the Law on "Excise Tax" No. 8348 dated 28 December 1998. Sub-categories of excise taxes still exist; however, within the Government of Albania, a professional commission with experts of Ministry of Agriculture and Ministry of Finance, is in the process of creating the possibility of defining such subcategories. Albania confirms that there is not any non-conformity with Article III of GATT 1994.

The calculation of excise based on transaction value plus custom duty is a simple way of calculation suggested by IMF, in order that the unification of excise will be not accompanied with budgetary implications. From the other side, the calculation of domestic excise based on retail price

without VAT and excise, is considered as a relatively hard measure for those domestic industries, either those which are totally degrading, or those that are still infantile. A copy of the Law on Excise was deposited in the Secretariat of the WTO (WT/ACC/ALB/26/Add.1).

Based on the above mentioned Law the HS numbers list of all goods subject to excise taxation, is as follows:

	HS CODE
Tobacco and cigarettes	2402.00 00
Alcoholic beverages	2203.00 00
	2204.10 00
	2208.00 00
Soft drinks	2202.00 00
Mineral and carbonated water	2201.00 00
Coffee	0901.00 00
Some petroleum by-products	2710.00 00
	2704.00 00

The Law on Value Added Tax is in compliance with GATT 1994 and the WTO. According to Article 28 of the Law, there is no discrimination between imports and domestic goods and services. This Article is a fair copy of Article 11:A(2.a), of Title VIII of Directive VI of the European Communities, which is compatible with Article III of GATT 1994. Albania confirms that based on the mentioned above laws and articles, there is not any difference in the treatment of imports, and domestic furnishing and production of goods and services.

Question 26.

The Law No. 8348 on excise taxes provides in Article 4 that calculation of excise taxes for domestically produced goods is based on pre-tax average retail price, whereas for imported goods calculation is based on transaction value plus customs duties. Could Albania justify this difference of treatment between domestically produced and imported goods, and provide information as to its compatibility with the requirements of Article III GATT 1994?

Answer:

Albania has eliminated the discrimination in excise tax rates between foreign and Albanian products in January 1999, according to the "Law on Excise Tax" No. 8348 dated 28 December 1998. Sub-categories of excise taxes still exist; however, within the Government of Albania, a professional commission with experts of Ministry of Agriculture and Ministry of Finance, in the process of creating the possibility of defining such subcategories. Albania confirms that there is not any non-conformity with Article III of GATT 1994.

The calculation of excise based on transaction value plus custom duty is a simple way of calculation suggested by IMF, in order that the unification of excise will be not accompanied with budget implication. From the other side, the calculation of domestic excise based on retail price without VAT and excise, is considered as a relatively hard measure for those domestic industries, either which are totally degrading, or those that are still infantile. A copy of the Law on Excise is deposited in the Secretariat of the WTO (WT/ACC/ALB/26/Add.1).

Question 27.

Re: Draft law on excise taxes. Please specify how the differentiation among the three classes of cigarettes is operated.

Answer:

Albania has eliminated the discrimination in excise tax rates between foreign and Albanian products in January 1999, according to the "Law on Excise" No 8348 dated 28 December 1998. Sub-categories of excise taxes still exist; however. Within the Government of Albania, a professional commission with experts of Ministry of Agriculture and Ministry of Finance, is in the process of creating the possibility of defining such subcategories. A copy of the Law on Excise is deposited in the Secretariat of the WTO (WT/ACC/ALB/26/Add.1)

The Law on Value Added Tax is in compliance with GATT 1994 and WTO. According to Article 28 of the Law, there is no discrimination between imports and domestic goods and services. This Article is a fair copy of Article 11:A(2.a), of Title VIII of Directive VI of European Communities, which is compatible with Article III of GATT 1994. Albania confirms that based on the mentioned above laws and articles, there is no difference in the treatment of imports, and domestic furnishing and production of goods and services.

- **Value-added tax**

Question 28.

The Law No. 7928 on Value Added Tax provides in Article 26 that the taxable value of imported goods includes tariffs, taxes and duties payable upon importation. Could Albania provide information as to what is included in the taxable value of domestically produced goods in respect of value-added tax and submit evidence that there is no difference of treatment?

Answer:

The Law on Value Added Tax is in compliance with GATT 1994 and WTO. According to the Article 28 of the Law, there is no discrimination between imports and domestic goods and services. This Article is a fair copy of Article 11:A(2.a), of Title VIII of Directive VI of the European Communities, which is compatible with Article III of GATT 1994. Albania confirms that based on the mentioned above laws and articles, there is no any difference in the treatment of imports, and domestic furnishing and production of goods and services.

Question 29.

Re. Question 42 of WT/ACC/ALB/23/Rev.1 and page 38 of WT/ACC/ALB/25. Albania's answer to the questions on discriminatory application of excise taxes indicates that there is a new law being drafted that will narrow or eliminate the differential treatment between foreign and domestic goods. It is a positive development that Albania recognises the need to amend this legislation to be WTO consistent and has an intention to do this prior to accession. Were the new laws approved last year and implemented on 1 January 1999 as planned? We would like to examine the laws – is a copy available?

Answer:

Albania has eliminated the discrimination in excise tax rates between foreign and Albanian products in January 1999. Sub-categories of excise taxes still exist; however, within the Government

of Albania, a professional commission with experts of Ministry of Agriculture and Ministry of Finance, is in the process of creating the possibility of defining such subcategories.

Question 30.

Could Albania provide information on the rules of origin system, in particular the procedure to determine and proof the origin of products imported and exported to Albania.

Answer:

With regard to rules of origin, the Customs Code, Chapter 2, Article 29-32, describes the procedures to define origin of imported and exported products into and out of the Republic of Albania.

(m-o) Anti-dumping, countervailing duty and safeguards regime

Question 31.

What is the status of Law No. 7609 "On Customs Tariffs" which provided for "special" customs duties, anti-dumping duties and countervailing duties?

Re. Question 15 (WT/ACC/ALB/23/Rev.1) and WT/ACC/ALB/25. We commend Albania on its efforts in preparing legislation on anti-dumping duties.

- Could Albania provide the Working Party with an update of this legislation?

Answer.

The Law on Anti-dumping is before the Parliament and is expected to be approved by the end of March. This Law has been based on the draft of the WTO Secretariat compiled with technical assistance. This Law will be in full conformity with the principles of the WTO. Albania will have legislation on anti-dumping and countervailing measures at the time of accession.

Question 32.

Please update Albania's plans to establish legislation providing for countervailing duties and safeguards.

Answer:

The Government of Albania is currently in the process of drafting legislation for countervailing duties, with technical assistance. Albania will have legislation on anti-dumping and countervailing measures at the time of accession.

The Government of Albania is currently in the process of drafting legislation for safeguards.

Question 33.

Re. Questions 15 and 38 of WT/ACC/ALB/23/Rev.1 (and pages 38-39 of WT/ACC/ALB/25), Albania indicates that legislation on anti-dumping and countervailing duties was to be submitted for approval by June/July 1998 and provided to the Working Party late in 1998. What is the current status of this legislation?

Answer:

The Law on Anti-dumping is before the Parliament and is expected to be approved by the end of March. The Government of Albania is currently in the process of drafting legislation for countervailing duties. Albania will have legislation on anti-dumping and countervailing measures at the time of accession.

Question 34.

On page 38 of WT/ACC/ALB/25 Albania indicates that it will provide more details on its plans in relation to safeguards. When will these details be available?

Answer:

The Government of Albania is currently in the process of drafting legislation for safeguards. Albania will have legislation on anti-dumping and countervailing measures at the time of accession.

Question 35.

Could Albania update the Working Party on the state of drafted and/or implemented antidumping and safeguard legislation? Has Albania initiated a study into countervailing duties? Is Albania ready to undertake not to impose any countervailing duties until a WTO-consistent legislation has been enacted?

Answer:

The Law on Anti-dumping is under discussion through the commissions within the Parliament, and is expected to be approved by the end of March. This Law is based on the draft of the WTO Secretariat compiled with technical assistance. This Law is full conformity with the principles of WTO. Albania will have legislation on anti-dumping and countervailing measures at the time of accession.

The Government of Albania is currently in the process of drafting legislation for safeguards.

2. Export Regulation**(b) Customs tariff nomenclature, types of duties, etc.****Question 36.**

Please confirm that Albania has no export taxes.

Answer:

Albania has no export taxes. Albania will eliminate all export prohibitions at the time of accession (see the Memorandum on Export Licensing and Prohibitions on Exportable Products, document WT/ACC/ALB/34).

(c) Quantitative export restrictions, including prohibitions, quotas and licensing systems**Question 37.**

Please confirm that Albania has no quantitative export restrictions or prohibitions other than those listed in WT/ACC/ALB/25 on firewood, unprocessed wood; sawed wood and beams;

waste and scrap precious metals; waste and scrap iron, steel, nickel, lead, zinc, tin and copper; waste and scrap aluminium (except for waste aluminium packaging, such as aluminium cans for soft drinks which had been imported); and ingots.

Please give a WTO-compatible justification for the restrictions or discuss how Albania intends to amend these measures to bring them into conformity with WTO provisions, e.g., export bans are prohibited under Article XI of the GATT.

We urge Albania to find WTO consistent measures to achieve its policy goals, and work with the Working Party to establish a timetable upon which these measures would replace the current export bans.

Answer:

Albania has no quantitative export restrictions. Albania has supplemented documentation on export licensing by harmonised code, and has indicated that it will be in compliance with WTO principles. Albania will eliminate all export prohibitions at the time of accession (see the Memorandum on Export Licensing and Prohibitions on Exportable Products, document WT/ACC/ALB/34).

Question 38.

According to document WT/ACC/ALB/25, Albania currently applies export restrictions in the form of prohibition to a number of products. Albania has informed the working group that most of these restrictions are provisional. Could Albania provide a timetable for the lifting of these measures as well as information as to the restrictions that are intended to be maintained?

Answer:

Albania will eliminate all export prohibitions at the time of accession (see the Memorandum on Export Licensing and Prohibitions on Exportable Products, document WT/ACC/ALB/34).

Question 39.

Re. Questions 40 and 41 of WT/ACC/ALB/23/Rev.1 and pages 7 and 8 of WT/ACC/ALB/25. Is Albania able to give a definitive indication of timing for removal of unjustified export restrictions? Can Albania provide a commitment that, prior to accession, it will eliminate all such measures that cannot be justified under relevant WTO provisions?

Answer:

Albania will eliminate all export prohibitions at the time of accession (see the Memorandum on Export Licensing and Prohibitions on Exportable Products, document WT/ACC/ALB/34).

Question 40.

Re. Questions 40 and 41 of WT/ACC/ALB/23/Rev.1 and pages 7 and 8 of WT/ACC/ALB/25. Is Albania able to give a definitive indication of timing for removal of unjustified export restrictions? Can Albania provide a commitment that, prior to accession, it will eliminate all such measures that cannot be justified under relevant WTO provisions?

Answer:

Albania will eliminate all export prohibitions at the time of accession (see the Memorandum on Export Licensing and Prohibitions on Exportable Products, document WT/ACC/ALB/34).

Question 41.

Albania affirms that export restrictions are temporary measures. When will they be eliminated?

Answer:

Albania will eliminate all export prohibitions at the time of accession (see the Memorandum on Export Licensing and Prohibitions on Exportable Products, document WT/ACC/ALB/34).

(d) Export licensing procedures**Question 42.**

In WT/ACC/ALB/25, Albania states that there are no commodities which are subject to an export licence.

- **Is this still the case? If such requirements now exist, please update Albania's licensing requirements for exportation and indicate whether the measure restricts trade or is justifiable under WTO provisions.**

Answer:

Albania has supplemented documentation on export licensing by harmonised code, and has indicated that it will be in compliance with WTO principles. Albania will eliminate all export prohibitions at the time of accession (see the Memorandum on Export Licensing and Prohibitions on Exportable Products, document WT/ACC/ALB/34).

(f) Export financing, subsidy and promotion policies**Question 43.**

Please confirm that Albania has no export subsidies.

Answer:

Albania does not maintain subsidies of any sort on industrial products or agricultural commodities. Albanian is binding agricultural export subsidies at zero (see the revisions on the Schedule of Agriculture, document WT/ACC/SPEC/ALB/4/Rev.1).

Question 44.

Re. Question 44 of WT/ACC/ALB/23/Rev.1. Under the WTO Agreement on Subsidies and Countervailing Measures, subsidies contingent upon export performance are prohibited. Can Albania explain the justification for its position that it may seek to introduce export subsidies in the future?

Answer:

Albania does not maintain subsidies of any sort on industrial products or agricultural commodities. Albania is binding agricultural export subsidies at zero (see the revisions on the Schedule of Agriculture, document WT/ACC/SPEC/ALB/4/Rev.1).

3. Internal Policies Affecting Foreign Trade in Goods

(b) Technical regulations and standards

Question 45.

On pages 16-18 of WT/ACC/ALB/25 Albania has provided an update on progress in implementing these agreements. Is Albania able to give a commitment that both agreements will be fully implemented as from the date of Albania's accession?

Answer:

Albania has supplemented documentation on SPS, TBT and import licensing by harmonised code, and has indicated that it will be in compliance with WTO principles (with regard to the establishment of a single unit that will serve as a contact point, according to Article 15 of the new Law "On Standardisation", Albania will need about 2 years. See the Memoranda on Conformity with SPS, Conformity with TBT and Import Licensing and Prohibitions on Importable Products (documents WT/ACC/ALB/31, 32 and 35, respectively).

Question 46.

Re: Question 45. (WT/ACC/ALB/23/Rev.1). In the answer there are references to technical rules and standards. We assume that "technical rules" mean "technical regulations" as defined by the TBT Agreement. If not please explain the meaning of "technical rules".

Answer:

Yes, technical rules mean technical regulations. The accreditation will be a separate activity in the future and this is linked with the starting of the accreditation of certification bodies. Today we accredit only testing laboratories. For this separation Albania will need about 2 years. Albania has supplemented documentation on SPS, TBT and import licensing by harmonised code, and has indicated that it will be in compliance with WTO principles (with regard to the establishment of a single unit that will serve as a contact point, according to Article No. 15 of the new Law "On Standardisation", Albania will need about 2 years). See the Memoranda on Conformity with SPS, Conformity with TBT and Import Licensing and Prohibitions on Importable Products (documents WT/ACC/ALB/31, 32 and 35, respectively).

Question 47.

Re: Question 46. (WT/ACC/ALB/23/Rev.1). Does Albania share the criteria mentioned in the question?

Answer:

The accreditation will be a separate activity in future and this is linked with the starting of the accreditation of certification bodies. Today we accredit only testing laboratories. For this separation Albania will need about 2 years, this will depend on the economic development of Albania. Standardisation is separate from certification because we have those activity in different departments.

The standards process is open and every natural or juridical subject can participate in the technical committee for standards, if they are interested to do so. Some foreign companies participate in the technical committee. Draft standards are published and the comments period is from three to six months.

Regarding certification, the market is open for other third party certification bodies and the new Law on "Standardisation" only charge the national standards body to carry out certification, but does not forbid other certification bodies carry out this activity in Albania. The national standards body will become independent from the government when the economic operators in Albania will have interest and will support, from a financial point of view, this body. See the Memoranda on Conformity with SPS, Conformity with TBT (documents WT/ACC/ALB/31 and 32, respectively).

Question 48.

Re: Question 48. (WT/ACC/ALB/23/Rev.1). Could Albania submit a copy of the "Law on Standardisation" to the WTO?

Answer:

The new Law on "Standardisation" has been passed by the Parliament, and will enter into force in March 1999.

Question 49.

Re: Question 49. (WT/ACC/ALB/23/Rev.1). Could Albania explain when and why international standards would not be used?

Answer:

The goal of Albania is to adopt as many international and European standards as possible and this process is well under way. The national standards will be used only for some local products which are not subject to international trade. However, having only voluntary standards, these will not create a technical barrier to trade.

Question 50.

Re. Question 52. (WT/ACC/ALB/23/Rev.1) Can local governments establish standards or technical regulations?

Answer:

In Albania, the technical regulation will be established only by the national authority. For standards they will be issued by the national standard body in the fields of ISO/IEC or CEN/CENELEC and by the Albanian Office for Telecommunications Regulation in the field of ITU or ETSI.

Question 51.

Re: Question 53. (WT/ACC/ALB/23/Rev.1). In addition to providing the new draft law, could Albania expand a little bit on the distinction between a standard and a technical regulation?

Answer:

In the new Law on "Standardisation" the definitions of standard and technical regulation are those given in Annex 1 of the TBT Agreement "Terms and their Definitions for the Purpose of this Agreement". See the Memorandum of Conformity with TBT (document WT/ACC/ALB/32).

Update On TBT Compliance

The Law on "Standardisation" was passed by Parliament on 12 March 1999 and will be in force in March 1999. There are minor changes in the new Law concerning the definition of standards and technical regulation. Those definitions are taken from Annex 1 of the TBT Agreement. The legislation was prepared with technical assistance and is consistent with the WTO and TBT Agreements.

All standards are to be voluntary and technical regulations mandatory. Standards will be applied to foreigners and local producers in compliance with national treatment. Technical regulations will be used to protect human, animal or plant life or health or environment without being more trade -distorting than necessary.

All General Directory of Standardisation (GDS) work will be based on adoption of international (ISO) and regional (EN) standards. In 1990, Albania had not adopted any foreign standards; in 1998 the Republic of Albania has adopted 52 ISO, 4 IEC, 147 EN, and 62 from other States. The goal is to reduce the creation of national standards and to increase the adoption all above mentioned ones. Accreditation will be based on European standards series 45.000. For certification however, foreign certification bodies can carry out certification activities in Albania. The GDS is a full member in ISO and an affiliated member in CEN. In future, the GDS will be a member of IEC and CENELEC. In the preparation of standards, the emphasis is on product performance requirement rather than on design or descriptive requirements. The process of preparation of standards is open, transparent and free from commercial influence. An Information Centre for Standards has been created in compliance with the TBT Agreement's call for an enquiry point.

The Code of Good Practice for Preparation, Adoption and Application of Standards has been translated into Albanian and will adopted as it is once the new Law on "Standardisation" is implemented. The GDS is preparing the decree of the Albanian Government to assure that all remaining activities will be in compliance with TBT Agreement.

(c) Sanitary and phytosanitary measures**Question 52.**

We appreciate the report in WT/ACC/ALB/23/Rev.1 concerning Albania's intent to comply with the SPS and TBT Agreements. We look forward to further discussion on Albania's conformity with the SPS and TBT Agreements.

- **Please update the status of the draft standardisation law.**
- **Please confirm that this law or other law or regulation in Albania implements the procedural and institutional requirements of the WTO Agreement on Technical Barriers to Trade e.g., the establishment of an enquiry point, prior to publication for comment, etc.**
- **Please outline how the provisions of the WTO Agreement on Sanitary and Phytosanitary Measures is implemented in Albanian Law.**

Answer:

Albania has supplemented documentation on SPS, TBT and import licensing by harmonised code, and has indicated that it will be in compliance with WTO principles (with regard to the establishment of a single unit that will serve as a contact point, according to Article No. 15 of the new Law "On Standardisation", Albania will need about 2 years. See the Memoranda on Conformity with SPS, Conformity with TBT, Import Licensing and Prohibitions on Importable Products, and Export Licensing and Prohibitions on Exportable Products (documents WT/ACC/ALB/31, 32, 35 and 34, respectively).

The new Law on "Standardisation" was passed by the Parliament, and will enter into force in March 1999.

The goal of Albania is to adopt as many international and European standards as possible and this process is well under way. The national standards will be used only for some local products which are not subject to international trade. However, having only voluntary standards, these will not create a technical barrier to trade.

(d) Trade-related investment measures

Question 53.

Albania states in WT/ACC/ALB/25 that it does not maintain or apply trade-related investment measures (TRIMs).

- **We would like to see this reflected in the Working Party Report.**

Answer:

Albania has supplemented documentation on Memorandum on Compliance with Trade-Related Investment Measures (TRIMs), see document WT/ACC/ALB/30.

(e) State-trading practices

Question 54.

Re. the Law on State-trading Enterprises (WT/ACC/ALB/22). Could the Albanian delegation please elaborate on the "special provisions" noted in Article 6, paragraph 2, specifically, what enterprises and goods are affected by these special provisions?

The responses to Questions 63 and 64 of WT/ACC/ALB/23/Rev.1 are not responsive. Albania has stated that approximately one-fifth of its international trade is generated by State-owned firms and has listed exports of minerals such as chromium ore, copper, etc. as part of this trade.

- **Please list the major State firms that engage in trade and the products covered by their activities.**
- **Please confirm that none of these firms receives State funds for its maintenance nor contracts with the State for any imports or exports.**

- **Please describe in more detail the role of agro-export in the trade and internal distribution of agricultural products in Albania, whether or not Albania considers that it has any advantage or privileges over the other State-trading enterprises.**

In WT/ACC/ALB/8/Add.9, Albania stated that the sector of research, productions and processing of fuel is organised by a corporation "ALBPETROL", which operates on the basis of a licence issued by the National Agency of Hydrocarbons, as an entity depending on that Ministry, with the right to negotiate with the interested subjects, local or foreign, in the field of fuel and gas.

Other important sectors of the Albanian economy appear to be dominated by sole enterprises, including: research with minerals – GJEOALBA corporation; chrome mining, processing and smelting – ALBKROM corporation; copper mining, smelting and production – ALBBAKER; and production of electric energy by hydro and thermal plants – the Albanian Electroenergetic Corporation (KESH).

Albania provided in WT/ACC/ALB/13/Add.1 the profile of the Albanian trading enterprise Artekspor-Import.

- **Please provide similar detailed profile reports for the following additional enterprises: ALBPETROL, GJEOALBA, ALBKROM corporations, ALBBAKER and the Albanian Electroenergetic Corporation (KESH).**
- **Is it not true that these firms have an effective monopoly, granted by the licence, to dominate the level and direction of imports and exports, e.g., of Albania's consumption of fuel and gas services?**
- **Do any of these enterprises operate under an exclusive licensing arrangement or pursuant to other powers granted by the Government of Albania? Do any enterprises engaged in the mining or processing of the other products mentioned in your reply to that question, coal, ferro-nickel, bauxides, dolomites, etc., enjoy similar exclusive government-granted rights?**
- **Are there any other sectors where enterprises operate on the basis of a licence from the government and, in effect, control trade in that sector?**
- **Please provide detailed information on each such enterprise in accordance with the requirements of the Questionnaire on State-trading.**

Answer:

The Electro Energetic Corporation (KESH), ALBKROM, ALBBAKER, ALBPETROL corporations, are operating based on the Law on "Commercial Enterprises", No. 7638 dated 19 November 1992, which provides the same conditions and rules for public and private enterprises. Based on that Law, there are not any exclusivity right for these enterprises. Commercial enterprises are under the reconstruction process, preparing to be privatised very soon (See "Memorandum on the Updated Situation on the Privatisation Process", document WT/ACC/ALB/28).

These enterprises are not operating under any licence, which can affect the export-import regime, except the items prescribed in the Memoranda of Import Licensing and Prohibitions on Importable Products and Export Licensing and Prohibitions on Exportable Products (documents WT/ACC/ALB/35 and 34, respectively).

Also, on the application of the legal package on the privatisation of non-strategic sectors and based on the analysis of the economic and financial situation of each enterprise. We have compiled the platform of their privatisation. In doing so, we have collaborated with the Ministry of Public Economy and Privatisation (MPEP) until the latter fully approved this platform. In November 1998, with a joint action plan with MPEP, Albania defined the schedule of actions needed to accelerate the privatisation in the trade sector.

Only 10 enterprises and 5 branches of NSHPN in the districts have remained under the supervision of our Ministry. According to their privatisation platform, they are subdivided into: Enterprises in direct privatisation, for which shall be proceeded according to the Decision of the Council of Ministers No. 195, dated 20 March 1996 "On the privatisation of enterprises that can not be transformed" under which group the following enterprises are included: Durres Trade Enterprise; Tirana Albcoop, Machinery-impex in Tirana as well as the branches of in Bulqiza, Fier, Kukes, Sarande and Tirana. These enterprises have already interrupted their activity, underwent big damage and looting during the unrest of 1997, losses that can not be covered by them. They do not have a clear prospective for the future and have a limited number of employees.

For all the above mentioned enterprises, the valuation of State owned property has concluded and further privatisation procedures are being followed through MEPP.

Enterprises that shall be transformed into commercial associations and later privatised are: Agro-export, Industrial-Impex, Artexport and the Fridge Unit No. 2 in Tirana and the Fridge unit in Durres. We have decided for these enterprises the above-mentioned privatisation mode as most of them are in a good economic and financial condition, also based on their considerable depositing capacities, the qualification and the reputation that they enjoy inside and outside the country, the considerable income that they generate for the State budget in the form of taxes (approximately 150 million Leke per year) as well as the number of people that are employed in them.

The clarification and the systematisation of the foreign debt inherent in their name since 1992, of United States' Dollars 60 million, is an additional reason why these enterprises were not privatised in the classical mode.

For the fridge unit in Durres and the fridge unit No. 2 in Tirana, transformation has been concluded and they have been registered as share holder companies. Industrial-impex, Artexport and Agro-export are in the process of registration as shareholder companies. The privatisation of these companies will start in June 1999.

The enterprise of Albcontrol Durres shall be transformed in a shareholder company which shall preserve the State-owned shares according to the Decision of the Council of Ministers No. 78, dated 21 January 1999. The reason for this is that this enterprise is a strong entity for the control of the quality and quantity of export and import goods which has a good technical basis and qualified specialists and creates greater opportunities to combat corruption and the abuse of private entities in this field.

Albania have prepared and we shall send soon at the MEPP the evaluation documentation of the property for the transformation of the Durres Albcontrol Enterprises in a shareholder company with 100 per cent State owned capital.

Question 55.

The Law on State Enterprises of 17 July 1992 provides in Article 15 that the State does not guarantee the obligations of State enterprises towards third parties. Could Albania provide

information as to whether this provision also applies to the liabilities of State commercial enterprises towards foreign parties?

Answer:

Pending.

(f-g) Free zones, free economic zones

Question 56.

In WT/ACC/ALB8/Add.7, in response to Question 3, Albania noted that there is a 1996 Decision of the Government providing for the establishment and organisation of the National Entity for the Development of Free Zones, which will have direct dependence on the Government.

- **Is the 1996 Decision still in effect? If so, please describe its provisions and indicate whether any free zones have been established.**
- **What is meant by "direct dependence from the Government"? Does the Decision provide any criteria for the selection of firms to locate in the free zones? Can foreign firms locate in the zones on the same basis as domestic firms? How will the operation of the free zones be administered, directly by the government or through an exclusive licence granted by the Government of Albania? Will there be any trade-related investment measures applicable to firms operating in the free zones?**

Answer:

A new draft law and a draft regulation on "Free Zones" has been presented to the Council of Ministers for approval. A copy of this draft law will be made available to the Secretariat of WTO. According to these drafts we clarify as follows:

- the Council of Ministers will decide from which institution the National Agency for Free Zones will be depended on;
- establishment of a free zone, determination of its borders and legalisation of activities be performed by this zone, are competency of Council of Ministers, after taking the approval from the Head Council of National Agency for Free Zones and General Directory of Customs;
- the selection of the companies is made according the procedures defined in the Regulation of Free Zones based on the measurable economic criteria. In the cases of tendering will be defined the Terms of References for evaluation of the bids based on three criteria: capital, time, and rent;
- according to the new draft law free zones can be established in the private or State sites and can be administered by a private or state operator. Administration of free zone is made by the operator which will be granted a licence after the application made near to the National Agency for Free Zones and after taking the approval of the Council of the Ministers;
- according to the new draft law, free zones are not considered out of the customs territory. This means that all the goods entering to this zone from the internal market are not considered as exported goods and all the goods going out from this zone to the internal market are not considered as imported goods;

- all juridical or physical persons, domestic or foreigners, have equal possibilities to operate in a free zone, if they fulfil all the criteria defined in the application procedures specified in the draft regulation of the free zone.

Up to now in Albania has not established any free zone, but there exist feasibility studies for two free zones.

(i) Mixing regulations

Question 57.

Please confirm that Albania has no law or regulation requiring use of domestic and imported goods in certain proportions or any other sort of mixing regulations applied to imports.

Answer:

Pending.

(j) Government-mandated counter-trade and barter

Question 58.

Please confirm that Albania maintains no government-mandated counter-trade or barter.

Please indicate if barter trade is permitted under Albanian Law? If so, are duties, taxes and other restrictions and requirements applied to imports and exports conducted as barter or counter trade?

Answer:

Albania confirms that it does not maintain government mandated counter trade or barter.

(l) Government procurement practices

Question 59.

We seek a commitment from Albania that upon accession it will initiate negotiations to join the Agreement on Government Procurement by tabling an entity list and that it will move to successfully conclude negotiations within a year of that date.

Answer:

As we declared at the Working Party meeting on 27 January 1999, Albania will join the Multilateral Agreement on Government Procurement.

In this respect, upon accession we shall initiate negotiations to join this Agreement by tabling an entity list and will move to successfully conclude negotiations within a year of that date.

4. Policies Affecting Foreign Trade in Agricultural Products
(c) Export prohibitions and restrictions

Question 60.

WT/ACC/ALB/25 indicates that Albania has expanded its list of export prohibitions on agricultural products to include, in addition to firewood and other unprocessed wood, cattle hides, raw skins of sheep and lambs and other hides and skins

- **While recognising that Albania may have good policy reasons for these measures, such export bans are prohibited under Article XI unless justifiable under other WTO provisions.**

We urge Albania to find WTO-consistent measures to achieve its policy goals and work with the Working Party to establish a time table upon which these measures would replace the current export bans.

Answer:

Albania has supplemented documentation on export licensing by harmonised code, and has indicated that it will be in compliance with WTO principles. Albania will eliminate all export prohibitions at the time of accession (see the Memorandum on Export Licensing and Prohibitions on Exportable Products, document WT/ACC/ALB/34).

(d) Export credits, export credit guarantees or insurance programmes

Question 61.

Albania has not used agricultural export subsidies in the past (Albania indicated in WT/ACC/ALB/9 and WT/ACC/SPEC/ALB/4 that "Albania does not have any export subsidies" – this remains the case). However, we note that in document WT/ACC/ALB/23/Rev.1, in answer to Question 82, Albania has stated that it is not in a position to bind export subsidy commitments at zero. We are concerned about this statement and seek confirmation that Albania will indeed bind export subsidies at zero.

Answer:

Albania has bound export subsidies for agricultural commodities at zero (see the revisions on the Schedule of Agriculture, document WT/ACC/SPEC/ALB/4/Rev.1).

Question 62.

Please clarify whether the figures provided in the tables refer to actual expenditure or to amounts included in the budget? We also seek information as to whether it is likely that the figures for 1998 will need to be revised, as they were provided in August 1998 (which suggests that they may be budget figures).

Answer:

The figures in the schedule on agriculture refer to actual expenditures.

Question 63.

We would like to clarify whether Albania will be seeking developing country status for the purpose of Agriculture subsidy commitments. We note in the answer to Question 84 in WT/ACC/ALB/23/Rev.1 that Albania refers to developing country commitments. As we have noted with other accessions, this is an issue that will need to be agreed multilaterally.

Answer:

Concerning the developing country status, the Government of Albania is in discussion of that question.

(e) Internal policies**Question 64.**

For the purposes of accession, Albania should prepare tables on domestic support and export subsidies using the WTO Secretariat technical note WT/ACC/4. Acceding countries are not required to submit documentation using the formats presented in G/AG/2, upon which WT/ACC/SPEC/ALB/4 appears to be based (although it is good practice for when Albania is a Member of the WTO and participating in the Committee on Agriculture).

We encourage Albania to undertake commitments based on its current use of measures consistent with "green box" (Annex 2) criteria and non-application of export subsidies.

Our comments will focus on the tables contained in WT/ACC/4, namely, Supporting Tables DS:1 through DS:9 and Supporting Table ES:1

First, Albania should present data for a recent base period, normally the most recent three years, for which complete and final data are available. Since 1998 just ended, it would be better if Albania presented data for 1995-1997, or 1994-1996 if 1997 data are not yet available. For each table, please present data for each of the three years, not just the average.

Second, we have some specific questions relating to the measures Albania lists in Supporting Table DS:1 (measures exempt from reduction "green box"). Generally speaking, it would be useful to have a 1-3 sentence description of each of the measures listed in this table and how they meet Annex 2 criteria (this information can be inserted next to the programme name or added as a footnote at the end of the table).

- Expenditures relating to fisheries (e.g., fish breeding and stock rehabilitation) should not be included, since the Agriculture Agreement does not cover fish and fish products (see Annex 1 to the Agreement).
- Expenditures relating to upkeep of buildings and other administrative costs, unless directly related to the provision of a specific service, should also be omitted. For example, restoration of public administration buildings, listed under "other", does not need to be included.
- Please provide more detail on the measures listed under "infrastructural services". Expenditures to subsidise the cost of inputs (such as water) are not allowed (see paragraph 2(g) of Annex 2).

- Please provide more information on direct payments made as part of the "agri-business – processing development" programme (structural adjustment through investment aids) and environmental protection and conservation programmes (payments under environmental programmes), with reference to the specific criteria in paragraphs 11 and 12.

Third, we note that in Supporting Table DS:2 Albania notes that it does not provide generally available input subsidies, except those from "medium term (3-5 years) international projects.

- Although there are no expenditures listed, Albania should be aware that it does not need to include programmes that are funded by international projects in its domestic support submission.

Lastly, a comment concerning support for flour for making bread, which Albania notes in Supporting Table DS:4 was phased out in 1996. Based on information presented in WT/ACC/SPEC/ALB/1/Add.1 and WT/ACC/ALB/23/Rev.1, it appears that this measure functioned as a price control on flour rather than market price support for grain producers.

- Annex 3 to the Agreement on Agriculture specifies that the Aggregate Measurement of Support (AMS) be calculated as close as practicable to the first point of sale of the basic agricultural product concerned, meaning that support to processors would not be included in the AMS, except to the extent that it benefits the primary producer.
- If Albania set an applied administered price for wheat or other grains, or provided any other product-specific subsidy, then this support should be captured in Albania's AMS.
- Based on the information provided, it does not appear that the price control on flour for bread would fit this description.

Answer:

Albania does not maintain subsidies of any sort on industrial products or agricultural commodities. Albania is binding agricultural export subsidies at zero (see the revisions on the Schedule of Agriculture, document WT/ACC/SPEC/ALB/4/Rev.1).

Table DS:1 - Green box measures

Question 65.

We would be interested in further details on the programmes listed as green box programmes, including the criteria for granting support, to ensure that they meet the requirements of Annex 2 of the Agreement on Agriculture.

There are references to fish programmes under (A) General Services, Extension and Advisory Services, and Infrastructural Services. Programmes relating to fish are not covered by the Agreement on Agriculture and are therefore not required to be included in the tables.

Albania has provided information on the average for the three-year period 1996-1998. Information for each year should be provided separately.

Under (A) General Services, Research Institutes, Albania has referred to 12 institutions which have been partially funded by the Ministry of Agriculture and Foods, and 12 institutions partially funded by the Ministry of Education and Science.

- **Could Albania provide more about the organisations and the research they undertake?**

Under (A) General Services, Other, Albania has included the restoration of public administration buildings:

- **Could Albania provide more details on this programme? Does it relate to Agricultural Administration or to General Administration?**

Under (B) Public Stockholding for Food Security Purposes, Albania notes that it maintains grain reserves:

- **Can Albania provide more details concerning the purchase and sale of grain?**

Answer:

The revised schedule on agriculture has provided greater detail in the descriptions of the green box measures (including the 12 research institutions) reported in Table DS:1, and the data have been desegregated into the last three years. The programmes related to fisheries programmes have been excluded from the revised schedule as they are not related to agriculture. The restoration of public buildings is in reference to the civil unrest of 1997 where government buildings were looted and suffered physical structural damage requiring reparations.

Albania maintains buffer stocks of grain, but the volume of grain has steadily been decreasing. The volume kept under State reserves represents less than one percent of domestic consumption in 1998 and the programme does not affect prices because the grain is sold by auction. The quantity kept under State reserves is being reduced as a commitment taken in the framework of the Enhanced Structural Adjustment Facilities (ESAF) programme of the IMF. (See the revised Schedule on Agriculture, document WT/ACC/SPEC/ALB/4/Rev.1)

Table DS:2 - Measures exempt from reduction commitments

Question 66.

Albania has included under (B) Input Subsidies generally available to low-income or resource-poor producers, the provision of water at subsidised rates which we understand is provided only to poor farmers. However, Albania has not included any figures for this programme in the most recent tables provided, although it was included in the previous tables.

- **Is this programme still in operation and is Albania still claiming this programme as a measure exempt from reduction commitments?**

Answer:

Input subsidies generally available to low income or resource-poor producers were made in each of the years 1996-98 and are included in the revised schedule on agriculture. The programme was discontinued in 1998 and no water subsidies are provided in 1999. No other input subsidies exist.

Table DS:4 - Calculation of the total aggregate measurement of support (AMS)

Question 67.

Albania says that it has not provided any domestic support to producers and notes that support for flour for bread was lifted in 1996. In its answer to Question 84 of WT/ACC/ALB/23/Rev.1, Albania provides details of these programmes and on the calculations made in the earlier tables provided.

- **Can Albania provide clarification as to whether there are currently any domestic support programmes provided, and if so, details on these programmes?**

Answer.

The computations of AMS are provided for each year 1996-98. Since the price ceiling for bread was removed in 1996, there is no support for agriculture and the AMS calculations are zero for 1997 and 1998.

V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME

1. General

(a) Intellectual property policy

Question 68.

This delegation appreciates the progress made since the last Working Party in drafting legislating regarding the protection of intellectual property in the territory of Albania to bring Albania's laws and practices into conformity with the obligations of the TRIPS Agreement.

We have read carefully the information contained in Albania's Foreign Trade Memorandum, in responses and other information provided in WT/ACC/ALB/23/Rev.1 and WT/ACC/ALB/25 and in draft legislation and explanations regarding draft legislation.

A chart was prepared, article by article, obligation by obligation, where we believe the laws of Albania appear to conform to the obligations of the TRIPS Agreement and where changes appear to be needed.

At the time we began preparing for this Working Party meeting, we did not have copies of all of Albania's laws in their most up-to-date form. The chart, therefore, represents our best efforts and current views. We reserve the right to amend our position on Albania's compliance with the TRIPS Agreement in future based upon information we receive that clarify points or that fill in the blank spaces where we currently lack information.

If the interpretation of Albania's laws reflected in the chart is incorrect in any instance, we would appreciate information on the correct interpretation and any additional information about your laws and practices that will clarify our understanding.

In those instances where we have indicated we lack sufficient information to make a judgement or where a blank follows an obligation, we also would appreciate your explaining how particular obligations are met.

We hope that this tool will be as useful to you as it is to us in determining the consistency of Albania's legislation with each of the obligations of the TRIPS Agreement.

With regard to enforcement, additional information will be needed regarding the actual enforcement activities in Albania in order to judge whether the enforcement mechanisms in the law are "effective", whether remedies are "expeditious", and whether remedies constitute "a deterrent to further infringements".

We suggest that Albania provide comments on the chart and information on enforcement in writing as soon as possible for circulation to Working Party members, so that a common perspective on Albania's TRIPS compliance can be achieved.

In the response to the final question in WT/ACC/ALB/8/Add.9, Albania states that "there is no one system of enforcement at the borders in Albania". Are borders controlled by federal authorities or are they controlled by sub-federal organisations? Please describe each of the border enforcement systems currently in place in Albania.

The protection of all forms of intellectual property is extremely important to industries, but it is also of considerable importance to Albania, to encourage both domestic and foreign investment and to ensure that those in Albania who create and innovate and who develop businesses are, through the rewards available in connection with intellectual property rights, encouraged to continue those efforts.

Answer:

Please refer to the Memorandum on TRIPS Conformity (document WT/ACC/ALB/36).

Question 69.

Could Albania to provide further information on:

- **Whether Albania provides for national treatment of nationals of countries of the Paris Union, or those who have real and effective industrial or commercial establishment in the territory of one of the countries of the Paris Union (Article 2 of the Paris Convention).**
- **Whether Albanian Law provides for protection against unfair competition (Article 10bis of the Paris Convention).**

Answer:

Albania accords national treatment to the citizens of member countries of the Paris Convention or those citizens who have an industrial or commercial enterprise in a member country.

In the new draft law, there is an additional Article that determines the above-mentioned treatment. On a more general basis, this right is set forth in Articles No. 50 and 100 of the current Law on Industrial Property.

The Albanian Law On Competition includes a number of Articles that deal with the regulation of competition (Articles 24 -26) or with prevention of illegal actions in competition with the purpose of gaining advantages (Articles 37 - 42).

According to point 3 of Article 10bis of the Paris Convention, the Albanian Law on Competition foresees the prevention of the actions that intent to create confusion (Article 43 and 27.1 and 27.3); the prevention of the false allegations that intent to discredit the competitor

(Articles 42,30.2 and 27.1) and the prevention of false allegations that create a wrong image about the characteristics of the goods of the competitor (Article 27.2, 5 and 6).

2. Substantive Standards of Protection

(a) Copyright and related rights

Question 70.

Could Albania further clarify:

- **Whether there are any administrative formalities requirements for the enjoyment of copyright (on page 24 of the Communication from Albania, regarding Article 5 of the Bern Convention which provides that rights shall be enjoyed without being subject to any formalities, Albania comments that no special provisions are mentioned in the law).**
- **Whether "free uses of computer programs" (mentioned in the table on "free uses of works", page 25 of the Communication) are restricted to back-up copies and decompilation as set out in Sections 13 and 14 of the Law.**
- **Under which provisions of the Copyright Law, compilations of data are protected as required by Article 10 of the TRIPS Agreement (the answer to question 87 in WT/ACC/ALB/23/Rev.1 does not appear to provide the information requested).**
- **Whether there are any indications yet of a timetable for the preparation of legislation on layout designs of integrated circuits.**
- **Whether there is a timetable for the preparation of legislation on border enforcement.**

Answer:

The Albanian Law on Copyright foresees no formal administrative requirements for the enjoyment of copyright. According to Article 51, point b, works will be protected in Albania in accordance with the international conventions where Albania participates.

According to Article 13 of the Law on Copyright, the legal owner of a computer program is allowed to make a back-up copy or a compilation of the program without the consent of the author and without any recompense or reward, in condition that the back-up copy or the decompilation be necessary for the utilisation of the computer program for the purpose that this program has been legally purchased, and second, the back-up copy or the decompilation be utilised for archives and if necessary be substituted with the original copy legally purchased (in case the copies are lost, destroyed or made invalid).

According to Article 14 of the Law on Copyright, it is possible to make the reproduction and translation of the code, without being necessary to have the author's consent. This is the case when the reproduction or the translation are necessary for accessing the necessary data for the interaction of a computer program set up independently with other computer programs and this is allowed only upon the fulfilment of the following conditions:

When this action is licensed or by some other person who is authorised to utilise the program copy or some other person authorised by the latter.

When the necessary data for interaction have not previously given to the persons mentioned in point 1.

When these actions are limited in those parts of the original program that are indispensable for the establishment of interacting capacity.

The provisions mentioned above are in full compliance with Article 10:2 of the TRIPS Agreement.

The draft law on Protection of topographies on integrated circuits is expected to be passed soon by Parliament.

The Albanian Law on Copyright foresees and guarantees the protection of computer programs and databases.

Article 1, point (a) of this Law foresees the protection of written works including computer programs. According to Article 2 of the Law, the same protection enjoy the abridgement, summaries and the transformations of works and databases which are original in the nature of selection and systematisation.

In addition to this, in Article 5 where the economic author's rights are foreseen it is stated that "the author of a work such as a computer program, database or any other which is read by apparatus, has the exclusive right to allow giving on lease or lending of his work."

The Albanian Government has done serious efforts in comparing and making compatible the Albanian Law on Copyright with TRIPS Agreement. To this purpose has served the preparation of a draft on the establishment of a package of customs measures to prevent forfeited and pirated goods that infringe the ownership of intellectual rights. This project aims at making the Albanian legislation compatible with Articles from 51 to 60 of the TRIPS Agreement. Article 82:4 in the new Customs Code sets forth the customs authorities with the request of the bearer of the intellectual right ownership have the right to prevent goods known as forfeited or as pirated from free circulation, export and re-exporting as well as establishing a cancelling regime. The procedures of exercising this right are determined in the implementation draft acts of this code. This procedure is in full compliance with the special descriptions of the TRIPS Agreement on border measures. The Government of Albania shall pass the Dispositions of Applicability to the Customs Code of the Republic of Albania within the month of April 1999.

The above-mentioned provisions are in full accordance with Article 10:2 of the TRIPS Agreement, which covers computer programs and databases (their protection shall be in the same terms as the protection for artistic works in the Bern Convention).

For related legislation on border enforcement, please refer to Articles 119 and 120 of the Draft Dispositions of Application of Customs Code, attached to Memorandum on TRIPS Conformity, (document WT/ACC/ALB/36).

Question 71.

Could Albania provide a copy of the latest copyright laws - Law No.°7564 of 19 May 1992 on Copyright and Law No.°7932 of 19 April 1995 amending Law No.°7564).

Answer:

Pending.

(b) Trademarks

Question 72.

Could Albania further clarify:

- **Whether Albanian law provides for a rule according to which the registration of a trademark confusingly similar to a well-known mark, *ex officio* or on request of an interested party should be refused to be registered or be cancelled (Article 6bis of the Paris Convention).**
- **Whether Albanian law provides for protection of trade names (Article 8 of the Paris Convention).**

Answer:

Article 76 of the Law on the Industrial Property refuses to register a trademark when it infringes the rights of a well-known trademark. The definition of a well-known trademark as such is done by the Office of Patents according to the information received by the consumer as well as information received by the International Bureau of the registration of trademarks in Geneva, the office of the trademark registration of the European Community in Alicante-Spain and homologue offices in Europe and elsewhere, with which the Albanian office of patents keeps regular contacts.

In accordance with Article 8 of the Paris Convention, the Albanian law on the Industrial Property includes no provision that obliges the registration or the depositing of a commercial name. Article 18 of the Law On the Provisions that regulates the first part of the Commercial Code sets forth that within one month from the day of the beginning of a commercial activity, the tradesman should announce his name and should deposit his original signature at the court appointed to keep the commercial register.

(e) Patents

Question 73.

Could Albania provide further information on:

- **Whether a compulsory licence can be granted in Albania, when a patented product is imported from a WTO country in sufficient quantities to meet local demand (According to Article 27 of the TRIPS Agreement this would not be possible).**
- **Albania's intentions concerning the implementation of the TRIPS rules on enforcement of intellectual property rights.**
- **Whether and under what circumstances inventions relating to plants and animals are excluded from patentability in Albania (Article 27.3 of TRIPS).**

Answer:

When a product is imported into Albania, where exists a patent protecting process of manufacture of the said product, the patentee shall have all the rights with regard to the imported product, that are accorded to him by the Albanian legislation on industrial property, on the basis of the process patent with respect to products manufactured in Albania. In that case, no compulsory licence can be granted in Albania.

Related to this question, a new amendment is being prepared, please refer to Implementation of the Law on Industrial Property with the TRIPS Agreement, attached to the Memorandum on TRIPS Conformity (document WT/ACC/ALB/36).

The new Customs Code as well as the by law acts passed for its implementation, the Code of the Civil Procedure and the Penal Code, in separate Articles foresee a strict defence of the interests of the owners of intellectual property objects. A packet of by law acts, including the measures that should be taken at the customs and the enforcement of intellectual property rights, in accordance with the requirements of TRIPS, has been recently drafted and is expected to be approved by the Government within April 1999.

Please refer to Articles 119 and 120 of Draft Dispositions of Application of Customs Code, attached to the Memorandum on TRIPS Conformity.

The new varieties of plants and the new breeds of animals are excluded from the patentability, when their creation has to do with essential biological processes for their production. This is not valid for microbiological processes or their by products.

VI. TRADE-RELATED SERVICES REGIME

1. General

Question 74.

We appreciate the information provided on Albania's services regime in WT/ACC/ALB/14. However, given the evolving nature of Albania's services regime, we would appreciate Albania's review and any necessary updates of the information in this document, taking account of the guidelines set out in WT/ACC/5.

We would expect updates regarding the status of legal and/or regulatory regime, market development and any existing market access or national treatment barriers for all major sectors listed in W/120 (including financial services; telecommunication services; professional and other business services; construction services; wholesaling and retailing; audio-visual services) and covering all four modes of supply: cross-border; commercial presence; consumption abroad and movement of natural persons.

Could Albania please provide information on any preferential trade agreements covering services issues it has or is in the process of negotiating?

Answer:

Pending.

3. Market Access and National Treatment **- Horizontal commitments**

Question 75.

Are foreigners permitted to own non-agricultural land, i.e., for business/residential, or are there time and lease restrictions?

Answer:

See the Schedule of Services, horizontal commitments, real estate sector (WT/ACC/SPEC/ALB/5/Rev.2).

Question 76.

Would Albania consider raising the 20 per cent foreign equity limitation for private businesses, or scheduling is phase - out?

Answer:

Please refer to the document "Memorandum on the Updated Situation on the privatisation process in Albania" (WT/ACC/ALB/28).

Question 77.

How is the selection of operators determined? Is it a quota or other means?

Answer:

The Government is committed to opening up the telecommunications sector to competition from private interests. This commitment is reflected in the offer being made to the WTO. The Government will adopt also the principles expressed in WTO Reference Paper on Regulatory Principles. The following initiatives will be adopted:

Initiative 1 Data communications, including Internet access and VSAT networks, and paging services are already fully open to competition and further expansion will be encouraged. TRE (Telecommunications Regulatory Entity has already issued 5 licenses for access to Internet and three licenses for radio paging. These are general licenses issued upon requests, without any restriction.

Initiative 2 While local telephone network operations are already authorised in rural areas, existing activities are performed outside a licensing framework. Improved operating conditions will be devised and new rural licenses granted by 2000.

Initiative 3 Further terrestrial mobile telephony operators will be licensed starting from 2000. Albanian Telecom will receive one licence at privatisation; subsequent licenses will be issued as soon as market conditions permit

Initiative 4 Urban, long distance and international telephony services will be liberalised by 2003.

Question 78.

Are only "important sectors" limited to a 20 per cent maximum foreign ownership or does this apply to all sectors? Please define the "important sectors".

Answer:

Albania has taken commitments for these sub-sectors. Please refer to the revised Schedule of Services (WT/ACC/SPEC/ALB/5/Rev.2).

Question 79.

Would Albania please reconsider the maximum term of 1 year for foreign temporary stay? We would be grateful if Albania could clarify what it means by a "considerable sum" under "Entry of foreign natural persons". Would Albania consider making a commitment on senior executives, specialists and services sellers?

Answer:

Pending.

- **Specific service sector or sub-sector**
 1. **Business services**

Question 80.

Re. Legal services. Would Albania please reconsider the modes 1, 3 and 4 restrictions on foreign lawyers, which does not allow them to practice Law in Albania. Is any form of foreign legal consultation permitted in law? We place high priority on access to markets for home-country, third country and international law.

Answer:

Albania has taken commitments for these sub-sectors. Please refer to the revised Schedule of Services (WT/ACC/SPEC/ALB/5/Rev.2).

Question 81.

The sub-sectors of (b) accounting, (c) taxation, (d) architectural, (f) integrated engineering, and (g) urban planning and landscape architectural services have not been addressed. These are important sectors to this delegation and we would recommend that Albania provide comment.

Answer:

Albania has taken commitments for these sub-sectors. Please refer to the revised Schedule of Services (WT/ACC/SPEC/ALB/5/Rev.2).

Question 82.

The sectors of B. Computer and Related Services, 5. Rental/leasing services without operators and 6. Other Business Services have not been addressed. These are important sectors to this delegation and we strongly urge Albania to address all these sectors and sub-sectors.

Answer:

Albania has taken commitments for these sub-sectors. Please refer to the revised Schedule of Services (WT/ACC/SPEC/ALB/5/Rev.2).

2. Communication services

Question 83.

Re. We would be grateful if Albania would consider making an offer on (b) Courier Services.

Answer:

Albania has taken commitments for these sub-sectors. Please refer to the revised Schedule of Services (WT/ACC/SPEC/ALB/5/Rev.2).

Question 84.

What does Albania mean by the statement in mode 4 for market access that "a natural person must be registered as a juridical person"?

Answer:

This note has to do only with public telecommunications services. To offer the service to a large community of subscribers, brings some responsibilities such as service quality, service availability, etc. This means that to offer such a service, you have to be registered in the Court as juridical person.

Question 85.

In response to Question 44 of WT/ACC/ALB/3 on whether or not there are ceilings for foreign investment in any sectors, Albania states in its answer that there are no ceilings on foreign investment. Later, however, in service specific documents, Albania states that investment in the telecom sector is limited to 40 per cent while the limit in the insurance sector is still being debated.

- **Please confirm what, if any, limits there are on investment in these two sectors.**

Answer:

It is foreseen that the Albanian Telecom will hold the monopoly over voice telephony services (urban, long-distance and international) until the end 2002. AMC will hold the monopoly over mobile telephony until year 2000. AMC and AT are to be privatised (AMC-April 1999, AT-end 1999). But there is still no one precise percentage of the strategic partner's shares. (What is decided until now is that for AMC the majority of shares will be sold and for AT not less than 30 per cent of shares will be sold to the strategic investor) (See the draft policy of Telecommunications development, developed with AERIS consultant company).

Yes there is a limitation on participation of foreign capital in the insurance sector. It is stated by Law No. 8081 dated 7 March 1996 "Insurance and Reinsurance Companies" that the level of foreign participation in a joint-venture company can be up to 40 per cent. In the meantime, the foreign company can establish a branch in Albania with a participation of 100 per cent foreign capital.

3. **Construction and related engineering services**
4. **Distribution services**

Question 86.

The sectors of 3. Construction and Related Engineering and 4. Distribution Services are of vital interest to this delegation and we would be grateful for information on any restrictions to foreign involvement in these sectors.

Answer:

Albania has taken commitments for these sub-sectors. Please refer to the revised Schedule of Services (WT/ACC/SPEC/ALB/5/Rev.2).

5. **Education services**

Question 87.

In order for foreigners to practice in education services, must they obtain their qualifications from Albania, or may they practice with foreign qualifications after gaining approval from the Ministry? Would Albania please provide further information on this sector.

- **Would Albania consider making an offer on cross-border supply of education services?**

Answer:

Albania has taken commitments for these sub-sectors. Please refer to the revised Schedule of Services (WT/ACC/SPEC/ALB/5/Rev.2).

6. **Environmental services**

Question 88.

We would be grateful if Albania would make a more comprehensive offer on environmental services. We are grateful for the commitments already in the schedule.

Answer:

Albania has taken commitments for these sub-sectors. Please refer to the revised Schedule of Services (WT/ACC/SPEC/ALB/5/Rev.2).

7. **Financial services**
- **Insurance services**

Question 89.

Would Albania please reconsider the mode 2 restriction for market access which restricts external purchasing of insurance for risks to person, object or liability situated within Albania.

Answer:

Please refer to the revised Schedule of Services (WT/ACC/SPEC/ALB/5/Rev.2).

Question 90.

Would Albania please reconsider the mode 3 restriction for market access which limits foreign participation in a joint-venture company to no more than 40 per cent. Is commercial presence in this sector restricted to joint-ventures? Does this restriction apply also to branches? Would Albania please consider the condition that a foreign enterprise may only practice within Albania if it has "exercised those activities for more than 10 years in the country where the head office is located"?

Answer:

The insurance market of Albania is not well developed. In order to develop this market, we do not allow foreign capital in a joint-venture to be more than 40 per cent, but we do allow commercial presence with 100 per cent foreign capital.

- **Banking and other financial services (not including insurance)**

Question 91.

We have concerns about the capital outflow restrictions for residents. Could Albania clarify what is involved in obtaining approval for capital outflows?

Answer:

According to Article 5 of the existing Foreign Exchange Market Regulation residents and non residents shall obtain prior written approval of the Bank of Albania for capital transfers. For the cases of capital outflows written below there is not necessary to obtain the approval of the Bank of Albania:

1. Outflow of capital transfers equalling the amount of the previous inflow of capital plus profits derived from:
 - (a) returns;
 - (b) compensations;
 - (c) payments arising out of an investment dispute;
 - (d) loan repayments according to loan amortisation schedule;
 - (e) proceeds from the sale or liquidation of any or all part of an investment, and
 - (f) the return of shareholders equity resulting from the diminution of capital in accordance with Albanian legislation.
2. Outflows of capital transfers representing the amount of profits derived from the non residents deposits placed with Albanian resident banks.
3. Outflow of capital representing the wealth of the Albanian emigrants leaving the country forever.

Question 92.

Could Albania confirm that the draft law on "Investment Funds" will remove the requirement for the underlying funds to be 80 per cent Albanian - owned?

Answer:

The restriction of "the underlying funds need to have 50 per cent of their capital owned by Albanian legal or natural persons in order to get a licence" is not included anymore in the new draft law.

Question 93.

Could Albania explain the reasons for the restrictions on market access under mode 2 for (a) Acceptance of deposits?

Would Albania please clarify the mode 2 restrictions in market access for (b) Lending of all types?

Albania has left many of the financial sub-sectors unbound "as these instruments are not yet developed". When will these instruments be developed?

Answer:

Albania has taken commitments for these sub-sectors. Please refer to the revised Schedule of Services (WT/ACC/SPEC/ALB/5/Rev.2).

Question 94.

Re. (j) Settlement and clearing services of financial assets. – Mode 3 for market access is restricted "for the time being" to the Bank of Albania only. Would Albania please provide some indication of time-frame?

Answer:

The Bank of Albania will continue to be monopoly supplier of this service at least for 5 more years.

Question 95.

In response to Question 56 of WT/ACC/ALB/3 on the two respects in which foreign banks do not receive national treatment, minimum capital requirements and the prohibition on foreign banks accepting deposits from natural or juridical Albanian persons, Albania stated that there was a proposed amendment that would lift the prohibition on foreign bank branches engaging in acceptance of deposits from natural and juridical Albanian persons. What is the status of that amendment?

Are there any financial services as defined in paragraph 5(a)(v) through (xvi) of the Annex on Financial Services which are not listed in your schedule but currently provided by the private sector in Albania? Are any such services provided by State-owned institutions alone or in competition with privately-owned financial institutions in Albania?

What are the banking activities that can be provided by banks in Albania? Can banks in Albania involve themselves in securities or other non-traditional banking activities?

Are there any measures that limit in any way the ability of a non-resident financial service provider to provide cross-border into the territory of Albania: (i) advisory and other auxiliary financial services; and (ii) the provisions and transfer of financial information and financial

data processing (as defined in paragraph 5(a)(xv) and (xvi) of the Annex on Financial Services)? If so, please describe the measures that apply.

With reference to financial services as defined in paragraph 5(a)(v) through (xvi) of the Annex on Financial Services:

- **Are there any financial services that would limit in any way the ability of residents to purchase financial services in the territory of another party, including licences required for foreign currency transactions?**
- **Are there any measures that would apply to financial services as defined in paragraph 5(a)(v) through (xvi) of the Annex on Financial Services, that would limit the ability of a non-resident financial service provider to establish a commercial presence in Albania as a directly-owned branch, an agency, a representative office, a wholly-owned subsidiary, either through *de novo* investment or through acquisition of existing enterprises to engage in any of the services that are not listed in Albania's schedule?**
- **Would you confirm that foreign-owned financial service providers that are established in Albania will be able to expand operations through additional locations or branch operations on the same terms and conditions as domestic financial institutions in like circumstances?**

Albania's schedule contains limitations for different capital requirements for foreign-owned banks and domestic banks.

- **Would Albania explain the reasons for the different requirements?**

Are there any measures that would prevent a foreign-owned financial service provider from becoming a member of any self-regulatory body, securities or futures exchange or market, clearing agency or other organisation or association, now or in the future, on the same terms and conditions as a domestic institution in like circumstances?

Please describe the status of development of private and government securities markets in Albania. Are there any restrictions that would limit participation in the government or private securities markets by foreign-owned financial institutions in Albania?

Are there any limitations, including on foreign currency, that apply to a foreign resident's participation in private or government securities markets?

Are there any monopoly suppliers of financial services?

Answer:

The Bank of Albania is the monopoly supplier offering the settlement and clearing services of financial assets. For the other questions please refer to the answers of the documents WT/ACC/ALB/23 and WT/ACC/ALB/23/Add.1.

9. Tourism services

Question 96.

If a permit to develop an area is rejected by the Tourism Development Committee, is there a mechanism for appeal? Does the committee make public its reasons for rejecting proposals?

Answer:

According to Law No. 7665 dated 21 January 1993 "On Tourism Promoted Development Zones", the Council of Policies for Development of Tourism declares the preliminary decision regarding to approval or rejection of the request made by a juridical or natural person for to get a licence for tourist activity. The interested parties have the right to present to the Council its proposals or its objections for this decision within 90 days. The Council must definitely decide within 60 days from the date of presenting the proposals or objections. The decision of the Council will be awarded by the Chairman of the Committee for Development of Tourism. The Chairman of the Committee has the right to return the decision for re-examination, if this decision is based on the law.

VII. INSTITUTIONAL BASE FOR TRADE AND ECONOMIC RELATIONS WITH THIRD COUNTRIES

1. Bilateral or Plurilateral Agreements Relating to Foreign Trade in Goods and Trade in Services

Question 97.

Are there any new developments?

Answer:

The bilateral agreement between Albania and Canada is in the process of being signed.
