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**Working Party on the
Accession of Montenegro**

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Additional Questions and Replies

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II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE

2. Economic Policies

(a) Main directions of the ongoing economic policies

- Pricing policies

Question 1

In response to Question 1 of WT/ACC/CGR/7, Montenegro has explained that postal services are the only services currently subject to price control. In response to Question 2 of WT/ACC/CGR/7, Montenegro explains that the government has the authority to impose prices on "construction, road transport, insurance, higher education and research, publishing, (except local newspapers), radio and TV stations (state owned), health and social care, and banking." Under what circumstances does or would Montenegro impose price controls on these other services?

Answer:

None. Montenegro has abolished the Law on Social Price Control, which formerly provided authority for such controls.

Question 2

Also in response to Question 2 of WT/ACC/CGR/7 Montenegro noted that the only medicines covered by price controls are those from the health fund. Could Montenegro please provide the Working Party with a list of those medicines? How will Montenegro ensure that price controls will not be applied in a prejudicial manner, consistent with Article III:9 of the GATT?

Answer:

The Law on Medicines provides for price controls on a limited number of medicines. The list of these medicines will be provided in a decree that is currently being drafted which will be submitted to the WTO as soon as it is available. There will be no difference in treatment of domestically produced and imported medicines.

Question 3

Regarding the response to Question 9 of WT/ACC/CGR/7, we take note that the Government of Montenegro can set the prices of certain agricultural products and that Montenegro refers to these as "support prices". How will Montenegro ensure that these price supports will be used only to guarantee an adequate return to local farmers ?

Answer:

Montenegro has abolished the Law on Social Price Control, which had such provisions. There is no longer any authority for control of prices of agricultural products.

Question 4

We note the Law on Social Price Control regulates and authorises the Government to set prices in a range of areas, although it is not generally applied (WT/ACC/CGR/3 pages 8-9). We seek

further information on the following: Provisions of the Law that set the prices of certain agricultural products to stimulate agricultural production, including details of the types of price controls applied, how they are applied, the products to which they are applied (by HS tariff), and their application to imported and domestic products (if the treatment is not the same).

Answer:

Montenegro abolished the Law on Social Price Control in February 2006. Montenegro no longer has any provisions allowing the Government to set prices on agricultural products.

Question 5

The criteria under which price controls can be established in the case of "significant price disturbances", the nature of the price controls applied, and the products to which they can be applied.

Answer:

Please see the answer above.

Question 6

How does the Government determine that economic policy plans cannot be achieved without price controls?

Answer:

Please see the answer above.

Question 7

Will coal prices be deregulated after a maximum of five years after the Energy Law was passed in June 2003 ?

Answer:

Under, the Law on Energy (RM OG No. 39/03) prices for coal for the Powerplant Pljevlja are determined every five years by the Agency. The Law does not require that prices for coal will be deregulated after five years from its passage.

- **Sector priorities**

Question 8

Table II.4 on sector priorities (WT/ACC/CGR/3 pages 12-13) mentions a number of priorities for the agriculture, forestry and water management sector. We would appreciate further information on the following: The types of light industry which are eligible to receive incentives based on domestic raw materials and details of the types of incentives provided.

Answer:

Montenegro does not provide subsidies of that sort, except with respect to tobacco. Article 15 of the Law on Tobacco (RM OG No. 80/04) prescribes that a tobacco producer is obliged to produce or

purchase domestic tobacco sufficient for at least 40 per cent of its annual production of cigarettes and other tobacco products in the Republic, and at minimum not less than 700 tons per year.

Question 9

How the Government achieves its priority of "strengthening of competitiveness of domestic manufacturers and increased exports of agricultural goods", the types of incentives provided to domestic producers, and the production eligible for such incentives.

Answer:

The Government, through the Ministry of Agriculture, Forestry and Water Supply and the Ministry of Tourism, has a program called "domestic food for foreign guests" which encourages guests to try Montenegrin specialties such as prsuta, Montenegrin cheese, kajmak, and wine. The idea is not to discriminate between domestic and imported food, but to promote traditional Montenegrin food with characteristics that derive from its geographical origin. Promotion takes the form of organized events with Montenegrin food served for presentation purposes. There is no direct support to producers of domestic food.

Also, the Ministry of Agriculture, Forestry and Water Supply has programs to educate domestic producers on the requirements for export of products on international markets. These programs are mainly about packaging rules, labelling requirements, technical requirements such as quality and safety requirements. The Government is trying to raise awareness of domestic producers about importance of certification as precondition for successful exporting.

Question 10

How Government support is provided in relation to "the creation of all the necessary prerequisites for increased utilisation of all available natural resources through implementation of the structured utilisation of agricultural land".

Answer:

As mentioned above, Government invests a lot of efforts on education programs for domestic producers. One of goals of these programs is to efficiently allocate resources for production. There was, and there is still, much confusion about the realistic capacities of Montenegrin agriculture. For example, producers were traditionally oriented toward certain aspects of agriculture production that are not prosperous. The Government is trying to provide, through education, adequate information for producers so they can easily make decisions as to how best to allocate their resources.

(b) Monetary and fiscal policies

Question 11

Please explain why Montenegro has exempted insurance and banking services, as well as services of games of chance (listed in Question 16) from VAT.

Answer:

Games of chance are subject to provisions of the Law on Games of Chance (RM OG No. 52/04), therefore they are excluded from VAT application. Both, banking and insurance services are subject to separate laws (The Law on Tax on Insurance Premium, RM OG No. 27/04, 37/04), and they are not

subject to VAT Law. Furthermore, all three exceptions are matter of standard practice in comparative legislation, including European Union (VI EU Directive on VAT).

(c) Foreign exchange and payments system

Question 12

Please update the information on Montenegro's relations with the IMF and its status under the Articles of the Fund.

Answer:

Montenegro finalized its stand-by arrangement with IMF and it is now in monitoring phase. That means Montenegro has no formal obligations toward IMF at this point and IMF will send only its regular missions to Montenegro. Montenegro will ask for separate arrangement with IMF after resolving its political status, but not in terms of drawing new money. The purpose of new arrangement should be in acquiring monetary stability and credibility in international financial circles through agreements on technical cooperation with IMF.

(d) Foreign and domestic investment policies

Question 13

Will Montenegro provide to the Working Party a copy of the Economic Reform Agenda, mentioned in response to Question 35 of WT/ACC/CGR/7?

Answer:

The Economic Reform Agenda is available through document WT/ACC/CGR/11.

Question 14

According to the responses to Questions 28 and 42 of WT/ACC/CGR/7, a foreign investor may invest in production and trade in the border district only jointly with a domestic person and the share of the foreign investor may not exceed 49 per cent. Please describe the types of commercial activities that take place within the "border strip"?

Answer:

Activities that may be performed by foreign investors in the border strip are not limited. Only share of ownership of foreign investor is limited to 49 per cent.

The Government of Montenegro is reconsidering review of the Law on Foreign Investment at the moment. More detailed information will be submitted as soon as they become available.

Question 15

Will the Montenegrin Investment Promotion Agency, described in response to Question 40 of WT/ACC/CGR/7, treat foreign and domestic investors equally? Will this agency provide subsidies or support to promote foreign investment? Will the agency provide incentives based on export requirements or domestic content requirements?

Answer:

The Montenegrin Investment Promotion Agency treats foreign and domestic investors equally. The main purpose of the Agency is to facilitate investment by foreign investors, mainly by providing information. The Agency does not provide subsidies or other financial support to investors, and there are no incentives based on export or domestic content requirements.

Question 16

We note that under the Foreign Investment Law foreign participation is limited to 49 per cent of stocks, in the case of production in the border district (WT/ACC/CGR/3 pages 20-21). Can Montenegro provide more information on the reasons for this limitation?

Answer:

The Government of Montenegro is reconsidering review of the Law on Foreign Investment at the moment. More detailed information will be submitted as soon as they become available.

Question 17

Are there any other conditions for registration of the daughter company of a foreign investor in Montenegro besides the obligatory employment of domestic working force?

Answer:

Foreign companies which establish a Foreign Company Branch within the Republic of Montenegro must, within 30 days of its establishment deliver to the Central Registry of the Commercial Court for registration the following:

- The address of the branch;
- The activities of the branch;
- The name and legal form of the foreign company and the name of the foreign company branch if it is different from the name of the company;
- An authenticated copy of the charter of the foreign company and a translation of the charter in the Serbian language duly certified as a true and correct translation;
- A copy of the foreign company's registration certificate or a corresponding duly authenticated document confirming the legal registration of the company in its home state;
- The names and addresses of the person or persons who are authorized to represent the company in dealings with third parties and in legal proceedings: (a) as a company body constituted pursuant to law or as members of any such body; (b) as permanent representatives of the company for the activities of the branch, and the extent that the persons are authorized to represent the company, whether they may do so alone or jointly;
- The names and addresses of one or more persons resident in the Republic of Montenegro authorized to accept on behalf of the company service of legal process and any notice required to be served on the company; and
- The most recent balance sheet and profit and loss statement or similar financial documents required under the law where the company is registered.

Question 18

What is the anticipated timeframe for amending the Foreign Investment Law?

Answer:

The Government of Montenegro is reconsidering review of the Law on Foreign Investment at the moment. More detailed information will be submitted as soon as it becomes available.

(e) Competition policies

Question 19

Montenegro is developing a draft Law on the Protection of Competition and has provided a useful description of the main elements of the proposed Law (WT/ACC/CGR/3 page 21). We seek information on whether this Law was passed by Parliament in July as anticipated, and whether it will supersede the existent Antimonopoly Law FRY OG No. 29/96.

Answer:

The Competition Law (RM OG No. 69/05) was enacted in November 2005 and supersedes the prior Antimonopoly Law.

Question 20

Has the Law on Competition been passed by Parliament as expected?

Answer:

The Competition Law (RM OG No. 69/05) was enacted in November 2005, and supersedes the prior Antimonopoly Law.

(f) Privatisation policies

Question 21

According to the response to Question 55 in WT/ACC/CGR/7, detailed information on joint venture requirements in the eight sectors in which Montenegro expects joint ventures to provide models of information is available in the normal tender process and will, in many cases, be the product of negotiation between private sector parties. Are there any laws or regulations of general applicability that limit foreign investment for any of these eight sectors in the form of joint ventures? If so, please describe.

Answer:

No.

Question 22

Regarding Montenegro's efforts to promote local food, described in response to Question 59 of WT/ACC/CGR/7, could Montenegro please provide additional information on the types of promotions used to encourage consumption of local specialties? Does the "domestic food for foreign guests" program provide government support to domestic agricultural producers or purveyors of these products? What type of support is granted? How are the product selected and by whom? The promotion of domestically-produced food products may raise national treatment concerns. In addition, any government-funded domestic support program should be notified to the WTO in the appropriate domestic support tables. Has Montenegro included

them in its notification of domestic support and export subsidies in the agricultural sector - WT/ACC/SPEC/CGR/1?

Answer:

The Government of Montenegro identifies tourism as a priority sector. Therefore, numerous activities are in place in order to improve tourism in Montenegro. One of these is a program called "domestic food for foreign guests" which encourages guests to try Montenegrin specialties such as prsuta, Montenegrin cheese, kajmak, and wine. The idea is not to discriminate between domestic and imported food, but to promote traditional Montenegrin food with characteristics that derive from its geographical origin. Promotion takes form of organized events with Montenegrin food served for presentation purposes. There is no direct support to producers of domestic food. Products are selected on the basis of being recognized as "traditionally Montenegrin products" by customers. Montenegro notified this program in its WT/ACC/4 document as a "green box" program.

Question 23

We note Montenegro's statement that foreign and domestic investors have equal treatment in privatization, and that no sectors are excluded from privatization besides those mentioned on page 11 of the FTRM.

Answer:

We confirm that statement provided in answer to Question 60 is correct.

III. FRAMEWORK FOR MAKING AND ENFORCING POLICIES AFFECTING FOREIGN TRADE IN GOODS AND TRADE IN SERVICES

2. Government entities responsible for making and implementing policies affecting foreign trade

Question 24

According to Annex 1 of WT/ACC/CGR/7, the Ministry of Agriculture is responsible for veterinary and phytosanitary inspection and the Ministry of Health is responsible for sanitary inspection. Please confirm that the Ministry of Health is the competent authority for all meat and poultry inspections and that any inquiries related to testing should be directed to the Ministry of Health.

Answer:

The Veterinary Administration, under the supervision of the Ministry of Agriculture, is responsible for all inspections of shipments of animal origin in international trade, including meat and poultry

The Veterinary Administration is responsible for managing the system for hygiene and health safety of food of animal origin, and it performs that by implementing provisions of the Veterinary Law and other laws and by-laws in this area, for both domestic and foreign trade.

3. Division of authority between central and sub-central governments

Question 25

As to Montenegro's trading regime with Serbia, the response to Question 71 of WT/ACC/CGR/7 indicates that if a good imported into Serbia from outside the State Union passes SPS controls in Serbia, it does not have to undergo SPS inspection in Montenegro, because, "SPS inspections done in one member state are accepted in the other member state." In addition, goods of Serbian origin which pass SPS inspection in Serbia, can also enter Montenegro "without further SPS inspection". In fact, "transactions [concerning goods of Serbian origin] do not require the Ministry approvals required of imported goods." What "Ministry approvals" are referred to here?

Answer:

Imported goods that are subject to SPS controls are required to have authorization from the Ministry of Agriculture of the member state that is the final destination of the goods. This approval is administrative in nature, and is intended to ensure that the goods to be imported have the proper documentation from the exporting country, are not from areas known to have plant or animal diseases, are from sources possessing the necessary certifications allowing them to export, and to ensure that the goods are imported through the proper border post.

The new Law on Plant Protection abolishes these approvals for plant shipments. Importers will be allowed to import plant shipments without prior approval from the Ministry, but these shipments will be subject to phytosanitary inspection at the border. The only restriction on plant shipments is prescribed in Article 26 of new Plant Protection Law, which provides that licenses may be required for import or transit of plants or parts of plants that may carry harmful organisms threatening to human, plant and animal health. Such a licence may be imposed based on conditions in foreign trade, international recommendations and guidelines, or available scientific evidences and risk assessments. Further details regarding issuance of this licence will be prescribed in a by-law, but these will be compliant with the Law on Foreign Trade, and with GATT Article XX and XI.

Domestic shipments will be subject to the same requirements and procedures: movement of domestic plants that may carry harmful organisms will be also subject to licence.

Regarding veterinary measures: the border veterinary inspector, in accordance with Articles 31 and 96 of the Veterinary Law, inspects shipments and their documentation and allows import, transit or warehousing of animals, food, raw material, animal feed and animal waste. Those goods that are subject to veterinary inspection require the "ministry approvals" you referred to them in your question. These approvals are documents confirming that a shipment fulfils the veterinary-sanitary requirements for import. They are issued by the Veterinary Administration in accordance with domestic legislation, OIE standards and other international standards.

The Veterinary Law is currently under review and as soon as the Law on Amendments and Changes became available it will be submitted to the WTO.

Question 26

Are goods imported into Serbia from outside the State Union, but which undergo SPS inspection in Serbia before shipment to Montenegro subject to these "Ministry approvals"?

Answer:

In accordance with the Protocol on the Harmonization of Operations and Procedures in the Foreign Trade of Goods Liable to Mandatory Veterinary-Sanitary and Phyto-sanitary control at the border of State Union of Serbia and Montenegro, agreed between the ministries of agriculture of Serbia and of Montenegro, the following is applied to products subject to SPS control between two member states:

Chapter I on Veterinary-Sanitary Control, paragraph 3:

"In case an importer with a head office in the Republic of Serbia, who had imported a shipment based on the decision issued by the Ministry of the Republic of Serbia and on the control performed by the veterinary inspection of the Ministry of Serbia, would want to sell a part of such shipment on the market of the Republic of Montenegro, the veterinary inspection of the Ministry of Montenegro shall allow entry of such shipment into the Republic of Montenegro provided that the importer obtains a decision on the fulfilment of veterinary-sanitary conditions for the import of that shipment with the Ministry of Montenegro, and at the entry into the Republic of Montenegro presents evidence that the shipment was imported under the decision issued by the Ministry of Serbia and evidences that all necessary laboratory tests were done. The same shall apply in the case when an importer with a head office in Montenegro wants to sell his products imported, based on the decision issued by the Ministry of the Montenegro, on the market of the Republic of Serbia.

In cases mentioned above, laboratory findings issued by authorized laboratories of member states shall be recognized."

Chapter II on Phytosanitary Control, paragraph 3:

"In case that an importer from Serbia, who had imported a shipment based on the decision issued by the Ministry of Serbia and on the control performed by the phytosanitary inspection of the Ministry of Serbia, would want to sell a part of such shipment on the market of the Republic of Montenegro, the phytosanitary service of Montenegro shall allow entry of such shipment into the Republic of Montenegro provided that the importer obtains a decision on the fulfilment of phytosanitary conditions for the unobstructed import of that shipment with the Ministry of Montenegro, and at the entry into the Republic of Montenegro presents evidence that the shipment was imported under the decision issued by the Ministry of Serbia and evidences that visual examination of the shipment was done or that all necessary laboratory tests were performed. The same shall apply in the case when an importer from Montenegro wants to sell his products imported based on the decision issued by the Ministry of Montenegro at the market of the Republic of Serbia. In referred cases laboratory findings by authorized laboratories of member states shall be recognized, i.e. visual examinations by competent phytosanitary inspectors."

There is no formal requirement for domestic shipments to have the equivalent of "import approvals" due to the different nature of internal trade, but substantially the same level of control is applied to both domestic and foreign goods. Thus there is no discrimination between imported and domestic products subject to SPS control.

Please note that under new Plant Protection Law this import approval for plants is abolished.

Question 27

The response to Question 71 of WT/ACC/CGR/7 also states that imported goods subject to SPS controls are required to obtain authorization from the Ministry of Agriculture to ensure that

imports do not come from areas which have plant or animal diseases, authorization which is not required of domestic goods. Does this requirement apply to any and all plant or animal diseases or just certain diseases?

Answer:

Please see the answer to Question 25, above.

Question 28

Why does this authorization not apply to domestic goods?

Answer:

Please see the answer to Question 25, above.

Question 29

Please explain the scientific basis of this additional authorization above and beyond standard SPS inspections and its compliance with the provision of the SPS Agreement.

Answer:

These authorizations are abolished with new Law on Plant Protection and this issue will be further clarified in its implementing regulations and in the new Food Safety Law, which is now in preparation. The Plant Protection Law is available through document WT/ACC/CGR/11.

The Veterinary Law is also currently under review, and more detailed information will be submitted as soon as the new draft amendments to the Law becomes available.

Question 30

We thank Montenegro for the table provided in response to Question 73 of WT/ACC/CGR/7, setting out the laws related to Montenegro's WTO Accession. Is this the complete Legislative Action Plan for all accession-related legislation? We note that the table does not include a reference to the law on trade secrets, referred to in the response to Question 134 of WT/ACC/CGR/7, the new Law on Geographical Indications, nor the revised Decision on the Control List classifying goods subject to export or import licenses, referred to in the response to Question 123 of WT/ACC/CGR/7. In addition, the table does not contain any dates for the amendments to the Customs Law or to the Veterinary Law. Please provide an updated Legislative Action Plan before the next Working Party meeting.

Answer:

The updated Legislative Action Plan is available through document WT/ACC/CGR/12.

4. Any legislative programmes or plans to change the regulatory regime

Question 31

We are interested in clarifying the authority for the enforcement of WTO related laws between the Republic of Montenegro and the State Union of Serbia and Montenegro. We note that the

Union has responsibility for foreign trade and WTO-relevant matters in certain areas, but our understanding is limited.

Answer:

Although some of the laws governing WTO provisions have been passed at the State Union level, Montenegro, rather than the State Union, will accept the WTO obligations. Montenegro will ratify the WTO agreements; no State Union ratification is required. The State Union has responsibility for enactment of substantial laws in area of TBT and IPR, but enforcement of these laws is under member states auspices. State Union passed all substantial laws from areas of TBT and IPR, with exception of the Law on Geographical Indications that is expected to be passed in the near future. By the date of accession, all relevant State Union laws will be WTO-compliant, and directly effective on Montenegro.

In addition, Montenegro will hold a referendum on full independence on 21 May 2006. The Government expects that the referendum will be successful, in which case the State Union will cease to exist, and relevant State Union legislation will become Montenegrin legislation.

Question 32

We note in its response to Question 68 Montenegro indicates that sub-central governments do have rights to impose taxes on consumption of alcoholic and non-alcoholic beverages, as on items such as property and construction land. This suggests that these entities do have competencies that relate to WTO commitments (for example, national treatment in relation to internal taxation). We would therefore appreciate further detail on how the "responsible Ministry of the Government" would seek to correct any inconsistencies relating to WTO rules at sub-central level.

Answer:

The Ministry of Finance is responsible for collection of all taxes through organizational units of the Tax Administration and for correct implementation of all tax laws. The municipality has right to impose few types of taxes (real estate tax, sur-tax on income of natural persons, tax on non-built construction land, tax on firm name, etc.). But even in situations where taxes are applied by the municipality, the Ministry of Finance has full supervisory authority and acts as the second instance authority in general administrative procedure.

IV. POLICIES AFFECTING TRADE IN GOODS

1. Import Regulation

(a) Registration requirements for engaging in importing

Question 33

Montenegro states in its response in Question 77 of WT/ACC/CGR/7 that natural persons are authorized to import goods only for their personal use unless they register as entrepreneurs. Can Montenegro please describe the steps that a natural person needs to follow to register as an entrepreneur? For example, does an entrepreneur register with the Commercial Court or with another agency?

Answer:

An individual entrepreneur must register with the Central Registry of the Commercial Court by submitting a registration statement in accordance with the Law on Business Entities, for statistical purposes. The entrepreneur shall receive a registration certificate. Such certificate is not a business licence and shall have no legal effect.

Documents submitted to the Central Registry that have not been rejected within four business days shall be deemed to be validly registered whether or not a certificate has been issued.

The Central Registry charges 10 Euros fee for registration of entrepreneurs.

Question 34

In response to Question 84 of WT/ACC/CGR/7, Montenegro has explained that a business entity must specify the proposed activities of the company when registering with the Commercial Court Register, but that a mere specification in its articles that it will engage in foreign trade will authorize it to trade in all goods. Can Montenegro please confirm that this statement is correct?

Answer:

We confirm that this statement is correct.

Question 35

Regarding licence renewal fees, described in response to Question 88 of WT/ACC/CGR/7, why is the fee for renewal of an expired registration so significantly higher than the fee for renewal of an unexpired registration? Article VIII of the GATT requires that fees reflect the approximate cost of the service rendered. Please describe the difference in services that warrant a 100 per cent increase in fee for an expired registration.

Answer:

The rationale for this difference is to motivate business people to renew their registrations on time.

Question 36

Please explain the rationale for prohibiting foreign entities or persons from importing pharmaceutical products into Montenegro, as described in response to Question 93 of WT/ACC/CGR/7. This prohibition restricts the right to trade imported pharmaceutical products in a manner less favourable than domestic goods. The right to trade is not the same as the right to distribute and should not be limited in this fashion.

Answer:

Foreign pharmaceutical manufacturers may export to but are not permitted to import into Montenegro. However, they can make arrangements with an existing company registered in Montenegro, or establish their own Montenegrin subsidiary for trading and importing pharmaceuticals. There is no requirement to have a licence for domestic production in order to engage in trade and importing. In fact, every entity, domestic or foreign, has to be registered in the Commercial Court Register in order to engage in foreign trade. By registering, a foreign company acquires the status of a domestic entity and has the same rights and obligations as a domestic company.

Question 37

In response to Question 95 of WT/ACC/CGR/7, Montenegro clarified that only a legal entity registered in the commercial court may import pesticides. What is the rationale for this restriction?

Answer:

In order to engage in business in Montenegro, including foreign trade, it is necessary to be registered in the Commercial Court Register either as a legal entity or as an entrepreneur. For certain types of business, specific laws require particular a form of organization. In this case, the Law on Plant Protection provides that pesticides may not be imported by natural persons. A new draft Law on Pesticides will have the same requirement. The rationale for this provision is that pesticides are highly poisonous substances which may be used for purposes other than agriculture; therefore their circulation has to be under control. By prescribing that natural persons may not import pesticides, Parliament intended to ensure that only legal entities or entrepreneurs who fulfil conditions for circulation of pesticides and who employ qualified personnel for handling of pesticides as poisonous substances may import them.

Question 38

We note that no restrictions exist on the trading rights of foreign economic operators.

Answer:

We confirm that there are no restrictions on the trading rights of foreign economic operators as we provided in answer on Question 98.

(b) Characteristics of National Tariff

Question 39

Regarding the response to Question 99 of WT/ACC/CGR/7, could Montenegro please provide an update on whether the new customs tariff law had been placed on the legislative agenda and is still likely to be approved by the end of September 2005? If not, could Montenegro provide an updated timetable for passage?

Answer:

The new Law on Customs Tariff, based on HS 2002, was enacted on 7 December 2005. The Law is available through document WT/ACC/CGR/11.

Question 40

Please provide a copy in English of the Law on Customs Tariffs.

Answer:

The new Law on Customs Tariff, based on HS 2002, was enacted on 7 December 2005. The Law is available through document WT/ACC/CGR/11.

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

Question 41

Regarding the import of products into the frontier strip, described in response to Question 110 of WT/ACC/CGR/7, please describe the steps taken by Montenegrin customs to prevent such products from being entered into the general stream of commerce.

Answer:

Montenegro prevents general circulation of such goods with supervision at the border. There are no specific measures applied uniquely to these goods: they are under customs supervision and control in the same manner as other goods crossing the border.

Question 42

We note that Montenegro does not apply any tariff rate quotas, except for those provided under FTAs (WT/ACC/CGR/3 page 42). We seek some clarification: Is it correct to say that Montenegro only applies these TRQs on sensitive agricultural products, as agreed with its FTA partners? If not, what other products attract TRQs?

Answer:

Montenegro applies TRQs only on sensitive agricultural products agreed in FTAs.

Question 43

Were the TRQs already in existence prior to Montenegro entering the FTA?

Answer:

No.

Question 44

Will Montenegro agree to bind tariffs on accession to the WTO for all its products and not resort to TRQs?

Answer:

Montenegro will bind tariffs for all of its products. TRQs, if any, will be limited to FTAs involving tariffs below those applied on an MFN basis.

Question 45

According to Article 184 of Montenegro's Customs Law, certain goods are exempt from import duties, including those specified by international agreement (WT/ACC/CGR/3 page 43): Can Montenegro be more specific as to what goods and agreements are exempt from import duties on a bilateral (non-MFN) basis?

Answer:

Such exemptions are provided only under FTAs (Article 184 of the Customs Law). Montenegro has provided a list of all goods subject to FTAs in Annex 9 to its Memorandum on the Foreign Trade Regime.

Question 46

On page 43, of WT/ACC/CGR/3, Montenegro notes that some agricultural products are exempt from import duties where they are "situated in the frontier strip, possess in the frontier strip of the neighbouring country". We seek clarification of this statement, and confirmation that this means such goods coming from a neighbouring country will enter Montenegro duty free?

Answer:

We confirm that, based on Article 184, paragraph 1, Item 9, Montenegrins situated in "the frontier strip" may enter duty free products of crop cultivation, livestock breeding, forestry, fish breeding, and apiculture obtained from private holdings situated in the frontier strip of the neighbouring country, as well as offspring and other products obtained from livestock bred at these holdings for the reason of field works, grazing or wintering.

The purpose is facilitation of movement of people and goods in the border region of neighbouring countries. Goods falling under this provision are intended only for personal use and not for placing in commercial channels. Montenegro prevents general circulation of goods with customs supervision at the border.

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

Question 47

Regarding the special charges imposed under the Decree on Special Charge on Importation of Agricultural and Food Products discussed in the response to Question 119 in WT/ACC/CGR/7, please provide the Working Party with a list of special charges on imports of agricultural goods and their *ad valorem* equivalents. Does Montenegro plan to distinguish such additional charges from MFN applied duties in the tariff schedule as other duties and charges or to add these to MFN applied rates?

Answer:

The new Law on Customs Tariff replaced "special charges" with specific duties that are imposed in addition to *ad valorem* duties. Under the new law, 319 products have both *ad valorem* and specific duties.

Question 48

Regarding the response to Question 120 of WT/ACC/CGR/7, will Montenegro please provide to the Working Party a translation of the Decision on the Amount for Fee for Veterinary-sanitary examination of animals, products, raw materials and waste of animal origin in production and circulation (RM OG No. 51/03, 56.03)?

Answer:

The requested Decision is available through document WT/ACC/CGR/11.

Question 49

Please provide more details of changes to the *ad valorem* customs procedures fee and fees for veterinary-sanitary control that have been initiated.

We take note of the commitment of the authorities of Montenegro to make all *ad valorem* fees fully compliant with GATT Article VIII prior to the date of accession. What is Montenegro's timetable to achieve this?

Answer:

Amendments to the Customs Law that will provide full WTO compliance have been drafted. The draft will Article 291 to provide that fees for customs service will reflect the cost of the services. The amendments are currently in inter-ministerial procedure, and enactment is planned by the end of June 2006.

The Decision on Fees for Veterinary-Sanitary Control (RM OG No. 50/05) has been amended to provide that fees for veterinary control reflect the cost of service rendered. The amended Decision is available through document WT/ACC/CGR/11.

(e) Import prohibitions

Question 50

Montenegro has declared that under Article 14 of its Foreign Trade Law (WT/ACC/CGR/3 page 45) certain goods are banned from import into Montenegro: Are import bans applied to goods apart from those listed under Article 7 of the Law on Health of Foodstuffs and Items of General Use 1991 (WT/ACC/CGR/3/Add. 1 page 221) and, if so, can Montenegro please provide a comprehensive list of banned imports?

Answer:

Article 14 of the Foreign Trade Law merely provides authority to ban imports under relevant provisions of the GATT.

Article 7 of the Law on Health of Foodstuffs and Items of General Use does not list goods that are subject to import ban. The table that follows Article 7 page 221 in Addendum 1 provides excerpts from various legislation related to SPS measures. That table is based on the old Law on Plant Protection, which is now replaced by a new Plant Protection Law.

The text of the new Law on Plant Protection is available through document WT/ACC/CGR/11.

Question 51

Can Montenegro please describe the scientific criteria and processes it uses to determine that animal and plant imports should be prohibited for sanitary and phytosanitary reasons? (WT/ACC/CGR/3 page 45).

Answer:

This issue will be clarified in the new Plant Protection and Food Safety Law, and their implementing regulations, which are now in preparation. The Plant Protection Law is available through document WT/ACC/CGR/11.

The Veterinary Law is also currently under review, therefore more detailed information will be submitted as soon as the draft Law on Amendments and Changes of the Veterinary Law becomes available.

Question 52

Can Montenegro indicate whether prohibition of these imports is the least-trade restrictive means by which it could its SPS or TBT objectives?

Answer:

Montenegro will apply all sanitary and phytosanitary measures in the least restrictive manner and in full compliance with the SPS Agreement and other relevant WTO rules.

(f) Import licensing procedures

Question 53

We are struck by the extensive list of products in Annex 11 of WT/ACC/CGR/3 that are subject to import licensing in Montenegro - over 30 pages. According to the response to Question 123 WT/ACC/CGR/7, Montenegro is revising its list of products subject to import and export licensing. We look forward to reviewing the new list of products subject to import licensing requirements, and hope that the revised list will be significantly shorter. When that list is provided to the Working Party, please provide a single chart, listing the tariff line for each product subject to an import licensing requirement, a short description of the product, the Ministry(ies) responsible for issuing the licence and a justification for requiring a licence.

Answer:

The revised Decision on Control list is available through document WT/ACC/CGR/11.

Question 54

In the response to Question 123 of WT/ACC/CGR/7, Montenegro explains that it is revising the Decision on the Control List classifying goods subject to licensing. However, Montenegro submitted the Decision on the Control List classifying goods subject to licensing (RM OG No. 44/04) as part of the legislation provided in WT/ACC/CGR/9. Is that document the old Decision or the revised version? We note that the Decision submitted as part of WT/ACC/CGR/9 did not contain Exhibit 1, the critical list of products subject to import licensing. If the Decision on the Control List submitted in document WT/ACC/CGR/9 is the revised version, please provide the Working Party with Exhibit 1, as well as the chart described above. If the Decision on the Control List is outdated version, please inform the Working Party on the status of the revised Decision.

Answer:

The complete text and all annexes (exhibits) of the new Decision on Control List, with WTO justifications for each item, are available through document WT/ACC/CGR/11. What was provided before was the old Decision on Control List.

Question 55

Regarding the responses to Questions 124 and 124 of WT/ACC/CGR/7, what is Montenegro's expected timeframe for passage of the new draft Law on Customs Tariff.

Answer:

The new Law on Customs Tariff based on HS 2002, was enacted on 7 December 2005, and is available through document WT/ACC/CGR/11.

Question 56

Regarding the response to Question 128 of WT/ACC/CGR/7, please explain, in detail, the activity licence system. What does it take to get an activity license? Who is allowed to apply for the license? What fees are required?

Answer:

Tobacco: Manufacturing and wholesale and retail trade in tobacco products may be pursued only by a company or entrepreneur that is licensed and registered in accordance with the Law on Tobacco.

Public tenders for licenses for tobacco products manufacturing are implemented by the administrative authority for tobacco, taking into account the fiscal interest, situation on the market, and previously assumed commitments of the Republic of Montenegro related to the tobacco products manufacturing.

To be eligible to participate in such a tender a company or entrepreneur must:

- Be able to carry out all phases of production from the preparation of tobacco to manufacturing of cigarettes and other tobacco products and their packaging;
- Have facilities to manufacture a minimum annual output of 1,500,000,000 cigarettes;
- Have facilities to manufacture other tobacco products (cigars, cigarillos, cut tobacco, pipe tobacco, chewing tobacco, and snuff tobacco);
- Have a suitable laboratory for tobacco products analysis and quality control;
- Have suitable premises complying with the prescribed requirements for production or circulation of the articles of general use;
- Employ suitable skilled work force in manufacture and quality assessment; and
- Commit to produce or buy domestic processed tobacco sufficient for at least 40 per cent of their annual production of cigarettes and other tobacco products, and not less than 700 tons a year; and
- Offer a realistic estimate of annual output of cigarettes and other tobacco products according to the suitable quality and quantity and in accordance with the situation on the market.

Compliance with the requirements set above is determined by the administrative authority for tobacco, which, upon the advice of the Ministry in charge for agriculture and the Ministry in charge of health, decides on granting the licence to a company or entrepreneur.

The licence of a company or entrepreneur ceasing to comply with these requirements may be revoked.

An application for a licence for wholesale trade in tobacco products must include evidence that the applicant:

- Has available orderly storage of at least 30 tons of cigarettes and other tobacco products;

- Has appropriate means of transport, which must be visibly marked, so that from its warehouses it may regularly supply retailers; and
- Has entered into a preliminary agreement on supply of tobacco products with a registered manufacturer or importer of tobacco products.

A licence for wholesale trade in tobacco products requires a fee of €150,000 which is revenue to the budget of Montenegro and may be paid in five equal annual instalments.

A registered importer who meets the requirements may be granted a licence for wholesale trade.

If such importer engages solely in importation of other tobacco products (cigarillos, cut tobacco, pipe tobacco, chewing tobacco, and snuff tobacco), the fee for obtaining the licence is payable in the amount of €30,000 which can also be paid in five equal annual instalments.

The company and/or entrepreneur that are granted licence to engage in tobacco product wholesale are entered in the Register of Tobacco Product Wholesalers.

The administrative authority for tobacco decides on revoking the licence from the tobacco product wholesaler which does not fulfil any longer the requirements described above, or from the one which, pursuant to its own decision, ceases to pursue wholesale trade in tobacco products, or fails to pay the subsequent instalment of the licence fee.

The licence may be also revoked from the tobacco product wholesaler if it is punished for offence in wholesale trading in tobacco products and/or if the person authorized to represent the company and/or entrepreneur has been punished for criminal offence of unauthorized trade in cigarettes and other tobacco products.

The tobacco product wholesaler sells tobacco products exclusively through a tobacco product retailer who has been granted licence under the Law on Tobacco.

The wholesaler in cigarettes and tobacco products, and/or the importer determine retail prices and notify the administrative authority.

A company and/or entrepreneur applying for a licence for retail trade in tobacco products must show:

- That it has entered into preliminary agreement on the supply of tobacco products with tobacco product wholesalers;
- That it has the facilities which satisfy sanitary, health and other conditions in accordance with the law on sanitary control; and
- That it has no outstanding obligations in respect of public revenues.

A licence for retail trade in tobacco products shall not be granted to an applicant who, within a three-year period preceding the application, was found guilty of unauthorized trade in cigarettes and other tobacco products.

The administrative authority must decide on a licence application within 30 days.

A fee of €100 per sales outlet needs to be paid in order to obtain a retail licence valid for two years.

Energy: The Law on Energy prescribes that the Energy Regulatory Agency issues licenses for activities related to energy sector facilities, networks and equipment for the generation, transmission, distribution, supply and sale of energy. Any foreign or domestic entity may apply to the Agency for a licence.

The Agency issues licenses based upon the following criteria:

- (i) Harmonization of facilities, energy network, installations and equipment with the conditions and standards;
- (ii) Protection of public health and safety;
- (iii) Protection of the environment;
- (iv) Land use and siting;
- (v) Use of public property;
- (vi) Energy efficiency and conservation of electricity;
- (vii) The nature of primary energy sources, and
- (viii) The technical, economic and financial capabilities of the applicant.

Medicines and Medical Devices: Licenses and approvals for import of medicines and medical devices are issued by the Ministry of Health in accordance with the Law on Medicines (RM OG No. 80/04). Legal persons licensed by the Agency for Medicines may engage in wholesale trade in medicines, including import and export. Trade is limited to medicines that have a trade authorization, unless the Agency for Medicines approves and determines the volume of supply, import or export of a medicine without a trade authorization.

In order to be licensed for wholesale trade in medicines, a legal person must meet certain requirements established by the Agency for Medicines with respect to facilities, trained personnel, and record-keeping. The Agency may take up to ninety (90) days to act on a licence application. Licenses are issued for an unlimited period of time, but may be revoked for cause.

Question 57

Table II.1, provided in response to Question II.1 of the import licensing questionnaire (WT/ACC/CGR/7, Annex 2), does not respond fully to the question.

Please provide the number of items subject to licensing requirements by each government agency. We do not understand how this information could be "Not available".

Answer:

The revised Decision on Control List is available through document WT/ACC/CGR/11. All items subject to licence are provided there with precise information on responsibilities for issuing particular licenses.

Question 58

Reference to previous submissions for "Detailed Information" is not an appropriate answer. Please provide the requested information.

Answer:

Please see the answer above.

Question 59

We do not understand the reference to the "List of precursors according to the Vienna Convention". Please clarify.

Answer:

Precursors are substances used for production of narcotics. As such, they are defined and listed by their tariff numbers in the Annex to the Vienna Convention on Psychotropic Substances. Their circulation is under control of all signatories to the Convention. In practice, that means they are under the licensing regime. The list of precursors is included in the revised Decision on Control List which is available through document WT/ACC/CGR/11.

Question 60

The general description of arms, military technology and certain dual products is of little use without the corresponding tariff numbers. Please resubmit this table with responsive answers.

Answer:

The list of arms, military technology and certain dual products subject to import licenses under the Union Law on Foreign Trade in Arms, Military Equipment and Dual Use Goods in Laws and other legal acts are available through document WT/ACC/CGR/11.

Question 61

Could Montenegro please submit to the Working Party a copy of The Union Law on Foreign Trade in Arms, Military Equipment and Dual Use Goods.

Answer:

The requested Law is available through document WT/ACC/CGR/11.

Question 62

Regarding the response to Question II.2 of the import licensing questionnaire (WT/ACC/CGR/7, Annex 2), if licenses are required for the reasons stated in response to Question II.3 of the import licensing questionnaire (i.e. to protect human, animal or plant life or health), please explain why licenses are not required from countries that have bilateral free trade agreements with Serbia and Montenegro. How was it determined that products from these countries no longer pose these risks?

Answer:

We apologize for incorrect information provided in the response to Question II.2 of the import licensing questionnaire (WT/ACC/CGR/7, Annex 2). The correct answer is that licensing requirements are the same for products coming from all countries, including countries that have bilateral free trade agreements with Serbia and Montenegro.

Question 63

In response to Question III.2(a) of the import licensing questionnaire (WT/ACC/CGR/7, Annex 2), Montenegro explains that "In general,... licenses and approvals are issued in a period not exceeding 30 days..."

Please describe what circumstances might require longer than a 30 days approval period.

Answer:

Article 23 of the Law on Foreign Trade prescribes very precise timeline for issuance of licenses for import, export and transit:

Article 23
Time Limits to Decide on Licence Applications

- (1) The period for processing applications for Import, Transit, or Export licenses shall not exceed 15 days as of the day of application if applications are considered as and when received, i.e. on a first-come first-served basis.
- (2) Such period shall not exceed 30 days if all applications are considered simultaneously, where such period shall begin to run on the day following the closing date of the announced application period.

Under the Law on Foreign Trade, there are no circumstances under which the maximum period of 30 days for issuance of a licence to be exceeded.

Question 64

Please describe the legal and practical differences between import licensing and import approvals.

Answer:

A "license" in Montenegrin usage is a non-automatic licence in WTO terms, while an "approval" is an automatic licence.

Question 65

According to table III.3 in Question Part VII.1 of the import licensing questionnaire, (WT/ACC/CGR/7, Annex 2), import licenses from the Ministry of International Relations and European Integration are valid for three months, licenses from the Ministry of Health are valid for one to four months, and approvals from the Ministry of Agriculture, Forestry and Water Management are valid for two months.

- **Are these duration periods correct?**
- **If so, why are the licenses issued for such a short period of time?**
- **If a company wants to import a product that requires a licence for an entire calendar year, does this mean they need to apply repeatedly for a licence in a single year?**
- **Has Montenegro considered extending the validity of a licence to at least a year?**

In light of the fact that it takes most ministries 30 days to issue licence, this short validity period seems particularly burdensome and a substantial constraint on trade. We strongly encourage Montenegro, at the very least, to consider extending the validity period on all licenses to one year.

Answer:

The Ministry of International Economic Relations and European Integration has begun discussions with all relevant state authorities in order to harmonize the procedures for issuing licenses and bring them into conformance with the Law on Foreign Trade. Under Article 27 of the Foreign Trade Law,

licenses are valid for the period specified in the licence up to a maximum period of one year. The number of shipments during period of validity of licence is not limited.

Question 66

In response to Question VII.2 of the import licensing questionnaire (WT/ACC/CGR/7, Annex 2) Montenegro confirms that there is no penalty for non-utilization of licenses. Montenegro further states that "The same applies for other measures." Please explain what "other measures" are referred to here.

Answer:

The meaning of the statement was that under the Montenegrin legal system, there is no penalty for non-utilization of any sort of licence, approval, individual act etc.

Question 67

Apart from Tobacco, Energy and Medicines, are there any other activities that are under an activity licensing system in Montenegro?

Answer:

No.

(g) **Other border measures**

Question 68

We are reviewing Montenegro's new TBT and SPS laws, as well as all relevant laws on genetically modified organisms, and updates to the reform of Montenegro's system of technical regulations, standards, and related inspections and certifications, and will provide comments. We encourage Montenegro to develop laws and procedures that are consistent with the WTO TBT and SPS Agreements.

Regarding the response to Question 129 of WT/ACC/CGR/7, we are concerned about the consistency of Article 20 of the Foreign Trade Law and Law on Genetically Modified Organisms with the WTO SPS Agreement. Please explain how Montenegro determines that pesticides, chemicals, and genetically modified organisms are considered potentially dangerous for human, animal, or plant health and if such determination is developed from a science-based risk assessment. In general, we would note that any measure that is based on GATT Articles XX and XXI should also be compliant with the WTO SPS and TBT Agreements.

Answer:

Pesticides are highly poisonous substances that may be used for purposes other than agriculture, and therefore their import is under a licensing regime to ensure that only legal persons fulfilling conditions regarding facilities, equipment and personnel will import them for agriculture purposes. Fertilizers are also dangerous since most may be used for purposes other than for agriculture. For example, ammonium nitrate is both a fertilizer and a natural explosive, and as such is dangerous for human health (in accordance with the UN Security Council Resolution No. 1540).

Regarding GMOs, Montenegro applies the Law on Genetically Modified Organisms (FRY OG No. 21/00) and its by-laws. The Law regulates the manner of marking agriculture and food products

originating from GMOs. The Law also regulates conditions for limited usage, production and placing into circulation of GMOs and their products, as well as conditions and measures for prevention and removal of their negative effects. That means risk assessment for human health, animal and plant health of introduction of GMOs into environment.

Montenegro is planning to change the Law on Genetically Modified Organisms. The draft Law on Amendments and Modifications of the Law on Genetically Modified Organisms will be submitted as soon as it becomes available.

Question 69

Regarding the response to Question 130 of WT/ACC/CGR/7, please explain the rationale for requiring an import permit for genetically modified organisms (GMOs). Please confirm that the Ministry of Agriculture, Forestry, and Water Supply is the competent authority that regulates GMOs. The Law on GMOs requires the import permit for GMOs, and CITES guides the permits for flora and fauna. Does CITES specifically require import permits for biotechnology products? If not, what domestic law requires permits for biotechnology products.

Answer:

We confirm that the Ministry for Agriculture, Forestry and Water Supply of the Republic of Montenegro is the competent authority for GMOs, applying the Law on Genetically Modified Organisms (FRY OG No. 21/00) and its by-laws. Montenegro is planning to amend the Law on Genetically Modified Organisms in order to provide full WTO compliance. We will provide the text of the draft Law on Changes and Amendments of the Law on Genetically Modified Organisms as soon as it becomes available.

The CITES Convention requires import, export and transit permits only for particular plant and animal species. The list of all animal and plant species subject to CITES Convention is included in the Decision on Control list which is available through document WT/ACC/CGR/11.

The new Law on Plant Protection in Chapter 6 governs circulation and usage of biotechnology products that are used for plant protection purposes. Biotechnology products may be imported subject to an import licence issued by the Ministry of Agriculture with prior consent of the Ministry for Environment Protection. For details on this, please find the Law on Plant Protection which is available in document WT/ACC/CGR/11. Please refer to document Legislation. More detailed provisions will be prescribed in by-laws.

Question 70

Please provide an update on progress in reforming your systems to be fully compliant with TBT and SPS.

Answer:

TBT: New WTO compliant TBT laws were passed by the State Union in 2005. These are: the Standardization Law (SM OG No. 44/05), the Accreditation Law (SM OG No. 44/05), the Law on Technical Requirements for Products and Conformity Assessment of Products with Prescribed Requirements (SM OG No. 44/05) and the Law on Metrology (SM OG No. 44/05). Montenegro is currently working on a draft law for enforcement of this legislation, which is expected to be passed soon.

SPS measures: Montenegro passed the Plant Health Protection Law, the Law on Seeds and the Law on Seedlings on 18 April 2006. The Law on Plant Health Protection is available through document WT/ACC/CGR/11.

Montenegro is currently drafting a Fertilizers Law and a Pesticides Law, with enactment planned by September 2006. We will submit both laws as soon as they become available.

The draft Law on Plant Varieties has been finalized and sent to UPOV for review. As soon as UPOV returns the comments, Montenegro will commence the enactment procedure. We will submit the text of the Law as soon as it is passed.

The draft Law on Food Safety is in process of initial drafting and its passage is planned for end of 2006. We will submit the Law as soon as it becomes available.

The Veterinary Law was passed in 2004, but since there are some WTO inconsistencies, Montenegro has drafted amends that will ensure full WTO compliance. We will submit the amended Law as soon as it becomes available.

(h) Customs valuation

Question 71

In response to Question 4 of Annex 3 of WT/ACC/CGR/7, Montenegro states that Article 36 of the Customs Law provides: "No person permanently established or residing in the territory of the Republic [of Montenegro] shall be requested to enable inspection or allow access to any of his accounts or other records for the purpose of determining computed value." Under Article 6.2 of the WTO Valuation Agreement, this prohibition is applied to non-residents of the territory of importation. Please confirm that this provision applies to non-residents.

Answer:

Apparently there is an error in translation. Under Article 36, paragraph 2 of the Customs Law, in the original language of the Law, "it is prohibited to request the person who does not have corporate domicile or the residence in the territory of the Republic to allow inspection or allow access to any of his accounts or any other records for the purpose of determining computed value. " This provision is applicable to non-residents only and is compliant with Article 6.2 of the WTO Valuation Agreement. Montenegro apologizes for the error.

Question 72

In response to Question 9 of Annex 3 (WT/ACC/CGR/7), Montenegro states that under Paragraph 3 of Article 8 of the Customs Law an importer may appeal a decision of the customs authority. Does this provision encompass the right to appeal without penalty to an independent judicial authority - not merely the right to an appeal process within the customs authority - as required by Paragraph 2 or Article 11 of the WTO Valuation Agreement?

Answer:

Under the Law on Administrative Disputes (RM Official Gazette No. 60/03), any final administrative decision can be appealed to the Administrative Court or the Supreme Court of Montenegro, as the case may be. Any person who believes that his/hers right are violated by a final administrative decision, including the final decision of the customs authority, has the right to appeal to the competent Court. There is no penalty for such an appeal.

Question 73

When does the Government intend to amend the Decree on Implementation of the Customs Law to include the remaining Interpretive Notes that are not in either the Law on Customs or the Decree? Please provide a copy of the legislation and interpretative notes in English.

Answer:

Amendments of the Customs Law and Decree for its Implementation that will provide full WTO compliance, including all Interpretive Notes, have been prepared. Montenegro expects to enact these amendments by September 2006. We will submit texts of both documents as soon as they are passed.

(l) Rules of origin

Question 74

In response to Question 147 of WT/ACC/CGR/7, Montenegro states that administrative determinations concerning origin are "valid for two years following the date of issuance." The provisions of Article 2(h) and Para 3(d) of Annex II of the WTO Agreement on Rules of Origin stipulate that such determinations "shall remain valid for three years provided that the facts and conditions, including the rules of origin, under which they have been made remain comparable." How will Montenegro ensure that its administrative determinations on origin will comply with the WTO requirement that they be valid for three years?

Answer:

The Decree on Implementation of the Customs Law prescribes that binding information ceases to be valid two years after its issuance. We will change this provision prior to WTO accession in a manner that that will be fully compliant with the WTO Agreement on Rules of Origin which prescribes that this information is valid for three years.

2. Export Regulation

(c) Export quotas

Question 75

We note that Montenegro provides for (but does not appear to currently apply) quantitative export restrictions under certain circumstances (WT/ACC/CGR/3 page 58). Can Montenegro list the products on which it has imposed such restrictions, the WTO justification for such measures, and provide more details on criteria used to allocate quotas?

Answer:

The Law on Foreign Trade in Articles 15-19 prescribes that quantitative export restrictions may be imposed only under strictly WTO-compatible conditions. Currently, no goods are under quantitative export restrictions, and none are contemplated.

Article 15
Requirements

The Government may impose quantitative restrictions on exports:

- 1) In case of critical shortages of products essential to the Republic, or for the relief of consequences of such shortages; or
- 2) In order to protect exhaustible natural resources, if export restrictions are applied simultaneously with restrictions on domestic production or consumption.

3. Internal policies affecting foreign trade in goods

(a) Industrial policy, including subsidy policies

Question 76

We note that Montenegro has stated it provides few subsidies to industry in order to assist enterprises to restructure and privatise. Can Montenegro list the sectors/industries to which tax incentives are provided?

Answer:

Detailed information on industrial subsidies is provided in the Subsidies Notifications for 2004 and 2005, which is provided in document WT/ACC/CGR/15.

Question 77

Please update the Working Party on subsidies in Montenegro in line with the WTO Agreement on Subsidies and Countervailing Measures (ASCM).

Answer:

Detailed information on industrial subsidies is provided in the Subsidies Notifications for 2004 and 2005, document WT/ACC/CGR/15.

(b) Technical regulations and standards

Question 78

Regarding the response to Question 169 of WT/ACC/CGR/7, Annex 4 is quite an extensive list of products subject to quality control. Please add a column to the right of each tariff line that explains what type of import quality control measure is taken. Are these same quality control measures also applied to domestic products? At what point in the stream of commerce are the quality control measure applied to domestic products?

Answer:

Montenegro has abolished the Law on Quality Control for Imported Agriculture and Food Products and its by-laws, and therefore the above mentioned list of products subject to quality control is no longer valid. With these changes, quality control is equal for domestic and imported products, and is applied at the retail level without any discrimination.

Question 79

Please update the Working Party on new laws being drafted at the Union level on standardization, technical regulations, conformity assessment and metrology.

Answer:

New WTO compliant TBT laws were passed by the State Union level in 2005. These are: the Standardization Law (SM OG No. 44/05), the Accreditation Law (SM OG No. 44/05), the Law on Technical Requirements for Products and Conformity Assessment of Products with Prescribed Requirements (SM OG No. 44/05) and the Law on Metrology (SM OG No. 44/05).

Montenegro is currently working on a draft law for enforcement of this legislation in Montenegro.

(c) **Sanitary and phytosanitary measures**

Question 80

We continue to have questions regarding Montenegro's plans to implement the SPS Agreement upon accession, and whether current laws and regulations are science-based and in compliance with the SPS Agreement. We recognize that Montenegro may not be prepared to answer many of the questions that have been raised because they are in the process of providing an SPS check-list, as well as changes to SPS relevant laws and regulations to answer many of the questions that we raised. We will reserve additional questions and comments for any new legislation.

Regarding the response to Question 173 of WT/ACC/CGR/7, what three tests are performed on poultry meat? Are multiple tests done on all products? Please explain, in detail, the testing process, including all requirements, the number of days to receive results, fees involved, etc. Does Montenegro have plans to consolidate this process to make it less trade restrictive?

Answer:

We believe that our answer has been misunderstood. There are no multiple tests for any goods (animal and plant origin) that are under the control of the Ministry for Agriculture, Forestry and Water Supply. In our answer to Question 173 from WT/ACC/CGR/7, we said that there are three laboratories in Montenegro, each of them performing separate type of testing. What we wanted to say is that there is no single laboratory in Montenegro that is equipped technically and capable of all controls of poultry meat and other goods of animal origin.

The veterinary inspector, after receiving laboratory findings he requested, decides about further procedure with the shipment.

Import, export and transit of shipments of animal origin is performed only at border crossings with organized border veterinary inspection. The veterinary inspector applies at the border following procedures:

- Identification of the shipment
- Inspection of veterinary and other documentation following shipment
- Inspection of transport means; and
- Visual inspection of the shipment (appearance, labelling, declaration...)

Each shipment of animals and animal products that is imported in Montenegro has to have a veterinary certificate on health status of the shipment issued by the exporting country and a decision confirming that there are no veterinary-sanitary obstacles for import of shipment, issued by the Veterinary Administration of Montenegro.

The importer is obliged, immediately after arrival of the shipment at the border, to submit a written request for inspection of the shipment. After the veterinary inspector receives the request, he checks whether the importer has above mentioned decision issued by the Veterinary Administration and the certificate issued by the exporting country, and subsequently begins the visual inspection of the shipment.

For imports of live animals, the veterinary inspector checks the above mentioned decision issued by the Veterinary Administration, the certificate issued by the exporting country and the decision on quarantine, inspects the animals and send the shipment to the place designed for quarantine where animals are clinically examined.

When inspecting a shipment of animal products, including poultry, the veterinary inspector checks the above mentioned decision issued by the Veterinary Administration and the certificate issued by the exporting country, and performs a visual inspection of the shipment.

When there is a need for further laboratory findings and there are no facilities at the border for sampling, the inspector may give instruction to the veterinary inspector in the place of warehousing to perform detail inspection and to take samples for analysis. During this procedure, the shipment remains under customs supervision.

After receiving the final results, the veterinary inspector approves the import and release of shipment or the bans import and requires that the shipment be returned or destroyed, at the option of the importer.

When the inspector decides that there are no reasons for additional laboratory analysis, he approves the import and its release in free circulation, and the customs finalizes the customs clearance procedures.

All procedures which the inspector undertakes at the border are performed without unjustified delay. The importer is informed about standard time required for finalization of each procedure and about all actions taken in accordance with principles of the Law on General Administrative Procedure (RM OG No. 60/03): principle of legality, principle of protection of citizens and public interest, efficiency, principle of accuracy, etc. The veterinary inspector applies other legal acts as well, such as the Veterinary Law (RM OG No. 11/04), the Law on Inspection Supervision (RM OG No. 39/03) and other legal acts.

Fees for laboratory services (laboratory analysis) are prescribed by laboratories, and reflect the cost of the service rendered.

The border veterinary inspector keeps the register of all performed analyses, based on which he submits monthly and annual report to the Chief veterinary inspector. Based on data from the Annual Report for 2005, only 10 per cent of all imported shipments were subject to laboratory analysis.

There are three laboratories involved in laboratory analysis of food products in Montenegro, all located in Podgorica:

Institute for public health of Montenegro performs inspections of all aspects of health of shipments of animal origin including presence of residues (antibiotics, hormones, heavy metals, pesticides, mycotoxines).

The Center for ecotoxicology research of Montenegro (CETI) inspects food products at the request of the importer or exporter, provides certificates for new products to be released for circulation, or for export; and performs toxicology analyses regarding pesticides, dioxins and furans, vitamins, mycotoxins, antibiotics, hormones, radioactivity, etc.

The Specialized veterinary laboratory performs laboratory analysis for presence of proteins in products of animal origin and at the moment is not capable of testing poultry.

Montenegro is currently reviewing the Veterinary Law in order to provide full WTO compliance. The text of the draft Law on Amendments and Changes of the Veterinary Law will be provided to WTO members as soon as it is available.

Question 81

Regarding the response to Question 178 of WT/ACC/CGR/7, do Montenegrin practices regarding inspection of the first shipment of all imported food products also apply to domestic products? We note that Annex C of the SPS Agreement provides that all control, inspection, and approval procedures should be completed without undue delay and in a no less favourable manner than for like domestic products.

Answer:

The first shipment of a new product or a product from a new producer into Montenegro is usually subject to full inspection and control in order to ensure that the shipment is safe for consumers in Montenegro. Future shipments of the same product from the same facility are not subject to control unless an inspector, based on risk analysis, requires laboratory analysis. Please note again that only 10 per cent of all imported shipments of animal origin were subject to laboratory control in 2005.

In Montenegro, the procedure for domestic products to be released in circulation for the first time is even more restrictive. The domestic producer, in order to get approval for production, must perform three subsequent inspections-meaning that 3 produced contingents of particular product must be laboratory inspected in order to be released into circulation.

For details please see the answer to Question 80, above.

Question 82

The response to Question 178 of WT/ACC/CGR/7 indicates that if a shipment is infected with harmful organisms above the allowable limits, appropriate measures will be taken. What are the allowable limits? Please describe what "appropriate measures" may be taken.

Answer:

If an SPS inspection shows that a shipment is infected with harmful organisms above established limits, or with some pathogen that may not be totally destroyed by disinfection or otherwise at the place of importation, or if the shipment is exposed to a large number of secondary diseases, the inspector will not allow importation. Instead, he will order for the shipment to be returned to sender or to be destroyed and at the same time he will order that measures preventing dissemination of disease be taken.

The Criteria for establishing of health condition of the crops and facilities, seeds, nursery plants and planting material are available through document WT/ACC/CGR/11.

For details regarding veterinary measures please consult provisions of Articles 31, 32, 35 and 38 of the Veterinary Law.

Question 83

The response to Question 178 of WT/ACC/CGR/7 also states that under Article 31 of the Veterinary Law, products must have an international certificate. It is unclear if Montenegro is referring to certificates from exporting countries that show conformity with international standards or another certificate. Please clarify and provide the Working Party with a translation of Veterinary Law (RM OG No. 11/04).

Answer:

The certificate required under Article 31 of the Veterinary Law and mentioned in the answer to Question 178 from WT/ACC/CGR/7 is the international exporting country certificate required for all products of animal origin.

Montenegro sent the Veterinary Law to the WTO for review in September 2005.

Question 84

Please provide an update on the status of the new Food Safety Law planned for enactment in 2006, and the draft Law on Health Protection of Plants.

Answer:

The Plant Protection Law was enacted on 18 April 2006 and is available through document WT/ACC/CGR/11. The Food Safety Law is planned for enactment by the end of 2006.

(e) **State-trading practices**

Question 85

Please list and provide information on any enterprise falling within the definition of Article XVII of the GATT 1994 and the Understanding on this Article. Such enterprises would include state-owned firms engaged in import and export activities, regardless of whether they have special privileges or a monopolistic status.

Answer:

Montenegro has no enterprises falling within the definition of Article XVII of the GATT 1994 and the Understanding on that article.

(g) **Free economic zones**

Question 86

Regarding Montenegro's free zone/warehouse/economic zone, discussed in response to Question 188 of WT/ACC/CGR/7, does Montenegro require that a minimum percentage of production be exported?

Answer:

No. The Law on Free Zones does not require that a minimum percentage of production has to be exported. Export performance is not a criterion for any of benefits granted to enterprises operating in a free zone or free warehouse.

Question 87

We continue to have questions whether the forgiveness of import duties on goods imported into Montenegro which contain more than 50 per cent Montenegrin origin goods, as described in response to Questions 188 and 190 in WT/ACC/CGR/7, is a prohibited domestic content requirement. We look forward to reviewing Montenegro's Law on Free Zones, and encourage Montenegro to ensure that it is fully compliant with the WTO.

Has Montenegro reviewed its Law on Free Zones in order to ensure that it is fully compatible with WTO rules?

Answer:

The Government of Montenegro is reconsidering review of the Law on Free Zones at the moment. More detailed information will be submitted as soon as it becomes available.

(l) Government procurement practices

Question 88

The reply to Question 193 of WT/ACC/CGR/7 states that "local competitive bidding" relates to "suppliers who have their seat or residency in Montenegro", but that "locally" is not related to nationality of supplier. What procedures must foreign suppliers undertake in order to have a seat or residency in Montenegro?

Please provide an update on the status and timetable for reviewing the Law on Government Procurement.

Answer:

Domestic and foreign suppliers can participate in international procurement tenders on an equal basis without obligation to register company in Montenegro. Foreign suppliers are obligated to register company as foreign company branch in Montenegro if they wish to participate in local tender procurement procedure. Any foreign company operating a branch within the Republic of Montenegro is required to comply with the relevant provisions of the Business Organization Law. For details on registration of foreign companies branch, please see answer on question under (d) Foreign and domestic investment policies that refers to WT/ACC/CGR/7, Question 28. The draft Law on Public Procurement was approved by the Government and its passage by the Parliament is expected by the end of June.

4. Policies affecting foreign trade in agricultural products

(a) Imports

Question 89

We are glad to see that Montenegro plans to eliminate the special charges on certain agricultural imports, and to convert the special fees into tariff equivalents. We look forward to reviewing Montenegro's draft Law on Customs Tariffs. Could Montenegro provide the Working Party with an update as to the parliamentary status of that law?

Answer:

The new Law on Customs Tariff, based on HS 2002, was enacted on 7 December 2005. The Law is available through document WT/ACC/CGR/11.

Question 90

We note Montenegro's response to questions on the "special charges" it applies on the importation of agricultural and food products. The description on page 72 of WT/ACC/CGR/3 indicates that the charges are applied periodically to insulate domestic prices from world prices and to afford protection to domestic production. If this is the case, such a measure would appear to be inconsistent with Agreement on Agriculture and to be eliminated prior to accession. We seek further clarification: How are the prices of imports taken into account when setting the level of special duties?

Answer:

With enactment of the new Law on Customs Tariffs, Montenegro has abolished the Decision on Special Fees and Charges on Food and Agriculture Products. What used to be called a special charge is now entered in the tariff schedule as a specific duty, to be paid in addition to the *ad valorem* duty. Under the new law, there are 319 tariff items that have both *ad valorem* and specific duties.

Question 91

Are there price or volume thresholds at which imports are considered to affect domestic prices or production, and in relation to which the authorities have the discretion to decide to impose a special levy on imports or adjust the level of such a levy?

Answer:

Under the new Law on Customs Tariffs, the imposition of specific duties is not discretionary and does not depend on price or volume thresholds.

Question 92

Do the special duties listed in Annex 10 of WT/ACC/CGR/3/Add.1 represent the maximum levels of the special duties which may be applied, or the special duties currently applied?

Answer:

Please see the answer above.

(e) **Internal policies**

Question 93

With respect to Montenegro's agriculture policy goals, would Montenegro be able to provide further information on the nature or form of the policies that are used for "exporting specific domestic products"? For instance, are any of the items included in the budgetary expenditures in Table IV.7 related to this priority (WT/ACC/CGR/3 page 74)?

Answer:

Please see the answer to Question II.2(a)2, above. In Table IV.7, the relevant program is listed under position 53: "Improvement of market position of Montenegrin agriculture products".

Question 94

We note that Montenegro does not apply export subsidies in agriculture and accordingly request that it bind export subsidies at zero upon accession.

Answer:

Montenegro will bind all export subsidies at zero upon accession.

Question 95

Supporting Table DS:1: We note that there is a large increase in marketing and promotion services between 2002 and 2003 (from €150,830 to €2,220,000). We note that the bulk of this increase is from the organisation of national campaign for promotion of Montenegrin agricultural products. Can Montenegro give details of this program.

Answer:

The Ministry of Agriculture, Forestry and Water Supply through the program "Improvement of Market Position of Montenegrin Agriculture Products" promotes domestic products through fairs and exhibitions, the campaign "MADE IN MONTENEGRO", improvement and construction of market infrastructure, and other promotion activities. The program also includes a new system of milk payment based on quality, which is obligatory for all milk producers in Montenegro, in order to improve milk quality. For this purpose Montenegro expends from 1.2 to 1.3 million Euros per year, which is the largest expenditure in this budget line.

Question 96

Support Table DS:7: We note that for tobacco, the non-exempt direct payments increase from 46,016 in 2002, to 90,000 in 2003, to 150,000 in 2004. Can Montenegro explain what these increased funds went towards?

Answer:

The Ministry of Agriculture, Forestry and Water subsidizes production of tobacco by providing €0.46 to €0.61 per kg of processed (dried) tobacco, depending on class of quality. It is important to underline that the subsidy per kg has not increased. The increase in total subsidy is due to increased production: in 2004 year in relation to 2003 year production increase from 308 tons in 2003 to 506 tons in 2004 (64 per cent increase) and to 636 tons in 2005, an increase of 26 per cent.

Question 97

Supporting Table DS:9: We note that Montenegro has set up an agricultural financial institution to enable coordinated provisions of loans to farmers under favourable conditions. Can Montenegro provide further information of what the terms and conditions of such loans are.

Answer:

At the beginning of 2000, Montenegro accepted proposal, together with members of the French banking network Credit Mutual, to establish a financial institution to provide credit to farmers. However, the French partner gave up of this project and Montenegro did not realize this program. In the 2003 agriculture budget there was a program of to subsidize the interest on agricultural loans in amount €120,000 because of unfavourable commercial conditions (short durations and high interest rates) for farmer credits. This program has been abolished and at present Montenegro, using donors' assets, provides only limited support for some investments in primary production as part of a policy of rural development.

5. Policies affecting foreign trade in other sectors

(b) Policies affecting foreign trade in other major sectors

Question 98

Montenegro has explained that it does not apply policies affecting foreign trade in other major sectors, except in State trading enterprises for certain goods. It refers to Annex 6 of WT/ACC/CGR/3 Add. 1, which states that it has no State trading enterprises within the definition of GATT Article XVII. Nevertheless, we would be interested to know what State trading enterprises Montenegro does have and what sectors they operate in.

Answer:

Montenegro has no State trading companies, in any sector. Of those formerly State-owned companies that still have an element of State ownership (details of which are available through document WT/ACC/CGR/13. Please refer to document Privatization Report), none has "exclusive or special rights or privileges, including statutory or constitutional powers, in the exercise of which they influence through their purchases or sales the level or direction of imports or exports." Similarly, no privately-owned companies have such special rights or privileges.

V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME

1. General

(b) Responsible agencies for policy formulation and implementation

Question 99

The reply to Question 202 of WT/ACC/CGR/7 states that various administrative responsibilities for intellectual property rights remain to be precisely defined in legislation. Has this been taken into account in the Law on the Enforcement of Intellectual Property Regulations?

Answer:

Yes. The Enforcement Law was enacted on 21 June 2005. Relevant articles of the Penal Code were approved by Government on 13 April 2006, and are expected to pass Parliament in the near future. As soon as they are approved, detailed information will be provided. The Law on Optical Discs is in final drafting stage and its enactment is planned for June 2006.

(c) Membership of international intellectual property conventions and of regional or bilateral agreements

Question 100

We understand that both the Geneva Phonograms Convention and the Brussels Satellite Convention are already binding in Montenegro, as explained in response to Question 203 of WT/ACC/CGR/7. Will Montenegro please provide the Working Party with the appropriate domestic legislation implementing these international agreements?

Answer:

Because these Conventions are directly enforceable, have been published in the Official Gazette like any other domestic legislation, are an integral part of the domestic legislation, and take precedence over any domestic law or regulation in case of conflict, Montenegro believes there is no need to enact any additional domestic legislation in order to implement these Conventions.

In addition, Article 28, paragraphs 4 - 6, of the Law on Copyright and Related Rights regulate satellite broadcasting, while Articles 121-125 provide for the protection of phonogram producers.

Question 101

In the response to Question 219 of WT/ACC/CGR/7, Montenegro explains that there is no reference to "appropriate remuneration" in any part of the Law on the Protection of Integrated Circuit Topography of 1 January 2005 (Official Gazette No. 61 of Serbia and Montenegro of 24 December 2004). However, in WT/ACC/CGR/3/Add.2, Montenegro submitted that law, Article 20 of which provides as follows (emphasis added):

Article 20

Any person, who at the time of the acquisition of the integrated circuit did not know or that could not have known that the product contained protected topography covered by the exclusive right, shall not be prohibited to use such product.

After the time that the person referred to in paragraph 1 of this Article has received sufficient notice that there is an exclusive right with respect to the protected topography, the right holder shall be entitled to the appropriate remuneration for such use established by the court, if not negotiated by interested parties.

The provisions of paragraphs 1 and 2 of this Article shall be applicable to legal successors of the person that acquired an integrated circuit covered by the exclusive right.

Is the document submitted by Montenegro on 8 March 2005 (in WT/ACC/CGR/3/Add.2) the final version of the law or a draft? If this quote is from a draft of that law, could Montenegro please provide the Working Party with the final version. If this quote is from the final version, please explain how "appropriate remuneration" is calculated.

Answer:

As it was pointed out in the response to Question 219 of WT/ACC/CGR/7, the final version of the Law, as passed by the Parliament, does not make reference to appropriate remuneration. Apparently, the translation that was submitted in WT/ACC/CGR/3/Add.2 was not that of the final text of the Law. Montenegro apologizes for the mistake.

The Law on Protection of Topographies of Integrated Circuits, as passed by the Parliament of Serbia and Montenegro, is available through WT/ACC/CGR/11. This is the final version and all future references should be made to this version only.

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

(c) Geographical indications, including appellations of origin

Question 102

We would like to re-state our previous questions/comments concerning geographical indications, submitted 8 July 2005. We look forward to reviewing the new Geographical Indications Law; however, we note that there is no mention of the Law on Geographical Indications in the Legislative Action Plan, provided in response to Question 73 of WT/ACC/CGR/7. Please provide the Working Party with an update as to this status of this legislation.

Answer:

The Council of Ministers of Serbia and Montenegro has approved the draft Law on Indications of Geographical Origin, which is pending passage by the Union Parliament. The Draft is available through document WT/ACC/CGR/11.

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

Question 103

Please provide an update on legislation with respect to trade secrets, referred to in the answer to Question 134 of WT/ACC/CGR/7.

Answer:

The work is still in its preparatory phase. Information on further developments will be provided to the Working Party as soon as it becomes available.

4. Enforcement

(a) Civil judicial procedures and remedies

Question 104

Regarding Question 223 of WT/ACC/CGR/7, could Montenegro please identify the provisions in its trademark, copyright and patent laws that address calculation of damages and pre-established damages? In addition, please explain how damages are calculated in cases involving undisclosed information or trade secrets.

Answer:

Under the Law on Contracts and Torts the purpose of compensation is to restore the situation that existed before the damage was done. The same principle applicable to IP legislation. Compensation for damages suffered in case of infringement is based on direct damage and lost profit, if any, including taking into consideration remuneration that would have been payable had the right been used lawfully. When filing the case, the plaintiff specifies the amount of damages and submits the evidence to support the claim. If the defendant objects to the amount, the of damages is performed by a Court appointed expert.

In addition, The Law on Copyright and Related Rights (Article 178), the Patent Law (Article 93, paragraph 2) and the Trademark Law (Article 57, paragraph 3) provide for pre-established damages. Where the infringement was intentional or the result of gross negligence, the plaintiff may chose to claim pre-established damages in an amount equal to up to three time the amount of usual remuneration that would have been paid had the right been used lawfully. "Usual remuneration" is understood to mean the amount payable by the user of the right to the right holder for the lawful use of the right in the usual (normal) course of trade (retail price, licence fee or the like, as the case may be).

The same principles are used in the cases involving undisclosed information or trade secrets.

Question 105

Regarding Question 225 of WT/ACC/CGR/7, please provide the Working Party with the relevant law that governs provisional measures and the ordering of provisional measures inaudita altera parte relating to trademarks, copyrights, patent and undisclosed information.

Answer:

Provisions governing provisional measures and the ordering of provisional measures inaudita altera parte relating to trademarks, copyrights and patents are the following:

- Articles 62 and 63 of the Trademark Law;
- Articles 183 and 184 of the Law on Copyright and Related Rights; and
- Articles 94 and 95 of the Patent Law.

There are no specific provisions that govern provisional measures with respect to undisclosed information.

Question 106

Regarding Question 232 of WT/ACC/CGR/7, please identify the provision that provides Montenegrin Customs the power to take ex officio action.

Answer:

The provision that provides Montenegrin Customs the power to take ex officio action is Article 11 of the Regulation on Actions of the Customs Authority Applicable to Goods Suspected of Infringement of Intellectual Property Rights (Regulation on IP Border Measures) (RM OG No. 25/05).

Question 107

Regarding Question 235 of WT/ACC/CGR/7, we look forward to responses to the questions concerning criminal procedures upon passage of the amendments to the Penal Code.

Answer:

The amendments to the Penal Code are still pending passage before the Parliament. As soon as they are approved, detailed information will be provided.

VI. TRADE-RELATED SERVICES REGIME

1. General

Question 108

Please report on the status and timetable for the draft Insurance Law that will liberalize the area of legal entities and insurance.

Answer:

The draft Insurance Law passed Government on 24 November 2005 and its pending passage before the Parliament. It is planned to be enacted by the end of June 2006.
