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Additional Questions and Replies to the Memorandum on the Foreign Trade Regime (Document WT/ACC/ARM/1)

The Ministry of Economics of the Republic of Armenia has submitted the following replies to additional questions.

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Q.1 The response to question 6 of WT/ACC/5 states that the WTO Agreement will have the force of law inside Armenia after the accession is ratified.

How will conflicts between WTO provisions and existing laws and regulations be addressed by executive agencies? Can they enforce the WTO directly, or will complaints of conflicts have to be pursued judicially?

Article 6 of the Constitution of the Republic of Armenia states that international treaties that have been ratified are a constituent part of the legal system of the Republic. If norms are provided in these treaties other than those provided by the laws of the Republic, then the norms provided in the treaty shall prevail.

International treaties that contradict the Constitution may be ratified after making a corresponding amendment to the Constitution. At the same time, within the framework of Armenia's obligations assumed with respect to accession to the WTO there is a specific reference to the fact that following the ratification of accession all WTO agreements shall directly have the authority of law within the Republic of Armenia. Moreover, the laws and legislative instruments necessary for the application of the provisions of the above-mentioned agreements shall be adopted within six months following such ratification.

Q2. Please describe, and distinguish between, the jurisdiction and operation of the "economic courts" referred to in the response to question 7 set up under the new Constitution, including but not limited to their respective roles and appeals process from that of the regular courts. Please give particular attention in the response to how appeals from customs authorities, from cases involving intellectual property protection and from rulings in anti-dumping and countervailing duty investigations are handled by the judicial system.

In our answer to question 8 of WT/ACC/ARM/5 we have stated that the Constitution of the Republic of Armenia contains transitional provisions that are currently in effect, and these shall continue to be valid until the establishment of the judiciary system provided by the Constitution.

At the same time the respective Committees of the National Assembly, as well as the interested ministries and agencies of the Government of the Republic of Armenia are elaborating the Codes and Laws necessary for the implementation of the judiciary system. The bulk of these provisions are scheduled to be adopted by the end of the first half of 1988. Economic litigation in particular shall be handled through the Criminal litigation and the Civil litigation Codes under preparation.

Q3. Can Armenia guarantee that all commitments undertaken in the context of her WTO accession will be implemented and enforced throughout its territory?

Within the framework of the process of Armenia's accession to the WTO, the obligations assumed by the Government of the Republic of Armenia are subject to implementation throughout the Republic of Armenia. In individual cases when the implementation of such obligations requires the introduction

of amendments in the laws in effect or the adoption of new laws, the Government of the Republic of Armenia will submit the relevant legislative proposal to the National Assembly, for its approval.

IV. POLICIES AFFECTING FOREIGN TRADE IN GOODS

3. Internal Policies Affecting Foreign Trade in Goods:

(e) State-Trading Practices

Q4. The response to question 10 is not complete and does not address to basic question of the residual presence and role of the state in Armenia's economy. We are seeking a broader knowledge of the structure of ownership and enterprise operation in Armenia.

With the exception of the joint venture established by the Government with a private foreign company, which has been given a monopoly for the provision of certain basic telecommunication services, no other enterprises in Armenia are given special rights and privileges.

Approximately 30 per cent of all enterprises in Armenia are publicly owned, while 70 per cent are non-public. The latter figure may be broken down into 64 per cent of private enterprises and 6 per cent of semi-public enterprises.

In the framework of the 1996 - 1997 programme of privatization and denationalization of public enterprises and unfinished construction sites, it is estimated that 4,927 enterprises function in the territory of Armenia. Of these 3,809 are subject to privatization.

According to the last data on the privatization process, during 1994 - 1997 1,243 medium and large size enterprises have been evaluated, and 898 medium and large enterprises have been privatized. In addition, 4,978 "small" establishments have been evaluated, and 4,138 have been privatized. As regards incomplete construction sites, 162 have been evaluated and 4 privatized.

In relation to the privatisation of agricultural enterprises, it is notable that 147 enterprises were privatised completely during 1995-1996. Among these enterprises were the wine factories of Yerevan and Artashat, the brewery of Yerevan, and the Mineral water factory of Jermuk. Among the 10 biggest enterprises, presented in the answer to Question 90 of WT/ACC/ARM/5, two enterprises are still State-owned: the Brandy distillery and the Salt factory of Yerevan. The Brandy distillery is to be privatised by the end of the year through international tender.

Q5. For example, Armenia's response to question 33 indicates that certain telecommunications services are reserved to a single firm. In part II of WT/ACC/ARM/5, Armenia states that telephone services prices remain under state control because of the dominant role of the state in supplying these services. Clearly, there are enterprises that received government benefits and monopolies in Armenia.

As stated in the previous reply, a joint venture has certain monopoly rights in the basic telecommunications sector, but this is the only firm in any sector that enjoys such rights.

Q6. In addition, as noted in the responses to question 86 and 87, there is extensive overlap between the list of Armenia's largest firms and the lists of the largest trading entities. It would appear that most of these firms remain state owned and managed at this time. "Privatization" in agricultural trading firms consists of distribution of 20 per cent of the stock to employees, leaving open the question of how the firms are managed.

In 1996, the economic corporations "Hayagrospasarkum" (Armagroservice) and "Hayberriutyun" (ArmProsperity) were partially privatised. Thirty-four per cent of each of these enterprises is state-owned in the form authorised by the Ministry of Agriculture (holding), while sixty-six per cent has been privatised. Each enterprise is directed by a board of 5-7 persons.

Q7. Armenia has also indicated in the responses to questions 88 and 89 that it bankruptcy law has not functioned well, that it will be replaced by other regulations, and that the state firms that should have gone out of business are, instead, being reorganized under state supervision with a different procedure. This would seem to indicate that the state intervenes rather than permitting a bankruptcy. Armenia has also declined to discuss the positive impact of its refinancing operations, both "directed" and otherwise, on enterprise viability.

On 3 December 1996 the National Assembly of the Republic of Armenia adopted a Law on Insolvency (Bankruptcy) and Financial Recovery of Legal Entities, Enterprises Without the Status of a Legal Entity and Individual Entrepreneurs.

This law establishes the basis and procedures for recognizing insolvency (bankruptcy) of legal entities, enterprises without the status of a legal entity and individual entrepreneurs, procedures for financial recovery and dissolution of insolvents (bankrupts), as well as the rights and obligations of their participants.

No structural reform support is provided to the privatized enterprises by the state, i.e. the trust funding policy is no longer used.

The financial recovery programme is any structural modification of the bankrupt or sale as a lot not resulting in the liquidation of the enterprise which is aimed at satisfaction of the creditor claims. A financial recovery programme can be submitted by a bankrupt, the manager (who should be a licensed auditor, accountant, or insolvency manager), debtors holding at least 1/3 of secured liabilities, debtors holding at least 1/3 of unsecured liabilities, as well as persons holding at least 1/3 of the registered capital of the creditor company.

The costs associated with the implementation of a financial recovery programme proposed by persons holding at least 1/3 of the registered capital of the creditor company and the costs of the required legal proceedings are borne by the proponent party. The costs of a financial recovery programme proposed by a manager or by a bankrupt are deducted from the debtor assets.

Q8. While we understand the factors that have created these three circumstances, in light of this, we would appreciate Armenia's reconsideration of its response to question 10, and a fuller description of the role being taken by the state at the present time to foster certain inward investments, maintenance of employment, and orderly industrial restructuring.

The participation of the Armenian Government in the promotion of domestic investments, job creation and sustainable economic rehabilitation is limited to a facilitating role which aims to ensure conditions conducive to entrepreneurial, commercial, and investment activity. The Government is fully committed to ensuring an orderly transition to a full market economy as quickly as possible, and has

no interests in intervening in productive side of the economy in a manner which would undermine this objective.

Q9. Please provide a list of wholly or partially Government-owned firms in Armenia.

According to the 1996 - 1997 programme of privatization and denationalization of public enterprises and unfinished construction sites, as of now the following are not subject to privatization in Armenia:

- civil defense and mobilization establishments
- target ranges and military sites
- minting, state decorations, seals and stamps producing enterprises
- basic research institutions
- geographic, cartographic, topographic, hydrometeorological enterprises, enterprises exercising control over conditions and protection of environmental and natural resources
- state strategic reserves and storage facilities
- enterprises involved in extraction and concentration of rare metals, precious and semi-precious stones and metals
- enterprises providing sanitary-epidemiological, veterinary, plants and forestry protection services
- pedigree enterprises and centres, grain-growing stations and laboratories, special crop cultivation enterprises, state nurseries
- standardization and measurements services
- railways, public highways, Yerevan metro
- TV and radio broadcasting enterprises
- R & D enterprises and enterprises producing radioactive and decomposing matters
- enterprises of reformatories and corrective labour establishments
- state enterprises and sites abroad.

Another enterprises are subject to privatization and the Government is pushing ahead with its privatization programme as quickly as practicable.

Q10. Please provide a list of any firms, whether or not Government-owned, that are granted special rights or privileges by the Government. In this latter category, it is clear that a state-sanctioned monopoly has been granted in the field of telecommunications. Please list any other enterprises that have a government -sanctioned monopoly on the international or domestic trade in any good or service.

With the exception of Armenian Telephone Company, there are no enterprises that possess a monopoly endorsed by the state.

Q11. Please describe the trading activities of enterprises, whether or not state owned, that account for a significant portion of international trade in any commodity or service. In this regard, we are particularly interested in the current trade activities of any of the surviving large trade and production firms that conducted trade for Armenia prior to 1992.

The following enterprises account for the bulk of foreign trade in goods and services in Armenia:

In the area of exports:

- closed joint-stock company “Cologriv” “Gagik” - private;
- Plant “Shoghakn” - state-owned (is in the 1996 - 1997 privatization program);
- closed joint-stock company “Aghavni” - private;
- “Lori” LTD - private;

- Zangezur Copper-Molybdenum Enterprise - state-owned;

In the area of imports:
- State Concern Haygazard - State-owned;
- closed joint-stock company "Cologriv" "Gagik" - private;
- SE Hayhatshatik - State-owned;
- Plant "Shoghakn" - State-owned;
- Armenian Telephone Company - joint-venture (51 per cent of the company is State-owned and is in the 1996-1997 privatization program through international tender);
- closed joint-stock company "Aghavni" - private.

Among the enterprises that provided trade for Armenia until 1992, and at present retain an extensive production and large commercial capacities, the Yerevan Brandy Distillery, the Avan Salt Factory and the mineral water factories of Jermuk and Bjni should be mentioned.

The Yerevan Brandy Distillery is a state-owned enterprise, and has about 11 representative offices in different countries, mainly in the CIS. During 1996, it exported 1,306,000 decalitres of brandy, that makes about USD 8 million.

The Avan Salt Factory is also state-owned. Its exports were mainly to Georgia. Last year, accounting to some 7,600 tons of salt, equivalent of USD 140,000.

During the same period (1996), the mineral water factories of Jermuk and Bjni exported to the USA, Russia, Belarus, the Ukraine, and Turkmenistan about 2,500,000 bottles of mineral water for a cost of USD 700,000.

Among exporting enterprises figure three private stock companies: the Ararat Wine Factory, the Armenian Confection Factory, Yerevan Soap Factory, as well as the Yerevan Sparkling Wine Factory and the Yerevan Brewery.

Among importing enterprises figure the state-owned flour mills of Yerevan and Baghramian, as well as three private stock companies: the Yerevan Soap Factory, the Armenian Tobacco Factory, and the Oriental Specialities Factory.

Q12. In its responses to questions 85-87, Armenia claims not to know of which firms, either state owned or domestic , that have declared bankruptcy. We believe that Armenia is in a position to provide information on which state-owned firms have gone bankrupt and ceased operation. Has this occurred? If not, what are the factors enabling state-owned firms to endure when some other firms have ceased operation? Are any of the ten largest industrial enterprises in Armenia not state-owned enterprises?

Fifty-eight enterprises have been recognized bankrupt in Armenia, and 35 enterprises are under bankruptcy procedures. Bankruptcy actions for 28 enterprises have been filed by the Tax Inspectorate of Armenia.

As regards to the privatization of the ten largest enterprises in Armenia:
- closed joint-stock company Armelectromachine - State-owned (is in the 1996-1997 privatization program);
- closed joint-stock company Yerevan Electrolamp Plant - State-owned (is in the 1996-1997 privatization program through international tender);

- closed joint-stock company Nairit Research Production Plant - State-owned (is in the 1996-1997 privatization program);
- Plant Saphire - State-owned (is in the 1996-1997 privatization program);
- closed joint-stock company Yerevancable - State-owned (is in the 1996-1997 privatization program);
- Gyumri Sock Factory - private;
- Zangezur Copper-Molybdenum Enterprise - State-owned;
- Open joint-stock company Yerevan Automobile Production Plant - private;
- closed joint-stock company Yerevan Jewellery Plant - State-owned (is in the 1996-1997 privatization program);
- closed joint-stock company Armenmotor - private.

Q13. Per the response to question 92, please list the other enterprises in the market offering the same goods and services for sale as ArmAgroService and ArmProsperity. What is their ownership, and what portion of the market do they represent.

The list of enterprises that have production or render services similar to those produced or rendered by the agglomerations Armagroservice and ArmProsperity (by production, services and form of ownership) is as follows:

Fertilisers
- stock company Dvin - private;
- closed joint-stock company Nairit Research Production Plant - State-owned;
- Avan Salt Factory - State-owned;
- individual entrepreneurs.

These firms account for some 70 per cent of the fertilisers market of Armenia. The remaining 30 per cent belongs to ArmProsperity.

Spare parts
- open stock company Agrocomplect - State-owned;
- Electromashmatir - private;
- Individual entrepreneurs.

The above-mentioned enterprises account for approximately 30 per cent of the market for spare parts in Armenia. The remaining 70 per cent belongs to Armagroservice.

Pesticides
Individual entrepreneurs account for about 30 per cent of the market for pesticides in Armenia. The remaining 70 per cent belongs to ArmProsperity.

Liquid fuel
- Haynaftamterq - State-owned;
- Stock company Cobra - private.

These firms account for the 80 per cent the market for liquid fuel in Armenia. The remaining 20 per cent belongs to Armagroservice.

Q14. Please report on state support being provided for some firms pending reorganization, per the response to questions 88 and 89. Please describe how management of these firms is selected, with particular attention to the government's role as part or full owner.

The Government is not providing subsidies or any other kind of financial support to state-owned firms pending their reorganization. The enterprises mentioned in response to questions 88 and 89 of WT/ACC/ARM/5 subject to reorganization and privatization under the Government's enterprise restructuring programme were included in the mass privatization programme. At the same time the Ministry of Economy is making preparations to sell ten large state-owned enterprises to foreign investors through international tender. It is expected that theses sales will take place during 1997, bringing in both privatization revenues for the budget, and much needed foreign capital and know-how.

(h) Trade-Related Environmental Policies

Q15. Concerning the response to question 11, List 2 of Resolution 415 of 1995 indicates that the sale of pharmaceuticals and alcoholic beverages requires license. Does the term "sale" in this regard include the importation of these commodities, i.e., would the importer not engaged in retail sale also be required to obtain such a license? If so, please indicate how many such licenses have been granted. Please outline the requirements for importation of these goods into Armenia.

The List 2 of Resolution 415 indicates the types of activities that are subject to licensing in the territory of the Republic of Armenia. By Resolution 415 the licensing is not required for import of pharmaceuticals and alcoholic beverages to the Republic of Armenia. In regard of pharmaceuticals import and export are regulated by Resolution 124 (see answer to Q25). At the same time pharmaceuticals and beverages are subject to mandatory certification by Resolution 205 (see answer to Q47).

Q16. The response to question 13 states that the Presidential Decree 4 January 1992, "On Foreign Economic Activity", provided that "all enterprises registered and operating in the territory of Armenia", may conduct foreign economic activity and do not require additional registration requirements. The response to question 72 states further that registration in Armenia as juridical person or sole entrepreneur involves an automatic procedure, subject to no restrictions.

The state registration of enterprises and private entrepreneurs in the Republic of Armenia, as well as the procedure and conditions for the use of information provided through the registration process are defined in the Law on State Register of Enterprises of 2 September 1993. It is the case that no additional registration requirements are imposed with respect to the conduct of foreign economic activity, and that the registration procedure is automatic.

Q17. Please outline these "automatic" procedures and list the requirements for registration of enterprises.

The registration of enterprises and private entrepreneurs in the Republic of Armenia is implemented through the following procedure: the founder of the enterprise, in accordance to Article 12 of the Law on State Register of Enterprises, submits to the local division of the state register of enterprises the following documents: the application of the person founding the enterprise, the founding documents drawn up in compliance with the legislation of the Republic of Armenia, and, if needed, the license to engage in the type of activity in question, to which effect an entry is made in the record log. Upon the verification of submitted documents the information required by Article 11 of the same law (the number and the date of state registration, the organizational-legal type of the enterprise, its name and location, the type of operation and its duration, the composition of the founders of the enterprise, its type of property etc.) is entered on a state registration card which is forwarded to the central body of the state register for the purpose of codification, granting of the state register number and issuing the certificate of state registration. A uniform system of codification of enterprises is in operation in the Republic of Armenia. This was the procedure for the initial registration of enterprises. In the case when alterations and additions are made in the founding instruments of the enterprise, as

well as founding subsidiaries and detached divisions, reorganizing the enterprises it is necessary to undergo current state registration. The latter procedure requires submission of relevant documentation about the changes.

Q18. May individuals that are not registered as 'enterprises' also import freely? How would someone who did not have enterprise registration go about importing?

Individuals are allowed to import limited quantities of items into Armenia for personal use without registration, although upon the sale thereof they must be registered as individual entrepreneurs. As for the economic operations of individual entrepreneurs, there are permitted following registration in accordance with Article 4 of the Law on State Register of Enterprises.

Q19. Would an exporter be required to register as an Armenian enterprise in order to develop export sales to the Armenian market?

In order to conduct economic activity in the territory of the Republic of Armenia the importer must establish branches, subsidiaries, representations or create joint ventures that are registered in the state register of the Republic of Armenia. No registration could be required in Armenia for any enterprise operating from outside the national territory as an exporter to Armenia.

(j) Government- Mandated Counter-trade and Barter

Q20. Concerning barter and clearing arrangements referred to in the response to question 15, Armenia confirms in part II of WT/ACC/ARM/5 that all bilateral clearing arrangements have been eliminated.

Armenia affirms that all bilateral clearing settlements have ceased.

Q21. What provisions of law or regulation would be invoked for the government or for individuals to conduct barter trade or enforce clearing arrangements in the future? How would government-to-government agreements that require balanced export values or otherwise guaranteed the availability of exports under such an agreement be enforced by the Government of Armenia?

The Government of Armenia does not envisage conducting barter or clearing settlements in the future.

V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME

Q22. In WT/ACC/ARM/5, Armenia states that it will need a transition period of 18 to 24 months from the date of accession for the full implementation of various parts of the WTO Agreement on the Trade Related Aspects of Intellectual Property Protection (TRIPs). Since 1992 Armenia has had bilateral commitments for the protection of intellectual property covering most TRIPs requirements. Why then should the timing of legislation to implement TRIPs provisions related to the date of Armenia's accession? Can Armenia indicate (a) the current status of any legislation necessary to implement the TRIPs agreement and (b) the specific date when it expects these laws to be implemented?

Since 1992, in accordance with bilateral commitments several steps were undertaken: in 1993 the Law on Patents was adopted; in 1995 the Provisional Resolution on Trademarks and Service Marks was issued; in 1996 the Law on Copyright and related rights was adopted. These laws and legislative

acts are in full conformity with the provisions of the WTO TRIPs Agreement, except with respect to some civil, administrative and criminal procedures and enforcement arrangements. The missing provisions are expected to be included in the Civil, Criminal and Litigation Codes, which are now under preparation by the relevant commissions of the National Assembly and Ministry of Justice. The Codes are planned to be adopted by the second quarter of 1998. The laws on Undisclosed Information, Layout-designs of Integrated Circuits and Protection of Plant Varieties were drafted and are now under consideration of the corresponding ministries and Government agencies. These laws are expected to be passed by mid-1998. At the same time, the draft laws on Protection of Trade and Service marks and Appellations of Origin and on Tradenames are under Parliament's consideration are expected to be adopted by the end of 1997. All the above-mentioned drafts are elaborated on the base of the relevant provisions of the TRIPs Agreement.

In view of the amount of preparatory work involved, Armenia would like to seek the agreement of Members for the final implementation of its commitments in this area within six months of accession..

Q23. Please further substantiate its answers to questions No. 125 to 128 in WT/ACC/ARM/2 regarding the protection of trademarks, service marks, appellations of origin, patents including licensing procedures, industrial design and textile design, as the answers given in WT/ACC/ARM/5 in this respect are still incomplete.

In addition to the answer to question 125 of WT/ACC/ARM/2 we can report that the draft of the Law on Protection of Trade and Service marks and Appellations of Origin is currently under review in the National Assembly and that the provisions of Paragraphs 2 and 3 of Article 16 of the TRIPs Agreement relating to 'well-known' trade and service marks, have been taken account of in this draft and shall be elaborated in sub-legislative instruments to be defined in the future.

In Article 16 of the Law on Patents, referred to in the answer to question 126, it states that: "based on the interests of the defense of the Republic of Armenia and the protection of civil order, as well as in emergency situations the government of the Republic of Armenia reserves the right, without the agreement of the patent holder, to allow third persons to use the invention, the efficacious appliance, or the industrial sample, binding the latter to pay monetary compensation to the patent holder (obligatory license)".

Pursuant to Article 13(b) of the TRIPs Agreement, this can be viewed as a case of extreme necessity for the country or of another urgent critical situation, thus ignoring the requirement that such use my be permitted only provided reasonable effort has been exerted by the potential user to obtain an authorization from the holder of the rights.

With respect to questions 127 and 128 we clarify that Article 7 of the Law on Patents defines the terms of patentability of an industrial sample, and are in complete conformity with Article 25 of the TRIPs Agreement. This Article 7 also guarantees the protection of samples of the textile industry in the manner provided for by Article 25(b) of the TRIPs Agreement. There is also a reference to the same effect in Articles 2 (The types of industrial samples) and 5 (The composition of the application) of the Procedure on The formulation and submission of an application for issuing a patent for the industrial samples adopted by the Patent office of the Republic of Armenia on February 10 of 1994.

As set forth in Article 4 of the Law on Patents the right relating to an industrial sample is protected by the state and is verified by a patent. The patent verifies the authorship of the object of industrial property, the provenance of such object and the exclusive right to use it. The patent for an industrial sample is valid for a period of 15 years beginning from the receipt of an application by the Patents office of the Republic of Armenia. Article 25 of the Law on Patents confirms that an expert

examination determines the conformity of an application for issuing a patent for an industrial sample to the requirements of format, the compliance of the sample to the local innovation terms.

Q24 As regards "enforcement", please explain in detail the Armenian government's procedures, remedies and penalties, including possible amendments of the present legislation as mentioned in answer to question No. 23 in WT/ACC/ARM/5, as the information submitted by Armenia in documents WT/ACC/ARM/5 and 2 (questions No 135 to 138) is again incomplete.

With respect to questions on "application" we clarify that Article 33 of the Law on Patents and Articles 18, 26, 32-35 of the Provisional Resolution on Trade and Service Marks provide references to the disputes that may be resolved in a court of law. In this respect foreign nationals enjoy conditions equal to those of the Armenian nationals. Nevertheless the procedures, sanctions and fines currently in effect with respect to the application of the protection of intellectual property have been defined by the legislation of the former Soviet Union. In case of the infringement of exclusive rights of the patent holder the rules of civil legislation on the responsibility for inflicting damage apply, as well as the general rules on obligations, which do not entirely conform with the conditions and requirements of the market economy. For example:

i. Article 502 of the Civil Code presently in effect states that the owner of a copyright is reserved the right to demand restoration of the infringed right or demand prohibition of the publication of the work or cessation of its dissemination. The prohibition or cessation of the above-mentioned actions may be imposed by judicial bodies only, whereas administrative bodies are not reserved such authority.

ii. Articles 525 and 526 of the Civil Code provide that no one can use an invention or an industrial sample without the agreement of the patent holder, i.e. the person that owns the patent. This means that an obligation emerges, in case of the breach of which, according to Article 217 of the Civil Code, the debtor must indemnify the damage thus caused to the creditor.

iii. Article 140 of the Criminal Code states that the violation of the copyright, the publication of the invention before submitting the application, appropriation of the right towards the invention, as well as coercion into joint authorship or inclusion into the joint authorship of individuals that have not participated in the creation of the invention are punishable by correction work of up to 2 years or a fine of up to 300 drams.

iv. Article 157 of the Criminal Code states that cheating the buyers and the clients is punishable by correction work of up to 2 years or a fine of up to 400 drams.

v. Article 132 of the Civil litigation Code ('bases for securing a claim') provides for the court or the judge, upon petition of the persons participating in the case or on his/her own initiative, to undertake measures to secure the claim. The securing of the claim is permitted throughout the duration of the case in cases when failure to apply such measures may impede or make the award by the court impossible. Article 133 of the same Code provides for the following measures for securing a claim:

- arresting the property or the funds belonging to the defendant under his or other persons' disposal
- restricting the defendant from performing certain actions
- prohibiting other persons from transferring property to the defendant or fulfilling other liabilities towards the latter.

Where necessary several measures to secure a claim may be applied concurrently. Article 138 of the Civil litigation Code states that complaints may be filed against all decisions with respect to securing claims and such decisions may be appealed. Article 139 provides for the indemnification of damage caused to the defendant as a result of securing the claim.

As for the system of application of border measures against the violation of intellectual property rights, the legislation currently in effect does not provide for such a system.
The procedures, sanctions and fines that are currently lacking shall be provided for in the new Civil, Criminal and Litigation Codes under elaboration by the respective Committees of the Ministry of Justice and the National Assembly. According to the commitments that Armenia undertakes its legislation will be in conformity with the WTO provisions within six months following its accession.

QUESTIONNAIRE IN ANNEX 3 OF WT/ACC/1 ON IMPORT LICENSING

Q25. Neither the responses to questions 39-43 about this information contained in WT/ACC/ARM/5 nor the annexes listed in WT/ACC/ARM/6 fully respond to the question in this section. For example: there is no information given on the fixed criteria applied by these Ministries for the issuance of the licenses or to where such information is published and available to importers and foreign exporters.

The criteria of issuing licences by the Ministry of Health are regulated by:
Resolution 124 and Resolution 315, according to which the exportation of the products "Pharmaceuticals 13.2, 29.41, 30.03, 30.04" and "Pharmaceuticals 05.10, 12.11, 13.02, 29.38, 29.41" is carried out through authorisation issued by the Ministry of Health of the Republic of Armenia. The same resolutions stipulate that "permission for importation and exportation of drugs is given by the Government of Armenia".

The by-law on issuing authorisation for importing and exporting pharmaceuticals, stipulates that:
- authorisation for importation and exportation of pharmaceuticals are issued by the Pharmaceutical Inspection of the Ministry of Health of the Republic of Armenia;
- the authorisations are for single use only;
- to issue an authorisation the following documents and conditions are required:

a) a licence for commercial activities involving pharmaceutical products in the Republic of Armenia (Resolutions 161/415 and 36). The Resolutions stipulate that the production and wholesale and retail trade in pharmaceutical products and medical utensils is subject to State licensing in the Republic of Armenia;

According to Resolution 36:
- pharmaceutical and medical activities are subject to licensing in the Republic of Armenia;
- licensing is carried out by the Ministry of Health;
- licences are issued for a period of 5 years.

Licences for producing pharmaceutical products and medical utensils are issued by the Pharmaceutical Department of the Ministry of Health. The procedures for issuing licences are being elaborated at present and will be ready for approval shortly.

Licences for wholesale and retail trade in pharmaceutical products and medical utensils are issued by the State Licensing Committee of the Ministry of Health. The procedures issuing licences were approved by Resolution 188.

Licensing is carried out by the Ministry of Health through its agencies:
- the State Licensing Centre systematises licensing procedures, prepares the necessary documents and examines the professional knowledge of applicants with a computerised testing system.

The computerised testing is carried out with software approved by the Ministry of Health. The test is considered to be successful if the applicant answers correctly at least 50 of 100 questions. The applicants who do not pass the test can take it again within a period of one month. During that period the applicant may attend courses, and participate in seminars and conferences of professional associations;
- the Sector Licensing Commissions gives professional advice, through procedures fixed by the Ministry of Health, on the conformity of applicants to the licensing criteria;
- the Central Licensing Commission decides to issue a licence or to refuse it, upon the results of the computerised testing and the professional advice. The decisions acquire legal status after being signed by the Minister of Health.

According to the above-mentioned procedures, the process of licensing begins with submission by the applicant of the required documents, determined by the Ministry of Health. The list of required documents comprises:
- an application;
- a special form drawn up by the Ministry of Health with one photograph;
- a copy of a diploma issued by an establishment having a license for providing medical education;
- a copy of a certificate issued by an establishment having a licence for organising clinical studies;
- copies of other certificates about post-graduate studies;
- copies of other licences for professional activities;
- copy of the employment record;

if the licensee is an establishment:
- copies of documents on the legal organisational status of the establishment;
- the plan of the premises the establishment occupies;
- information about medical equipment and tools the establishment possesses;
- information about the establishment's structure and capacities;
- a certificate from the State Hygienic and Epidemiological Service;
- information about the types of professional activities of the establishment;
- copies of other licences of professional activities of the establishment;

if the licensee is an individual entrepreneur:
- a copy of the registration certificate in the State register;
- copy(ies) of licence(s) of professional activities;
- a plan of the premises where the individual entrepreneur carries out his activities;
- information about medical equipment and tools the individual entrepreneur possesses;
- a certificate from the State Hygienic and Epidemiological Service.

b) Imported or exported pharmaceutical products must be registered in the Republic of Armenia (for the procedures of registration see below).

c) There must be conformity of the quality of imported or exported pharmaceutical products to the quality standards accepted in the Republic of Armenia.

The verification of conformity of quality is carried out according to Decree 725 of the Ministry of Health, which stipulates:
- before the adoption of the Law on pharmaceuticals and other legislative and normative acts pertaining to the domain, consider as valid the Acts adopted and used in the FSU;
- before the adoption of the Armenian Pharmacopoeia, the quality of pharmaceuticals is standardised by the Interim State Standard System (ISSS) of pharmaceuticals;
- the ISSS is based on the FSU State, private and temporary pharmacopoeias;

- the Republic of Armenia accepts international and European pharmacopoeias: pharmacopoeias of the USA, the UK, Germany, and France;
- the quality certificates of the pharmaceutical products and medical utensils presented for registration in the Republic of Armenia are accepted without preliminary testing if they meet the requirements of the above-mentioned pharmacopoeias;
- the adoption, revision, and approval of all pharmacological clauses, technical conditions and provisions are performed by the Pharmaceutical Inspectorate of the Ministry of Health;
- for each pharmaceutical, there exists only one quality certificate, which has been prepared by the relevant producing enterprise and by which it was registered in the Republic of Armenia. The evaluation of pharmaceutical products is carried out on the basis of that normative technical document.

d) Imported and exported pharmaceuticals must be good for use for at least two-thirds of the period of their validity.

To receive an authorisation, the following documents are required:
- an application
- a certificate relating to the acquisition of the pharmaceutical products
- a licence to trade in pharmaceutical products in Armenia
- a certificate of quality issued by the producer

Authorisations are issued for the period necessary to carry out the engagements, but no longer than one year. The validity of an authorisation can be extended upon the substantiated request of an applicant. The body issuing the authorisation can suspend its validity or cancel it.

Within 10 days after importation or exportation, an applicant should present samples to the Pharmaceutical Inspectorate for verifying the quality of the pharmaceutical products.

Requests for authorisation can be refused and issued authorisations can be suspended if (a) there is incorrect information in the presented documents, (b) the period of validity of the pharmaceutical products is over, (c) the production serial numbers of imported pharmaceuticals do not correspond with the submitted quality certificates, (d) the imported pharmaceuticals are not registered in Armenia.

Authorisations are issued within 15 days form the date of the application. Unjustified delays and refusal to issue authorisation, as well suspending and cancelling issued certificates, can give rise to judicial procedures.

Resolutions 417 and 205:
- provides for the obligatory certification of certain products introduced into Armenia
- establishes that certificates are issued and recognised by the Agency of Standardisation, Measurement and Certification (SARM) of the Government of Armenia
- defines the procedures of importation of products subject to certification
- lists the products subject to certification

Information about licensing can be obtained from the relevant departments of the Ministry of Health, which are responsible for issuing licences and registering pharmaceuticals, as well as from the Information Centre of the Ministry, which is responsible for publishing and distributing the lists of pharmaceuticals registered in the Republic of Armenia. The Information Centre publishes the periodical "Medicine and medicaments" (4 issues a year), as well as the regularly updated lists of substances controlled in the Republic of Armenia and of pharmaceuticals allowed for sale without a

prescription. The Information Centre is planning to have a Home Page in Internet in 1997 so that foreign organisations have quick access to information from Armenia.

The importation of pesticides into Armenia is regulated by the Protocol on issuing authorisation for the importation of pesticides into the Republic of Armenia, elaborated on the basis of Resolution 124. According to these procedures:

a) authorisations are issued to enterprises (independently of their form of ownership) and cannot be transferred to other persons
b) to issue an authorisation, an amount, equivalent to the minimum salary fixed by the legislation of the Republic of Armenia, is collected and paid into the State budget
c) only single-use authorisations are issued to enterprises
d) the documents required for issuing authorisations are:
   - an application from the enterprise
   - the certificate of quality and origin of the product issued by the producer
e) authorisations are given for a period of one year and can be extended at the substantiated request of the applicant
f) applications can be refused and issued authorisations can be suspended if incorrect information is found in the presented documents (e.g. if the products prove to be forbidden or outdated or not registered in the Republic of Armenia);
g) unjustified delays and refusal to issue, or suspending or cancelling of authorisations can give rise to judicial procedures (see in the answer to Q28)

Authorisations are issued after a laboratory test performed by the Service of Phitoprotection of the Ministry of Agriculture confirms that the product corresponds to the certificate of the producer.

Information on issuing authorisations can be obtained from the Direction of Services of the Ministry of Agriculture, the Licensing Direction of the Ministry of Agriculture , and the Service of Phitoprotection of the Ministry of Agriculture.

Q26. There is no information on how the list of permissible imports is developed.

The list of pesticides allowed for importation is based on the 1992-1996 List of chemical and biological products, regulators of plant growth and ferments allowed for use against blight, insects and weeds in farms, approved by the State Chemical Commission of the CIS countries in October 1991.

The list of pharmaceuticals allowed for importation is made on the basis of lists of products registered in Armenia and/or products subject to obligatory certification (Resolutions 417 and 205), i.e. those products can be imported which are registered and have passed certification in the Republic of Armenia. There are no other restrictions for importation of products, except for drugs, the importation and exportation of which are regulated by Resolution 124 of the Government of Armenia,

Q27. It would appear that the decision to grant or deny importation of these products can be made without such criteria, on a discretionary basis, by the Ministries of Health and Agriculture.

Licences to import pesticides are issued on the basis of criteria specified in the Resolution 124 and the Protocol on issuing authorisations for the importation of pesticides into the Republic of Armenia.

Decisions allowing or refusing importation of pharmaceutical products into the Republic of Armenia are taken on the basis of the criteria determined by the above-mentioned Resolutions of the Government.

Q28. Please list the objective criteria used do determine which agricultural chemicals may be imported, e.g., what sound scientific basis is used by the Agricultural Ministry to develop the list of permitted imports? How does Armenia ensure that these criteria are applied? How is the fee of a month's minimum salary related to the cost of processing the license application? What percentage of licensing applications for agricultural chemicals are denied? Please describe the process of judicial appeal for the rejection of licensing applications.

The list of pesticides allowed to importation is based on the 1992-1996 List of chemical and biological products, regulators of plant growth and ferments allowed for use against blight, insects and weeds in farms, approved and registered by the State Chemical Commission of the CIS countries in October 1991.

As a scientific basis for compiling the list, the methodology, criteria and procedures of evaluation of pesticides accepted in the FSU are used. Other pesticides can be added to the list if necessary. Importation of pesticides not registered in the above-mentioned list is forbidden according to the Protocol on issuing importation authorisations, based on Resolution 124.

The amount collected for issuing licences is equal to the minimum salary fixed in the Republic of Armenia plus the price of rendered services. All payments are determined by the prices of rendered services fixed in relevant tariffs. For example, 10,600 drams are collected for an importation licence. That amount comprises the price of rendered services and the price of the licence itself (paper, etc.). So far, only 2 per cent of applications for importation licences have been refused. Unjustified delays and refusal to issue, or suspending or cancelling of authorisations and licences can give rise to judicial procedures, within 30 days after the refusal or suspension.

Q29. What objective criteria applied to determine which firms or individuals may import pharmaceutical products? Please list all pharmaceutical/chemical products that require "registration" and describe how such "registration" is obtained, by both domestic producers and importers.

The criteria that determine the right of individuals or enterprises to pursue activities of importation and exportation of pharmaceutical products are regulated by Resolutions 124 and 315 and the Protocol on issuing authorisations, Resolutions 417 and 205, and Resolutions 415/161/ and 36.

The registration of pharmaceutical products and medical utensils is performed in the Republic of Armenia according to Provisions on the registration of pharmaceutical products and medical utensils in the Republic of Armenia and the Protocol of registration of pharmaceutical products and medical utensils in the Republic of Armenia approved by the Pharmaceutical Department of the Ministry of Health. The Provisions and the Protocol stipulate that:

- pharmaceutical products and medical utensils registered in the producing country and having adequate production conditions are subject to registration in the Republic of Armenia. The registration is performed by a producing organisation or by a national authority if the same product is manufactured in different countries;
- the Pharmaceutical Inspectorate of the Ministry of Health, as a member of the WHO Accreditation System of Pharmaceuticals, accepts WHO suggestions and recommendations. The registration of pharmaceutical products and medical utensils produced in the member countries of the System, particularly in the European Union and the USA, is performed in a simplified way, without additional pharmaceutical and clinical tests. For the products of other origin, these tests can be required by a decision of the Pharmaceutical Inspectorate;

- the quality requirements of the pharmaceutical products and medical utensils registered in the Republic of Armenia should be in conformity with the requirements of the Interim State Standard System of pharmaceuticals of the Republic of Armenia;
- if there is urgent demand for a pharmaceutical product or a medical utensil not registered in the Republic of Armenia, the Pharmaceutical Inspectorate can take a decision to register temporarily that product and give a permission for single medical use only. Such temporarily registered pharmaceuticals and medical utensils are not listed in the Armenian Pharmacopoeia and no certificate of registration is issued.

For the registration of pharmaceutical products, the producing establishment makes an application at the Department of Registration, submitting the necessary documents and samples for each product. A fee is collected for the testing of the samples. Testing is carried out by the specialists of the Pharmaceutical Inspectorate. If necessary, other specialists can be involved in the testing.

Submitted documents pass a preliminary examination, to verify whether all the required documents are presented (duration: 1 month after the application is submitted). Then the documents and the samples are examined in detail (duration: 2 months). If the results of the detailed examination and laboratory tests are positive, the Pharmacological and Pharmacopoeia Councils take a decision on registration. The decision is approved by the Director of the Pharmaceutical Agency.

A pharmaceutical product is considered registered after the required fees are collected. The collected fees are indicated in a special list. A certificate of registration is valid for 5 years (for local products) and 10 years (for foreign products).

The laboratory testing of both foreign and local pharmaceutical products is performed according to the technical documents of the producing firm, which should be based on internationally accepted pharmacopoeias.

The responsible body for registering pesticides in the Republic of Armenia is the State Chemical Commission of the Republic of Armenia, the creation of which will be completed in 1997. At present, the old methodology, criteria and regulations of evaluation and registration of pesticides accepted in the FSU is still in use. The State Chemical Commission of the Republic of Armenia will have laboratories accredited to make experiments, like the Toxicological Control Laboratory and the Service of Phitoprotection.

Registration is performed on contractual bases. The parties to the contract are the enterprise producing pesticides and the body performing registration. The contract comprises the volumes and the time-table of experiments, as well as the prices of the work done. Registration consists of the following phases:

- study of the application for registration;
- registration tests;
- approval of biological regulations for the use of the pesticide;
- approval of sanitary norms and rules and hygienic norms;
- approval of regulations in ecological terms, including approval of environmental norms and rules;
- preparation of documents for registration.

The results of tests should be sent to the State Chemical Commission for a final conclusion. The procedures of registration are the same both for internal and external producers.

Q30. Please list the objective criteria used to grant import licenses for pharmaceuticals, i.e., what sound scientific basis is used to create the list of products eligible for importation? What per centage of licensing applications for import of pharmaceuticals are denied?

The principles of certification of pharmaceutical products and the principles for establishing the list of products permitted to importation are given in Resolutions 205 and 417.

The certification system of the Republic of Armenia will be approved shortly. At present the provisions of the WHO certification system are applied and the provisions of the national certification system elaborated by the SARM, which are not approved yet.

If the exterior of imported pharmaceutical products seems doubtful, independently of the country where the product passed primary certification, it is tested in Armenia whereupon a certificate of conformity is issued. According to the tariffs of certification of production volumes of Resolution 417, 10,800 drams are collected. All the expenses of laboratory tests are paid by the importer. If the application is submitted by an intermediary, the Pharmaceutical Agency carries out selective or complete testing of the product, independently of the country of origin. If antibiotics, vaccines, pharmaceuticals of biological origin, and insulin are imported, they are subject to laboratory analysis independently of the country of origin. Since September 1996, 2 to 5 per cent of applications have been rejected because of the fact that the products were not registered.

Q31. Later in WT/ACC/ARM/5, in response to question 78, Armenia states that it intends to develop sanitary and phytosanitary measures and to adopt the WTO Agreement on the Application of Sanitary and Phytosanitary Measures. What has Armenia done since this text was forwarded to the WTO Secretariat in spring 1996 to achieve these objectives?

Please see the answer to Q80.

Q32. Are licenses required only in respect of imports and exports, or is domestic production of the products concerned also subject to a licensing requirement? If there is no domestic production, would such production be subject to a licensing requirement? If licenses are required only in respect of imports and exports, please give the precise nature of the requirement for each product and the WTO justification for the requirement itself and for its application only to imports and exports. If licenses are required only in respect of imports and exports and of domestic production, please indicate whether the requirement is (would be) the same for imported goods, exported goods and domestically produced goods and, if not, the reasons for the differences.

The conditions of registration and licensing are obligatory for importers, exporters and domestic producers. The procedures for issuing licences and authorisations are the same both for internal and external producers. The requirements are also the same for imported and exported products.

Q33. Further information on the system for granting licenses for agricultural chemicals falling within HS 38.08 is requested. Specifically on 1) how the system of "prior registration" works and 2) how the "scientific assessment of environmental risk" is conducted, by whom it is conducted and if foreign certificates, test results etc. are accepted in this procedure.

As was mentioned above, the System of Preliminary Registration is based on the principle that unregistered pesticides must not enter Armenia. The scientific evaluation of environmental risks is given by specialised agencies of the Ministry of Agriculture the Agency for Cultivation, the Veterinary Agency and the Ministry of Environment and the State Chemical Commission that is being created. The procedure of pesticide registration involves also the evaluation of environmental risks (see the

answer to Q29). The results of tests carried out for those purposes are examined by the above-mentioned Agencies for a final conclusion with respect to environmental risks.

Q34. Armenia states in connection with licenses for pharmaceuticals that "The Ministry intends to develop and streamline these arrangements by the of 1996". Could Armenia provide further information on this intended work including the scope and timing?

Concerning the rationalisation of licensing pharmaceutical activities, the Ministry of Health has adopted or will soon adopt the following acts:

- Order 5 of the Ministry of Health of January 9 1997, which defines the list of pharmaceutical products and medical utensils subject to registration, as well as the fees for registration and re-registration;
- the Protocol on issuing authorisations for exportation of pharmaceuticals from the Republic of Armenia of June 20 1996, which defines the procedures for issuing authorisations for importation and exportation of pharmaceutical products and medical utensils;
- the SARM is elaborating the provisions of the National certification system, which will be presented for approval shortly;
- the Protocol on issuing licences for the production of pharmaceuticals and medical utensils is being elaborated and will be presented to approval shortly. The protocol takes into account internationally accepted criteria for the production of pharmaceuticals and medical utensils;
- Resolution 188 of the Government of Armenia of June 24 1996 on approving the procedures of State professional licensing of medical and pharmaceutical activities in the Republic of Armenia;
- the Law on pharmaceuticals is being elaborated and will soon be presented for approval.

Q35. Could Armenia comment on how " a license fee of month's minimum salary" corresponds to GATT Article VIII.1, which stipulates that fees "shall be limited in amount to the approximate cost of services rendered".

The fee collected for issuing licences is equal to the minimum salary fixed in the Republic of Armenia plus the price of rendered services. The overall amount is determined by applying coefficients reflecting the cost of the service.

QUESTIONNAIRE IN ANNEX 3 OF WT/ACC/1 ON CUSTOMS VALUATION

Q36. Section 3.1.6. of the Memorandum of the Foreign Trade Regime provides that Armenia's customs valuation regulations are fully based on the provisions of the agreement on Implementation of Article VII of the GATT, now the WTO Agreement on Customs Valuation. Armenia's customs valuation regulations describing the appraisment law are contained in Government Decree No.615 dated 6 December 1993.

The Armenian regulations relating to customs valuation are contained in the Resolution 615 of 6 December 1993 and are entirely based on the provisions of the WTO Agreement on the Customs Valuation. At the same time the Armenian regulations for establishing the customs value are also reflected in the Law on Customs Tariffs of 18 August 1993. The latter does not contradict the provisions of the WTO Agreement on the Customs Valuation.

Q37. A review of the English translation of the customs valuation regulations confirmed by Decree No. 615 of 6 December 1993, reveals that the legislation, while tracking some of the concepts of the WTO Agreement on Customs Valuation, lacks many of the provisions of the WTO Agreement, and also appears to provide for valuation methods that may be directly contrary to the Agreement.

The regulations do not completely include the provisions of the WTO Agreement, although the Resolution is entirely based on the provisions of the WTO Agreement and does not contradict it. Nevertheless, the Government of Armenia plans to adopt a new Resolution on customs valuation within the first six months of 1997, which shall include all the provisions, as well as the procedures for the application of the WTO Agreement on Customs Valuation.

Q38. There is also a problem of translation consistent with the terminology used in the Agreement, e.g., "bargain price" instead of "transaction value" and "liable price of payment against the actual payment of imported goods" instead of "price paid or payable". On the basis of the documentation provided, we are unable to determine whether this is a substantive or a translation problem.

This issue solely relates to translation errors, since the terminology used in the resolution does not contradict the terminology of the WTO Agreement on Customs Valuation.

Q39. In WT/ACC/ARM/5, Armenia acknowledged the lack of specificity in certain key areas of Decree No. 650 and declared its intention to ensure that the necessary legal basis is in place to implement the WTO Customs Valuation Agreement fully by the first quarter of 1997 and the "Decision of 24 September 1984 on the Valuation of Carrier Media Bearing Software for Data Processing Equipment" by the end of 1997.

The Government of the Republic of Armenia is elaborating a new Resolution on Customs Valuation, which shall also cover the procedures relating to customs valuation. At the same time, until the end of 1997 it is also planned to adopt and apply the resolution of 27 September 1984 on Carrier Media Bearing Software for Data Processing Equipment.

Q40. Why will Armenia need this much time to revise a system that it has identified as essentially in conformity with the previous GATT Customs Valuation Agreement.

Taking into the account that the regulations in effect do not cover a number of fundamental provisions of the WTO it is deemed more expedient to define new regulations that would entirely conform with the WTO Agreement on Customs Valuation. For this purpose the end of the first half of 1997 is set as the deadline.

Q41. Please describe actions taken by Armenia to bring its customs valuation regime into WTO conformity and adopt the provisions of the Software Valuation Decision since the text of WT/ACC/ARM/5 was transmitted to Geneva in the spring of 1996.

Please refer to the answer to Q39.

Q42. Please explain why the necessary changes in the regulations cannot be implemented within the scope of current legislation.

The necessary amendments to the regulations cannot be implemented within the existing legal framework, since these amendments are going to be rather lengthy and it has been deemed more expedient to define a new legislative instrument than adjust the existing one.

QUESTIONNAIRE IN ANNEX 3 OF WT/ACC/1 ON TECHNICAL BARRIERS TO TRADE

Q43. In its response to question 50, Armenia refers to the Law on Standardization and Certification and the Law on Uniformity of Measurements. Please provide copies of these laws to the WTO Secretariat so that we may review this legislation and the consistency with WTO TBT principles. In WT/ACC/ARM/5, Armenia states that the only products subject to mandatory licensing for standards purposes in Armenia are beverages, alcohol, vinegar and certain tobacco products. We understand, however, that in July, Armenia expanded its compulsory certification system (per Resolution 205 of 4 July 1996) scheduled for implementation in January 1997, to cover a wide variety of products. In addition to the four product categories products listed in the annex to WT/ACC/ARM/5 o Technical Barriers to Trade, new products covered include meat, fish, fish products, dairy products, eggs, honey, certain vegetables, fruits, and nuts, petroleum products, vitamins, and pharmaceuticals. We would like to have a copy of this Resolution and the list of items covered be reported by HS number.

The relevant information is being submitted.

Q44. Please describe how Armenia implements this certification system vis-a vis similar domestic products. Please indicate the precise criteria that these products must meet.

The Resolution 205 refers to mandatory certification of a number of goods imported into Armenia. The Resolution has been amended to provide that similar goods produced in the Republic of Armenia are also subject to the requirement of mandatory certification. The revised Resolution is currently under review in relevant ministries and should be adopted within the next three months.

The principal requirements that goods subject to mandatory certification have to meet relate to safety, health and the protection of the environment. Pursuant to the above requirements, distinctive criteria are defined and applied to each individual product in order to perform the certification.

Mandatory certification of the above-mentioned goods is performed in accordance with guidelines defined by SARM, which provide reference to the tariff code of the product in question, the criteria by which the certification is performed, as well as the normative instruments that define the safety indices and the methods for testing.

Q45. Are there other countries whose Certificates of Conformity are recognized by Armenia besides those listed in the response to question 49?

In addition to the CIS countries and Iran, that are referred to in the answer to question 49 of WT/ACC/ARM/5, Armenia is conducting negotiations with Bulgaria and China to recognize their certificates of conformity and it recognizes the USDA certificates on meat products.

Q46. Armenia should discuss its plans concerning conformity assessment with the Working Party and provide the draft laws for review.

Presently there are 8 certification bodies in Armenia that correspond to the European EN45011 standard, and that perform certification of products. Apart from that, there are numerous laboratories

that correspond to the international standards (ISO/IEC Guide 25) and are accredited by the SARM for performing assessments. They all meet the requirements set forth by Articles 5 to 10 of the WTO TBT Agreement. The draft laws on Standardization and Certification, as well as on Uniformity of Measurements have been submitted to the consideration of the National Assembly and shall be adopted within the second trimester of this year.

Q47. Please give a status report on plans outlined in WT/ACC/ARM/5 to expand mandatory standards from the initial four categories to a range of other products, including toys, food containing preservatives, medical equipment, consumer chemical goods, electric tools, household electric goods, construction materials, and automobile tires. All imports subject to mandatory standards should be reported to the Working Party, with the justification for the requirement, and listed by HS number.

The list of goods subject to mandatory certification by the Resolution 205 of the Government of the Republic of Armenia (on amending the Resolution 417) is presented below.

LIST
of the imported goods, subject to compulsory certification
confirming the safety requirements in the RA

CN code	**Description**
1	**2**
02.01 - 02.04, 02.06 - 02.10	Meat and edible meat offal
03.02 - 03.07	Fish and crustaceans, molluscs and other aquatic invertebrates
04.01 - 04.06	Milk and cream
04.07, 04.08	Birds' eggs
04.09	Natural honey
07.01 -07.13	Edible vegetables and certain roots and tubers
08.01 - 08.14	Edible fruit and nuts; peel of citrus or melons
15.01 - 15.20	Animal or vegetable fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes
16.01 - 16.05	Preparations of meat, of fish or of crustaceans, molluscs or other aquatic invertebrates
17.01 - 17.04	Sugar and sugar confectionery, gums
20.01 - 20.09	Preparations of vegetables, fruit, nuts or other parts of plants
22.01 - 22.09	Beverages, spirits and vinegar
24.01 - 24.03	Tobacco and manufactured tobacco substitutes
27.07, 27.10, 27.11	Oil products
29.36	Vitamins
30.01 - 30.06	Pharmaceutical products
40.14.90	Babies dummies

Q48. Armenia should be prepared to use the provisions of the WTO Agreement on Technical Barriers to Trade to develop its standards, including the procedural requirements for prior notification for review and comment.

In view of the obligations assumed by the Republic of Armenia in the process of accession to the WTO, Armenia will be prepared to satisfy the requirements of the TBT Agreement, including the provisions on procedural requirements for advance notification.

Q49. Regarding Armenia's draft legislation (Law on Standardization and Certification and Law on Identity of Measurements). Please explain in detail how this legislation incorporates the core principles of the WTO TBT Agreement. What is the process under which new technical regulations, standards, and conformity assessment procedures are developed and implemented? Does Armenia intend to notify acceptance of the TBT Code of Good Practice?

The draft Law on Standardization and Certification provides the legal basis in the Republic of Armenia for the standardization as well as certification of entities engaged in production, services and labour. These shall be mandatory for the bodies of state governance, as well as for enterprises, institutions and private entrepreneurs and shall define the means for the protection of interests of consumers and the state through the elaboration and application of normative documents on standardization. They also define the rights, obligations and responsibility of the participants in the certification process.

The draft Law on Uniformity of Measurements defines the legal basis for ensuring the uniformity of measurements, regulates the relations of the bodies of state governance with enterprises, institutions and private entrepreneurs on issues relating to the production and issuance of measurement instruments, and the use and repairs thereof. It is directed at protecting the rights and rightful interests of consumers and the state from the negative impact of inaccurate results of measurements. The draft laws on Standardization and Certification, as well as on Uniformity of Measurements entirely comply with the principal provisions of TBT.

The definition of standards involves the following procedure: the SARM sets up respective technical committees that include representatives from the interested organizations and institutions, as well as specialists from the related bodies of governance and these committees define the necessary standard. The standard thus defined is subsequently submitted for discussion to the relevant ministries, major enterprises and other institutions that display an interest in it. The technical committee, upon taking into account the opinions expressed as a result of such discussion, adopts the standard, following which it is forwarded for endorsement by the SARM.

The definition of technical regulations and the procedures for conformity assessment follow the same routine as that for standards, following which they are endorsed by the government and are applied by the producer, the service provider and the respective body of state governance authorized by Government.

It will take one year for Armenia to adopt the Code of Good Practice.

Q50. We expect Armenia to have implemented any legislation required to implement TBT obligations prior to its WTO accession.

As mentioned before, the Republic of Armenia has assumed the obligation to define the necessary legislation prior to accession, ensuring its complete conformity with the WTO TBT provisions. At the same time, the draft laws on Standardization and Certification, as well as on Uniformity of

Measurements have already been submitted to the National Assembly for discussion and shall be adopted in the first half of this year with their subsequent application.

Q51. Armenia also indicates its plan to establish five separate TBT enquiry point - only one of which is presently operational. Please elaborate why Armenia proposes to operate so many enquiry points. How are responsibilities to be divided between these proposed points? How are WTO Members to know the appropriate contact?

Taking into the account the fact that only the first one of the information points referred to in WT/ACC/ARM/2 Answer 175(b) is operable, and based on the need for prompt provision of information, it is deemed expedient to have one information point which is SARM. The other four information points mentioned are its branches.

Q52. We remind Armenia that under Article 10.2 of the TBT requires members to provide complete and clear information on the scope of responsibility of each point and ensure that any enquiry point is directed to the correct enquiry point.

The only information point operating in Armenia is the SARM, which shall implement the obligations accorded to it in accordance with Article 10 of TBT.

Q53. Armenia has indicated that it will be unable to implement all obligations under the TBT prior to its WTO accession. Please describe for which WTO obligations Armenia is seeking a transition period and explain in detail the rationale for a longer implementation period.

We estimate that Armenia needs a transitional period of one year to define, adopt and launch standards in accordance with the Code of Good Practice. Certain problems emerge especially with respect to the implementation of clauses F, G, J, K and O of the Code. The use of existing international standards or respective fragments thereof in the process of the definition of national standards (F), as well as the objective of harmonizing national standards with international ones (G) requires technical means and relevant personnel. The creation of information systems shall allow national authorities to link up with international databases. The use of international standards shall also help Armenia to accede to various international standardization organizations. Presently, Armenia is a member ISO and CAC. It shall accede to the ICE, ISONET (K) in order to make use of their standards.

Another group of issues relates to the implementation of clauses J and O of the Code of Good Practice. According to these clauses, the standardization body must publish the programme of its activities at least once every six months (J), and each adopted national standard must be published immediately (O). The implementation of these requirements is constrained by the scarcity of publishing resources.

In order to apply international methods of testing during certification, Armenia needs to have the technical basis for testing, modern testing laboratories and equipment in particular, as well as relevant specialists.

Q54. Armenia states that it is "considering to develop technical regulations" for a range of different products. Could Armenia give more information on the legislative work being done in this field, and more specifically give details on 1) the content of these potential technical regulations and 2) the timetable for this work.

The work plans of SARM are so far drawn for a span of one year. The work plan for 1997 has already been endorsed and it includes the technical protocols to be defined. The latter relate to the system for ensuring quality and certification, the standardization of production, most specifically

for the machine tool, electrotechnical, chemical and food industries. The new list of products subject to mandatory certification has also been approved, and it will be passed no later than in 1998.

Q55. Could Armenia also provide more detailed information, including scope and time table, on the harmonization work being done with a view to align national (in practice Russian GOST) standards to international standards.

This year's program of work in standardization and certification is already defined and it establishes the framework for the harmonization efforts. It includes the definition of new standards or the application of respective ISO standards in the domains of the system for ensuring the quality and certification, definition of normative instruments for the national system of standardization, terminology, information technologies, systems of engineering, economic, accounting and statistical documentation, as well as in defining the standards for certain types of products.

Q56. Concerning the Decree of the Ministry of Health of the RA on regulation of pharmaceutical activity and ensuring the quality of drugs and medical facilities, could Armenia provide information in more detail on the Interim State Standards System (ISSS), including its scope, development of technical regulations, procedures and bodies of standardization and conformity assessment, etc.

Please see the answers to Q25 - Q30.

Q57. Could Armenia provide more detailed information on the content of draft laws on "Standardization and Certification" and "Uniformity of Measurements". Armenia states that these laws will not be adopted until after Armenia's accession to the WTO. What are the reasons for waiting until the accession process is over to introduce these laws?

Please see the answers to Q49 and Q50.

PART II. REPLIES TO SPECIFIC QUESTIONS

III. FOREIGN TRADE REGIME

3.1. Import regulation

3.1.1. The customs tariff

Q58. The reply to question 60 indicates that while the new Constitution requires parliamentary approval of all tax (and therefore tariff) changes, there currently exists a transition period for the full implementation of this constitutional provision, during which time the Parliamentary Permanent Financial, Credit, Budgetary and Economic Commission is to approve tax changes. What is the status of that transition period and how much longer is it likely to last?

All legislation relating to tax matters must be approved by Parliament upon presentation by the Commission.

3.1.2. Import charges and fees

Q59. Armenia has stated that it has raised its import and export customs fee from .15 per cent to .3 per cent to raise revenue to finance the development of its customs facilities. This clearly indicates that the fee has nothing to do with the cost of services, but is rather a revenue measure applied to traded goods that is not levied on domestic production consumed within Armenia. As such, the fee is clearly inconsistent with Article VIII.

While agreeing that such payments are incompatible with Article VIII of the WTO agreement, the Republic of Armenia nevertheless maintains that, based on the necessity to improve the conditions of the customs service, the Republic of Armenia presently needs a certain time to ensure the complete conformity of customs operations with the WTO provisions.

Q60. Armenia has stated that it intends to introduce a maximum and minimum rate to limit the inconsistency of the fee with WTO provisions by the end of the first quarter of 1997, but requires an additional five years after the date of accession to fully conform to WTO provisions in order to continue to use the revenue for non-customs processing purposes.

The Republic of Armenia needs a five year transition period during which it can bring the customs service up to the necessary level to ensure a fully satisfactory and efficient service.

Q61. In addition, Armenia indicates that there are a number of categories of imports and exports, e.g., financed by international aid or the state, that are not subject to the customs fee.

According to the Resolution 615 products shipped within the framework of loans provided to the Republic of Armenia, as well as within the framework of humanitarian assistance are exempted from fees charged for customs services.

Q62. In addition to the introduction of a maximum and minimum amount payable on any given import or export transaction, does Armenia also intend to ensure that revenues from the fee are used exclusively for import and export processing of goods subject to the fee, and not for general customs requirements or processing goods not subject to the fee? If so, how?

The Resolution 282 on endorsing the Statute of the reserve fund of the Customs Department, clearly outlines how the fees levied are disbursed (being one of the sources of the formation of the reserve fund).

i. Seventy per cent of the moneys in the reserve fund are allocated for and spent on the creation and strengthening of the material and technical basis of the system, with the objective of improving and developing the customs domain.

ii. Twenty-five per cent of the moneys in the reserve fund are allocated for and spent on the payroll of the employees of the customs service, providing them with material incentives and improving their social conditions.

iii. Five per cent of the moneys in the reserve fund are allocated to the fund of the head of the Customs Department, which he/she uses for contingency expenses within his/her jurisdiction.

Q63. Are there any countries, e.g., preferential trading partners, whose trade is not subject to this fee? If so, revenues collected on trade subject to the fee should not be used to process trade from exempted countries.

The Republic of Armenia has entered into free trade relations with a number of CIS countries, that, according to the Resolution 615, are exempted from the import duty, although these counties are not exempted from the customs fee.

3.1.4. Tax regime

Value Added Tax (VAT)

Q64. What steps has Armenia taken since the last Working Party to apply its VAT to all imports on an MFN basis?

Following the last meeting with the Working Party and in order to ensure conformity of levying VAT on imported goods with the MFN principles, Armenia has developed a draft for a new law on VAT. It draws on international experience, in particular the principles of the 6-the directive of the European Union (with the later amendments). The draft is now in the National Assembly and shall be considered soon.

The new draft provides for:

- a transition to the consumption (destination) principle for all countries in a uniform manner, including the CIS countries;
- a transition to the principle of taxing of imports at the customs border;
- introduction of a dedicated system of registration of VAT payers;
- introduction of a system of tax bills.

Excise Taxes

Q65. In its response to question 66, Armenia indicates that it intends to bring its discriminatory excise taxes on alcoholic beverages, automobiles, and tires into conformity with WTO provisions in the first quarter of 1997. What steps has Armenia taken since the last Working Party to achieve this objective?

With respect to the assurances offered by Armenia concerning ensuring the conformity in the first quarter of 1997 of the excise tax levied on alcoholic beverages, automobiles and tires with the provisions of the WTO, we report, that Armenia has adopted the Law on Excise Tax in December 18 of 1996. According to this law:

- passenger vehicle tires and 'hand woven carpets' are no longer subject to excise tax;
- the excise tax rates have been consolidated into a uniform system, i.e. there is no discrimination between the domestically produced and imported goods (the rates are attached);
- the tax base of the excise tax on goods produced in the territory of the Republic of Armenia is the sales price (without the excise tax and the VAT);
- the base for the excise tax on imported goods into the territory of the Republic of Armenia is their value upon importation (without the VAT).

The Law of Republic of Armenia on
Amendments of the Law on "Excise Taxes" of the Republic of Armenia

Article 1. From the Article II of the Law on "Excise Taxes" of the Republic of Armenia exclude the phrases "tires for passenger vehicles" and "hand woven carpets".

Article 2. State the Article 3 of the Law on "Excise Tax" in the following edition:
"Article III. The Excise Tax is paid from the proceeds of the realization of the products subject to taxation.

For the goods produced in the Republic of Armenia subject to an excise taxation, the turnover of the realization of the goods, based on the realization price (without excise taxes and VAT), is the subject of taxation.

For the goods imported in the Republic of Armenia, subject to an excise taxation, the importation price is the subject of taxation".

Article 3. State the Article 5 of the Law in the following edition:
" Article 5. Determine the following excise tax schedule:

HS number	Product description	Ad valorem duty
22.07; 22.08	Strong alcohol	125
22.03	Beer	75
22.04; 22.05	Grape wine	50
16.04 30100	Caviar	200
24.02	Tobacco products:	100
	Filter cigarettes	100
	Cigarettes without filters	50
71.13 - 71.17	Jewelry	30
43.42.03	Furs, natural leather	25
87.03	Passenger vehicles	15
69.71; 70.13.31	Glass Crystal and china	25
27.10 00200	Gasoline	25"

Article 4. Implement this Law from 1 January 1997.

Q66. In addition, the response to question 68 seems to indicate that while imports pay the excise tax at the point of entry, domestic goods are assessed at retail sale. If this is so, it implies that the retail seller must collect the excise duty and, presumably, report it to the tax authorities. How is the retailer to distinguish between a good that is domestically produced, and therefore subject to an excise tax which he must collect, and an imported good on which the excise tax has been collected by Customs upon entry into Armenia?

As for the second part of the question, we maintain that the procedure for the calculation of the excise tax in Armenia on domestically produced goods has been misinterpreted. The point is that according to the Law on Excise Tax of December 18 of 1996 the excise tax on domestically manufactured goods is calculated and paid not by the wholesaler or retailer, but by the enterprise or the individual entrepreneur producing the goods in question. Moreover, the basis for calculating the excise tax is the sales price of the producer (exclusive of the VAT and the excise tax). This means that the basis is the cost plus the profit of the producer. Armenia has been applying this procedure for the calculation of the excise tax on domestically manufactured goods since 1992.

Q67. What steps is Armenia taking to ensure a uniform system levying VAT and excise duties on all imports?

Please see the answers to Q64 - Q66.

3.1.5. Non-tariff measures, quotas and licensing

Q68. Please give status report on the development of legislation to apply safeguard, subsidy, or antidumping duties or other measures to address excessive imports or unfair trade practices. Are there any resent legislative developments in Armenia with respect to dumping, subsidies, countervailing duties and safeguards, or plans for future legislation?

Armenia is planning to elaborate the respective laws and legislative acts to address excessive imports and unfair trade practices in accordance with the timetable declared during the last Working Party and submitted to the WTO Secretariat as a part of Armenia's commitments in the process of accession.

3.1.8. Rules of origin

Q69. We have not found in Armenia's customs regulations (Order 615 of December 1993) any indication that current laws or regulations conform to the requirements of the WTO Agreement on Rules of Origin.

The regulation in effect in Armenia with respect to the rules of origin (attached to the Resolution 615) does not cover certain provisions of the WTO Agreement on Rules of Origin, although it does not contradict with the requirements of the above-mentioned Agreement. Therefore, taking into the account the deficiencies of the regulations currently in effect, it is planned to adopt a new Resolution of the Government of the Republic of Armenia on the rules of origin in the second half of 1997, and this shall incorporate the procedures necessary for the application of the provisions of the WTO Agreement.

Q70. Armenia has provided copies of its customs regulations to the Working Party for review. They describe the use of criteria to determine origin through a "sufficient processing "test, involving a change of HS 4--digit classification category and a value - added test. There is not enough information, however, to be able to see to what extent this is administered in a WTO-consistent fashion.

According to the procedure of determination of the country of origin attached to the Resolution of the Government 615, the country of origin is considered to be the country where the entire product has been manufactured or where it has undergone sufficient processing. The following goods are considered to be entirely produced in a country:

- the minerals mined in the territory of a country or inside its territorial waters;
- the plant produce grown or harvested on the territory of a country;
- the animals born or bred on the territory of a country;
- the products received from the animals born or bred on the territory of a country;
- the product of hunting, fishing or sea operations on the territory of a country;
- the product of the high seas operations, that is produced in the high seas by vessels belonging to the country or leased by it;
- the secondary raw materials or the waste resulting from the production and other activities carried out on the territory of a country;
- the product of high technologies received in the open space on spaceships belonging to the country or leased by it;
- the goods produced in the country in question, that have been exclusively produced in accordance with the points above.

In case when two or more countries have participated in the production of a product, the origin of the goods is determined based on the criteria of sufficient processing. The following are the criteria for the sufficient processing of goods:

- any alteration in the first four digits in the position of the classification of a product (the product description code) that has occurred as a result of processing the product;
- the implementation of production or technological operations that are either sufficient or insufficient to consider the product as originating from the country where such operations have taken place,
- the ad valorem rule - the alteration in the value of the product, when the proportion of the added value or the value of the materials used exceeds a certain measure of the price of the product.

Moreover, the following are considered as not meeting the requirement of the criteria on sufficient processing:

- operations geared towards the preservation of the product during its storage or transportation;
- operations of preparation of the goods for sale or transportation (taking apart, consolidation, sorting, repackaging of the products);
- simple assembly operations;
- merging, smelting of the parts (components) of products without lending them such features as would essentially differ from the initial components.

Q71. Has Armenia reviewed the Agreement on Rules of Origin with a view to implementing its provisions in the Armenian regime?

The Government of the Republic of Armenia is working on a new Resolution on Rules of Origin. The Resolution shall incorporate the procedures necessary for the determination of the country of origin of the product, and these shall be entirely based on the provisions of the WTO Agreement. It is planned to enter this Resolution into effect within the second half of 1997.

Q72. Does Armenia have regulations that go beyond the rather simple descriptions in the December 1993 order?

Please see the previous answer.

Q73. Does Armenia issue assessments (i.e., rulings) of origin to importers, or provide independent appeal rights for determinations of origin?

The evaluation with respect to the origin of imported goods is carried out by the ArmExpertise subsidiary of the Chamber of Commerce of Armenia. In case of doubts as to the origin of goods imported into the Republic of Armenia the customs refer to the ArmExpertise, which examines the product, the waybills and the certificates of origin of the product and passes a decision on the origin of the product. At the same time, according to point 2 of the directive #478MV of 26 April 1996 of the head of the customs directorate of the Republic of Armenia, in case of absence of the above-mentioned certificate, the certificates issued SARM or by the ArmExpertise subsidiary of the Chamber of Commerce of Armenia are accepted as documents confirming the origin of the product.

In accordance with the legislation of the Republic of Armenia currently in effect, importers have the right to appeal controversial issues to a superior customs authority. It is also necessary to mention that the right of importers to appeal the disputes that emerge in relation to the origin of the product in an independent body shall be included in the new Resolution of the Government on Rules of Origin that is planned to be adopted within the second half of 1997.

Q74. Does Armenia's legislation and implementation of its regime in the area of rules of origin provide for rulings within 150 days of initiation of customs formalities? Do importers have the right of appeal? Are the administrative and judicial rulings that emerged from this process binding on all parties involved?

The new Resolution under elaboration by the Government of the Republic of Armenia on the rules of origin states that the declaring entity shall be assured of ruling no later that 150 days from customs clearance.

According to the legislation of the Republic of Armenia, importers have the right to appeal (see the answer to question 73). The administrative and judicial obligations with respect to this procedure apply to all entities.

Q75. What is the level of "per cent of value" criteria required by Armenia to determine origin? What happens if no one country's value meets that criteria? What is the basis for determining the composition of the per cent of value, i.e., what components of the value of the good were counted - only inputs/materials? direct and indirect labour? profit? interest? depreciation? How can Armenia's provision that imports be accompanied by a certificate of origin issued in the country of origin meet the requirement for uniformity of standard of origin under the Agreement if these certificates are issues by different authorities based on different criteria?

Armenia has not as yet defined the per centage proportion of the value of the product that shall be used as a criterion for determining the origin of the product. It is extremely unlikely that no one country's value will meet the per centage of value criterion to be determined. The other criteria referred to have also yet to be defined, but Armenia shall ensure that the methodology adopted will conform with common international practice and shall be consistent with the WTO Agreement on this subject.

Q76. What provisions exist in Armenia's customs regime to ensure confidentiality of information provided by importers to prove origin of their goods as required by the Agreement?

Such provisions are not reflected in the existing regulations. They are, however, to some extent reflected in Article 50 (on commercial secrets) of the Law on Enterprises and Entrepreneurial Activities of 14 March 1992.

The new Resolution on Rules of Origin shall provide for the preservation of confidentiality of information submitted by importers attesting the origin of their imports, based on the provisions of the WTO Agreement.

3.1.10. Sanitary and phytosanitary measures

Q77. Armenia stated in WT/ACC/ARM/1 and 2 that it had not developed any separate policies or provisions relating to sanitary and phytosanitary measures. In WT/ACC/ARM/5, however, in response to questions 49 and 50, Armenia made reference to an expanded list of products, including pharmaceuticals, agricultural chemicals, alcoholic beverages and tobacco products as subject to licensing for health reasons. Please give a status report on this issue, in light of the July enactment of regulation 205 mandating Conformity Certification for a long list of products on the basis of health and safety considerations.

The extended list of products subject to obligatory certification is presented in Resolution 205 of the Government of Armenia. The main requirements to be met by the products subject to obligatory certification pertain to safety, health and protection of environment.

The obligatory certification of the products in question is carried out according to Guidelines elaborated by SARM. The Guidelines specify the tariff code of the product, the criteria according to which certification is done, as well as the normative documents that define safety indices and testing methods.

Q78. Please provide a copy of regulation 205 and describe how it will be implemented. Please list all products subject to licensing or other nontariff import requirements due to sanitary and phytosanitary requirements, by HS line.

The obligatory certification of the products listed in Resolution 205 of the Government of Armenia is carried out by SARM in laboratories accredited by itself, which correspond to international standards (ISO/IEC Guide 25).

Q79. In the response to question 102, Armenia stated that it will seek a grace period of eighteen months from the date of its accession in order to develop provisions and procedures consistent with the WTO Agreement on Sanitary and Phytosanitary Measures.

At present, Armenia is in the process of the elaboration of Sanitary and Phytosanitary Measures draft laws, by-laws, and regulations pertaining to the spheres of agriculture, veterinary medicine, and protection of plants. Armenia will need a transition period of 6 months after its adherence to the WTO for the complete elaboration of all provisions and procedures in conformity with the Agreement on Sanitary and Phytosanitary Measures.

Q80. What has Armenia done in the last year to move towards the objective of a WTO consistent regime in this area? Why will it be necessary to wait 18 months from the date of accession, which at this point is not known, to implement appropriate measures?

Now Armenia is in the process of elaboration of Sanitary and Phytosanitary Measures. Two draft laws on Phitoprotection and Veterinary Medicine are being discussed currently. In 1996, the National Assembly adopted the Law on State Agrarian Inspections. The law defines the legal, economic and organisation principles of State Agrarian Inspections in the Republic of Armenia. Articles 6 and 7 of the Law, particularly outline the activities of the State Inspection for Agriculture, concerning cultivation of lands, use of fertilisers, the struggle against plant diseases, insects and weeds, transportation of toxic substances and mineral fertilisers, conditions of conservation and annihilation, as well as livestock breeding with respect to veterinary services. The latter deal with the protection of population from diseases common to man and animals, the prevention and eradication of contagious and non-contagious animal diseases, transportation, conservation, use and annihilation of veterinary medicaments and disinfectants. For the implementation of the Law on State Agrarian Inspections, draft laws on Phitoprotection and Veterinary Medicine have been worked out.

The Law on Phitoprotection defines the legal, economic and organisation principles of the State Service of Phitoprotection of the Republic of Armenia, and regulates relations between farms, enterprises, organisations and individuals within the territory of the Republic of Armenia.

The Law on Veterinary Medicine defines the legal, economic and organisation principles of the State Service of Veterinary Medicine of the Republic of Armenia, fixes the regulation for the prevention of diseases of animals, for the protection of population from diseases common to man and animals, and for providing the population with quality products according to veterinary and sanitary conditions. The law regulates relations between the State body in charge of veterinary medicine and enterprises, organisations, entrepreneurs, and individuals on the territory of the Republic of Armenia.

Q81. How is Armenia reconciling Decision No. 205, and its subsequent implementation procedures, with its stated goal to have in place provisions and procedures consistent with the WTO Agreement on Sanitary and Phytosanitary Measures eighteen months after its accession?

Resolution 205 of the Government of Armenia presents the extended list of agricultural products subject to obligatory certification, on the basis of safety requirements. This is evidence for the fact that Armenia has started the process of elaboration of Sanitary and Phytosanitary Measures. The proposal for a delay of eighteen months after accession for a fully consistent regime in this area was based on the perception that through preparation is essential to a well functioning regime. The authorities are concerned that it may take time to reach this objective, but would be willing to reduce the delayed implementation period to six months following accession.

Q82. Armenia states its intent to "develop sanitary and phytosanitary measures" etc. Please give details. What time table is foreseen for this legislative work? Does this mean full application of the SPS Agreement?

Armenia will need 6 months after its accession to the WTO for the complete elaboration of provisions and procedures of the Agreement on Sanitary and Phytosanitary Measures. Simultaneously with the elaboration of laws, regulations are being worked out for the implementation of laws. Armenia is carrying out the necessary changes for raising existing laboratories to international standards, for capacity building at frontier points of veterinary and plant-growing control, and for the creation of the State Chemical Commission.

3.3. Export incentives

Q83. Does Armenia maintain any subsidies which meet the definition of a prohibited subsidy, within the meaning of Article 3 of the Agreement on Subsidies and Countervailing Measures?

Armenia does not maintain any such subsidies.

Q84. If so, please outline Armenia's plan to eliminate such measures.

Please see previous answer.

Q85. Please report on any subsidies that Armenia plans to notify under the Agreement on Subsidies and Countervailing Measures prior to completion of the Working Party discussion, to ensure that all participants are informed of the scope of such measures in place.

Please see answer to Q83.

IV. OTHER POLICIES AFFECTING FOREIGN TRADE

4.2. Agricultural policy

Q86. Armenia stated in WT/ACC/ARM/2 that there are no barriers to export of agricultural products to Armenia. It would seem from the response to questions 90 and 91, however, that a few very large firms, some with domestic production, effectively dominate import trade in agricultural goods in Armenia. Most of the firms listed are either entirely state-owned (i.e., Yerevan Brewery), or majority-state-owned (i.e., Artashat Wine). Does Armenia plan to privatize the wholly state-owned firms, and to further privatize the majority-state-owned firms? If so, please describe the schedule for their privatization.

In 1997, it is planned to privatise 116 enterprises in the agricultural sector, including 4 flour-mills, 25 bakeries and 13 bread-selling enterprises. During 1998-1999, 27 enterprises specialising in grain selection will be denationalised. By 2000, the majority of these enterprises will have been privatised. The state will retain 20 enterprises of grain selection, 8 enterprises of pedigree livestock breeding, 10 nurseries, and one flour-mill to assure the necessary stock of bread. By 2000, it is planned to privatise 65-70 per cent of all agricultural enterprises. The remaining part of state enterprises will not be privatised during that period because of their strategic significance.

Q87. Do any of these firms have a de facto or de jure monopoly in the production, distribution, domestic sale, or import or export in their respective products?

The Yerevan Brewery and the Artashat Wine factory do not have a monopoly, de jure or de facto, in the spheres of production, distribution, marketing, importation or exportation. The market of the Republic of Armenia is open, and there are no restriction for other importers.

Q88. How does Armenia ensure that these firms do not limit imports to protect their own output? Have other suppliers in fact entered the market, and if so, what is their market share relative to these two enterprises?

The two enterprises cannot, with the aim of protecting their production, exercise pressure upon other suppliers, as the Republic of Armenia has no restrictions upon the importation of wine or beer. The other suppliers of that production, mainly individual entrepreneurs, have nearly 45per cent of the market.

Q89. Concerning agricultural trade with other Republics of the former Soviet Union:. Are exports to these countries done on a cash basis, barter or some combination of both? If exports are made on a barter basis, what types of goods are imported in return? If "combination", what is the ratio of cash to barter sales? Please describe how exports to non-CIS countries are paid for.

As far as trade in agricultural products with other FSU countries is concerned, during 1995-1996 there were no clearing or barter activities. Exportation to those countries is carried out by letters of credit, while enterprises make their payments for commercial activities in cash or by banking transfers.

Q90. Concerning the response to question 101, Armenia has stated that the privatization process for ArmProsperity and ArmAgroService is expected to be completed in 1996. Please describe what progress has been made towards this goal this year, and if Armenia continues to expect privatization to be completed in 1996. If completion is expected in 1997, could Armenia provide a revised timetable for privatization?

During 1996, the enterprises comprising part of the agglomerations Armagroservice and ArmProsperity were privatised up to 66per cent, with the state retaining 34per cent of shares. Upon further consideration by the Government of its position the privatisation of these agglomerations will be stopped during the coming 3 years for strategic reasons.

Q91. Could Armenia describe how these two firms are currently organized?

The enterprises within Armagroservice and ArmProsperity are managed by boards consisting of 5-7 persons. Each member has one vote. The members of the board are chosen in proportion to shareholdings.

Q92. Are all existing barter arrangements eliminated?

Since 1995-1996, no commercial activities have been carried out by barter in the Republic of Armenia.

Q93. Does the minimum price for flour also apply to imported products? Does Armenia intend to eliminate this system?

By the Decree 262c of 19 March 1995, of the Government of Armenia, the prices of flour, bread and baked products are liberalised in Armenia. That means there are no restrictions on the prices of flour, bread, and baked products.

Q94. Could Armenia confirm that all state trading companies involved in trade in agricultural products do not have special rights and do not undermine Article 4 of the Agreement on Agriculture?

None of the state-owned commercial enterprises, involved in the trade of agricultural products, has special rights and privileges granted by the Government. The clauses of Article 4 of the Agreement on Agriculture are not violated, as only tariffs are imposed upon the products imported into Armenia.

4.3. Financial, budgetary and fiscal policy

Q95. In WT/ACC/ARM/1, Armenia states that "directed refinancing is being phased out". Subsequent statements in WT/ACC/ARM/2 and WT/ACC/ARM/5 avoided discussion of the directed refinancing of enterprise debt. Please describe how "directed financing " works, and to what extent Armenia has been engaged in buying up the debt of state enterprises that would otherwise not be able to sustain themselves economically. Please indicate the status of "phasing out" this practice and how refinancing is currently carried out.

Since the commencement of operation of the Law on Bankruptcy the Government of Armenia has refrained from buying up the dept of the state enterprises.

4.5. Foreign investment policy

Q96. Article 18 of the foreign investment law states that "Privileges established by this law shall apply to those enterprises with foreign investment where such investment is no less than 30 per cent at the moment of foundation." We would be interested in an explanation for this 30 per cent minimum. As we see it, if smaller investments are not accorded the protections of the investment law or the investment incentives, then this 30 per cent minimum will discourage investment that may be useful to Armenia.

It should be noted that firms not qualifying for additional privileges because the foreign equity is below 30 per cent still benefit from all the protections of the investment law.

Q97. We would like a clarification of what is meant by "privileges established by the law"? Does this phrase refer to the provisions of the law or does it refer to the investment incentives the government of Armenia has offered to foreign investors?

This phrase refers to the investment incentives being offered.

Q98. Does Armenia maintain any measures which might be inconsistent with the TRIMs Agreement?

Armenia considers that it does not maintain any measures inconsistent with the TRIMs Agreement.

4.6. Government procurement

Q99. What is Armenia's position on joining the Agreement on Government Procurement?

Armenia intends to join to the Agreement on Government Procurement from the date of accession to the WTO.

4.8. Price Controls

Q100. Armenia reports that almost all government-mandated price controls have removed. Domestic prices that remain subject to control are for irrigation, urban electrical transport, electricity, hot water, gas, heating, sewage services, garbage collection, rent in State-owned housing, and telephone services, and there are direct price controls on flour (through the setting of maximum profit margins for flour mills). Minimum export prices are also established for ferrous and non-ferrous metal scrap, but only for the purpose of calculating the corporate tax liabilities of enterprises dealing in these scrap metals. Can Armenia please indicate any additional price measures on goods or services that have been established?

There are no any additional price measures.

Q101. Could Armenia please expand on the minimum export prices of ferrous and non-ferrous metals and scrap it uses as a reference base for tax purposes. In particular, can it please explain which taxes the reference to "corporate tax liabilities" covers. Can it also contrast this taxation system with tax base for companies which only sell metals and metal scrap domestically.

The tax referred to, which is calculated on the basis of a notional minimum export price, is the corporation tax. This arrangement applies only to metals and scrap that leaves the country and not to the domestic sales of the same items.

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

5.1. Bilateral free trade agreements

5.1.2 Bilateral free trade agreements and trade and economic cooperation agreements with CIS countries

Q102. The response to question 126 states that Russia maintains certain tariffs and quotas on imports of Armenia's trade under the FTA, but does not respond to the request for detailed information on these measures. Please list tariff categories excluded from the duty-free provisions of the FTA with Russia, what nontariff measures are applied, and the duration of the FTA as provided for in the Agreement. What plans to Armenia and Russia have, either in the Agreement or agreed subsequently, to complete the FTA?

Taking into the account that within the period since the signing of a bilateral Free Trade Agreement with Armenia Russia has substantially liberalized its foreign trade regime (removed quotas, export taxes etc.) and that presently the national legislation of the two countries on tariff and non-tariff

regulation of exports do not provide for a list of specific products, we believe that the above-mentioned Agreement is in conformity with the WTO rules on free trade areas.

At the same time a draft protocol has been prepared by the authorized representatives of the parties, verifying the fact that in trade between Russia and Armenia there are no deviations from the free trade regime. The bilateral verification of this protocol is expected to take place by the end of the third quarter of 1997. There is no date envisaged for the termination of FTA between Russia and Armenia.

Q103. The answer to this question indicates that VAT and excise duties may come under the scope of Article XXIV of GATT 1994. How exactly could such a departure from MFN be justified under Article XXIV?

Armenia is moving away from the origin principle in respect of its indirect tax arrangements with Russia and other CIS countries, which will render moot any consistency of Article XXIV consistency.

Q104. What part of Armenia's agricultural trade is carried out in the context of FTAs with CIS countries? What is the latest situation with regard to Armenia's participation in the CIS Custom Union? What consequences does this have for the accession negotiations?

The situation concerning Armenia's joining the Customs Union is that: negotiations are currently in process. Armenia's position is that co-operation with the countries of the CIS should begin with integration, in the form of the simplest free trade regime. Thus, it is necessary to have a free trade agreement in conformity with international norms. The issue of adherence of Armenia to the Customs Union should be left to future examination. This situation does not constitute an impediment to Armenia's accession to the World Trade Organisation as any eventual participation in a Customs Union shall be consistent with Armenia's WTO obligations.

Within the framework of Free Trade Agreements, the trade of agricultural products with the member countries of the CIS, constitutes in imports 13per cent and in exports 81per cent of Armenia's trade.