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**Working Party on the  
Accession of Albania**

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## ACCESSION OF ALBANIA

### 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.

#### TABLE OF CONTENTS

	Question	Page
II. ECONOMY, ECONOMIC POLICES AND FOREIGN TRADE		
2. Economic Policies		
(a) Main directions of ongoing economic policies	1	3
State ownership and privatization	4	6
(b) Monetary and fiscal policies	2	4
(d) Foreign and domestic investment policies	3	6
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	5-6	12
3. Division of authority between central and sub-central governments	7	14
6. Description of judicial, arbitral or administrative tribunals or procedures, if any.	8	15
IV. POLICIES AFFECTING TRADE IN GOODS		
1. Import Regulation		
(a) Registration requirements for engaging in importing	9	16
(b) Characteristics of national tariff	10	17
(c) Tariff quotas, tariff exemptions	11	18
(d) Other duties and charges, specifying any charges for services rendered	12-14	18

	Question	Page
(e) Quantitative import restrictions, including prohibitions, quotas and licensing systems		
(f) Import licensing procedures	15-20	23
(h) Customs valuation	21	31
(j) Pre-shipment inspection	22	33
(k) Application of internal taxes on imports	23	33
(l) Rules of origin	24-25	35
(m-o) Anti-dumping and countervailing duty measures	26-27	36
 2. Export Regulation		
(c) Quantitative export restrictions	28	37
(f) Export financing, subsidy and promotion policies	29	38
 3. Internal Policies Affecting Foreign Trade in Goods		
(a) Industrial policy, including subsidy policies	30	38
(b) Technical regulations and standards	31	39
(c) Sanitary and phytosanitary measures	32	42
(d) Trade-related investment measures	33	44
(e) State-trading practices	34	45
(f) Free zones	35	46
(g) Free economic zones		
(i) Mixing regulations	36	46
(j) Government-mandated counter-trade and barter	37	47
(l) Government procurement practices	38	47
 4. Policies Affecting Foreign Trade in Agricultural Products		
(e) Internal policies	39	48
 V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME		
1. General		
(d) Application of national and most-favoured-nation treatment to foreign nationals	40-45	49
 2. Substantive Standards of Protection		
(h) Requirements on undisclosed information, including trade secrets and test data	46-47	51
 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.	48	53
2. Economic integration, customs union and free-trade area agreements	49	53

## **II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE**

### **2. Economic Policies**

#### **(a) Main directions**

##### **Price Controls:**

##### **Question 1.**

**We appreciate the information provided in WT/ACC/ALB/25 and 29 on Albania's price controls.**

**We would appreciate information from Albania on (a) the existing legal authority for the application of price controls, (b) the circumstances under which Albania would contemplate expanding the controls; and (c) the existence (or not) of legal authority to expand the range of goods covered to including products other than pharmaceuticals.**

**Under what circumstances does the Government of Albania foresee the elimination of the controls listed in WT/ACC/ALB/25 in the future?**

**We would like to see this information provided in the draft Working Party report.**

**Albania should also provide a list its current price controls in the draft Working Party report, by HS line item as appropriate, citing the reasons for their application**

##### Reply:

There are no price controls for any goods. For pharmaceutical products (medicine), the government sets a reference price for each of those pharmaceutical products listed by the INN (see the attachment for the list of 278 medicines on the INN list). The reference price for each medicine is computed as described in WT/ACC/ALB/25 (i.e., the reference price = the lowest CIF import price + a wholesale margin of 12 per cent + a retail margin of 27 per cent). The reference price is the price upon which the reimbursement to the retailer is based. The consumer pays a co-payment, which is some specified percentage of the reference price, and the State Health Care Insurance Institute pays the remainder of the payment. The reimbursement list and the lowest import price is published once a year (prior to the end of the first quarter of the year) stating the percentage of the reference price the consumer is to pay. This list is disclosed to the consumer at all retail outlets. The reference price and reimbursement scheme is based on the Law on "Health Insurance", Number 7870, dated 13 October 1994. For medicines which have a higher price relative to the reference price, the consumer must pay the additional expense over the reference price. Retail prices of these medicines on the INN list are not directly affected.

For price controls on services listed in WT/ACC/ALB/25 (electricity, water, passenger transport for railroad and urban bus transportation) still exist. For those sectors which will be privatized, the electricity and water sectors, it is foreseen that the prices will be liberalized.

The following statements were requested for the Working Party report:

The representative of Albania confirmed that prices for goods and services in every sector of Albania were determined freely by market forces with the exception of those listed in the tables in WT/ACC/ALB/25. (See electronic attachment for INN list of pharmaceuticals and electricity, water, rail and bus passenger transportation as listed in WT/ACC/ALB/25).

The representative of Albania confirmed that prices for goods and services in Albania other than for the items that will be listed in a tabulation were not subject to State control. He confirmed that Albania would apply its current state prices and any other state prices or price controls applied from the date of accession in a WTO-consistent fashion, and would take account of the interests of exporting WTO Members as provided for in Article III.9 of the GATT 1994. Albania would publish any list of goods and services subject to State pricing or price controls in the Official Journal, including any changes in existing measures. The Working Party took note of these commitments.

**(b) Monetary and fiscal policy**

**Question 2.**

**We suggest that section of the working party report include a discussion of Albania's recent policy goals and efforts and results in dealing with monetary variables, government revenue and debt, and budget deficits.**

Reply:

The main objective of the Bank of Albania is to achieve price stability and to maintain this stability over time. The monetary policy of the Bank of Albania is elaborated to serve the achievement of price stability. The proper monetary instruments are chosen for the same purpose. The Bank of Albania is committed to following a course of prudential and relatively strict monetary policy, keeping the control over the growth of broad money.

The results of the monetary policy of the Bank of Albania are measured through the realization of three quantitative monetary objectives which are mentioned below:

- maintaining a floor on net international reserves of the Bank of Albania;
- maintaining a ceiling on the net domestic assets of the Bank of Albania; and
- maintaining a ceiling on the net credit of the banking system of the government.

To implement the monetary policy, Bank of Albania uses direct and indirect instruments. The direct instruments which are used define the minimum level of interest rates for time deposits at the state-owned banks and the limit of credit for the economy. The indirect instruments which are used are the percentage of refinancing and the rate of required reserves. The Bank of Albania uses the direct instruments more intensively than the indirect means.

In determining the interest rate for deposits, the Bank of Albania accounts for the rate of growth in inflation to maintain stable real and positive interest rates to retain the public's confidence in the banking system. The rate of growth in the money supply is a second instrument that is used to determine the interest rates.

This is the framework of monetary policy that has been implemented in Albania since 1993 and it is foreseen to be implemented during three other future years. The policy and monetary program are compiled in cooperation with IMF (in the framework of ESAF 1 and 2 Agreements).

Results of Monetary Policy for 1998

The Bank of Albania's main objective for 1998 was realized, even better than it was forecasted. The annual level of inflation was 8.7 per cent compared with the 10 per cent level that was anticipated. (During 1997, the rate of inflation was 42.1 per cent.)

The realization of the money supply objectives of the Bank of Albania was also at levels better than those foreseen. It was forecasted that money growth would be 23 per cent at the end of 1998; however, the growth in money was only 20.7 per cent. The net international reserves was US\$5 million US over the limit of the ceiling, providing a cover for the demand for imports. (It was foreseen that the level of reserves was to be 3.8 months of imports compared with 4.7 months of imports.) Net domestic assets of the Bank of Albania and net credit of the banking system for the government were realized at less than the ceiling.

The monetary program for 1999 was compiled in that manner to provide broad money growth in accordance with the objective of inflation, which was foreseen to be 7 per cent on an annual level. The level of inflation for the first five months of 1999 shows that in spite of the situation in the region the 7 per cent target will be realized. This means that broad money growth will be increased about 15 per cent.

#### Fiscal policy:

Since 1998, the Albanian Government has implemented its macroeconomic stabilization package. The Government has used financial and economic measures respecting its fiscal targets, reducing the domestically financed deficit through the combination of measures focused on an increase of budget revenue and tightening the increase of primary expenditures. All the domestic fiscal efforts support the monetary policy objectives, reducing the rate of inflation to 8.7 per cent for 1998 compared with 42 per cent in 1997. This is because of a very large increase in private transfers and the stabilization of the domestic currency. The Government of Albania has guaranteed further fiscal consolidation to keep its growth in inflation in line with its principle trading partners by 2001.

During the first 6 months of 1999, the government's fiscal deficit was stable. For the remainder of 1999, the fiscal deficit, financed from domestic sources, will be reduced to 5.1 per cent of GDP and 3 per cent of GDP by 2000, 1 per cent less than in 1998, and less than half of the level in 1997. This reduction will support an increase of private sector credit and will facilitate an increase in domestic savings.

The necessary measures to meet the deficit targets have been accomplished. That is, government revenue as a percentage of GDP is increased, primarily from tax revenue, as a result of the implementation of 10 per cent tax on earned interest income, receipts from excise taxes, the solidarity tax (a supplementary income tax to finance the additional expenditures for public order after the civil disorder of September 1998), tariff revenues, and improvements in anti-smuggling measures at the border. The general increase in revenue will be peak at 0.6 per cent of GDP. From the expenditure side, there will be savings in all areas of budget expenditures which serve as future sources to finance the increase in operation and maintenance expenditures and government investments as well. To increase the expenditures in infrastructure, health, education, etc. above the average levels and to reach fiscal consolidation, it is necessary to reduce tax rates and to broaden the tax base.

The growth rate in GDP is forecasted to be 7.8 per cent in 1999. The public sector contribution to GDP will be reduced through privatization and through the improvements due to efficiencies of the government's public administration program through a reduction in the number of employees in the public sector and increase of the salaries of technically skilled staff in the public sector. The GOA will implement a well functioning market for agricultural land by maintaining the full productive capacity of the agricultural sector.

With regard to the foreign debt, the GOA has maintained its target. At the end of 1998, the medium and long-term foreign debt, including the arrears, is at 30 per cent of GDP. In 1999, the service of foreign debt is forecasted to be about US\$26 million, or 8.5 per cent of exports on goods

and services and less than 1 per cent of GDP. Albania has had very positive results in the payments of arrears. The GOA will continue its efforts to improve its relations with foreign creditors. Albania aims to terminate the bilateral agreements with Russia and Italy for renegotiating the terms of its debt, and it has begun the negotiations with other creditors to make payments of arrears at least in line with competitive conditions with those of the Paris Club Convention. Finally, the GOA aims to improve the control over foreign debt and foreign aid, and to improve measures to utilize the sources of aid funding.

**(c) Foreign and domestic investment policies.**

**Question 3.**

**The treatment of this issue in the factual summary isn't clear as to the sorts of controls and requirements faced by importers and investors in acquiring and repatriating foreign exchange. We would appreciate a more detailed and clearer treatment.**

**For example, WT/ACC/ALB/30 states: "There are no restrictions on the access to foreign exchange to an amount of foreign exchange attributable to a foreign enterprise. That is, there are no provisions in the Law that restrict exchange such that imports are, in effect, restricted. Foreign exchange controls do not exist as a means to restrict or limit imports."**

**We would like to see this sort of information reflected in this section of the draft Working Party report.**

Reply:

In addition to what is stated in WT/ACC/ALB/30, Albania clarifies that its legislation does not apply any restrictions on foreign exchange related to any type of investment, the quantity of an investment, the amount of foreign currency that can be exchanged, and the ability of foreign investors to repatriate their profits in foreign currencies or in Lek which are earned through their investment (e.g., every type of investment including deposits) and/or the initial capital invested.

The following statement was requested for the draft Working Party report:

There are no restrictions on the access to foreign exchange to an amount of foreign exchange attributable to a foreign enterprise. That is, there are no provisions in the Law that restrict exchange such that imports are, in effect, restricted. Foreign exchange controls do not exist as a means to restrict or limit imports.

**(f) Privatization policy**

**Question 4.**

**We thank Albania for the information provided to date on privatization.**

**The information on privatization of strategic industries provided in WT/ACC/ALB/28 is very unclear, however. There is no information on the type of firms or enterprises that have already been privatized and how that was done. And it appears that most privatization of "strategic" enterprises will occur in the future.**

**It appears from this report that in certain areas, there has not been even partial privatization of State holdings and there is no indication that private institutions exist in parallel to provide competition. We believe that this is not a fully accurate picture of Albania's privatization program.**

Could Albania provide additional clarification on these points, including information on the right of establishment of competing institutions, e.g., in the banking and telecommunications sector.

What does “optimizing the number of the employees” mean, e.g., in the context of the four restructured companies made from Albpetrol?

We need information on the “golden share” and other forms of government control that are intended in these enterprises.

Albania stated in WT/ACC/ALB/28:

“The total number of State enterprises covered by the Central Agency for Restructuring and Privatization has been 341 included about 70,000 objects to a total value of Leks 5 billion. Only 300 objects have remained non privatized and it is foreseen that all of them will be privatized within the first 6 months of 1999.”

What is the difference between “objects” and enterprises? What sort of firms and enterprises in what sectors have been “privatized”, by what means, over what period of time, and what state owned firms remain?

Albania stated in WT/ACC/ALB/28:

“According to the Law “On Privatization of Commercial Enterprises Which Function in Non-Strategic Sectors” the privatization of these enterprises will be made by auctions which will be organized by the National Agency of Privatization or by tender. The privatization is open to foreigners.

The total number of the subjects with State-owned capitals is 469. They are divided according to the type of entity as follows:

- State enterprise for sales of assets	255
- State enterprises under the procedure of transformation	67
- Companies with 100 per cent State capitals	29
- Companies with State capital less than 100 per cent	15
- Joint venture companies	103

Last year, the procedure of transformation and privatization started of 332 objects with different status of their activity and up to now are privatized 194 objects.

The documents of 91 objects are sent to National Agency of Privatization. These objects will be sold by auction.

During the year 1999 will continue the procedures of selling, privatization of State enterprises, that represent 297 objects.

Privatization is an ongoing process. So Albania will provide new data in the future months.”

We would like to see this information clarified and provided in a more usable fashion, so that delegations can have some idea of the scope and progress of privatization.

The information in the table in WT/ACC/ALB/28 is unclear. Albania should consult the tables

**provided by Latvia, Kyrgyz Republic, and Estonia in developing the needed information on progress in the privatization program for inclusion in the Working Party report.**

**In this regard, we propose that the following information, at a minimum, be provided in such a table, for each year for a recent representative period:**

**(a) the total number of state firms certified for privatization and the total number privatized each year and the number left to be privatized; (b) the kinds of firms that were privatized, e.g., services, agricultural, manufacturing, construction, initially that existing in each period; (c) information on the size of firms privatized and the portion of output and trade represented by privately owned firms; (d) as necessary, information on state firms liquidated rather than privatized.**

**Albania's presentation on privatization in WT/ACC/ALB/28 and previous indicate that its privatization program and other aspects of economic reform are ongoing. We seek a commitment from Albania in the Working Party report to report on its privatization program until it is completed and on other aspects of its economic reform and restructuring program.**

Reply:

According to the schedule on services, the right of establishment of competing banks is fully liberal (none for mode 3). For telecommunications for fixed telephony services, the liberalization of the market will be 1 January 2003 and described in the schedule. For GSM services, the market will be liberalized by the end of 1999. For all other telecommunication services, the market is fully liberalized. See the schedule on services for more detail.

Optimizing the number of employees at Albpetrol (the state-owned oil enterprise) means reducing the total number of employees to a market-determined hiring level.

According to the Law on "Privatization Strategy of Sectors of Primary Importance", No. 8306, dated 14 March 1998, the participation with vouchers in the privatization of enterprises in the primary sector is determined by a privatization formula, but in any case it will not be more than 20 per cent of the accounted capital.

According to the Law on "Privatization Strategy of Sectors of Primary Importance", No. 8306, dated 14 March 1998, the state reserves the right to decide upon issues related to strategic and public interest for the "golden share" but will not use this share to influence production or operational decisions of the privatized firm. The "golden share" can be limited in time, and will be part of the contract with the investor. The Government of Albania emphasizes that the golden share has not yet applied in the privatization of any strategic enterprises.

The difference between objects and enterprises is as follows: an object is merely an asset of an enterprise that is under the privatization program. When an enterprise is sold through a liquidation process or if the enterprise has been destroyed over time, then the privatization will be based on the sale of assets rather than in its entirety of the enterprise.

Tables with privatization information are provided in the following pages. In Table A, the total number of state-owned enterprises certified for privatization and the total number of firms privatized, and left to be privatized is presented. In Table B, production of goods and services in value, by industry, by state-owned enterprises is presented. In Table C, the contribution of state-owned enterprises, by industry, to GDP as a percentage share is presented.

The following statement was requested for the draft Working Party report:



The representative of Albania confirmed the readiness of Albania to ensure the transparency of its ongoing privatization programme and to keep WTO Members informed in its progress in the reform of its transforming economic trade regime. He stated that its Government would provide annual reports to WTO Members on developments in its programme of privatization as long as privatization programme would be in existence along the lines of that provided to the Working Party. He also stated that his Government would provide annual reports on other issues related to its economic reforms as relevant to its obligations under the WTO. The Working Party took notes of this commitments.

	Number of Enterprises Left to be Privatized		Deadline for privatization or expected completion
	1991**	1998	
Service and trade	623	48	End of 1999
Agriculture	365	93	End of 1999
Food processing	292	41	Second half of 1999
Construction and construction materials	247	31	Second half of 1999
Transportation	142	56	After 2000
Miscellaneous (pharmaceuticals, education)	107	49	Second half of 1999
Wood and paper	98	29	Second half of 1999
Handicraft production	89	10	Second half of 1999
Mechanic industry	85	31	Second half of 1999
Textiles and clothing	60	23	Second half of 1999
Tourism	44	1	Second half of 1999
Typography	29	4	Second half of 1999
Chemical and plastics industry	28	20	Second half of 1999
Metallurgic industry	14	5	Second half of 1999
Leather industry	12	4	Second half of 1999
Oil and gas	69	4	End of 2000
Mineral industry	66	17	First half of 1999
Energy	64	4	End of 2000
Telecommunications	2	2	End of 1999
Total	2,436	472	

Notes:

\* Data are not available for a year-by-year presentation.

\*\* The data in 1991 have been aggregated in such a manner that they are consistent with those from 1998. For example, the postal enterprise for each region was counted as a separate state-owned enterprise in 1991; however, for the purposes of privatization, the postal enterprise has been converted into one in the 1998 data.

1. This table does not include enterprises owned by the Ministry of Defense.
2. Some of the enterprises have been entirely reconstructed and now belong to the strategic sector.
3. The privatization of the strategic sectors has not started yet and shall be performed.
4. From the above tabled enterprises, about 40 are excluded from the process of privatization in compliance with the request for order, health and other social enterprises.

Table B. Production of Goods and Services by State-Owned Enterprises, by Industry							
	1992	1993	1994	1995	1996	1997	1998
	Million Leke						
Production of Goods	14,852.9	21,268.2	20,693.8	25,728.7	27,864.3	24,112.3	24,142.8
Oil: Albpetroli	5,402.2	7,933.8	9,154.6	11,093.6	9,873.5	9,611.0	10,886.9
Electricity: KESH	2,116.9	2,870.5	2,885.1	4,433.3	11,231.0	8,648.1	7,753.1
Mining:	3,452.6	4,662.6	4,286.1	6,888.6	4,599.7	3,663.1	3,293.4
Chromium: Albchromium	1,578.3	2,377.3	2,547.2	4,761.7	3,286.6	3,434.1	2,854.5
Copper: Albcooper	1,342.8	1,660.4	1,199.4	1,642.6	972.4	112.9	296.7
Coal	531.5	624.9	539.5	484.3	340.7	116.1	142.2
Other industries	3,881.2	5,801.3	4,368.0	3,313.2	2,160.1	2,190.1	2,209.4
Metallurgy	342.8	685.8	858.2	974.5	1,079.2	1,111.9	1,119.3
Mechanics	513.2	811.5	837.0	587.0	82.6	66.3	80.5
Polygraphs	164.9	345.9	321.9	298.3	57.0	77.7	184.9
Chemicals, glass, porcelain, rubber	645.1	1,085.4	820.0	495.4	407.3	320.7	207.6
Textiles and clothes	1,390.1	1,739.0	758.7	303.5	297.8	301.5	315.3
Leather and shoes			350.6	85.5	225.5	300.5	290.4
Wood and paper products	521.2	811.3	280.0	465.2	10.7	11.5	11.4
Arts and crafts	303.9	322.4	141.6	103.8			
Production of Services	77.9	2,216.4	2,632.0	3,294.1	5,038.2	6,331.4	6,213.9
Postal enterprise	77.9	192.3	253.0	340.8	570.4	701.1	547.9
Telecommunications		2,024.1	2,379.0	2,953.3	4,192.8	4,932.3	4,661.1
Albanian Mobile (phone) Company					275.0	698.0	1,004.9
Gross Domestic Product	50697	125334	184393	229793	280998	341716	456766

Table C. The Contribution to GDP by State-Owned Enterprises, by Industry							
	1992	1993	1994	1995	1996	1997	1998
Contribution by Sector:	Percentage Share of GDP						
Total Contribution in the Goods Sector	29.3	27.5	11.2	11.0	9.7	6.9	5.1
Oil: Albpetroli	10.7	6.3	5.0	4.8	3.5	2.8	2.4
Electricity: KESH	4.2	2.3	1.6	1.9	4.0	2.5	1.7
Total from mining industries:	6.8	3.7	2.3	3.0	.6	1.1	0.7
Chromium: Albchromium	3.1	1.9	1.4	2.1	1.2	1.0	0.6
Copper: Albopper	2.6	1.3	0.7	0.7	0.3	0.0	0.1
Coal	1.0	0.5	0.3	0.2	0.1	0.0	0.0
Total of other industries	7.6	4.6	2.3	1.3	0.6	0.5	0.3
Metallurgy	0.7	0.5	0.5	0.4	0.4	0.3	0.2
Mechanics	1.0	0.6	0.5	0.3	0.0	0.0	0.0
Polygraphs	0.3	0.3	0.2	0.1	0.0	0.0	0.0
Chemicals, glass, porcelain, rubber	1.3	0.9	0.4	0.2	0.1	0.1	0.0
Textiles and clothes	2.7	1.4	0.4	0.1	0.1	0.1	0.1
Leather and shoes							
Wood and paper products	1.0	0.6	0.2	0.2	0.0	0.0	0.0
Arts and crafts	0.6	0.3	0.1	0.0	-	-	-
Contribution of Selected Services							
Postal enterprise	0.2	0.2	0.1	0.1	0.2	0.2	0.1
Telecommunications	-	1.6	1.3	1.3	1.5	1.4	1.0
Albanian Mobile (phone) Company					0.1	0.2	0.2

### **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 5.**

**Are borders controlled by federal authorities or are they controlled by sub-federal organizations? Please describe each of the border enforcement systems currently in place in Albania.**

##### Reply

Albanian borders are controlled by central customs authorities of the Albanian State.

(a) In Albania there is already a legal base that ensures a system of border measures for the prohibition of counterfeit or pirated goods that infringe and violate intellectual property rights. The preparation and drafting of this legal base has been completed aiming at an effective guarantee of the enforcement of the intellectual property rights in Albania in compliance with the TRIPs agreement.

The law No. 8449, of 27 January 1999, "The Customs Code in the Republic of Albania", in Article 82, paragraph 4, gives to the customs authorities the competence to intervene, upon request of an holder of an intellectual property right for stopping the free circulation, export, re-export and place under suspension measures goods recognized as counterfeit or pirated.

The procedures of this intervention of customs authorities are established in the Decision of the Council of Ministers No. 205 dated 13 April 1999. The implementing provisions on Customs Code. The first part of this decision defines counterfeit and pirated goods according to Article 82 of the Customs Code. Whereas Title 9 defines the procedures of action of customs authorities. According to Point 119, the customs authorities take action after an application in written form of the holder of the right, when the counterfeit or pirated goods are released for free circulation under a transit procedure or a procedure with economic impact.

The application of the holder of the right shall be in written and contain a sufficiently detailed description of the goods to enable the customs authorities to recognize them, the length of the period during which the customs officers are requested to take action and any other useful information to identify the exporter and the importer. The application shall be accompanied by proof that the applicant is holder of a trade mark, production license, copyright etc.

The customs authorities examine the application notifying the applicant within 5 days whether it has been taken into account. When the application is accepted the decision of the General Directorate shall be notified promptly to all customs offices. This decision determines a period within which the customs authorities may intervene.

The decision may foresee that the applicant shall forward a down payment, subject to repayment of any excess amount, to cover any administrative charges occurred to the customs administration for carrying out the services. If the applicant shall not agree with the given amount, the General Directorate shall review it.

Point 120 of the Decision of the Council of Ministers No. 205 defines the control procedures of counterfeit and pirated goods according to the description of the rights' holder and after continuous counseling with him.

When customs authorities prove that the controlled goods correspond to the description of the applicant they suspend their release or seize the goods depending on the circumstances and visible proof. They have to notify the applicant immediately about the action taken. In accordance with the legislation in force regarding the protection of professional, commercial and industrial secrecy, the customs authorities notify the holder of the right of the name and address of the declarant, and if known, the name of the consignee of the goods, with a view to allow the applicant to take the legal action provided by the legislation in force in the field.

If the applicant requests to inspect the suspended or seized goods, the custom authorities allow him to do so.

After notification of the decision of the General Customs Directorate for the suspension of seizure of the goods, the holder of the right has the right to appeal to the competent judicial bodies for the damage incurred to him and to require compensation, but he has to notify the customs authorities within 20 days. If the holder of the rights does not notify the customs authorities in 20 days, they suspend the decision for the suspension or seizure of the goods, and release these goods.

If the charges of the applicant are not proven, and damage has been incurred to the importer or any third party as a result of the intervention of the customs authorities, the applicant is responsible and must compensate for the damage made. The applicant must make a down payment for storing expenses of the goods.

#### **Question 6.**

**The responses in WT/ACC/ALB/29 did not address the following questions. We seek more specific responses.**

**Please indicate the status of WTO provisions in Albanian law after ratification vis-a-vis laws still in place in Albania that may not conform to these provisions.**

- **Specifically, how will the tariff and services commitments in Albania's goods and services market access schedules become the law of the land in Albania?**
- **In the absence of specific legislation, are WTO provisions self executing in Albania after ratification, or does the ratification law directly implement their provisions?**
- **Will it be necessary to repeal conflicting law and regulation to enforce WTO provisions?**

**We seek a commitment in the protocol from Albania that, at the latest upon entry into force of the Protocol of Accession, Albania would submit all initial notifications required by any Agreement constituting part of the WTO Agreement.**

#### Reply:

According to Law 8417, dated 21 October 1998, "On the Approval of the Constitution of the Republic of Albania", membership of Albania in the WTO shall be ratified by a special law in the Albanian parliament. All WTO Agreements (including market access schedules for goods and services) will be approved simultaneously with the ratification of the special law. Specific legislation that is in compliance with WTO provisions are passed separately (from the special law) and will be laws in full force at the time of accession. The ratification of the special law will be passed according to Articles 121 and 122 of the Constitution, Chapter II "International Agreement", the follow is stated:

The ratification and denunciation of international agreements by the Republic of Albania is done by law if they have to do with (a) membership of the Republic of Albania in international organizations (Article 121/2, 1/c) and (b) the undertaking of financial obligations by the Republic of Albania (Article 121, 1/d). According to Article 122 of the Constitution of Albania, Chapter II of "International Agreements", an international agreement that has been ratified by law supercedes any other Albanian law that is not compatible with the international agreement (Article 122/2). The norms issued by an international organization supercede Albanian law in case when Albania is a signatory to the international agreement and has been ratified by the Republic of Albania for participation in the organization (Article 122/3). As a result, it will not be necessary to repeal conflicting law and regulation to enforce WTO provisions.

The following statement was requested for the Working Party report:

Albania commits that, at the latest, upon entry into force of the Protocol of Accession, Albania will submit all the initial notifications required by any Agreement constituting part of the WTO Agreement.

### **3. Division of Authority Between Central and Sub-Central Form of Government**

#### **Question 7.**

**Albania's reply to question no. 7 in WT/ACC/ALB/29 was not responsive.**

**Does Albania have sub-central authorities, and if so, do they have the authority to enact measures on issues subject to WTO Agreements, e.g., taxes, fees, and price controls applied to imports, investment requirements, subsidies, etc.?**

**What authority is held by the Government of Albania to override decisions by subcentral 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?**

#### Reply

Albania does have sub-central authorities; however, these authorities cannot enact measures on issues subject to WTO Agreements, e.g., taxes, fees, and price controls applied to imports, investment requirements, subsidies or any other.

Sub-central authorities cannot enact measures on issues subject to WTO Agreements; hence, there will not be cases where there are conflicts with the Government of Albania.

The following statement was requested for the Working Party report:

The representative of Albania confirmed that sub-central entities had no autonomous authority over issues of subsidies, taxation, trade policy or any other measures covered by WTO provisions. He confirmed that the provisions of the WTO Agreement, including the Albanian Protocol, shall be applied uniformly throughout its customs territory and other territories under its control, including in regions engaging in border trade or frontier traffic, special economic zones, and other areas where special regimes for tariffs, taxes and regulations are established. He added that when apprized of a situation where WTO provisions were not being applied or where applied in a non-uniform manner, central authorities would act to enforce WTO provisions without requiring affected parties to petition through the courts. The Working Party took note of these commitments.

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

**Question 8.**

**The response to question 8 in WT/ACC/ALB/29 was not responsive.**

**Please describe the administrative appeals process, e.g., within the customs service or Ministries responsible for the administration of import measures, for customs and other issues covered by WTO provisions.**

**Please indicate specifically how a trader can appeal an administrative decision to either a court or other independent tribunal, i.e., does the appeal go to first or second degree courts? If the former, what courts?**

Reply:

The Customs Code of the Republic of Albania, Law Number 8449, dated 27 January 1999, Articles 19, 20 and 289, specifies the process of appeals. The appeals process for the application of customs rules apply to Articles 19, 20 of the Customs Code. If a trader does not agree with a customs administrative decision, he can appeal to the Chief of the Customs Office in the Field. A subsequent appeal can be made within 10 days from the day of notification to the General Directorate of Customs. The Director General shall take a decision within 20 days from the date the appeal was received. In the event the Director General of Customs does not reply within this term, the request shall be presumed to have been accepted. According to Article 289, which relates to verification of customs valuations, if the Director General rejects the appeal, the trader can involve the juridical organs. The procedures are based on the relevant articles of the Civil Code of the Republic of Albania and the relevant articles of the Code of Civil Procedures. The complaint against an administrative decision shall be made at the administrative sector in the Factual Court which is located at the place of residence of one of the parties involved. Parties have the right to appeal the administrative decision of the Factual Court to the Appeals Court. Such an appeal shall be reviewed by the administrative sector of the Court of Appeals (Appellate Court). Finally, the last appeal is to the High Court and its decision is final and cannot be appealed.

If a trader does not agree with an administrative decision, then he has the right to appeal to the head of the administrative office, and such an appeal is considered to be the first appellate level. If the trader does not agree with decision of the head of the administrative office, he can take another appeal to the General Director of the administrative body within the Ministry to file a second appeal. A third appeal at the administrative level can be made with the Appellate Committee. Furthermore, the trader has the right to go to a tribunal which also has three levels. The first level of appeals is made at the Factual Court which are located in every district. The second level is called the Appellate Court and there are six such courts throughout the Republic. The last level is the High Court and its decision is final and cannot be appealed.

#### **IV. POLICIES AFFECTING TRADE IN GOODS**

##### **1. Import Regulation**

###### **(a) Registration requirements for engaging in importing**

###### **Question 9.**

**The response to question 9 in WT/ACC/ALB/29 was not responsive. ALB/35 refers to the need for an “activity license” to import seeds and saplings. We want information on all forms of activity licensing in Albania, in particular where it is required for importation.**

**Does Albania license specific activities (e.g., to wholesale or import alcoholic beverages, to distribute tobacco products, to import seeds and saplings)?**

**Does Albania have specific licensing requirements for firms or individuals to engage in international trade? If so, please list the activities covered.**

**How does an importer obtain an activity licence? Is this a one-time licence? What criteria are used to issue this licence?**

**Can individuals who have not registered as companies with the Courts of first degree import? Can individuals who have not registered with the Courts of first degree conduct domestic trade activities? If there is a difference in the answers to these questions, please explain why?**

**Please describe any activity licensing for importers and how these requirements compare with requirements applied for activities relating to similar domestic goods, and explain why there are differences, if these occur.**

**We seek a confirmation from Albania in its Working Party report and protocol that its activity licensing regime and other provisions of law do not restrict trading rights**

###### Reply:

There was some misunderstanding with regard to licensing activities in previous documentation. All importers must be registered with the Court of first degree and with the proper Tax Office. When a natural and juridical subject registers with the Tax Office, that subject is then registered to engage in some trading activity(ies), i.e., import, export, transport, wholesaling and/or other marketing activities. This is what was referred to as an activity license in the previous documentation. The information presented in the updated Memorandum on Import Licensing and Prohibitions on Importable Products should help to clarify this point.

Licensing for imports are required for arms and munitions (and parts or accessories thereof); explosives, pyrotechnic products, matches, pyrophoric alloys; nuclear materials; non-dangerous waste; narcotic drugs and psychotropic substances; pharmaceutical products; seeds and seedlings; pesticides, live animals and livestock products; fish and seafood products; eggs; wool; and leather. The procedures are specified in the updated Memorandum on Import Licensing and Prohibitions on Importable Products. For all other agricultural commodities and industrial goods, the importer need only register with the Court of first degree and with the proper Tax Office. It is during the registration with the Tax Office that the importer is granted the right to engage in specific trading activities (e.g., import, export, transport, or other marketing activities).

The registration process (and the right to engage in some trading activity) with the Tax Office is a one-time process. For those items listed in the previous paragraph, licensing is required each time



one imports (rather than multiple imports during the course of a specified period, e.g., one year). These cases apply only to livestock and livestock products; pesticides; and fish and seafood products.

All subjects, persons or companies, must be registered with the Court of first degree to import or engage in any trading or marketing activity, including domestic trade activities.

As stated previously, the activity license referred to in previous documentation is, in fact, a part of the registration with the Tax Office which grants natural or juridical subjects the right to engage in specific trading activities. This applies to imported and domestic products, in exactly the same manner.

Statement on the activity licensing regime and other provisions of law that do not restrict trading rights.

The representative of Albania confirmed that the former state foreign trade monopoly had been abolished and that no restrictions existed on the right of foreign and domestic individuals and enterprises to import and export goods within Albania's customs territory, with the exception that the importation and exportation of goods under license could be undertaken only by registered firms, and with the exception of a requirement to register for the right to engage in a trading activity listed in the Tables in WT/ACC/ALB/35/Rev.1 (see updated Memorandum on Import Licensing and Prohibition on Importable Products). The importation or exportation of products covered by the requirement to register for the right to engage in a trading activity were subject only to requirements consistent with the WTO Agreement. The requirement to register for the right to engage in a trading activity did not restrict foreign participation as they applied equally to foreign and domestic businesses. The requirement to register for the right to engage in a trading activity were administered for the purposes of filing with the authorities of the Tax Office.

The criteria for the right to engage in a trading activity are as follows: prior to applying for a license to import products requiring licensing, a person or enterprise must be registered in the Court of first degree to become a natural or juridical subject, and then must be registered with the Tax Office. The tax registration process registers the individual/firm as having the right to engage in specific trading activity (i.e., import, export, transport, or other marketing activities). They were published in the Official Journal. The criteria for engaging in import and export trade in the restricted sectors were consistent with generally applicable restrictions placed on trade in similarly domestically produced goods. The availability to register for the right to engage in a trading activity was not restricted nor was the licensing applied to restrict imports, production, wholesale or retail trade in any product.

The representative of Albania confirmed that from the date of accession Albania would ensure that its laws and regulations relating to trade in goods and all fees, charges or taxes levied on such rights would be in full conformity with its WTO obligations, including Articles VIII:1XI:1 and III:2 and 4 of the GATT 1994 and that it would also implement such laws and regulations in full conformity with these obligations. The Working Party took note of this commitment.

#### **(b) Characteristics of national tariff**

##### **Question 10.**

**The response to question 10 in WT/ACC/ALB/29 was not responsive.**

**We asked for the current status of “special duties”. In WT/ACC/ALB/23/Rev.1, Albania had stated that it would be defining “special duties” in relation to AD/CVD legislation. As of that writing, Law No. 7609 "On Customs Tariffs" provided information on special customs duties,**

**anti-dumping duties, and countervailing duties. We sought Albania's clarification on these points.**

**We would appreciate a response to the question, i.e., what is the current status of "special duties" in the Albanian trade regime? Are they still authorized? Are any in effect? Will the authority to apply them be repealed, e.g., in the context of establishing WTO-consistent trade remedy legislation?**

Reply:

Article 28 of the Customs Code defines the elements constituting the tariffs. Article 28, 3(f), of the Customs Code specifies the other tariff measures provided for in the framework of Albanian trade policy. The Law on "Antidumping", No. 8466, dated 24 March 1999 specifies the conditions upon which antidumping duties shall be levied and the computation of such duties. A copy of the Law on "Antidumping" has been sent to the Secretariat (WT/ACC/ALB/38)§

**(c) Tariff quotas, tariff exemptions**

**Question 11.**

**Albania states in the response to question 11 of WT/ACC/ALB/29, that since 1 January 1998 all machinery and equipment imported as investments are not exempted from customs duties.**

**Has Law 8163 (7 November 1996) been repealed, or has the practice simply been allowed to lapse? Does Albania intend to resume such tariff exemptions, and if so, under what legal authority?**

Reply:

Albania has no tariff quotas. With the adoption of the Customs Code on 15 May 1999, all tariff exemptions are provided in Article 199 and explained in Article 477-560 of the Implementing Provisions of the Customs Code. The Customs Code (Title VI, Chapter 1, Article 199, paragraphs 1, 2) does outline the conditions for all relief from import duties. Paragraph 3 states that relief from import duties may be provided for as specified in bilateral or multilateral agreements in accordance with the provisions of such agreements.

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

**Question 12.**

**Please clarify the response to question 12 of WT/ACC/ALB/29**

**Does Albania contend that it has no charges on imports of any kind other than tariffs and domestic taxes?**

**Does Albania have any customs charges on imports or exports? If so, please list them in the Working Party report.**

**WT/ACC/ALB/10 summarizes the provisions of the law "On the tax system in the Republic of Albania" adopted in 1992 and amended in 1993 and 1994." It states that the law and its amendments establish national and local taxes and fees for a broad range of services and activities, including fees for "harbour use", "consular services", and "document stamps".**

**Please list Albania's fees for harbor use, for consular services, and for document stamps. Are any of these fees charged on the importation of goods or the processing of importation documents? If so, please indicate how and where these fees are charged and describe the services rendered for the charge. Are any of these fees of an "ad valorem" nature?**

**Does Albania require authentication of import/export documents by its consulates overseas? If so, does it charge for this service?**

Reply:

Albania has no charges on imports of any kind other than tariffs and domestic taxes and commits to having no such charges at the time of accession.

Albania has no customs charges on imports or exports other than tariffs and domestic taxes and commits to having no such charges at the time of accession.

The following table lists the broad range of services and activities, including fees for harbour use, consular services, etc. that were

The type of taxes	For each net ton of ships register	Total for each ship
	Taxes in US Dollars	
1. Harbour taxes on ships		
A For ships that load and unload general goods	0.4	
B For ships that load and unload liquid goods	0.6	
C For freighters RO/RO and passenger freighters	0.35	
D For sportive ships, yachts		
- up to 30 TRN		15
- from 31 up to 70 TRN		30
2. Tax for the beacon		
- for ships up to 200 TRN	0.10	
- for ships from 201 up to 500 TRN		20
- for ships above 501 TRN		50
3. Tax on the formalities carried out by the health authorities, capitaniery and other authorities		
- for ships up to 200 TRN	0.25	
- for ships from 201 up to 500 TRN	100	
- for ships from 501 up to 2000 TRN	180	
- for ships from 2001 to 4000 TRN	210	
- for ships above 4001	300	
4. The ships that load water for export in places outside the harbour, pay harbour taxes total 300 USUS\$ for each supply.		
5. Foreign ships pay the harbour taxes on hard currency, whereas the juridical and natural persons registered in the Republic of Albania pay in hard currency or lek in the ratio with the income.		
6. Harbour taxes are paid at the first entrance of any Albanian harbour, independent of whether the ship will go for other commercial transactions in other Albanian harbours during the same cruise.		
7. Taxes are not based on an ad valorem basis.		

The following table lists the taxes for consular services, including those charges by its consulates overseas.

Taxes for Consular Services	
Type of consular service taxes	Fee in US\$US or Leke
1. Taxes for issuing of visas and other travel documents	
a. For issuing travel passports	2000 leke
b. For issuing travel passports for diplomatic purposes	US\$100
c. Extension of the passport term by diplomatic groups	US\$30
d. For entrance concession	200 leke
e. Entrance concession issued by diplomatic groups	US\$30
f. Visa for foreigners	Reciprocity
g. Entrance in the territory of the Republic of Albania for foreigners who do not a visa	Reciprocity
2. Taxes for issuing, verification and legalization of documents	
a. Any type of certification issued by missions for Albanian citizens	US\$30
b. Any kind of certification issued by the missions for foreign citizens	Reciprocity
c. Any type of attestation issued by the missions for Albanian citizens	US\$30
d. Any type of attestation issued by missions for foreign citizens	Reciprocity
e. Verification of documents by missions	US\$10
f. Legalization of documents for Albanian citizens by the Ministry of Foreign Affairs	200 leke
g. Legalization of documents by missions for Albanian citizens	US\$30
h. Legalization of documents for foreign citizens	Reciprocity
3. Taxes for issuing and drafting of other notary acts and translation of documents by the missions	
a. Drafting of declarations, authorizations, wills, contracts, guarantees and special proxies by missions	US\$20/page
b. Certification of duplicates and copies	US\$20/page
c. Translation of documents	US\$10/page
Note: The term mission refers to diplomatic or consular missions outside the country. The fee may be paid also in the local currency according to the prevailing exchange rate.	

Two statements for the Working Party report related to customs charges should read as follows:

The representative of Albania confirmed that, from the date of accession, Albania would not apply, introduce, or reintroduce customs or other fees for "services rendered" that were applied to imports on an ad valorem basis. Fees applied for import processing or other purposes on imports would be applied in conformity with WTO obligations, in particular Articles VIII and X of the GATT 1994. Information regarding the application and level of such fees, revenues collected and their use, would be provided to WTO Members upon request. The Working Party took note of these commitments.

The representative of Albania stated that Albania levied no duties and charges on imports other than ordinary customs duties and charges for services rendered. Any such charges applied to imports after accession would be in accordance with WTO provisions. He further confirmed that Albania would not list any other charges in its Goods Market Access Schedule under Article II:1(b) or GATT 1994, binding such charges at "zero".

### **Question 13.**

**To be in full compliance with TBT Agreement Albania is preparing a separate decree of the government which in practice will adopt the Articles 2, 5, 6, 8 and 9, of the TBT, as they are. The articles 3 and 7 are not included because in Albania the technical regulation are prepared by ministries or central public institutions and not by local administration. This draft is distributed to different ministries and we think that it will be approved at the end of July.**

**Please note that in the Law on Standardization, the translator forgot to translate the last paragraph of the article 4. This paragraph states: The ministries and the other central public institutions are responsible for the preparation and the implementation of technical regulations in all fields for which there are responsible.**

**The decree - "Code of Good Practice for the Preparation, Adoption and Application of Standards" is approved by the Council of Ministers (No. 242, dated 28 May 1999). In practice it will endorse the code as it is in the annex 3 of TBT Agreement.**

**The decree – Criteria and Competencies Related to Standardization, Certification and Accreditation - is dealing mainly with the three activities covered by the General Directorate of Standardization. The draft is distributed to different ministries for comments and we think it will be approved by the end of June.**

**The decree – On Exchange of Information on Standards and Technical Regulation- is prepared as draft. This draft endorse the articles 10.1, 10.1.1, 10.1.2, 10.1.3, 10.1.4, 10.1.5, 10.1.6, 10.4, 10.7, 10.8, 10.9, 10.11, of the TBT Agreement. The draft is distributed to different ministries for comments and we think it will be approved by the end of June.**

### Reply

Explanation regarding the "experimental standard".

By experimental standards we mean a document prepared as a prospective standards for provisional application in areas of technology where there is a high level of innovation or where an urgent need for guidance is felt, and where the safety of persons and goods is not involved. The time for its preparation is therefore reduced; once adopted this standards is subject to an experimental period of up to three years, with a view to its transformation into a standard.

Explanation regarding "Code of Good Practice"

Our Code of Good Practice is relevant only to standards and not to conformity assessment procedures. Those procedures are subject of the decree above mentioned at the statement. This is not the Albanian's Custom Code.

Regarding the " notification, publication, and other internal procedures" we clarify that those are included in the decree " On Exchange of Information on Standards and Technical Regulation"

Regarding the “notification of draft standards and provide an opportunity for public comment” we clarify that they are part of our Code of Good Practice for Standards mentioned in the statement. The code will be in operation 15 day after the publishing in the official journal of the decree which endorsed it.

Regarding our statement for “...decision to accept the results of conformity assessment procedures conducted by bodies in an exporting Member country; and relevant ministries will implement a non discriminatory and cost-based fee structure” we clarify that those are included in the decree of government which will adopt the articles 2,5,6,8 and 9 of the TBT Agreement.

Regarding the self-declaration (MSD) for regulated products we have included it in the decree for Criteria and Competencies for Standardization, Certification and Accreditation, chapter II, point 9.

#### **Question 14.**

**Regarding the Enquiry Point probably there is a misunderstanding. In fact by the order of the Prime Minister of Albania, No. 36, dated 06 May 1999, paragraph 7, it is officially established the enquiry point for TBT and SPS at the General Directorate for Standardization, addressed : Rr.”Mine Peza”, Nr.143/3, Tirana, Albania, Tel. + 355 42 47176, Tel. & Fax. + 355 42 26255, Email: [dsc@icc.al.eu.org](mailto:dsc@icc.al.eu.org). We have notified the Secretariat for this decision and provide all information’s. It is the Information & Sale Center of this Directorate which act as the Enquiry Point. This point is operational, in fact we have informed the secretariat before the Working Party in January 1999. It was the document WT/ACC/ALB/25. F. UPDATE ON TBT COMPLIANCE. In this document we stated that “an Information Center for Standards has been created in compliance with the TBT Agreement’s call for an Enquiry Point.” May be this two years period is needed to be in full compliance with TBT but we think that the assistance of USA Dept. of Commerce for this purpose will short this period.**

#### **(e) Quantitative import restrictions, including prohibitions, quotas and licensing systems**

Information is provided below on these issues.

Prohibitions on imports. An updated Memorandum on Import Licensing and Prohibitions on Importable Products was submitted in June. The list includes dangerous waste (see complete list in WT/ACC/ALB/25, pages 6-7); military poisoning substances, chemical weapons (and similar substances); Narcotic drugs and psychotropic substances (see list in WT/ACC/ALB/25, pages 6-7) and related drugs and substances listed in International Conventions; animal products of the infected and penalized countries by the OIE; and pesticides not registered in the Albanian catalogue. Prohibitions on animal products in countries with diseases are lifted when the OIE declares the country disease-free. Pesticides can be registered in the Albanian catalogue and the process is specified in the Memorandum on Import Licensing and Prohibitions on Importable Products.

Quotas. There are no quotas of any types designed to restrict trade.

Licensing. There are several categories of products that require licensing. These are listed and discussed in the Memorandum on Import Licensing and Prohibitions on Importable Products. There are no efforts to restrict trade through the licensing system. More detailed answers are provided for the questions listed under section (f).

(f) **Licensing procedure**

**Question 15.**

**Albania's responses in WT/ACC/ALB/29 to the questions on its import licensing system were not responsive, even when read in conjunction with the other documentation in ALB/35, etc. We have been forced to re-submit these questions, and we hope that Albania will endeavour to address the concerns they identify.**

**Please indicate specifically how Albania's regime for granting import permits and licenses 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.**

**Albania provided comprehensive information on its import licensing regime in WTO/ACC/ALB/35. Article III paragraph 5f of the Import Licensing Agreement stipulates that the time of approval permissible for non-automatic licenses is sixty days if all applications are considered simultaneously and thirty days if each application is considered on a first come, first served basis. Albania states that the time of approval for pesticides (HS 31) is sixty days.**

**Please confirm that all applications are considered for approval simultaneously and not on a first come, first served basis.**

**Livestock**

**Question 16.**

**Section B of ALB/35 refers to "Licensing of the live stock products."**

**Can Albania please clarify which livestock products are subject to import licensing restrictions. Are all products in HS Chapter 2 subject to licensing requirements, or just select items? (Please specify by line item)**

**Replies 15 and 16:**

According to Albanian law, each ministry is authorized to issue import licensing as it relates to products under its jurisdiction; however, there is not a law that specifies the general requirements for issuing a license. According to the Customs Code, Chapter 1, Article 83, Paragraphs (1) and (2) mention import licensing. Paragraph (1) and (2) read as follows:

Save in the cases when the Council of Ministers makes a decision otherwise provided, goods may at any time and under the conditions laid down, be assigned any customs-approved treatment or use irrespective of their nature or quantity, or their country of origin, or destination. Paragraph 1 does not preclude the imposition of prohibitions, upon decision of the Council of Ministers, or restriction justified on grounds of public morality, public policy or public security, the protection of health and life of humans, animals or plants, the protection of national treasures possessing artistic, historic or archaeological value or the protection of industrial and commercial property.

The import licenses meet the requirements of the WTO Agreement on Import Licensing. The rules are neutral in application and are fair and equitable in administration; the rules and information for the submission of applications are available 21 days prior to the effective date and anyone registered with the Court and Tax Office is eligible; application forms and renewals are as simple as

possible; applications are not refused for minor errors in documentation and no penalties greater than necessary are imposed; licensed imports shall not be refused for minor variations in value, quantity or weight; no foreign exchange constraints exist; and confidential information will not impede law enforcement, be contrary to the public interest or will prejudice the legitimate commercial interests of an enterprise. Albania is currently drafting a law or a decision of the Council of Ministers on Albanian Import Licensing Procedures which will be in conformity with the WTO Agreement on Import Licensing Procedures.

All applications for import licenses are granted once the criteria are met as outlined in the licensing procedures reported in the Memorandum on Import Licensing and Prohibitions. Therefore, Albania does not have any issues with the allocation of licenses on a first come, first served basis.

All livestock products listed in HS Chapter 2 are subject to licensing requirements. The Memorandum on Import Licensing and Prohibitions lists all line items in chapter 2 and the process applies identically for each product.

### **Medicines and Drugs**

#### **Question 17.**

**ALB/35 outlines licensing requirements for imports, and refers to registration and licensing requirements for the importation of pharmaceuticals.**

**What are the substantive requirements for “registration” of a pharmaceutical? On what basis would such registration be refused? What would be the procedures for appeal?**

**Is the issuance of the import marketing authorization automatic? If so, please indicate the timeframe within which it must be granted.**

**Are there substantive criteria that could be applied to deny the authorization to import? If so, i.e., that the licensing is non-automatic, please describe in detail the criteria that the imported medicines and drugs must meet to qualify for the license.**

**Does Albania have a similar registration and licensing system in place for the sales of domestic production of similar articles? If so, please describe it.**

**To what extent are the requirements listed in WT/ACC/ALB/18 and WT/ACC/ALB/35 applied to domestic production and marketing of similar goods and how is this done?**

**Annex II lists “Narcotic Drugs and Psychotropic Substances which Require Import Licensing and Special Import Authorisation to be Imported into Albania.”**

**On what criteria are these licenses granted or denied? Does Albania produce these substances domestically? If so, are similar permits required for domestic distribution and sale?**

#### **Reply:**

The substantive requirements for the registration of medicaments as defined in the regulation "On the Registration of Drugs in the Republic of Albania". The process to register a medicament, the requirements which apply to natural and juridical subjects whether the product is produced in Albania or abroad, includes the presentation of the Free Sale Certificate in the country of origin; a confirmation that the drug is manufactured according to the Good Manufacturing Practices; the presentation of chemical, pharmaceutical and biological documentation, stability test, toxicological



and pharmacological and clinical documentation; and a quality control is performed by the National Center of Drugs Control. Every pharmaceutical manufacturer must present samples of the drugs that its wants to register. If any one of the documents is not presented or if the drug fails the quality control, then the registration will be refused. The regulation does not provide for an appeal process.

The import marketing authorization issued by the Ministry of Health only serves as a document to check the quality and quantity of the medicine this is imported. The import marketing authorization is automatic and shall be issued in five working days. The details of the process and specifics of the criteria for registration and an import license are reported in the Memorandum on Import Licensing and Prohibitions.

There are no substantive criteria to deny authorization to import; only that the criteria spelt out in the Memorandum on Import Licensing and Prohibitions on Importable Products are met (registration with the Court and Tax Office, and be someone with a degree in pharmacy from the Faculty of Natural Sciences or to have someone on the staff who is such a person).

Albania has a similar registration and licensing system in place for the sales of domestic production of similar articles. Prior to applying for a license to trade or market pharmaceutical products, a person or enterprise must be registered in the Court of first degree to become a natural or juridical subject, and then to be registered with the proper Tax Office. The tax registration process also registers the individual/firm as having the right to engage in specific trading activity (i.e., import, export, transport, wholesale, retail or other marketing activities) for pharmaceutical products.

Having been registered with the Court and Tax Office, natural or juridical subjects can apply for a license to engage in specific trading activity for pharmaceuticals products in Albania. To apply for a license, natural or juridical subjects must have graduated with a degree in pharmacy from the Faculty of Natural Sciences or have employed a person who is qualified as such. At this point the subject is prepared to present an application for a license at the Directory of Pharmaceutics in the Ministry of Health. The request for a license to engage in specific trading activity must include the list of medicines to be traded, the international collective name (INN) and the commercial name, and the quantities to be traded (only for purposes of statistical information). Upon completion of this procedure, the import marketing authorization issues (which only serves as a document to check the quality and quantity of the medicine) by the Ministry of Health. The import marketing authorization is automatic and shall be issued in five working days.

The process to register a medicament, the requirements which apply to natural and juridical subjects whether the product is produced in Albania or abroad, includes the presentation of the Free Sale Certificate in the country of origin; a confirmation that the drug is manufactured according to the Good Manufacturing Practices; the presentation of chemical, pharmaceutical and biological documentation, stability test, toxicological and pharmacological and clinical documentation; and a quality control is performed by the National Center of Drugs Control. Every pharmaceutical manufacturer must present samples of the drugs that its wants to register. If any one of the documents is not presented or if the drug fails the quality control, then the registration will be refused. The regulation does not provide for an appeal process. The regulation on registration is in force for all pharmaceutical manufacturers, domestic and foreigners. The same licencing and authorization is required for Albanian manufacturers if they want to produce, import, export, retail, wholesale, or other marketing activity.

The same licensing and authorization is required for Albanian manufacturers if they want to import narcotic and psychotropic raw materials for their production. The law is in force for all producers and importers. Albania producers only three or four narcotic and psychotropic substances, and the law on registration to engage in trade activity and in licensing treats Albanian manufacturers identically to foreign manufacturers.

## Pesticides

### Question 18.

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

#### Reply:

The requirements for registering a pesticide with the ASCRP are the same for local and foreign products and are based on the same criteria as the EU's Directive No. 91/414 EEC dated 15 July 1991, Annex 2. The requirements of this Directive were sanctioned by the Albanian government in the Decision of the Council of Ministers No. 584, dated 6 December 1993. Every year the requests for registration of new pesticides are attached to the Ministry of Agriculture and Food's special publication on the registered pesticides (Article 62 of the Decision of the Council of Ministers No. 584, dated 06.12.1993). (A copy of this list is attached to this document.) Albania has a ten year registration for each pesticide after evaluation from the Commission on Pesticides. The criteria for a pesticide to become registered are based on (1) biological and agronomic efficacy of the product, (2) environmental impact, (3) impact on humans, and (4) veterinary evaluation. The process takes about 1 year if the product is new to the market and less than one year if the product is not new. Renewal of registration may be automatic if new information or scientific data continue to satisfy the above four criterion.

There is no import authorization for a license from the Ministry of Agriculture and Food. If the pesticide is registered with the Albanian State Commission for the Registration of Pesticides (ASCRP), then an import license is issued by the Directory of Plant Protection Services (DPSS) in accordance with the Agreement on Import Licensing Procedures of GATT 1994. The license is issued within two months and specifies the time limit as required by the importer up to one year maximum.

There is no substantive criteria because there is no import authorization for a license from the Ministry of Agriculture and Food.

The registration and licensing criteria are similar for the sales of domestic production of similar articles. Prior to applying for a license to trade or market pesticides, a person or enterprise must be registered in the Court of first degree to become either a natural or juridical subject, and then to be registered with the proper Tax Office. The tax registration process also registers the individual/firm as having the right to engage in specific trading activity (i.e., production, import, export, transport or other marketing activities for pesticides). In addition, the subject must be an individual who has graduated from the Faculty of Agronomy or must employ such a person. If a pesticide is not registered in Albania, then the pesticide may not be traded or marketed.

The process to obtain the right to engage in a trading activity is the same for whichever activity one is to undertake, e.g., domestic production, import, export, wholesale, retail and other marketing activities. The process applies to all subjects interested in conducting such trading/marketing activities.

## Seeds and Seedlings

### Question 19.

**Albania states that “if the requested varieties for import are not included in the respective Albanian Catalogue, but from a country of the European Union (EU), 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 EU singled out for this special treatment? What would the status be for varieties originating in Asia or North America?

Could Albania provide more information about the criteria used to determine which seeds are listed in the Official Catalogue of the Seeds Entity. Are seed varieties from regions outside of Europe, from North America or Asia for example, listed in the catalogue?

Why wouldn't new varieties of seeds and seedlings allowed to be imported?

Is it possible to register new seed varieties in the catalogue? If so, please describe the process, criteria, etc. , and specify which governmental body makes this determination?

This process appears to be inconsistent with GATT Article XI by effectively imposing a ban on seeds and seedlings not listed in the catalogue. It also 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

Albania states that efforts are under way to make legislation governing import licencing of seeds and seedlings more consistent with international regulations on production, registration and trade.

What legislative changes are envisioned, and when might these be implemented?

Albania should establish a transparent licensing system that identifies products covered, reasons for restrictions and criteria for obtaining an import license.

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 current restrictions or requirements of seeds and seedlings are justified.

Reply:

Prior to applying for a license to import seeds and seedlings, a person or enterprise must be registered in the Court of first degree to become a natural or juridical subject, and then to be registered with the proper Tax Office. The tax registration process also registers the individual/firm as having the right to engage in specific trading activity (i.e., import, export, transport or other marketing activities for seeds and seedlings).

Having been registered with the Court and Tax Office, natural or juridical subjects can apply for a license to import seeds and seedlings into Albania. To apply for a license, natural or juridical subjects must have graduated from the Faculty of Agronomy or have employed a person who is qualified as such. At this point the importer is prepared to present an application for a license at the State Entity for Seeds and Seedlings in the Ministry of Agriculture and Food. To obtain the license,

an importer must supply the required technical information of the seeds: technical data of the seeds contingent, the name of the seed, the origin, and the quantity and the quality of the seed. The license is valid for one year and is renewable each year. The license is issued based on the regulation of the Law "On Seeds and Seedlings" No. 7659, dated 12 January 1993.

Only seeds registered in the official catalogue of the State Entity of Seeds and Seedlings and that satisfy Albanian standards are permitted to be imported to Albania. The criteria for registering a seed is to pass the Albanian standards, in addition to two international test standards: (1) the DHS (distinguishing, homogeneity and stability) test and (2) a test of the agronomic and technological value (Value for Cultivation and Use). The procedures of registration are identical for Albanian and foreign subjects. All criteria are the same as for international standards. Testing for seeds can take one to two years.

The EU was singled out as an example of seeds being imported under emergency circumstances; however, seeds have been imported during emergency situations and under normal circumstances from all over the world including the Americas and Asia. During the occasions when seeds are imported under emergency circumstances, a proposal from the State Entity for Seeds and Seedlings (with the approval of the Ministry of Agriculture and Food) is required. Under regular circumstances, seeds and seedlings which are not registered in the Albanian Catalogue may be registered, on the condition that they are compatible with the climatic and soil conditions of Albania. Registration is applied without any discrimination of different countries.

New varieties of seeds or seedlings would not be allowed to be imported only to protect the environment, protection of safety/health of humans, animals and plants, and to adhere to the requirements of international organizations to which Albania is a signatory. For seeds to be listed in the Official Catalogue, the only requirement is that seeds be registered according to the registration process described above (complying with national standards and the two international tests). Seeds from all over the world have been registered in the Official Catalogue by the Commission of Registration, Ministry of Agriculture and Food.

It is possible to register new seed varieties in the catalogue. New seeds need to be registered as previously described. The registration of new seeds is not in place to serve as a ban on imports but as a means to ensure the quality and efficacy of the seeds.

There is neither an inconsistency with GATT Article XI nor with Article 3 of the Agreement on Import Licensing Procedures in the importation of seeds. The registration process applies to all seeds regardless of origin.

The Ministry of Agriculture and Food is taking legislative efforts to simplify the licensing process and to speed the process of issuing a license. Licenses in this Ministry will be issued one time a year for a one-year period. The time to issue a license will be reduced from 60 days to 30 days.

Albania has provided an updated version of a Memorandum on Import Licensing and Prohibitions on Importable Products to report its licensing system which explains the procedures and criteria to obtain a license and the justifications for the restrictions. Although each ministry is responsible for the procedure to issue import licenses, the ministries follow a parallel process in their procedures.

Albania's technical reasons for the restrictions are spelt out clearly in the Memorandum on Import Licensing and Prohibitions on Importable Products and they are consistent with WTO provisions, including SPS. There was some misunderstanding from Albania's previous documentation that led members to conclude that there is some inconsistent measures or practices. A

law or decision of the Council of Ministries will ensure that future licensing procedures comply with the Agreement on Import Licensing Procedures.

### **Live Animals**

#### **Question 20.**

**Albania states that the Ministry of Agriculture and Food is in charge of organizing 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?**

**(WT/ACC/ALB/23/Rev.1, Question 21) 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 license for import/export of the requested materials.”**

**What are the technical criteria for receiving the “permission” granted by CIOR necessary to receive an import or export license 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 license 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.**

**WT/ACC/ALB/35 indicates that Albania intends to eliminate import prohibitions and licensing restrictions inconsistent with WTO provisions.**

#### **Reply:**

The licensing for live animals is for statistical purposes, but also to supervise the import of live animals and products, to protect the integrity of breeding stocks, the protection of the environment, and to protect the health and safety of humans and animals. There are also cases where Albania must adhere to the requirements of international organizations to which Albania is a signatory. License are not in place to restrict trade or to limit the inflow of imports.

Prior to applying for a license to import livestock, a person or enterprise must be registered in the Court of first degree to become a natural or juridical subject, and then to be registered with the proper Tax Office. The tax registration process also registers the individual/firm as having the right to engage in specific trading activity (i.e., import, export, transport or other marketing activities related to livestock or livestock products). Once the individual/firm is so registered, then the next step is to go to the Ministry of Agriculture and Food, Directory of the Albanian Veterinary Service, to receive a license (i.e., to receive "permission" as is stated the Law No. 7074, dated 23 February 1993). The license must be issued to all juridical and natural subjects, local and foreign, who are registered to import livestock or livestock products and who present the Certificate of the Origin and the Certificate of Sanitation. Licenses are valid for up to two months time and specify the quantity to be imported (only as a means for data collecting and statistical information). Each time livestock or livestock products are to be imported, the importer must go the Ministry of Agriculture and Food to receive a new license. Imported live animals are subject to quarantine conditions which are in conformity with the IOE.

For importing livestock for breeding purposes which are not already registered as a breed in Albania, in addition to the above criteria, the importer must have another document from the Central Commission of the Improvement of Breeds (CCIB), Ministry of Agriculture and Food, which will allow the animals to enter Albania. The CCIB takes into consideration the regional policy of breeds in Albania as well as the program of genetic improvement of such breeds. The CCIB allows or does not allow a certain breed based on the breed's characteristics and their ability to adapt to local conditions. In cases where the CCIB refuses the request to import, the importer has the right to appeal the decision in the court of first degree. In the case of a registered and known breed in Albania, a document from the CCIB is not necessary.

By 31 December 1999, a list of countries which are allowed to export livestock and livestock products to Albania will be reported based on the IOE's disease-free list. All information will be sent to the Veterinary Inspector at the customs. The Certificate of Origin and the Certificate of Sanitation will still be required to be presented; however, the importer will not have to receive a license each time the livestock or product is to enter the country within the duration of the license's validity. These changes will be reflected in the amendment to Law No. 7074, dated 23 February 1993 which are foreseen to be passed into law by the end of the year.

A license must be issued to all juridical and natural subjects, local and foreign, who are registered to import livestock or livestock products and who present the Certificate of the Origin and the Certificate of Sanitation. A license (permission) is denied only when one fails to register with the Court and Tax Office and fail to complete the application process described above. If a trader does not agree with an administrative decision, then he has the right to appeal to the head of the administrative office, and such an appeal is considered to be the first appellate level. If the trader does not agree with decision of the head of the administrative office, he can take another appeal to the General Director of the administrative body within the Ministry to file a second appeal. A third appeal at the administrative level can be made with the Minister of Agriculture. Furthermore, the trader has the right to go to a tribunal which also has three levels. The first level of appeals is made at the Factual Court which are located in every district. The second level is called the Appellate Court and there are six such courts throughout the Republic. The last level is the High Court and its decision is final and cannot be appealed.

The licensing procedure and criteria are spelt out in the Memorandum on Import Licensing and Prohibitions on Importable Products. The licensing procedure is fully compatible with the WTO Agreement on Import Licensing Procedures. The rules are neutral in application and are fair and equitable in administration; the rules and information for the submission of applications are available 21 days prior to the effective date and anyone registered with the Court and Tax Office is eligible; application forms and renewals are as simple as possible; applications are not refused for minor errors in documentation and no penalties greater than necessary are imposed; licensed imports shall not be refused for minor variations in value, quantity or weight; no foreign exchange constraints exist; and confidential information will not impede law enforcement, be contrary to the public interest or will prejudice the legitimate commercial interests of an enterprise. Albania is currently drafting a law or a decision of the Council of Ministers on Albanian Import Licensing Procedures which will be in conformity with the WTO Agreement on Import Licensing Procedures.

The licensing procedure and criteria are spelt out in the Memorandum on Import Licensing and Prohibitions on Importable Products. The licensing procedure is fully compatible with the WTO SPS Agreement. Albania is currently drafting a law or an amendment to the Law on State Sanitary Inspectorate which will ensure that all licensing in the future will meet the standstill condition; provide for transparency; that only apply measures or inspections to protect human, animal or plant health subject to scientific criteria, that follow international measures; that provide for equivalence;

that provides for risk assessment based on science; and that provides for considerations of regional conditions. The current licensing system for livestock and livestock products meet these criteria.

The following text was requested for the Working Party report:

The representative of Albania confirmed that, from the date of accession, Albania would not introduce, re-introduce or apply quantitative restrictions on imports, or other non-tariff measures such as licensing, quotas, prohibitions, bans and other restrictions having equivalent effect that could not be justified under the provisions of the WTO Agreement. If balance-of-payment measures were ever necessary in the future, Albania would impose them in a manner consistent with the relevant WTO provisions, including Article XII of the GATT 1994 and the Understanding on Balance-of-Payments Provisions of the GATT 1994. The Working Party took note of these commitments.

**(h) Customs valuation**

**Question 21.**

**WT/ACC/ALB/33 states that the Law on the "Customs Procedures Code" is in preparation.**

**Has this draft law gone to parliament yet? Can Albania provide a copy for Working Party review?**

**We note that Chapter 3 of Title II of the Customs Code contains Albania's customs valuation provisions.**

**Please provide for Working Party review any additional legislation, e.g., the Implementing Provisions of the Code or other regulations, in place dealing with Customs Valuation issues.**

**We would also appreciate clarification of due process and the right of appeal within the Customs department and to an independent tribunal concerning disputes on valuation. Do the procedures for appeal outlined in Articles 19, 20 and 289 of the Customs Code apply? Please outline the appeals process and include this description in the Working Party report.**

**We note that Article 36:1 of the Code provides that where the customs value of imported goods may not be determined under Articles 34 or 35, it shall be determined on the basis of data available in the Republic of Albania, using reasonable means, in accordance with the WTO Customs Valuation Agreement, Article VII of the GATT, or other dispositions of the Code.**

**Since the provisions of the Agreement on Customs Valuation supercede those of Article VII of the GATT, why is it listed?**

**Article 14 of the WTO Customs Valuation Agreement stipulates that the Interpretive Notes of the Agreement form an integral part of it and that the Articles of the Agreement are to be read in conjunction with these Notes.**

**Has Albania established in law or regulation the Interpretive Notes of the WTO Customs Valuation Agreement? If so, please provide the legal citation and text. If not, please indicate when this will be done.**

**We note that Article 39 of the Customs Code states that "specific rules to determine the customs value of carrier media for use in data processing equipment and bearing data or instructions are laid down in the Implementing Provisions of this Code."**

**We would like to see these provisions.**

**Albania has stated its intention of bringing its customs valuation regime into line with the WTO Customs Valuation Agreement, and we commend its efforts to date in this regard. In order to conclude our review, we seek comment on these additional points.**

Reply:

The "Customs Procedures Code" referred to in WT/ACC/ALB/33 has been replaced with the approval of the Decision of the Council of Ministers, "Implementing Procedures of the Customs Code", No. 205, dated 13 April 1999. A copy of the "Implementing Procedures of the Customs Code" is submitted to the WTO Secretariat for review with this document.

Albania is sending the Implementing Provisions of the Code.

The appeals for process for the application of customs rules apply to Articles 19, 20 of the Customs Code. If a trader does not agree with a customs administrative decision, he can appeal to the Chief of the Customs Office in the Field. A subsequent appeal can be made within 10 days from the day of notification to the General Directorate of Customs. The Director General shall take a decision within 20 days from the date the appeal was received. In the event the Director General of Customs does not reply within this term, the request shall be presumed to have been accepted. According to Article 289, if the Director General rejects the appeal, the trader can involve the juridical organs. The procedures are based on the relevant articles of the Civil Code of the Republic of Albania and the relevant articles of the Code of Civil Procedures. The complaint against an administrative decision shall be made at the administrative sector in the Factual Court which is located at the place of residence of one of the parties involved. Parties have the right to appeal the administrative decision of the Factual Court to the Appeals Court. Such an appeal shall be reviewed by the administrative sector of the Court of Appeals (Appellate Court). Finally, the last appeal is to the High Court and its decision is final and cannot be appealed.

The provisions of the Agreement on the Customs Valuation are enforced from 15 May 1999 and are those used to determine the value of imported goods when they cannot be determined under Articles 34 or 35. Albania appreciates and agrees with the comment that the provisions of the Agreement on Customs Valuation supercede those of Article VII of the GATT 1994.

Albania is committed to the Interpretive Notes of the Customs Valuation Agreement in Annex 6 of the Implementing Provisions of the Customs Code as of 15 May 1999. Albania is sending all the Annexes of the Implementing Provisions of the Customs Code.

The provisions as related to specific rules to determine customs value of carrier media for use in data processing equipment and bearing data or instructions are laid down in the Article 39 of the Customs Code and in Article 79 of the Implementing Provisions of the Customs Code. The Implementing Provisions are being sent to Geneva.

The following confirmation was requested for the Working Party report:

The representative of Albania confirmed that, from the date of accession, Albania would apply fully the WTO provisions concerning customs valuation, including in addition to the Agreement on the Implementation of Article VII of the GATT 1994, the Interpretive Notes to that Agreement, and the provisions for the Valuation of Carrier Media Bearing Software for Data Processing Equipment. In accordance with these latter provisions, only the cost of the carrier medium itself would be account for in the customs value. He added that, as an international agreement, the



provisions of the WTO Agreement on the Implementation of Article VII of the GATT 1994 would supersede domestic law upon accession. The Working Party took note of these commitments.

**(j) Pre-shipment inspection**

**Question 22.**

**Please confirm whether Albania at present uses the services of a preshipment inspection firm.**

**If so, please describe what services are provided, whether or not they are 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?**

**If not, please indicate if Albania has any near-term plans to do so.**

Reply:

Albania does not use the services of a pre-shipment inspection firm, but according to the Law on the Customs Code, Number 8449, dated 27 January 1999, there are provisions in Article 11(4) in the last sentence. The last sentence of Paragraph 4 reads as follows: With a view to more efficient controls, customs authorities may sign agreements with Albanian or foreign, public or private organizations, for exchanging information in this field.

According to the Law on the Customs Code, Number 8449, dated 27 January 1999, there are provisions in Article 11(4) in the last sentence.

**(k) Application of internal taxes on imports**

**Excise tax**

**Question 23.**

**Albania reports that from January 1999 it has eliminated the discrimination in excise tax rates between foreign and Albanian products, according the Law on "Excise Tax" No. 8348 dated 28 December 1998. Albania does not, however, report the new rates.**

**Are the old rates still in force? When will the new rates come into effect? On what basis will "categories" of products be constructed?**

**We urge Albania to become familiar with WTO and GATT dispute settlement panel reports that address the issue of discrimination in the application of differential excise tax rates based on distinctions within product groupings.**

**We note that Albania states that its excise taxes are applied to the duty-paid value of imports and the retail value of domestic goods.**

**Please confirm that VAT is not/not part of the valuation base for imports.**

**We seek commitment from Albania that from the date of accession, Albania will apply its domestic taxes, including VAT and excise taxes and any others discussed in the Working Party report, in strict compliance with Article III of the GATT 1994.**

Reply:

Albania did submit the new excise rates with the Law on "Excise Taxes", Number 8437, dated 28 December 1998 (effective on 1 January 1999). That information was provide in WT/ACC/ALB/29, page 16. However, there is draft legislation entitled "Some Changes to the Law Number 8437, dated 28 December 1998" which has passed the Council of Ministers and is before Parliament for its approval expected by the end of June 1999. The new rates proposed in the pending draft legislation are provided in the table below:

Albania's Proposed Excise Tax Rates at the Time of Accession			
Harmonized System Code	Description of Item	Rate of Excise (per cent)	Tax per Unit
Chapter 24	Tobacco and Manufactured Tobacco Substitutes		
24.03	Tobacco for consumption	60	
24.02	Cigarettes		11 lek/pack
24.02.10.00	Cigars		2240 lek/kg
Chapter 22	Beverages, Sprits and Vinegar		
22.03.00	Beer	50	
	wine with a value up to 300 lek/liter		50 lek/liter
	wine with a value more than 300 lek/liter		150 lek/liter
22.08	Whiskeys, brandies, and similar distilled alcohol, including Raki (grappa)		
	with a value up to 400 lek/liter		80 lek/liter
	with a value more than 400 lek/liter		400 lek/liter
22.09, 22.02	Non-alcoholic beverages	5	
22.01	Bottled natural mineral waters	5	
Chapter 9	Coffee, Tea, Mate, and Spices		
09.01	Coffee	20	
Chapter 27	Mineral Fuels, Mineral Oils and Products of their Distillation		
27.10	Petroleum sub-products		
	Gasoline up to 89.9 octane	77	
	Gasoline more than 90.0 octane	90	
	Unleaded gasoline	90	
	Gasoil	50	
	Kerosine	80	
	Motor oil	50	
	Lubricating oils	50	
	Other oils	5	
	Other products such as bituminous oil, solvents, etc.	20	
	All other petroleum sub-products*	90	
Chapter 40	Rubber and Articles Thereof		
40.11	New pneumatic tires of rubber		

	Of a kind used on motor cars (including station wagons)		4000 lek/tire
	Of a kind used on buses and trucks		3000 lek/tire
	Other		2000 lek/tire
Chapter 33	Essential Oils and Resinoids; Perfumery, Cosmetic or Toilet Preparation		
33.03.00.10	Perfumes	50	
33.03.00.90	Deodorants	50	
Notes:*Liquid gas for household use is exempt from excise taxes.			

Through the proposed changes in the law, Albania has taken into account WTO and GATT principles related to discrimination in the application of differential excise tax rates based on distinctions within the product groupings. It is now evident that Albania has included Raki, its national spirit, in the alcoholic beverage group and is listed as separate. This is a technical improvement in the law. For cigarettes, by including all types in one category, Albania has also complied with WTO and GATT principles. Another draft law which has passed the Council of Ministers, "Changes in the Law on Tariffs in the Republic of Albania", states that the applied tariff rate on tobacco is to change from 20 per cent to 10 per cent as a means to increase the volume of legal tobacco products.

#### (l) Rules of origin

##### Question 24.

**Articles 31 and 32 of the Customs Code states that the procedures for determining the rules of origin for non-preferential and preferential trade, respectively, are contained in the Implementing Provisions of the Code.**

**Have these implementing provisions been enacted yet? If so, please provide for Working Party review the parts dealing with customs valuation, rules of origin, customs fees, and other customs procedures covered by WTO Agreements, e.g., Articles V, VII, VIII, and X of the GATT, and the Agreements on Customs Valuation, Rules of Origin, and Pre-shipment Inspection.**

**Do these implementing provisions incorporate, for both non-preferential and preferential rules of origin, the requirements of Article 2(h) and Annex II, paragraph 3(d) respectively, which require provision upon request of an assessment of the origin of the import and outline the terms under which it will be provided? If not, will Albania enact such requirements in regulation or law prior to accession?**

##### Reply:

The Implementing Provisions of the Customs Code dealing with customs valuation (Articles 54-81); rules of origin for non-preferential trade (Articles 44-46 and Annex 3); and rules of origin for preferential trade (Articles 47-53 and Annex 4) have been enacted and are being sent to the Secretariat.

Albania commits to implementing the provisions for both non-preferential and preferential rules of origin in compliance with the requirements of Article 2(h) and Annex II, Paragraph 3(d) at the time of accession.

The following text was requested for the Working Party report:

The representative of Albania stated that Chapter 2 of Title II of the Customs Code, as elaborated by the Implementing Provisions of that Code, established Albania's rules of origin, and he confirmed that from the date of accession Albania preferential and non-preferential rules of origin would comply fully with the WTO Agreement on Rules of Origin, and that the requirements of Article 2(h) and Annex II, Paragraph 3(d) of the Agreement, which require provision upon request of an assessment of the origin of the import and outline the terms under which it will be provided, would be established in Albania's legal framework prior to accessions. The Working Party took note of this commitment.

#### **Value-added tax**

##### **Question 25.**

**The answer to question 29 is unresponsive.**

**Could Albania provide information as to what is included in the taxable value of domestically produced goods in respect of value-added tax?**

Reply:

Albania confirms that the VAT is the final tax applied to imports. The VAT includes the following: [good's value + customs tariff + excise tax]. The excise tax is applied to the goods's value + customs tariff; thus, the VAT is computed as follows:

$$\text{VAT import} = [(\text{good's value} + \text{customs tariff}) + (\text{good's value} + \text{customs tariff}) * (\text{excise rate})] * \text{per cent of the VAT.}$$

Albania confirms that the value taxed by the VAT of locally produced goods includes the value of goods plus any other obligations such as taxes, tariffs, etc. (established by law) with the exception of the VAT, which is applied on the taxed value of the good.

The following statement was requested for the Working Party report:

Albania commits that at the time of accession, Albania will apply its domestic taxes, including the VAT and excise taxes and any others discussed in the Working Party report, in strict compliance with Article III of the GATT 1994.

#### **(m) Anti-dumping régime**

##### **Question 26.**

**What is the status of Law 7609 "On Customs Tariffs" which provided for "special" customs duties, anti-dumping duties, and countervailing duties?**

**What is the status of the new Antidumping Law. Please provide a copy.**

Reply:

Law 7609, dated 22 September 1992, "On Customs Tariffs" was repealed with the passing of the Customs Code (Article 297), No. 8449, dated 27 January 1999. The Customs Code does not provide for antidumping or countervailing duties.

Anti-dumping is covered under Law 8466, 24 March 1999, "On Antidumping". A copy of the Law has been sent to the WTO Secretariat (WT/ACC/ALB/38).

- (n) **Countervailing duty régime**
- (o) **Safeguard régime**

**Question 27.**

**Please provide the texts of Albania's draft laws establishing the authority to apply countervailing duties and safeguards.**

Reply:

Albania has suspended the drafting of a countervailing duty law. This law will be drafted after accession and will be made available for comments by Member countries at that time.

Albania has suspended the drafting of a safeguards law. This law will be drafted after accession and will be made available for comments by Member countries at that time.

**2. Export Regulation**

- (c) **Quantitative export restrictions, including prohibitions, quotas and licensing systems**

**Question 28.**

**In WT/ACC/ALB/34, Albania has indicated that it is in the process of removing most of its export prohibitions prior to accession.**

**Please confirm that Albania's remaining quantitative export prohibitions include, hides and skins; waste and scrap of iron, steel, and copper; preparation of fish products, crustaceans, molluscs, etc; and Residues and waste from prepared animal food**

**Please confirm the timeframe within which these restrictions will be liberalized. Does Albania plan to replace these measures with WTO-consistent forms of regulation?**

**We seek a listing of Albania's remaining export controls in the Working Party report, by HS item number and indicating the purposes of the restriction. We also seek a commitment from Albania in the Working Party report and protocol of accession confirming any remaining export control requirements in place upon the date of accession would be fully consistent with WTO provisions, including those contained in Articles XI, XVII, XX and XXI of the GATT 1994.**

Reply:

Albania confirms that the remaining quantitative export prohibitions include hides, skins and leather; and waste and scrap of iron, steel, and copper. The export prohibition on preparation of fish products, crustaceans, molluscs, etc. is due to the International Organization for Epizootics listing of Albania on countries with diseases from List A. The ban is not a unilateral measure taken by the Government of Albania. The explanation has been reported in the Memorandum of Restrictions and Prohibitions for Exportable Products. The same explanation applies to the prohibition related to the residue and waste from prepared animal food.

Albania confirms that the export prohibitions on hides, skins and unprocessed leather; and waste and scrap of iron, steel, and copper will be lifted by the end of September 1999.

The following statement was requested for the Working Party report:

Albania confirms that the following products will be subject to export licensing: 93.01 - 93.07 (arms and munitions, parts and accessories thereof); 36.01 - 36.06.90.90 (explosives, pyrotechnic products, matches, pyrophoric alloys); 97.01 - 97.06 (modern works of arts). The export licensing regime for the abovementioned goods is in place for the following purposes, respectively: that licensing will be required to adhere to international commitments related to non-proliferation, mass destruction and production of technologies thereof; to prevent trade of said products to hostile nations subjected to international bans; to protect the cultural integrity and heritage of the Republic. Albania confirms that at the time of accession any remaining export control requirements in place will be fully consistent with WTO provisions, including those contained in Articles XI, XVII, XX and XXI of the GATT 1994.

**(f) Export financing, subsidy and promotion policies**

**Export subsidies**

**Question 29.**

**In light of Albania's statements on the issue of export subsidies, we propose the following:**

**The representative of Albania stated that from the date of accession Albania would not maintain any subsidies, including export subsidies, which met a definition of a prohibited subsidy within the meaning of Article 3 of the Agreement on Subsidies and Countervailing Measures, and would not introduce such prohibited subsidies from the day of accession. The Working Party took note of this commitment.**

Reply:

Albania does not have any export financing, subsidy or promotion policies.

The following statement for the Working Party report was requested:

The representative of Albania stated that from the date of accession Albania would not maintain any subsidies, including export subsidies, which met a definition of prohibited subsidy within the meaning of Article 3 of the Agreement on Subsidies and Countervailing Measures, and would not introduce such prohibited subsidies from the day of accession. The Working Party took note of this commitment.

**3. Internal Policies Affecting Foreign Trade in Goods**

**(a) Industrial policy, including subsidies**

**Question 30.**

**Albania has stated that it does not at present provide any subsidies prohibited by WTO Agreements.**

**Can Albania confirm that any subsidy programmes provided by its Government after accession will be administered in line with the Agreement on Subsidies and Countervailing Measures and**

**that all necessary information on notifiable programmes would be notified to the Committee on Subsidies and Countervailing Measures in accordance with Article 25 of the Agreement upon entry into force of Albania's Protocol of Accession?**

Reply:

Albania confirms that any subsidy programmes provided by the Government after accession will be administered in line with the Agreement on Subsidies and Countervailing Measures and that all necessary information on notifiable programmes will be notified to the Committee on Subsidies and Countervailing Measures in accordance with Article 25 of the Agreement upon entry into force of Albania's Protocol of Accession.

**(b) Technical regulations and standards, including measures taken at the border with respect to imports**

**Question 31.**

**We note that Albania's new Law on Standardization addresses standards and technical regulations in a generally straightforward manner.**

**Many of the important specific provisions related to Albania's compliance with the TBT Agreement will be contained in three government decrees which have yet to be completed or shared with the Working Party.**

**In addition, some aspects of the Law are very general, and do not explicitly mandate the provisions of the TBT Agreement that Albania has stated in ALB/32 that they cover.**

**ALB/32 states that "the Decree on Competencies on Conformity Assessment Procedures will define the publications where notices of proposed technical regulations and conformity assessment procedures will appear," and the issue of publication for prior comment. It also states that the Decree will provide for the consideration of equivalent technical regulations of other Members. Two other decrees needed for full implementation are the decree on "the adoption of the Code of Good Practice for Adoption and Application of Standards" and the decree "on the exchange of information on standards and technical regulations."**

**Without these decrees, we cannot determine Albania's level of compliance with the Agreement.**

**Could Albania indicate when the Decrees will be issued and when it will provide copies of them for Working Party review?**

**Albania notes that Article 4 of the Law on Standardization covers points 5A, 5B, 6A, 6B, and 6C of the chart in ALB/32 and parts of Articles 2, 3, 5, and 7, and Annex 3 (D, E, and F) Article 8.1, of the WTO TBT Agreement.**

**Article 4 does not seem to directly mandate the measures covered by that part of the TBT Agreement. Are there other decrees, regulations, or implementing provisions in Albanian law that explicitly provide for this treatment?**

**Can Albania please define what is meant by "experimental standard" in Article 4?**

**In point 6D of ALB/32, Albania states that a "Code" provides for a nondiscriminatory fee structure**

**Is this the “code of good practice” or Albania’s Customs Code? (Please note: the Code of Good Practice is relevant only to standards, NOT to conformity assessment End note).**

**ALB/32 states that “Relevant ministries (Ministry of Agriculture and Food, Ministry of Health, Ministry of Labour and Immigration, Ministry of Public Works and Transportation, Ministry of Education and Science) are at present the responsible authorities responsible for notification, publications and other internal procedures to ensure that transparency obligations are met on an ongoing basis.”**

**This does not indicate that Albania has established in law or regulation the requirements for “notification, publication, and other internal procedures,” e.g., publication prior to enactment for public comment, that would implement the provisions of the WTO TBT Agreement.**

**What steps is Albania taking to actually implement these provisions? Please cite the provision of Albanian law that addresses these issues.**

**ALB/32 states that “with regard to standards, the adopted code, letter "J", will be published by the National Standards Body and will provide notification of draft standards and provide an opportunity for public comment.”**

**What provision of law establishes this requirement? When will it be in operation?**

**ALB/32 states that “relevant ministries can take the decision to accept the results of conformity assessment procedures conducted by bodies in an exporting Member country; and relevant ministries will implement a non-discriminatory and a cost-based fee structure.”**

**Please describe how this works in practice and how Albania will ensure that the Ministries meet the requirements of the WTO TBT Agreement in this regard?**

**Please describe the appeals process available to traders whose imports are blocked on the basis of standards or on sanitary or phytosanitary grounds and indicate the provision of law that provides for this process.**

**Finally, we note that Albania’s Law on Standardization does not recognize manufacturer self-declaration (MSD) for regulated products.**

**How does Albania intend to move towards this means of certification for low risk products in the future?**

**The response to question 9 in WT/ACC/ALB/29 appears to state that Albania wants two years after accession to implement enquiry points on TBT and SPS. In addition, ALB/31 and ALB/32 both state that “Based on Article No. 15 of the law (i.e., the Law on Standardization), we need about 2 years to implement the setting up of” Albania’s enquiry point for SPS and TBT.**

**Is this a correct reading of this response?**

**Article 15 of the Law on Standardization states:**

**“Albanian standards in power may retain their status until three years following the enactment of this Law. The DSP shall state the names and numbers of compulsory Albanian standards within the period determined in first paragraph of this Article.”**



**Article 15 of the Standardization Law does not appear to have anything to do with setting up enquiry points.**

**In addition, ALB/32 states that “Albania will have two Contact Points for information, one for standards at the National Standards Body and one for Technical Regulations in the Ministry of Economic Co-operation and Trade”. Is it Albania’s intend to delay the implementation of these contact points for two years as well?**

**We are not prepared to approve Albania’s accession without confirmation that Albania’s enquiry points for SPS and TBT are operational. Albania should establish its enquiry points for TBT and SPS immediately, notifying their addresses and other materials as provided for in the Agreements.**

Reply:

Albania, to be in full compliance with the TBT Agreement, is preparing a separate decree of the government which in practice will adopt Articles 2, 5, 6, 8 and 9, of the TBT Agreement. Articles 3 and 7 are not included because in Albania the technical regulation are prepared by ministries or central public institutions and not by local administration. This draft was distributed to different ministries and approval is expected at the end of July.

In the Law on Standardization submitted to the WTO Secretariat, the translator forgot to translate the last paragraph of the Article 4. This paragraph states that ministries and the other central public institutions are responsible for the preparation and the implementation of technical regulations in all fields for which they are responsible.

The decree, "Code of Good Practice for the Preparation, Adoption and Application of Standards" was approved by the Council of Ministers (No. 242, dated 28 May 1999). In practice it will endorse the code as it is in the annex 3 of TBT Agreement. The decree, "Criteria and Competencies Related to Standardization, Certification and Accreditation", mainly deals with the three activities covered by the General Directorate of Standardization. The draft is distributed to different ministries for comments and is expected to be approved by the end of June. The decree, "On Exchange of Information on Standards and Technical Regulations", is prepared in draft form. This draft endorses the articles 10.1, 10.1.1, 10.1.2, 10.1.3, 10.1.4, 10.1.5, 10.1.6, 10.4, 10.7, 10.8, 10.9, 10.11, of the TBT Agreement. The draft was distributed to different ministries for comments and is expected to be approved by the end of June. Each of these decrees have been submitted to the WTO Secretariat (WT/ACC/ALB/38).

By experimental standards, Albania means a document prepared as a prospective standards for provisional application in areas of technology where there is a high level of innovation or where an urgent need for guidance is felt, and where the safety of persons and goods is not involved. The time for its preparation is therefore reduced; once adopted this standards is subject to an experimental period of up to three years, with a view to its transformation into a standard.

The Albanian Code of Good Practice is relevant only to standards and not to conformity assessment procedures. Those procedures are a subject of the abovementioned decree. This is not the part of Albanian's Custom Code.

The following statement was requested for the Working Party report:

Albania has provided for the "notification, publication, and other internal procedures", e.g., publication prior to enactment for public comment, that would implement the provisions of the WTO's TBT Agreement. This is included in the decree "On Exchange of Information on Standards and Technical Regulation".

Regarding the "notification of draft standards and provide an opportunity for public comment" Albania states that they are part of the Code of Good Practice for Standards mentioned in the statement. The code will be in operation 15 day after the decision of the Council of Ministers endorses it an is published in the Official Journal.

Concerning the statement for the " ... decision to accept the results of conformity assessment procedures conducted by bodies in an exporting Member country; and relevant ministries will implement a non-discriminatory and cost-based fee structure", Albania states that those are included in the decree of government which will adopt the articles 2,5,6,8 and 9 of the TBT Agreement.

Regarding self-declaration (MSD), for regulated products Albania has included it in the decree for Criteria and Competencies for Standardization, Certification and Accreditation, chapter II, point 9.

Albania will implement its inquiry points on TBT and SPS at the time of accession. By an order of the Prime Minister of Albania, No. 36, dated 06.05.1999, paragraph 7, it is officially established that the enquiry point for TBT and SPS is at the General Directorate for Standardization, addressed : Rr."Mine Peza", Nr.143/3, Tirana, Albania, Tel. + 355 42 47176, Tel. & Fax. + 355 42 26255, E-mail: [dsc@icc.al.eu.org](mailto:dsc@icc.al.eu.org). Albania has notified the WTO Secretariat of this decision and provided all the relevant information. The Information & Sale Center of this Directorate will act as the enquiry point. This point is operational, and we have informed the Secretariat before Albania's third Working Party in January 1999. It was the document WT/ACC/ALB/25 (F. UPDATE ON TBT COMPLIANCE). In this document we stated that "an information center for standards has been created in compliance with the TBT Agreement's call for an enquiry point". Albania commits to fully operational inquiry points for TBT and SPS at the time of accession and not two years after accession.

**(c) Sanitary and phytosanitary measures, including measures taken with respect to imports**

**Question 32.**

**ALB/31 appears to contend that Albania can meet the provisions of the WTO SPS Agreement, based on the provisions of the "The Law on State Sanitary Inspectorate", No. 7643, dated 2 December 1992.**

**Please describe how SPS measures provided for in that Law will meet WTO requirements regarding transparency, notification and access to documentation. Specifically, please address the following:**

- **Identification of authority responsible for making notifications to the WTO and ensuring transparency obligations are met on an ongoing basis;**
- **Establishment of guidance or law requiring publication of proposed measures at an early stage for comment;**
- **Provision in law or administrative procedure to provide copies of proposed measures to WTO Members; and**
- **Requirement in law or administrative procedure, of a reasonable period of time for comment from Members and the public, and establishment of a process to take comments into account without discrimination.**

**Please provide more details on how the law referenced in section 1 satisfies requirements under the WTO for standstill.**

**Could Albania supply a copy of this law for Working Party review?**

**We are not prepared to agree that Albania meets SPS requirements until we have reviewed this law and any regulations relevant to its operation in the context of WTO provisions.**

**Our objective is to confirm that Albania will apply all obligations under the WTO Agreements on Sanitary and Phytosanitary Measures and Technical Barriers to Trade from the date of accession. We appreciate the efforts made to date by Albania in this regard. We look forward to reviewing the additional information offered by Albania and recently requested to complete our review and assessment.**

Reply:

The Ministry of Agriculture and Food and the Ministry of Health are the authorities responsible for making notification and ensuring transparency obligations regarding SPS measures to the Directory of Standardization, and it is the Directory of Standardization which is the authority responsible to making the notifications to the WTO to ensure transparency obligations are met on an ongoing basis. The address, phone and fax numbers, and e-mail address are provided in the updated Memorandum on Compliance with the SPS.

The Law on the "State Sanitary Inspectorate" is either to be amended or another law will be drafted to include a provision that requires publication of proposed measures at an early stage for comment. The changes to the law will be made for Albania to be in compliance with the SPS Agreement at the time of accession. When the draft is drawn, Albania will submit the legislation to the WTO Secretariat for review.

The Law on the "State Sanitary Inspectorate" is either to be amended or another law will be drafted to include a provision that specifies that copies of proposed measures will be provided to WTO Members. The changes to the law will be made for Albania to be in compliance with the SPS Agreement at the time of accession. When the draft is drawn, Albania will submit the legislation to the WTO Secretariat for review.

The Law on the "State Sanitary Inspectorate" is either to be amended or another law will be drafted to include a provision that specifies that will permit a reasonable period of time for comments from Members and the public, and the establishment of a process to take comments into account without discrimination. The changes to the law will be made for Albania to be in compliance with the SPS Agreement at the time of accession. When the draft is drawn, Albania will submit the legislation to the WTO Secretariat for review.

The Law on the "State Sanitary Inspectorate" is either to be amended or another law will be drafted to include a provision that specifies that the law will satisfy the WTO requirement for standstill.

Albania will be sending the Law on the "State Sanitary Inspectorate" to the WTO Secretariat.

Albania commits to be in full compliance with the SPS and TBT at the time of accession.

**(d) Trade-related investment practices**

**Question 33.**

**We asked that the following statements be reflected in the draft of the Working Party report:**

**Albania confirms that there are no local content requirements imposed on foreign or domestic firms to purchase or use products of Albanian origin or from any Albanian source, nor does Albania require that a firm's, foreign or domestic, purchases or use of imported products be limited to an amount related to the volume or value of the local products it exports. The commitments in the Memorandum on TRIMs (WT/ACC/ALB/30) apply in the case of Albanian firms as well.**

**Albania confirms that there are no provisions that restrict imports, by foreign or Albanian firms, to an amount related to the quantity or value of the product exported; there are no export performance requirements of any sort for foreign or Albanian firms; and there are no trade-balancing requirements in the Law, neither in its intention nor in practice, which apply in the case of a foreign or Albanian firm.**

**WT/ACC/ALB/30 states that there are no local content requirements “imposed upon foreign firms to purchase or use products of Albanian origin or from any Albanian source,” nor required that “its purchases or use of imported products be limited to an amount related to the volume or value of the local products it exports.”**

**Are there any such requirements for Albanian firms?**

**ALB/30 also states that there “are no provisions that restrict imports to an amount related to the quantity or value of the product exported”; that there “are no export performance requirements of any sort”; and that “there is no trade-balancing requirement in the Law, neither in its intention nor in practice.”**

**We would like to see this information reflected in the draft Working Party report.**

Reply:

The following statements were requested for the draft of the Working Party report:

Albania confirms that there are no local content requirements imposed on foreign or domestic firms to purchase or use products of Albanian origin or from any Albanian source, nor does Albania require that a firm's, foreign or domestic, purchases or use of imported products be limited to an amount related to the volume or value of the local products it exports. The commitments in the Memorandum on TRIMs (WT/ACC/ALB/30) apply in the case of Albanian firms as well.

Albania confirms that there are no provisions that restrict imports, by foreign or Albanian firms, to an amount related to the quantity or value of the product exported; there are no export performance requirements of any sort for foreign or Albanian firms; and there are no trade-balancing requirements in the Law, neither in its intention nor in practice, which apply in the case of a foreign or Albanian firm.

(e) State-trading practices

**Question 34.**

**Please describe the activities in international trade and domestic trade and distribution of the “strategic” state trading firms Agroeksport, Industrialimpeks, Arteksportimport, Makinaimpeks, Albkoopi. What products do they trade and on whose behalf, i.e., are their trading activities principally on behalf of the output of other state-owned firms? What non-state owned competition exists to import and export similar products? How would a private firm go about trading in the goods now traded by these firms?**

**Why aren’t these firms state trading enterprises within the meaning of Article XVII of the GATT?**

**How did the 1991 Law on State Enterprises essentially eliminate “state trading enterprises?”**

**We seek confirmation from Albania in the Working Party report and protocol of accession that after accession to the WTO Albania would observe the provisions of Article XVII of the GATT 1994, the WTO Understanding on that Article, and Article VIII of the GATS regarding State trading, in particular abiding by the provisions for notification, non-discrimination, and the application of commercial considerations for trade transactions for any firms covered by these provisions.**

Reply:

Albania would like to clarify some issues related to state-trading enterprises. All five state-trading enterprises are non-strategic. Two of the enterprises (Albcoop and Makinaimpeks) are no longer in operation, but the property and assets have been assessed and are scheduled to be privatized as entire firms. After privatization, the firms are free to change structurally or to determine their trading activities. Albcoop imported different types of consumer items including food and non-food products for wholesaling and retailing in Albania. Makinaimpeks imported machinery parts and industrial mechanical parts. After privatization their activities will be determined by the owners.

The three other enterprises (Arteksportimport, Agroeksport, Industrialimpeks) are stockholding enterprises presently entirely state-owned. In the second half of 1999, according to the privatization program, the shares of these enterprises will be sold to the private sector and the government will only maintain a minority share. Each enterprise has as a main activity the import of bulk agricultural commodities and food products (e.g., sugar, rice, wheat) and engage in wholesaling activities for these commodities and products. These enterprises operate under the same conditions as the private firms with which they compete, without subsidies or preferential treatment (i.e., nondiscrimination) from the government. Moreover, the government does not determine the business decisions of the managers, i.e., no price-setting, quotas, etc.

Albania confirms that these enterprises make purchases or sales solely in accordance with commercial consideration, including price, quality, availability and marketability, transportation and other conditions of purchase or sale. Albania affords adequate opportunity for enterprises in other countries to compete for participation in such purchases and sales. Albania commits to privatizing these enterprises by the time of accession.

Albanian Law on "Stockholding Trading Companies", Number 7638, dated 19 November 1992, defines that such enterprises operate under the same conditions as private enterprises. This law outlines the conditions specified in the previous paragraph.

The following statement was requested for the Working Party report:

Albania confirms that after accession to the WTO it will observe the provisions of Article XVII of the GATT 1994, the WTO Understanding on that Article, and Article VIII of the GATS regarding state trading, in particular abiding by the provisions for notification, non-discrimination, and the application of commercial considerations for trade transactions for any firms covered by these provisions.

**(f) Free zones**

**(g) Free economic zones**

**Question 35.**

**The response to question in WT/ACC/ALB/29 stated that the new draft law on free zones provided that these entities are not considered to be outside of Albania's customs territory, and therefore goods exiting the zone to the rest of Albania are not considered as imported goods**

**If goods entering the zones are exempted from normal tariffs and taxes can subsequently enter the rest of Albania after processing without being subject to normal tax and trade measures, wouldn't that constitute discriminatory treatment vis-a-vis other imports?**

Reply:

In the draft law "On Free Zones", Article No. 2 (definitions) a free zone is defined as a circulated and protected area of land, buildings and entities of trade, services and manufacturing activities, that is considered part of the Republic of Albania's customs territory. In Article 21 (The exit of goods from the free zone) of the abovementioned draft law it is stated that:

Goods from the free zone that enter into any other part of Albanian customs territory and that do not have a transit destination to another country can enter into circulation into any other part of the Republic of Albania's customs territory after imposing of all import duties. In general, the taxes are applied on the total value of the goods, except in the cases when the goods are transformed through value-added activity, i.e., processing with components from the domestic market within the free zone. The value of those components is deducted from the total value of the final product for the purpose of the customs duties.

Free zones are not considered outside of Albanian customs territory (according to Customs Code), and the goods that exit from a free zone to the domestic market are subjected to the normal taxes and trade measures. Hence, there is no discrimination in the treatment of these goods relative to other imports.

**(i) Mixing regulations**

**Question 36.**

**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.**

Reply:

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

**(j) Government-mandated counter-trade and barter**

**Question 37.**

**In the response to question 58 of WT/ACC/ALB/29, Albania confirmed that it maintains no government mandated counter trade or barter.**

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

**Please indicate if non-mandated 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 countertrade?**

Reply:

Albania confirms that there are no government-mandated counter-trade and/or barter arrangements.

Although Albania does not have any provisions in its Customs Code or any other law regarding non-mandated barter, it is allowed. However, imports and exports conducted as barter or countertrade cannot benefit from exemptions of duties, taxes, and other restrictions and requirements that apply under the trade regime.

**(l) Government procurement practices, including general legal regime and procedures for tendering, dealing with tenders and award of contracts**

**Question 38.**

**In response to question 59 of WT/ACC/ALB/29, Albania confirmed its intent to join the Agreement on Government Procurement. In light of this, we suggest that a commitment be included in Albania's Working Party report and protocol of accession along the following lines:**

**The representative of Albania confirmed that, upon accession to the WTO, Albania would initiate negotiations for membership in the Agreement on Government Procurement by tabling an entity offer. He also confirmed that, if the results of the negotiations were satisfactory to the interests of Albania and the other members of the Agreement, Albania would complete negotiations for membership in the Agreement by 31 December 2000. The Working Party took note of these commitments.**

Reply:

Government procurement practices, including general legal regime and procedures for tendering, dealing with tenders and award of contracts

The Government of Albania is submitting a Memorandum on the Compliance with the Agreement on Government Procurement to the WTO Secretariat (WT/ACC/ALB/42).

The following statement was requested for the Working Party report and protocol of accession:

The representative of Albania confirmed that, upon accession to the WTO, Albania would initiate negotiations for membership in the Agreement on Government Procurement by tabling an entity offer. He also confirmed that if the results of the negotiations were satisfactory to the interest

of Albania and the other members of the Agreement, Albania would complete negotiations for membership in the Agreement by 31 December 2000. The Working Party took note of these commitments.

#### **4. Policies Affecting Foreign Trade in Agricultural Products**

##### **(e) Internal policies**

##### **Question 39.**

We appreciate the hard work that Albania put into preparing WT/ACC/SPEC/ALB/4 on its agricultural trade and subsidy regimes. It is a very complete and thorough submission.

For the purposes of accession, Albania should prepare tables on domestic support and export subsidies using the WTO Secretariat technical memo 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 its 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, we wonder if the data reported for 1998 are final data or projections? If the data for 1998 are not final, it would be better if Albania presented data for 1995-97, or 1994-96 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 program 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 Agricultural 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 subsidize the costs of inputs (such as water) are not allowed (see para. 2(g) of Annex 2).

Please provide more information on direct payments made as part of the "agribusiness-processing development" program (structural adjustment through investment aids) and environmental protection and conservation programs (payments under environmental programs), with reference to the specific criteria in paras. 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 programs 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.**

Reply:

Please refer to the changes in the updated Agricultural Schedule and the accompanying Memorandum on the Responses to the Questions Related to Policies Affecting Foreign Trade in Agricultural Products (Guide to the Revisions to the Agricultural Schedule) (WT/ACC/ALB/4/Rev.2)

## **V. TRADE RELATED ASPECTS OF INTELLECTUAL PROPERTY REGIME**

### **1. General**

#### **(d) Application of national and most favoured nation treatment to foreign nationals**

##### **Question 40.**

**When will Albania provide most favoured nation treatment (Art. 4 of the TRIPs Agreement)?**

Reply

There are no restrictions in Albania’s laws related to intellectual property rights for providing MFN treatment. Thus, Albania already provides and commits to provide MFN treatment at the time of accession in WTO.

##### **Question 41.**

**Reference is made to the Law on “Some Changes in the Law of Industrial Property” and it appears that this is intended to address some of the deficiencies identified in ALB/36. Has this draft law gone to parliament yet? Can we see a copy?**

**We would also like to see the draft amendments on border measures noted in the chart in the chart in WT/ACC/ALB/36.**

Reply

The Law on "Some Changes in the Law of Industrial Property" has passed in the Parliament on 22 April 1999. The number assigned is 8477. A copy is available in the Secretariat (Accessions Division, Room 1126) for consultation (WT/ACC/ALB/38)

In the "Implementing Provisions of Customs Code", approved by the decision of the Council of Ministers No.205 on 13 April 1999, Title 9 ("Counterfeited goods and pirated goods"), points 118-120 deal with the system of enforcement at the borders. A copy is available in the Secretariat (Accessions Division, Room 1126) for consultation (WT/ACC/ALB/38)

**Question 42.**

**Why does Art. 2(2) of the Law on Industrial Property provide national treatment only on the basis of international treaties and conventions to which Albania is a Party or on the basis of reciprocity?**

Reply

According to Article 100 of the Law on Industrial Property, which stipulates: "If an international agreement to which the Republic of Albania is a party provides rights other than, or different from those laid down by this Law, the provisions of the international agreement shall be applicable", at the time of its accession to WTO, Albania shall accord to the nationals of other Members treatment no less favourable than that it accords to its own nationals. (Art. 3 of the TRIPs agreement)

In addition, in Article 18 of the new Law on "Some changes and Supplements on the law No. 7819, 27 April 1994, of Industrial Property", promulgated on 22 April 1999, it is stated : "Nationals of non-Member countries domiciled or that have real and effective industrial or commercial establishments in a Member country shall be treated as nationals of a Member country".

**Question 43.**

**We remain interested in receiving copies of Albania's latest copyright laws - Law No. 7564 of 19 May 1992 on Copyright and Law No 7932 of 19 April 1995 amending Law No. 7564.**

Reply

The Law No 7932 of 19 April 1995 will be submitted.

**Question 44.**

**We would like an update on remaining legal instruments under development :**

**Has the draft Law on the "Protection of Topographies of Integrated Circuits" been transmitted for parliamentary action yet? May we review a copy?**

Reply

The Law on the "Protection of Topographies of Integrated Circuits" has been promulgated on 13 May 1999. It is assigned the number 8488. A copy is available in the Secretariat (Accessions Division, Room 1126) for consultation (WT/ACC/ALB/38)

**Question 45.**

**ALB/33 notes that “The Right on Information” and the Law on “Protection of Personal Data” are in development. Have they gone to the parliament for action yet? May we have a copy for review?**

Reply

The Law on “The Right to Information over the Official Documents” and the Law on “Protection of Personal Data” have not gone to the Parliament yet. They are expected to be passed during the next three months.

**2. Substantive standards of protection, including procedures for the acquisition and maintenance of intellectual property rights**

**(h) Requirements on undisclosed information, including trade secrets and test data**

**Question 46.**

**For which time period does Albania protect data submitted to obtain marketing approval for pharmaceuticals?**

Reply

In the Regulation of the Commission of the Verification of Manufacturing Conditions on Pharmaceuticals, the time period during which Albania protects data submitted to obtain marketing approval for pharmaceuticals, is not defined. These data are deposited in the National Center of Drugs Control of Albania.

Article 39.3 of the TRIPs agreement which deals with that question does not mention any time period either.

**Question 47.**

**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 subfederal organizations? Please describe each of the border enforcement systems currently in place in Albania.**

**We appreciate Albania’s completion of the chart on TRIPS Compliance. It demonstrates how far along Albania is in implementing the WTO TRIPS Agreement. We would like an update on the remaining legal instruments under development.**

**Has the draft Law on the "Protection of Topographies of Integrated Circuits" been transmitted for parliamentary action yet? May we review a copy?**

**WT/ACC/ALB/33 notes that the Law on "The Right of Information” and Law on “Protection of Personal Data" are in development. Have they gone to the parliament for action yet May we have a copy for review?**

**Reference is made to the Law on "Some Changes in the Law of Industrial Property" and it appears that this is intended to address some of the deficiencies identified in WT/ACC/ALB/36. Has this draft law gone to parliament yet? Can we see a copy? We would also like to see the draft amendments on border measures noted in the chart in WT/ACC/ALB/36.**

**We remain interested in receiving copies of Albania's latest copyright laws - Law No.7564 of 19 May 1992 on Copyright and Law No.7932 of 19 April 1995 amending Law No.7564).**

**We will have further comments later.**

Reply:

Albanian borders are controlled by the central customs authorities of the Albanian State. In Albania there is already a legal base that ensures a system of border measures for the prohibition of counterfeit or pirated goods that infringe and violate intellectual property rights. The preparation and drafting of this legal base has been completed and aimed at an effective guarantee of the enforcement of intellectual property rights in Albania in compliance with the TRIPs agreement.

Law on "The Customs Code in the Republic of Albania", No. 8449, dated 27 January 1999, Article 82, Paragraph 4, gives the customs authorities the competence to intervene, upon request of an holder of an intellectual property right for stopping the free circulation, export, re-export and place under suspension measures goods recognized as counterfeit or pirated. The procedures of this intervention of customs authorities are established in the Decision of the Council of Ministers No. 205 dated 13 April 1999, entitled "The Implementing Provisions on Customs Code". The first part of this decision defines counterfeit and pirated goods according to Article 82 of the Customs Code. Title 9 defines the procedures of action of customs authorities. According to Point 119, the customs authorities take action after an application in written form of the holder of the right, when the counterfeit or pirated goods are released for free circulation under a transit procedure or a procedure with economic impact.

The application of the holder of the right shall be in written and contain a sufficiently detailed description of the goods to enable the customs authorities to recognize them, the length of the period during which the customs officers are requested to take action and any other useful information to identify the exporter and the importer. The application shall be accompanied by proof that the applicant is holder of a trade mark, production license, copyright etc. The customs authorities examine the application, notifying the applicant within five days whether it has been taken into account. When the application is accepted the decision of the General Directorate shall be notified promptly to all customs offices. This decision determines a period within which the customs authorities may intervene. The decision may foresee that the applicant shall forward a down payment, subject to repayment of any excess amount, to cover any administrative charges occurred to the customs administration for carrying out the services. If the applicant shall not agree with the given amount, the General Directorate shall review it.

Point 120 of the Decision of the Council of Ministers No. 205 defines the control procedures of counterfeit and pirated goods according to the description of the rights' holder and after continuous counseling with him. When customs authorities prove that the controlled goods correspond to the description of the applicant they suspend their release or seize the goods depending on the circumstances and visible proof. They have to notify the applicant immediately about the action taken. In accordance with the legislation in force regarding the protection of professional, commercial and industrial secrecy, the customs authorities notify the holder of the right of the name and address of the declarant, and if known, the name of the consignee of the goods, with a view to allow the applicant to take the legal action provided by the legislation in force in the field.

If the applicant requests to inspect the suspended or seized goods, the custom authorities allow him to do so. After notification of the decision of the General Customs Directorate for the suspension of seizure of the goods, the holder of the right has the right to appeal to the competent judicial bodies for the damage incurred to him and to require compensation, but he has to notify the customs authorities within 20 days. If the holder of the rights does not notify the customs authorities in 20 days, they suspend the decision for the suspension or seizure of the goods, and release these goods. If the charges of the applicant are not proven, and damage has been incurred to the importer or any third party as a result of the intervention of the customs authorities, the applicant is responsible and must compensate for the damage made. The applicant must make a down payment for storing expenses of the goods.

The Law on the "Protection of Topographies of Integrated Circuits" has been promulgated on 13 May 1999. It is assigned the number 8488. A copy has been sent to Washington and to the WTO Secretariat.

The Law on "The Right to Information over the Official Documents" and the Law on "Protection of Personal Data" have not gone to the Parliament yet. They are expected to be passed during the next three months.

The Law on "Some Changes in the Law of Industrial Property" has passed Parliament on 22 April 1999 and the assigned number is 8477.

In the "Implementing Provisions of Customs Code", approved by the decision of the Council of Ministers, No. 205 on 13 April 1999, Title 9 ("Counterfeited Goods and Pirated Goods"), points 118-120 deal with the system of enforcement at the borders.

Copy of this Law will be submitted.

## **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 48.**

**We continue to seek a commitment from Albania that it will join the WTO Agreement on Trade in Civil Aircraft upon accession and eliminate tariffs on imports of civil aircraft and parts.**

Reply:

Albania commits that at the time of accession its imports on civil aircraft and parts will be zero. Furthermore, Albania will be in conformity with the Agreement on Trade in Civil Aircraft and will be ready to sign the Agreement at the time of accession.

### **2. Economic Integration: Customs Union and Free Trade Area Agreements**

#### **Question 49.**

**WT/ACC/ALB/4 stated that "There are no cases where Albania's trade agreement partners receive preferential treatment compared to other countries."**

**Is that still the case? Does Albania contemplate concluding any such agreements?**

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

Reply:

Albania confirms that there are no cases where Albania' trade agreement give its partners preferential treatment in goods. Albania does not contemplate concluding any such agreements.

In the updated schedule on services, Albania notes that it has bilateral agreements related to air transport services which are MFN exemptions. The list of countries is provided in the schedule.

The following statement was requested for incorporation in the Working Party report:

The representative of Albania stated that his Government would observe the provisions of the WTO including Article XXIV of the GATT 1994 and Article V of the GATS in its trade agreements from the date of accession, and would ensure that the provisions of these WTO Agreements for notification, consultation and other requirements concerning preferential trading systems, free trade areas and customs unions of which Albania became a member would be met. The Working Party took note of these commitments.

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