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**Working Party on the
Accession of Jordan**

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ACCESSION OF JORDAN

Additional Questions and Replies

The Government of the Hashemite Kingdom of Jordan has submitted the following additional replies to questions raised by Members, with the request that they be circulated to members of the Working Party.

Question 1.

Jordan proposes that in the context of enacting laws, that the phrase "expected in October/November 1999" be replaced with "expected during Parliament Ordinary Session November 1999-February 2000." We suggest that Jordan refine this global change, to indicate with more precision which laws are likely to pass the October/November session. We further suggest that all IPR related laws, and those addressing customs and SPS/TBT issues be enacted as soon as possible, along with any changes that do not require parliamentary action.

Answer:

The phrase "expected during Parliament Ordinary Session November 1999-February 2000" was intended to provide the earliest and latest dates for approval by the Parliament, as it would be inaccurate to predict the precise dates of Parliament approval within this period.

Please see the attached legal agenda dated November 1999.

II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE

2. Economic Policies

(a) Main Directions

Pricing Policies

Question 2.

Paragraphs 26-32 of WT/ACC/SPEC/JOR/7 provides information on current practices, indicates that legislation eliminate price controls applied exclusively to imported meats will be adopted in October 1999, and indicates willingness to undertake a standard protocol commitment.

Paragraph 30 should be altered to indicate that Jordan does not intend to liberalize any other products under price control prior to accession.

Jordan should either (a) confirm in paragraph 30 that the domestic price controls on seed wheat and barley and wheat cover the same products as the price controls on imported wheat and the price cap on bagged and loose barley, or (b) explain how controls on imports not applied to domestic goods is consistent with Article III of the GATT.

Answer:

Jordan agrees to alter Paragraph 30 as suggested above "Jordan does not intend to liberalize any other products under price control prior to accession".

Jordan confirms that the domestic price control on barley seed covers the same products as the price cap on imported bagged and loose barley. That is ex1003.00.

Jordan confirms that the domestic price control on domestic wheat covers the same products as imported wheat. That is 1001.10 and ex1001.90.

Price control exists only on domestic wheat seed (ex1001). Therefore, this is consistent with Article III of the GATT 1994.

Question 3.

Paragraph 31: Jordan suggests dropping "and services" from the statement. Our questions, which initially generated this text, included a request for information on price controls on services.

We would appreciate information in this section on price controls on services in Jordan, and a statement that indicated that all other prices on services, except for those described, are determined by market forces.

In addition, Jordan has not yet eliminated the discriminatory price controls on meats and possibly other products.

We suggest that paragraph 31 should be amended as follows:

- 31. The representative of Jordan confirmed that prices for goods in every sector in Jordan were determined freely by market forces with the exception of those listed in Table 1. Current price controls on imported chilled meat listed in Table 1(b) had been eliminated [date certain] in accordance with [name of legal measures] adopted by the Parliament. Price controls existed on the following services: [listed services with price or profitability controls]. All other prices of services were determined freely by the market.**

Answer:

Jordan agrees to the proposed amendments to paragraph 31 as stated above.

Please substitute the brackets with the following additional information:

- [date certain] with "end of October 1999"
- [name of legal measures] with "Instructions on the Elimination of Price Cap on Imported Meat"
- [listed services with price or profitability controls] with "state services (e.g. vehicle inspection, passport fees), customs clearing agents services, public warehouses, transport services for passengers and goods, telecommunication services, professional medical services offered by the Government, car liability insurance services, ticketing services by travel agents. Price cap existed for the following services: professional medical services, certain banking services, money exchange services, commission on services rendered by securities dealers, hotel room rates, internal tourism tour packages, tour packages with bed and meal, meal prices at hotels, bed and breakfast rate for country's official guests, vegetables and fruits auctioning services, and legal services"

Please replace in suggested paragraph 31 above "adopted by the Parliament" with "issued by the Ministry of Industry and Trade"

IV. POLICIES AFFECTING TRADE IN GOODS

Trading Rights

Question 4.

We suggest that this section be subtitled (the right to import and export). We have discussed alternative language for this section of the WP report with Jordan, and propose the following:

Trading Rights (the right to import and export)

44. Some members requested Jordan to clarify the right of firms and individuals to trade, i.e., to import and export goods, to understand better how Jordan's conditions compared with the requirement of GATT Articles III:4 and XI. Specifically, Jordan was asked to outline the trading rights of (i) fully domestically-owned firms; (ii) firms with less than 50 per cent foreign equity; (iii) firms with more than 50 per cent foreign equity; and (iv) fully foreign-owned firms. For each category, Jordan should also indicate who would be entitled to register as Jordanian firms with the right to import for own use (e.g. in manufacturing), import for further distribution, or export. In reply, the representative of Jordan provided a detailed report on the right to trade (WT/ACC/JOR/25). Regulations distinguished between trade for a commercial purpose (further distribution and sale, including wholesale and retail) and non-commercial purpose (own use).
46. Individuals, Jordanian or foreign, did not have the right to import or export for commercial purposes. However, a Jordanian natural person could register a "sole proprietorship", an option which was not available to foreigners wishing to engage in commercial trade. Foreign individuals could register as a sole proprietorship and import for non-commercial purpose after obtaining a special import card. Imports or exports for non-commercial purposes (own use) could be effected by Jordanian companies regardless of the level of foreign equity, foreign companies registered in Jordan, or domestic or foreign individuals. Imports for own use would be limited to items relevant to attain the stated objectives of the entities concerned.
- 50bis A member expressed concern that since Jordan's regulations do not distinguish between importing or exporting and providing services, such as distribution, after importation those regulations could be considered a restriction on imports and inconsistent with Article XI of GATT 1994. Moreover, application of an economic needs test in the context of registering importers would have an adverse effect on the terms of competition between imported and domestically produced goods. The representative of Jordan recognized the distinction drawn in the WTO between the right to import and export under the GATT and the right, under the GATS, to provide services such as distribution, and transportation, with respect to imported goods. Without prejudice to Jordan's schedule of commitments on services, Jordan would modify the relevant laws, regulations and requirements to permit foreign firms, including sole proprietorships to register as importers without limitation on equity or application of an economic needs test, including for branches of foreign firms permanently registered in Jordan.
51. Some members requested Jordan to provide a WTO justification for the import card rule, and considered the fine for importing without a card disproportionate. The representative of Jordan replied that import cards were used for identification and statistical purposes, and that the fine was designed to ensure that importers complied with the requirements. Jordanian and foreign companies which had not been registered

as "engaging in trade activities" or "importing" could avoid the 5 per cent penalty on imports for own use by requesting a special import card. [~~Natural persons did not have the right to apply for special import cards~~]. Imported personal effects were not affected by the import card rule as these were cleared unconditionally by customs.

52. The representative of Jordan said that Jordan's requirements on the right to trade [~~did~~] would not in any way contradict Articles III, XI, and VIII of the GATT 1994. [~~However, natural and legal persons were restricted, as described in paragraph [46], in their ability to import for commercial purposes~~]. The representative of Jordan confirmed that no restrictions existed on the right of foreign and domestic individuals and enterprises to import and export goods into Jordan's customs territory, except as provided for in WTO Agreements. He confirmed that individuals and firms were not restricted in their ability to import or export based on their registered scope of business and the criteria for registration of companies in Jordan were generally applicable and published in the official journal of Jordan.
53. The representative of Jordan confirmed that from the date of accession Jordan would ensure that its laws, regulations, and requirements relating to the right to import and export [~~trade in goods and services~~] and all fees, charges or taxes levied on such rights would be in full conformity with its WTO obligations, including Articles VIII:1(a), XI:1 and III:2 and 4 of the GATT1994 and that it would also implement such laws and regulations in full conformity with these obligations. The Working Party took note of this commitment.

Answer:

Jordan agrees to the language provided above for paragraphs 44, 46, 50*bis*, 51, 52, and 53.

Please replace "journal" with "gazette" in the last sentence of paragraph 52.

1. Import Regulation

Tariff quotas, tariff exemptions

Question 5.

Jordan has reported that the percentage of exempted imports with respect to total imports has declined from 60 per cent to 38 per cent, and should decline further as the current arrangements with most but not all of the ten companies identified in WT/ACC/JOR/18 as receiving such exemptions will expire. The exemptions are granted to facilitate economic development and are not tied to export performance or the use of domestic inputs.

Please specify the date that the concessions expires for each firm listed in Table 2, e.g., for the Phosphate Mining Company, the Arab Company for Manufacturing White Cement, and the Arab Bridge Maritime Company.

We would like to see a protocol commitment for paragraph 60*bis* noting that these exceptions will expire and not be renewed, along the following lines:

- 60*bis* The representative of Jordan confirmed that the exemptions on customs duties for certain imports by the 10 companies listed in Table 2 will expire as indicated in that table, and will not be renewed. The Working Party took note of this commitment.

Answer:

The expiration date of concessions with regard to the Arab Bridge Maritime Company is 2035.

The customs exemptions provided for the Phosphate Mining Company will be eliminated upon accession to the WTO. This was stipulated in Council of Ministers Decision No. 12-9-76 of September 1999

The Arab Company for Manufacturing White Cement was granted customs exemptions for an indefinite period of time according to a Council of Ministers decision dated 10 November 1994.

Jordan agrees to the commitment stated in paragraph 60*bis* above except that customs exemption will remain for the Arab Company for Manufacturing White Cement.

Other duties and charges

Question 6.

Jordan reports in WT/ACC/JOR/27 and paragraphs 56-58 in WT/ACC/SPEC/JOR/7 that it is prepared to eliminate or restructure certain non-tariff fees, taxes, and charges on imports over and above the tariffs. These include a fee on imported cigarettes, a fee on imported radios, and a fee on imported sheep. The fee on sheep is addressed in draft legislation amending the Law on Unification of Fees and Charges, but the other charges aren't.

We suggest that the additional information on Jordan's intentions on taxation, i.e., plans to impose a sales tax on imported and domestically-produced cigarettes in conformity with Article III of the GATT 1994, be incorporated in the WP report text.

Paragraph 57: We would appreciate a status report on the timeframes outlined in the brackets in paragraph 57. We would appreciate Jordan including in the WP report the name of the legislation that will repeal these fees . Are there any other discriminatory charges applied to imports? Are there any additional non-service fees or charges on imports?

Paragraph 58: Paragraph 58 should be reorganized to encompass a commitment not to apply such charges in the future, along the following lines:

58. The representative of Jordan confirmed that from the date of accession Jordan would levy no duties or charges on imports other than ordinary customs duties and fees and charges for services rendered. Any such charges applied to imports after accession would be in accordance with WTO provisions. The Working Party took note of this commitment.

58*bis* He further confirmed that Jordan would not list any charges in its Goods Market Accession Schedule under Article II:1(b) of the GATT 1994, binding such charges at "zero"

Answer:

The fee on sheep is addressed in the Amendments to the Law on Unifying Fees and Taxes No. 7 of 1997.

Article 90 of the Telecommunications Law No. 13 of 1995 repealed Regulation of Wireless Receivers and Transmitters No. 30 of 1966 and 1934 Wireless Telegraph Law which introduced the import fee on transistor radio.

As for the fee on imported cigarettes (86.5 Fils), Jordan has evaluated this matter and decided to eliminate the fee. Jordan, however, plans to impose sales tax on imported and domestically-produced cigarettes. Such tax, when imposed, will be in conformity with Article III of the GATT 1994.

Jordan does not apply any other non-service or discriminatory charges on imports other than fees and charges for services rendered. Jordan accepts the language suggested above for paragraph 58 and 58bis.

Question 7.

Fees and charges for services rendered.

Jordan states in WT/ACC/JOR/27 and paragraph 66 of WT/ACC/SPEC/JOR/7 that it is capping its *ad valorem* customs processing fee and providing for a minimum and maximum level of charge. We will need further clarification on this point in the WP report.

We would appreciate Jordan's explanation on how the import and export fee levels are determined, and in particular why there is such a wide disparity between the rate of the processing fee charged for imports and exports (Note: the import processing fee (at 250 JD) is over 10 times the level of your export fee. End note)

Can Jordan include information in paragraph 66 to clarify (a) what trade will be subject to this charge, and (b) how the revenues will be used? Article VIII requires that the revenues be used solely for processing the trade upon which they are levied, and the preamble to the Tax Law appears to indicate that revenue from these taxes is not used to pay for the service, but is distributed as general revenue.

It is important to meet the requirement for the use of such fees established by the GATT Panel that examined the U.S. Customs User Fee in 1987, i.e., that revenues collected should be used to fund only the processing of the goods subject to those fees. Commingling of the revenues for import and export processing when the fees are applied at such different levels would violate an important aspect of that ruling.

Are the import and export processing fee to be charged to all trade or are there countries whose trade is exempted, e.g., trade with Arab League and other preferential trading partners? If not, will customs processing for this trade be funded by the revenues gained from application of the fee to other trade?

Please indicate the name of the legislative instrument that will convert the overtime fee to an import processing fee. Please indicate in the description that the new legal instrument will provide explicitly that revenue collected for import processing will be used only to support import processing and only for the goods upon which the fee is charged.

Answer:

The export fee of JD 15 per transaction is the average cost for processing an export transaction. This fee applies on all exports from Jordan.

The import and export fees were determined using sound accounting methods taking into account direct and indirect employee costs including wages, social security, and training. In addition, overhead costs were taken into account including equipment and stock purchase and maintenance, facilities, transportation, cost of maintaining laboratories, water, power, heating, stationery, cleaning expenses, and depreciation costs.

The difference in import and export processing fees is due to the following:

- It takes on average 4 hours to process an import transaction whereas it takes less than 2 hours to process an export/re-export transaction
- Higher number of customs officers are involved in import processing
- A number of additional activities are performed on import transactions such as valuation, assessment of origin, collection of duties, and assessment and collection of taxes

All trade will be subject to this charge. Revenues will be used to support the operations and the infrastructure of the Customs Department in connection with customs processing (see Article 161D of the Customs Law). The Amendments to the Customs Law No. 20 of 1998 is the legislative instrument that will convert the overtime fee to an import processing fee.

Jordan proposes the following text to be incorporated in the report of the Working Party:

“In response to questions by a member, Jordan confirmed that all imports and exports will be subject respectively to its import and export processing fees; the revenues from these fees will only be used to support the overall customs operations and infrastructure connected with customs processing of imported and exported goods (see Article 161D of the Customs Law), and that the Amendments to the Customs Law No. 20 of 1998 is the legislative instrument that will convert the overtime fee to an import processing fee.”

Question 8.

Consular fees for the authentication of documents necessary for importation: We also remain concerned with Article 31C in Title 3, Chapter 2, Section 2- Customs Value which provides that:

"Every declaration shall have enclosed therein an original itemized invoice certified by the chamber of commerce of the city of export or any entity recognized by the Department and attesting to the authenticity of the prices and the origin. The documents must also be certified by the Jordan Consulate Mission where available."

This does not appear to concord with Jordan's previous response on this issue (May 1999) which stated that Article 31C "does not limit the certification to be from the Chamber of Commerce. Documents may also be certified by any other body acceptable to the Customs Department. Exports from the United States may be certified at the US-Arab Chamber of Commerce."

In any case, the requirement that commercial paper necessary for importation be certified in the exporting country is a non-tariff trade barrier to trade and incompatible with the provisions of Articles VIII, which states, inter alia, that "fees and charges of whatever character...shall be limited in amount to the approximate cost of services rendered and shall not represent an indirect protection to domestic products or a taxation of imports or export for fiscal purposes."

This measure serves no purpose in trade except to create an additional charge on imports and an additional burden to import trade not applied to domestic goods. It conflicts with the provisions of the Agreement on Rules of Origin and violates Article VIII of the GATT, which states that customs charges are not to be used to generate revenue, but are to be limited

approximately to the cost of the service rendered. We appreciate the conversion of the fee to a flat fee of JD 21 per transaction upon accession, which will limit the revenue effect, but does not address the added burden to importers to process documents that will be re-examined, authenticated, and processed with an additional fee at the time of importation. We seek the elimination of this requirement.

Jordan should work with us and other WP delegations to eliminate the consular certification of commercial document requirement in Article 31C. Article 31C was implemented by Jordan because of problems with importer falsification of the country of origin to acquire lower or duty free treatment.

We appreciate that Jordan's fees for this operation are no longer ad valorem, but in our view, this is an unnecessary measure that impedes trade and is used to justify additional charges that are not related to any service.

An alternative method of ensuring the rule of origin should be found. This can possibly be accomplished by reviewing the Rules of Origin provisions and ensuring that the appropriate information is provided in the import documents. The practice should be eliminated upon accession along with any fees charged for this "service."

We would like to see the elimination of this confirmed in the WP report, and the legislation that will accomplish this identified in paragraph 67.

Concerning consular authentication requirements, we would appreciate Jordan's additional clarification in the WP report text as to when legislation providing for this would be introduced in Parliament.

For clarity, we suggest that the current commitment paragraph be expanded as follows:

68. The representative of Jordan confirmed that from the date of accession, Jordan would impose any fees or charges for "services rendered" to importation or exportation only in conformity with Article VIII of the GATT 1994. He further confirmed that the fee described in paragraph 71 for the authentication or certification of import documents by Chambers of Commerce or consular officials in the exporting country would be fixed at JD 21 per transaction from the date of accession. The practice of requiring such certifications would be eliminated by 31 December 2002. Information regarding the application and level of such fees, revenues collected and their use, would be provided to WTO Members upon request. The Working Party took note of these commitments.

Answer:

Due to annual budget cycle and budgetary planning constraints, Jordan can not agree to any immediate elimination of consular fees for authentication of documents necessary for importation. This constitutes one of the financial elements essential to complete successfully the structural adjustment program over the course of the next 3 years.

Jordan accepts to eliminate consular authentication requirements by 31 December 2002. During the second half of 2002, amendments will be introduced to the Customs Law No. 20 of 1998 and Regulations No. 1 of 1989 on Consular Services and Fees.

(h) Customs Valuation

Question 9.

We have reviewed your amendments to the customs law and the responses in WT/ACC/JOR/22. We are pleased to see Jordan moving towards WTO consistency in this critical area. We are prepared to agree to the text of the WP report in this section under the following circumstances:

In order to finish our review, we would appreciate receiving the regulations implementing the Interpretative Notes to the WTO Valuation Agreement, which are to be adopted in November 1999. This is necessary because Article 14 of the WTO Valuation Agreement incorporates the Interpretative Notes as an integral part of the Agreement and the Articles of the Agreement cannot be read and applied without reference to the respective Interpretative Notes.

- **We also need to verify the implementation of Decisions 3.1-software and 4.1-interest from the Committee on Customs Valuation.**
- **We seek confirmation by Jordan in the WP report text that Articles 1(d) and 1.2(a) of the WTO Valuation Agreement concerning related parties are fully implemented in Jordan's Customs Law.**
- **Jordan will eliminate the inconsistency identified in their deductive value provision in the Amendments to the Customs Law.**
- **We seek confirmation in the WP report that Article 31C(i) concerning implementation of other provision is designed to cover the regulations, i.e. Interpretative Notes, software decision and interest decision.**
- **Jordan will implement a provision in their regulations to cover our concern regarding the confidentiality requirement of Article 10 of the WTO Valuation Agreement, i.e., that the current text of the Customs Law or the amendments does not fully cover the provisions in Article 10.**
- **We would appreciate confirmation that Jordan has implemented the right of appeal "without penalty" as set forth in Article 11 and Interpretative Note 2 to Article 11 in Annex 1 of the WTO Valuation Agreement. Please provide the text and/or citation in texts already circulated that covers this.**

Answer:

Jordan will further amend its draft amendments to the Customs Law to take into consideration all proposals suggested above. A revised copy of draft amendments to the Customs Law was forwarded to the WTO Secretariat before the end of October 1999.

Jordan confirms Article 31C(i) concerning implementation of other provision is designed to cover the regulations, i.e. Interpretative Notes, software decision and interest decision.

The Instructions on Implementing Customs Valuation addressing interpretative notes and valuation of software and interest is being drafted. These instructions will be adopted upon enactment of the Amendments to the Customs Law.

The Jordanian Constitution (Article 101) guarantees free access to the judiciary for all without hindrances. Furthermore, the Jordanian Constitutional Jurisprudence and the Criminal Law (Article 3) provide that no penalty may be imposed except by a law. There is no law in Jordan, including the customs law, that provides for a penalty when resorting to the judiciary. Therefore, the

right to appeal "without penalty" as set forth in Article 11 and Interpretative Note 2 to Article 11 in Annex 1 of the WTO Valuation Agreement is covered under the Jordanian legal system.

Application of internal taxes

Question 10.

Jordan has circulated draft legislation amending its General Sales Tax Law to extend the tax to domestic goods. WT/ACC/JOR/22 and WT/ACC/JOR/27, however, indicate that Phase II of the plan doesn't come into effect until June 2000.

We will need clarification on the timeline for this change, full reporting in the WP report, and a protocol commitment reflecting a date certain for the compatibility of Jordan's indirect taxation regime with Article III of the GATT.

We would appreciate an updating in the WP report of the specific measures Jordan is taking to amend its laws, and a table demonstrating the changes that will be enacted in the new legislation (e.g., Table 3 has so far merely confirmed that the current taxes are WTO-inconsistent. The table demonstrating WTO consistency should be developed for the WP report.).

Answer:

There is no relation between Phase II and conformity with Article III of the GATT 1994.

The Amendments to the General Sales Tax Law are expected to be adopted during the Parliament ordinary session November 1999-February 2000. These amendments ensure national treatment with regard to the application of general sales tax.

The new rates for general sales tax are provided below. There is need to consider including this table in paragraph 69 of the Working Party report.

No.	Product	Unit	Tax rate (JD) (domestic or imported)
1	All kinds of cement	Ton	10.000
2	Iron for construction	Ton	50.000
3	Mineral lubricating oils	Kg.	00.200
4	Natural and mineral water	Litre	00.020
	Gas water including soda water in		
	- reusable container		00.166
	- disposable container		00.175
5	Fizzy drinks		
	(a) for immediate consumption		
	- reusable container	Litre	0.166
	- disposable container	Litre	0.175
	(b) Concentrates in		
	-drums that yield 96 bottles/25 cl.	Drum	3.984
	Capacity each	Drum	19.920
	-drums that yield 480 bottles/ 25cl. capacity each		
6	Beer including non-alcoholic beer	Litre	0.600

No.	Product	Unit	Tax rate (JD) (domestic or imported)
7	Unsaturated Ethel Alcohol	Litre	0.300
8	Alcoholic drinks including wine.	Litre	1.000
9	Tobacco		
	(a) Ordinary	Kg.	2.000
	(b) Mixed with fruit syrup	Kg.	2.000
10	Snuff	Kg.	2.000
11	Chopped tobacco	Kg.	0.500
12	Cigar	Kg.	15.000
13	Cigarettes	box /20	
	a) For local consumption		0.170
	b) for the same brand names sold to armed forces.		0.130

Jordan suggests adding to the Working Party report the following language:

- "The Representative of Jordan stated that Jordan, as of the date of accession, will be applying sales tax for both imported and locally-made goods in conformity with Article III of the GATT 1994. The following imported products were subjected to 10 per cent general sales tax while locally produced ones were exempt: agricultural plastic houses; furniture; wool blankets, covers, and mattresses, quilts, and towels; yeast and bread improvements; active and inactive lime and calcareous masonry; smoke stack stoves and their parts; dried leguminous vegetables subjected to any manufacturing process such as: peas, chick peas, beans, kidney beans, lentils of field beans; egg carton holders; solar heaters; knitted textiles; milled products including spices, thyme, and other herbs; and energy-saving insulation materials for building purposes. After the enactment of the amendments to the General Sales Tax Law, the above-mentioned locally produced goods will no longer be exempted from general sales tax. A 13 per cent general sales tax would be applied on all imported and locally produced goods mentioned above except gas and kerosene heaters which are exempt from sales tax regardless whether imported or locally-produced. The Representative of Jordan added that the General Sales tax Law has been amended in July 1999 to raise the tax rate from 10 per cent to 13 per cent."

Non-Tariff Measures applied to Imports and Exports

Question 11.

We appreciate Jordan's submission of document WT/ACC/JOR/28 which outlines Jordan's import licensing regime, and provides information how Jordan intends either to eliminate current restrictions or amend them to bring its current system into line with WTO.

With two exceptions, we can accept Jordan's proposals on quantitative restrictions, and seek appropriate recording of the elimination of the WTO inconsistent bans and restrictions in the WP report with a standard commitment on the use of such measures after accession.

We are concerned that Jordan limits imports of "used" articles, e.g., photocopiers and autos, as a form of protection of domestic retailers selling these products new.

We would like to review the draft legislation on used autos and receive information from Jordan addressing the ban on imports of used photocopiers.

In general, such restrictions should not be used. If there is a purpose to the restriction, it should be administered equally on imports and domestic articles.

In addition, we would like an explanation for the need to subject imports of all electronic equipment to non-automatic licensing. Please explain in detail why these imports should be so burdened.

In addition, we would like the following products, which are subject to non-automatic (i.e., discretionary) import licensing requirements moved to automatic import licensing list, i.e., that importation will not be restricted if specific technical criteria are met:

- **29.03.4: Halogenated derivatives of hydrocarbons**
- **30.03 and 30.04: Veterinary medicine**
- **85.25.10 and 85.25.20: Wireless transmitters and receivers Transmission and reception stations***
- **85.25.201 Cellular telephone systems**
- **85.43.209 and 85.26.92 All kinds of remote control equipment (except those for television and video)**

We suggest that the following statement be incorporated in the WP report, as follows:

“Only two types of “ used ” goods (used electric equipment and used tires) are currently subject to non-automatic import licensing. Used goods are not usually accompanied by catalogues or warranties. The main purpose of non-automatic licensing on these two used goods is to obtain information from the importer on the condition of such goods given the health, safety, and environmental concerns associated with these two products.”

In addition, we will want to determine when legislation will be in place to ensure that use of licenses is consistent with the WTO Licensing Agreement.

Answer:

Council of Ministers Decision No. 12-9-76 of September 1999 eliminated the ban on the import of used cars older than 5 years. A copy of this Decision will be provided to the Working Party.

In reply to the requests raised above, Jordan commits to:

- Eliminate the ban on used photocopier and make used photocopier subject to non-automatic import licensing instead.
- Make all used electric equipment (ex84 and ex85) subject to non-automatic import licensing and new electric equipment (ex84 and ex85) subject to automatic licensing.

Jordan agrees to move the following products from non-automatic to automatic licensing:

- 29.03.4: Halogenated derivatives of hydrocarbons
- 85.25.10 and 85.25.20: Wireless transmitters and receivers Transmission and reception stations
- 85.25.201 Cellular telephone systems

- 85.43.209 and 85.26.92 All kinds of remote control equipment (except those for television and video)

The following two rows in Table 8 (Paragraph 80) may be merged into one row:

- 85.25.10 and 85.25.20 Wireless transmitters and receivers; transmission and reception stations

All used goods (e.g. used electrical equipment) will be accorded national treatment after clearing customs according to Article III of the GATT 1994. Jordan does not have any legislation in place that discriminate between domestic and imported used equipment with regard to the application of internal taxes and other internal charges, requirements affecting the internal sale, offering for sale, purchase, transportation, distribution or use of used products, and internal regulations requiring the mixture, processing or use of used goods in specified amounts or proportions.

Only two types of "used" goods (used electric equipment and used tires) are currently subject to non-automatic import licensing. Used goods are not usually accompanied by catalogues or warranties. The main purpose of non-automatic licensing on these two used goods is to obtain information from the importer on the condition of such goods given the health, safety, and environmental concerns associated with these two products.

Legislation to ensure that use of licenses is consistent with the WTO Licensing Agreement will be in place in January 2000.

(l) Rules of origin

Question 12.

Jordan had amended its Law 20 on Customs to provide for WTO consistent application of rules of origin, in particular the procedural protections .

- **We note that the current text does not address the procedural protections provided in Annex II of the agreement, and that it does not precisely track the language of the Rules of Origin Agreement.**
- **We suggest that Jordan look to Annex II, the "Common Declaration with Regard to Preferential Rules of Origin" to ensure that the amendments capture its provisions, in particular those of paragraph 3(d).**
- **In addition, the text does not track Article 2(h).**
- **Jordan should review this text and ensure that the missing elements are included in the enacted legislation. We will want to review the amended text.**
- **We seek to document Jordan's implementation of the provisions of the Agreement on Rules of Origin with a standard commitment, as follows:**

91bis The representative of Jordan stated that from the date of accession Jordan preferential and non-preferential rules of origin would comply fully with the WTO Agreement on Rules of Origin. The requirements of Article 2(h) and Annex II, Paragraph 3(d) of the Agreement would also be fully implemented prior to accession. He also stated that in any event, from the date of accession the Customs would provide an assessment of the origin of the import upon the request of an exporter, importer or any person with a justifiable cause. Any request for such an assessment would be accepted even before trade in the goods concerned began. Any such assessment would be binding for three years. The Working Party took note of these commitments.

Answer:

Jordan will further amend its draft amendments to the Customs Law to take into consideration all proposals suggested above. A revised copy of draft amendments to the Customs Law was forwarded to the WTO Secretariat in October 1999.

Jordan agrees to the commitment in 91*bis*.

Anti-dumping, Countervailing duty and Safeguard regime

Question 13.

We appreciate Jordan's commitment in paragraph 101 concerning the non-application of antidumping, CVD or safeguard measures in the absence of WTO consistent legislation.

- **The second sentence of paragraph 98, however, claims that the National Production Protection Law is WTO consistent. for the is developing new AD/CVD and Safeguard laws. We seek the removal of that sentence, as it conflicts with the commitment in paragraph 101.**
- **We also propose that paragraph 100 be redrafted to reflect that Jordan is reviewing the National Production Protection Law and the draft AD/CVD laws to ensure their conformity with the provisions of the relevant WTO Agreements**

With these changes, we can approve this section of the report.

Answer:

Jordan agrees to eliminate the second sentence of paragraph 98.

Jordan agrees to the proposed redrafting to paragraph 100 to reflect that Jordan is reviewing the National Production Protection Law and the draft AD/CVD/SG regulations to ensure their conformity with the provisions of the relevant WTO Agreements.

Jordan reserves the right to apply anti-dumping, countervailing, and safeguard measures to non-WTO countries in the absence of adequate legislation. Jordan will accept paragraph 101 if "to WTO Members" is added after the word "measure" in the first sentence.

2. Export regulations

Customs tariff nomenclature, types of duties, duty rates, weighted averages of rates

Question 14.

Paragraphs 104 and 105 of WT/ACC/SPEC/JOR/7 state:

- 104. A 2 per cent inspection fee, which the representative of Jordan considered a fee for services rendered, was levied on re-exported foreign goods. For imported goods undergoing some additional processing in Jordan, the value added would need to be 40 per cent or more for a product to be considered a Jordanian export.....Re-exported goods were also subject to customs overtime fees (0.2 per cent of the declared value).**
- 105. The representative of Jordan said that the 2 per cent fee on re-exported goods would be eliminated upon enactment of amendments to the law on Unifying Taxes and Duties No.**

7 of 1997, expected in October/November 1999. In the future, Customs would charge a flat fee of JD 7 per transaction for exports and JD 20 per transaction for re-exported goods....".

There are several problems with this formulation, as follows:

- **The amended Law on Unification of Fees and Charges also appears to establish (not repeal as indicated in WT/ACC/JOR/27) a measure that re-exported goods shall be subject to a 2 per cent exporting duty of their value, as a substitute for the 2 per cent valuation fee.**

As described in paragraphs 104 and 105, the "inspection fee" is discriminatory, as it is applied only to imports that are re-exported, not to domestic exports as well. As the imports have already been entered, duty and tax paid, into Jordanian territory, they are subject to the protection of Article III of the GATT and should not be subject to additional fees.

In addition, the plan to convert the ad valorem fee to a specific duty does not indicate the purpose of the charge. Is it an export processing fee? The differential rate applied to re-exported imports and exports of domestic products would also appear to be discriminatory.

The amendment needs to be reviewed and altered to specify the purpose of the export charge, to confirm that it is not applied on an ad valorem basis if it is intended to be a fee for service, and to note that the differential fee based on local content described in paragraphs 104-105 will not be implemented (since it violates Article III of the GATT)..

Answer:

Jordan evaluated the application of the 2 per cent re-export fee/duty and a decision was made during the first week of November 1999.

Customs will charge a flat fee on exports, regardless of the origin of the goods, equalling JD 15 per transaction. The fee reflects the cost of services to process exports and is in conformity with Article VIII of the GATT 1994.

Jordan also proposes the following text to be incorporated in the report of the Working Party:

“In response to questions by a member, Jordan confirmed that all imports and exports will be subject respectively to its import and export processing fees; the revenues from these fees will only be used to support the overall customs operations and infrastructure connected with customs processing of imported and exported goods (see Article 161D of the Customs Law), and that the Amendments to the Customs Law No. 20 of 1998 is the legislative instrument that will convert the overtime fee to an import processing fee.”

Export Financing, Subsidy and Promotion Policies

Question 15.

We have identified two programmes, Income Tax Exemptions for Export Earnings and Export Loan Subsidies as prohibited subsidies. Jordan has indicated that it will eliminate them prior to 31 December 2002. There is no legislation, however.

Has legislation been passed to address these subsidies? If not, when can we expect to have such legislation in place?

Paragraph 118: We are prepared to accept Jordan's proposal, provided that (a) the subsidies are fully described in the WP report, (a) a date certain for enactment of the legislation is provided, (c) that the legislation is identified by name, and (d) that the proposal to eliminate them is included as a protocol commitment.

Paragraph 119: If this is acceptable, we propose the following redraft of paragraph 119:

119. The representative of Jordan stated that the following programmes were export subsidies, which met a definition of a prohibited subsidy within the meaning of Article 3 of the Agreement on Subsidies and Countervailing Measures: the Income Tax Law No. 57 of 1985 and its amendments, which authorized partial or total exemptions from income tax for profits on certain exports; Decision (No. 3394 of 1994) pursuant to this law, which exempting from income tax profits on all exports (except phosphate and potash) to non-protocol countries and territories, i.e. all countries and territories except Israel, Lebanon, Palestine and Saudi Arabia; and the discount facility below the going interest rate for commercial documents operated by the Central Bank of Jordan. He confirmed that Jordan [would take][had taken] appropriate legal measures [in . . . (date). . .] to eliminate these export subsidies prior to 31 December 2002. He further confirmed that from the date of accession, Jordan would not maintain nor introduce any other prohibited subsidies. The Working Party took note of this commitment.

Answer:

Jordan believes that these two prohibited subsidies are adequately described in paragraphs 111, 115, 116, and 118 of the Working Party report.

The Council of Ministers Decision No. 12-9-76 of September 1999 stipulated the gradual elimination of these two programmes on export subsidy by 2002.

Jordan agrees to the redraft of paragraph 119 above with the following amendments:

- accept [had taken]
- replace "[In...(date).]" with "September 1999"
- replace "prior to 31 December 2002" with "by December 2002"
- penultimate sentence: eliminate "not maintain"

3. Internal policies affecting foreign trade in goods

Industrial policy, including subsidies

Question 16.

In light of the discussion and commitment in paragraphs 118 and 119, we propose the following standard commitment on domestic subsidy programmes be included in this section, as follows:

123bis The representative of Jordan confirmed that upon accession any subsidy programmes with the exception of those noted in paragraph 119 of this Report would be administered in conformity with the Agreement on Subsidies and Countervailing Measures. All necessary information on such programmes would be notified to the Committee on Subsidies and Countervailing Measures in accordance with Article 25 of the Agreement. The Working Party took note of this commitment.

Answer:

Jordan accepts paragraph 123*bis* as stated above.

Technical regulations and standards, including measures taken at the border with respect to imports

Sanitary and phytosanitary measures, including measures taken with respect to imports

Question 17.

Jordan's regulatory system is presently not consistent with WTO TBT requirements. In particular, Jordan's legal and administrative provisions do not adequately address fundamental obligations, such as transparency, non-discrimination and national treatment, and the prohibition of unnecessary barriers to trade.

We have reviewed the draft Law on Standards and Metrology that addresses TBT and SPS requirements (except seed control) and the "conformity charts" on TBT and SPS based on the draft law, which is intended to replace Law No.15 on Standards and Metrology. We have also just received the draft Law on Agriculture to address SPS plant and animal and TBT seed control and a draft Law on Food to address SPS food aspects. The Jordanian Institute of Standards and Metrology shall work as an inquiry point for TBT, and the Ministry of Agriculture shall work as an inquiry point for SPS.

When will these laws be enacted?

Answer:

The new Law on Standards and Metrology is expected to be adopted by the Parliament during its ordinary session (November 1999-February 2000). The Law on Agriculture and the Law on Food Control are expected to be adopted by the Parliament during its ordinary session. These three new laws will replace existing laws in all three areas: the law on standards and metrology No. 15 of 1994, the law on agriculture No. 20 of 1973, and food-related provisions in the law on public health No. 21 of 1971.

Question 18.

Concerning WT/ACC/SPEC/JOR/7, paragraph 124: Where is the standards work programme called for in the WTO TBT Code of Good Practice (and noted in commitment 4 (E)) to be printed? How can interested parties obtain copies of this work programme? How often is such a publication to be issued? Please ensure that this information is included in the WP report.

Answer:

The Standards Work Programme is published in Jordan Institute of Standards and Metrology (JISM)'s quarterly Newsletter "*Standards and Metrology News*". Interested parties can obtain copies of the Standards Work Programme by writing to JISM's Information Centre at the present time, and to the TBT Enquiry Point at JISM once Jordan is a member of the WTO.

Question 19.

Paragraph 125: We would appreciate clarification on the conduct of JISM activities as noted in this paragraph.

How does JISM circulate draft standards and technical regulations? How are interested parties identified to receive such documents? Where in Jordan's legal documentation is the specific reference to a fifty day comment period? How frequently does JISM publish the bulletin of ongoing work on standards?

We suggest the following amendments to Jordan's proposed text to be added to the end of para 125 to clarify Jordan's intentions to meet TBT requirements for notification of standards for prior comment:

"The representative of Jordan added that Article 18 of the draft Law on Standards and Metrology, to be enacted by the end of 1999, provides for publication of a notice in JISM's newsletter of all proposed technical regulations and conformity assessment procedures prior to adoption to permit reasonable time for comments to be considered before the final rule is adopted, as required in Article 2.9 of the TBT Agreement. He added that when adopting standards, Jordan will adhere to the code of good practice (Annex 3 of the TBT agreement) which is incorporated by reference in Article 11.10 of the draft Law on Standards and Metrology, which means, in practice, that notice of the standard will be published at least 60 days prior to its planned enactment to allow interested parties opportunity to comment in JISM's newsletter. Article 18.b of the same draft law stipulates that all adopted technical regulations, conformity assessment procedures, and standards shall be published promptly in the official gazette. Technical regulations, conformity assessment procedures, and standards come into effect after their publication."

Answer:

Jordan agrees to the above addition to paragraph 125.

JISM circulates draft standards to interested parties by mail. JISM maintains a list of sectors of standards, with the relevant interested parties for each sector. The 60 day comment period is in the draft instructions on Preparation of Jordanian Standards that will replace the Instructions No. 4:1995. JISM's Newsletter is published every three months.

Question 20.

Paragraph 128: Jordan notes that mandatory standards need to be replaced by technical regulations based on legitimate objectives and performance rather than descriptive characteristics.

We would appreciate an explanation from Jordan about the specific process which will be followed to achieve this goal, and in particular how current mandatory standards will be reviewed to determine if they are technical regulations or if they can be made voluntary.

We appreciate that a full review of all of Jordan's 1,110 mandatory standards would take time. We do not believe, however, that all of these standards will require detailed formal review to determine whether they should be voluntary standards or converted to technical regulations. We are willing to work with the Government of Jordan to identify the existing standards that may require formal review and those that can simply be made voluntary administratively.

We cannot agree that a period longer than four years is useful or necessary to bring Jordan's current standards into line with WTO practice.

We seek a commitment by 31 December 2003, these remaining mandatory standards will either be converted to technical regulations or made voluntary. We would welcome

your confirmation to us that this commitment would be separate from the more accelerated review to eliminate shelf-life requirements, per the separate commitment in para 136bis.

In addition, the commitment should provide that the review/conversion process will proceed gradually, so that no less than one quarter of the total will be reviewed and/or converted or made voluntary annually during this period.

The following text could be the basis of such a commitment, including the information on Jordan's standards discussed earlier:

128.. . . Article 11 of the Draft Law on Standards and Metrology stipulates that the Director General shall appoint a technical committee to revise existing standards. Proposed drafts shall be submitted to the Board for their adoption as standards or technical regulations. According to the policy of the Standardization Department the Jordanian Standards are continuously reviewed for the need of their updating. All standards published before 1995 were mandatory. Since the enactment of the existing Standards & Metrology Law No. 15 of 1994, JISM published more than 210 voluntary standards out of 1,320 total existing standards. The current number of mandatory standards is 1,110. JISM has the goal of replacing current mandatory standards with voluntary ones or with technical regulations consistent with the provisions of the WTO TBT Agreement as soon as possible, and will need extensive technical assistance from WTO Members and other sources to accomplish this goal as soon as possible.

128bis. The representative of Jordan stated that Jordan's Standardization Department was gradually reviewing the remaining 1,110 mandatory standards to replace them with voluntary standards or with technical regulations, consistent with Article 2 of the WTO TBT Agreement. No less than one quarter of the remaining standards would be converted each year after accession and Jordan intended to complete the process of conversion by 31 December 2003. The Working Party took note of this commitment.

We look forward to seeing the list of products covered by current mandatory standards as soon as possible.

Answer:

Article 11 of the Draft Law on Standards and Metrology stipulates that the Director General shall appoint a technical committee to revise existing standards. Proposed drafts shall be submitted to the Board for their adoption as standards or technical regulations. Jordan will provide as soon as possible but no later than the end of 1999 the list of products covered by current mandatory standards.

According to the policy of the Standardization Department the Jordanian Standards are continuously reviewed for the need of their updating. To achieve the goal of replacing current mandatory standards with voluntary ones or with technical regulations based on legitimate objectives, JISM plans to update 50 mandatory standards every year. JISM is assisted by the German GTZ project in this regard and has adopted the ZOPP methods for annual planning.

Jordan agrees to paragraphs 128 and 128bis above. In addition, Jordan confirms that the commitment in paragraph 128bis is separate from the more accelerated review to eliminate shelf-stable food from shelf-life requirements, per the separate commitment in para 136bis below.

Question 21.

Paragraph 129: Jordan notes that a mechanism needs to be devised to strengthen communication channels between the inquiry point and other governmental institutions.

We seek a more detailed explanation for what mechanism or procedures Jordan intends to use to ensure the coordination of inter-ministerial communication and activities.

Answer:

To strengthen communication between the inquiry point and other governmental institutions, JISM has already started conducting a survey to collect information on these institutions. This includes information on provided services, issued legislative documents, applied conformity assessment procedures and contact persons. In addition JISM is preparing a web site for the Enquiry Point that relevant government institution have access to contribute to it.

Moreover, Article 21 of the draft Law on Standards and Metrology stipulates that all official bodies shall within five days of being so requested provide JISM with all necessary information concerning technical regulations, conformity assessment procedures and copies of such to enable JISM to respond to inquiries promptly.

Question 22.

Paragraph 129: Jordan notes that product inspection procedures need to be streamlined. Presently it appears every consignment is subject to conformity assessment procedures.

We seek more information on the specific steps Jordan is taking to streamline such inspections. If this is the programme noted in Attachment B of WT/ACC/JOR/22 we would appreciate an explanation in more detail.

Answer:

As for product inspection JISM has prepared a plan so that the procedures are not restrictive than necessary, are simplified and the time period for inspection, sampling and testing is shortened.

Question 23.

Regarding the Jordanian Quality Mark programme, we would appreciate information on the scope of products covered and the standards/technical regulations for which such products are tested for compliance.

Answer:

The scope for the Jordanian Quality Mark is foodstuff, feeds, chemicals, soaps, detergents, cosmetics, paints & varnishes, adhesives, pesticides, fertilizers, petroleum products, electrical & electronic appliances, batteries, cables, telecommunication equipment, construction materials and other consumable goods.

Question 24.

We had understood from your documentation that Jordan is prepared to commit to implement fully the TBT and SPS agreements upon accession provided that technical assistance and support (including financial) will be provided by WTO members with regard to modernization

of testing laboratories in Jordan, border inspection, sampling procedures as well as training of personnel.

We are prepared to work with you to overcome remaining institutional problems, e.g., enquiry point, transparency, due process, on an accelerated basis and will consider short gaps in full compliance.

We expect, however, that the application of technical and sanitary requirements to imports will conform substantively to the requirements of the TBT and SPS Agreements from the date of accession, and that your basic legislation will be enacted by the end of the year.

Answer:

Jordan's new laws addressing the TBT and SPS agreements are in full conformity with the WTO agreements. An action plan for TBT and SPS was provided in Attachment B to WT/ACC/JOR/22. Technical assistance and support (including financial) by WTO members is needed with regard to modernization of border enforcement including testing laboratories in Jordan, border inspection, sampling procedures as well as training of personnel. Jordan welcomes and appreciates any technical assistance and support of WTO members in modernizing border control including conformity assessment procedures.

The new Law on Standards and Metrology is expected to be adopted by the Parliament during its ordinary session (November 1999-February 2000). The Law on Agriculture and the Law on Food Control are expected to be adopted by the Parliament during its ordinary session.

Question 25.

On Shelf life, we have noted previously that we believe that mandatory shelf-life standards on "shelf-stable foods" are not justified under WTO Agreements on SPS and TBT.

In addition, we have observed that under the WHO/FAO Food Standards Programme, regulations and procedures could be established in line with international norms for "highly perishable refrigerated" food products that could gradually replace shelf life requirements with a scientific regulatory framework, e.g., within a year.

Jordan has stated that the new draft Law on Food does not have any half shelf-life requirements. The Draft Law on Food is expected to be enacted during October/November 1999.

Can Jordan confirm in the WP report that once enacted, all articles in the Law on Public Health connected with shelf-life requirements on food will be invalid including Article 69 (1.b)?

We propose the following approach to bringing Jordan's shelf life requirements into line with the WTO Agreements on SPS and TBT:

- **First, mandatory government-imposed shelf-life standards for all "shelf-stable foods" should be eliminated. Would the new Law on Food take care of this?**
- **Second, drawing on technical advice from the WHO/FAO Food Standards Programme, Jordan would establish regulations and procedures in line with international norms for "highly perishable refrigerated" food products. This could be accomplished within a year.**
- **To recapitulate: our proposal is that mandatory shelf-life standards for "shelf-stable foods" should be eliminated immediately and existing mandatory shelf-life standards for**

"highly perishable refrigerated" food products should be eliminated within one year and replaced with a science-based regulatory framework.

We also seek incorporation of the following material in the WP report reflecting our perspective in the draft WP report:

135bis One member observed that Jordan's regulations on shelf-life did not conform with international norms and are inconsistent with the provisions of the SPS and TBT Agreements that require the use of sound science to establish such requirements. The food safety risk that can be prevented with mandatory shelf-life dates has not been specified, nor has it been demonstrated what impact non-fulfilment, i.e. the absence of a shelf-life date, would have. The member also maintained that the imposition of mandatory shelf-life terms on an arbitrary, across the board basis on numerous products is not an appropriate solution to the concerns expressed, and emphasized that it is in the interest of both the exporter and the importer to assure that there is sufficient shelf-life remaining on imported products so that they may be purchased and consumed within the optimum quality period. This member expressed the view that an arbitrary requirement for half the shelf-life, enforced by the government, was not a useful way to address this concern. He suggested that mandatory shelf-life dating should be eliminated for "shelf-stable foods", in the context of adopting the Ministerial Decrees that will implement the WTO TBT and SPS Agreements in Jordan, and that regulations and procedures be established in line with international norms for "highly perishable refrigerated" food products to gradually replace these requirements with a scientific regulatory framework, e.g., within a year.

136bis The representative of Jordan added that the new draft Law on Food does not have any half shelf-life requirements. The Draft Law on Food is expected to be enacted during December 1999. Once enacted, all articles in the Law on Public Health connected with food, including half-shelf life requirements, will be inapplicable including Article 69 (1.b). He added that Jordan will immediately initiate the process of examining its two shelf-life standards (JS 401:1977 and JS 288:1994) in light of international scientific practices on shelf-stable food products to identify shelf-stable products that currently appear on the lists of these two standards. Jordan commits to eliminate shelf-stable products from the coverage of these two standards by 30 June 2000. He added that Jordan would establish within one year regulations and procedures in line with international norms for "highly perishable refrigerated" food products to gradually replace remaining shelf life requirements on these products with a scientific regulatory framework by 31 December 2000. The Working Party took note of these commitments.

Answer:

Jordan agrees to paragraph 136bis above.

State-trading practices

Question 26.

Jordan has reported on its State Trading companies in WT/ACC/SPEC/JOR/7 and WT/ACC/JOR/26. We are prepared to agree with Jordan concerning the notification of The Jordan Cement Company, Jordan Tanning Company, Jordan Petroleum Company and the Vegetable Oil Industries Company as state trading enterprises. These companies exclusive

trading rights are granted by concession, however, and we suggest that Jordan indicate that it intends to allow these concessions to lapse when they expire.

In order to address all the entities, both state-run and others, listed in this section, including state trading enterprises, we suggest that the commitment in paragraph 147 could be revised, including removal of the brackets, along the following lines:

147. The representative of Jordan confirmed that after accession to the WTO, Jordan would observe the WTO provisions, in particular, of Article XVII of the GATT 1994, and the WTO Understanding on that Article, and Article VIII of the GATS regarding State trading, with respect to the State-owned enterprises and other enterprises and entities with special or exclusive privileges identified in paragraphs 140-146 of this report in particular abiding by the provisions for notification, non-discrimination, and the application of commercial considerations for trade transactions. The Working Party took note of these commitments.

Answer:

Jordan accepts paragraph 147 as stated above.

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

Question 27.

Jordan has agreed to initiate negotiations for membership in the Agreement on Government Procurement upon accession and to endeavour to complete negotiations within a year of accession.

We accept the proposal, and suggest that your representative in Geneva table a request for observer status in the GPA Committee immediately, to ensure that Jordan begins receiving documentation and can attend meetings as soon as possible.

Answer:

Jordan will work in November 1999 on tabling a request for observer status in the GPA Committee.

V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME

1. General

Question 28.

In the course of bilateral discussions on Jordan's efforts to bring its regime on Intellectual Property Protection into conformity with the WTO Agreement on TRIPS, we have proposed that the following language be incorporated into the Working Party report text:

Patents:

Paragraph 1: "Some Members requested that Jordan clarify when the Cabinet would issue the decision referenced in Article 36(E) of the Patent Law (1999) to ensure that the provisions of Article 36(C), specifically, the availability of product patent protection for "chemicals related to medications, or pharmaceutical or food final products," shall

come into effect. The representative of Jordan committed that the necessary steps would be taken by the Cabinet to ensure that the provisions of Article 36(C) would come into force no later than April 2, 2000, and that product patent protection for chemicals related to medications, and pharmaceutical and food products would be available from that date."

Paragraph 2: "Some Members requested that Jordan clarify how it would ensure that, before Jordanian regulatory authorities approve the marketing of a pharmaceutical or agricultural chemical product, those authorities coordinate with the Patent Office to ensure that such marketing approvals do not conflict or interfere with the enjoyment of patents on that product. The representative of Jordan stated that this question would be clarified through a Cabinet decision issued prior to Jordan's accession, which would require that, prior to issuance of marketing approval of any pharmaceutical and agricultural chemical products, the relevant Ministries in Jordan shall determine the existence of a patent covering a product for which an application for marketing approval has been filed by a party other than the patentee, and shall not approve such application for marketing approval until the date of the expiration of such patent."

Paragraph 3: "Some Members requested that Jordan clarify the meaning of the term "unfair commercial use" in its draft Unfair Competition Law to ensure protection of undisclosed test data submitted to the government as a condition of obtaining marketing approval of pharmaceutical and agricultural chemical products utilizing new chemical entities, as required by TRIPS Article 39.3. The representative of Jordan stated that it would amend its draft Unfair Competition Law as follows: Jordan will protect against unfair commercial use of undisclosed test or other data submitted in support of applications for marketing approval of pharmaceutical or of agricultural chemical products which utilize new chemical entities, by providing that no person other than the person that submitted such data may, without the permission of the latter person, rely on such data in support of an application for product approval for a period of at least five years from the date on which Jordan granted marketing approval to the person that produced the data. The representative of Jordan also stated that this amendment to the Unfair Competition Law would be applicable to any application for marketing approval pending on or filed after the date of enactment of that law."

Paragraph 4: "Some Members requested that Jordan clarify whether use of a patent without the authorization of the right holder could be authorized to permit the exploitation of a patent which cannot be exploited without infringing another patent, and, if such use could be authorized, to explain the consistency of the Jordanian Patent Law with Article 31(1) of the TRIPS Agreement. The representative of Jordan stated that the Patent Law provided no authority to the Government to authorize the use of a patent without the authorization of the right holder for the purpose of exploiting a patent which cannot be exploited without infringing another patent. The representative of Jordan further stated that, for the sake of transparency, this clarification will also be reflected in any implementing regulations issued under the Patent Law."

Paragraph 5: "Some Members requested that Jordan clarify whether importation of a patented product would qualify as exploitation and use of a patent within the meaning of the second sub-paragraph of Article 22 of the Patent Law (1999). The representative of Jordan stated that importation of a patented product would be considered exploitation and use of the patent, such that the situation would not satisfy the criteria of Article 22, second sub-paragraph. The representative of Jordan further stated that, for the sake of transparency, this clarification will also be reflected in any implementing regulations issued under the Patent Law."

Paragraph 6: "Some Members requested that Jordan clarify the meaning of the condition in Article 37 of the Patent Law concerning 'if the importation was legal,' and to clarify whether the situation involving a breach of contract would render such importation illegal, and whether administrative procedures and regulations are available to patent owners to assist in the control of unauthorized importation of patented products. The representative of Jordan clarified that in situations in which there has been a breach of a contract with respect to imported products, such products will not be considered to be legally imported within the meaning of Article 37 and their importation shall be prohibited. The representative of Jordan further clarified, however, that the patent holder must notify the appropriate Jordanian customs authorities of the identity of parties authorized to import the patented product into Jordan, in which case measures would be available to prevent the entry into the Jordanian market of such unauthorized imports. The representative of Jordan further stated that, for the sake of transparency, this clarification will also be reflected in implementing regulations issued under the Patent Law."

Answer:

Jordan accepts the first three paragraphs as stated above.

Jordan accepts the 4th paragraph with the following amendments:

- penultimate sentence: add "of 1999" after "Patent Law"

Jordan accepts the 5th and 6th paragraphs with the following amendments:

- Add at the end of each paragraph: "In case WTO Members in the future should adopt an interpretation of the TRIPS Agreement pursuant to Article IX of the Agreement Establishing the WTO contradicting the aforementioned, Jordan reserved the right to abide by this interpretation of the TRIPS Agreement."

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

Question 29.

Copyrights: "Some Members requested, with respect to protection of copyrights, that Jordan clarify through regulations the meaning of Article 27 of the Law on the Protection of Copyright (1992), as amended by Article 7 of the Law Amending the Copyright Protection Law (1999), and its intention to apply this provision in very narrow circumstances. The representative of Jordan stated that the meaning of the referenced provision will be clarified in regulations that will provide that the authority in Article 27 applies only in the situation in which the author of a work is deceased and the work has never been published in the author's lifetime. In such circumstances, the Minister shall first seek the permission of the author's heirs or successors to publish the work, and if such permission is not granted within six months, the Minister shall have the right to publish only the work's substance."

"Some Members requested clarification regarding the meaning of the phrase "for financial gain" in Article 9 of the Law on the Protection of Copyright (1992), and, in particular, whether Jordan intends to limit the author's exclusive rights in this manner, given that doing so would be inconsistent with the Berne Convention and TRIPS Agreement. The representative of

Jordan clarified that no such limitation is intended, stating regulations under this law would be issued to clarify the meaning of the phrase, and would provide that the term 'for financial gain' in Article 9 shall not preclude the ability of the author or right holder from engaging in, authorizing or prohibiting any non-commercial exploitation of his work; except for those non-commercial exploitations explicitly permitted by the law without the authorization of the author or right holder, provided that such exploitations are limited to certain special cases, and provided that such exploitations do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the right holder."

Answer:

Jordan accepts these texts.

Transparency

Question 30.

Paragraph 215 of WT/ACC/SPEC/JOR/7 states that the Jordanian Constitution provides that laws should be published in the Official Gazette and come into force 30 days after publication. While we appreciate this confirmation, we are concerned that there has been no reference in the WP report to other GATT and WTO transparency requirements.

Article X of the GATT states that in addition to laws, "regulations, judicial decisions and administrative rulings of general application, . . . pertaining to the classification or the valuation of products for customs purposes, or to rates of duty, taxes or other charges, or to requirements, restrictions or prohibitions on imports or exports or on the transfer of payments therefor, or affecting their sale, distribution, transportation, insurance, warehousing inspection, exhibition, processing, mixing or other use, shall be published promptly."

"It also provides that "no measure of general application. . . effecting an advance in a rate of duty or other charge on imports under an established and uniform practice, or imposing a new or more burdensome requirement, restriction or prohibition on imports, or on the transfer of payments therefor, shall be enforced before such measure has been officially published."

In addition, the TRIPS Agreement (Article 63) and GATS Agreement (Article III), and provisions in other WTO Agreements, e.g., Customs Valuation, TBT, and SPS, include specific obligations on transparency.

Does the Constitutional provision cover all of that? If so, could we have language to that effect in the WP report? We suggest something along the following lines:

215bis The representative of Jordan said that from the date of accession all laws, regulations, decrees, judicial decisions and administrative rulings of general application related to trade would be published in the Official Gazette promptly and that no law or regulation related to international trade would become effective prior to such publication. He further stated that Jordan's Constitution and other laws currently in place or listed in WT/ACC/SPEC/JOR/7 slated for near-term enactment would implement fully Article X of the GATT 1994 and the other transparency requirements in WTO Agreements requiring notification and publication.

Answer:

The constitutional provision covers only laws.

Jordan suggests that 215*bis* be as follows:

215*bis* The representative of Jordan said that from the date of accession all laws, regulations, decrees, judicial decisions and administrative rulings of general application related to trade would be published in a manner that fulfils the WTO requirements. As such, no law or regulation related to international trade would become effective prior to such publication in the official Gazette. He further stated that all laws which were amended to comply with the WTO Agreements contain provisions which require such publication. Decrees which affect international trade will be published either in the Official Gazette or in the bulletin of Chamber of Industry and Commerce. Final judicial judgements of the highest courts will be published in the Journal of Jordanian Bar Association. Jordan's Constitution and other laws currently in place or listed in WT/ACC/SPEC/JOR/7 slated for near-term enactment would implement fully Article X of the GATT 1994 and the other transparency requirements in WTO Agreements requiring notification and publication.

Question 31.

Concerning notifications, there is currently no reference in WT/ACC/SPEC/JOR/7 to Jordan's timetable for providing its initial notifications required by WTO Agreements.

It is customary in accession negotiations to seek and achieve a commitment that all of the applicant's initial notifications of legislation and other basic information will be provided on the date of accession, e.g.:

215*bis* The representative of Jordan said that, at the latest upon entry into force of the Protocol of Accession, Jordan would submit all initial notifications required by any Agreement constituting part of the WTO Agreement. Any regulations subsequently enacted by Jordan which gave effect to the laws enacted to implement any Agreement constituting part of the WTO Agreement would also conform to the requirements of that Agreement. The Working Party took note of these commitments.

If Jordan is not prepared to provide this material upon accession, we suggest that a realistic agenda for providing the documents be developed and circulated to the Working Party. Moldova, which is experiencing some of the same legislative implementation constraints as Jordan, has proposed such a calendar, in WT/ACC/SPEC/MOL/6. You may find it useful in developing your own. It is important to address this issue substantively as soon as possible.

Answer:

Jordan agrees to submit all initial notifications in accordance with Jordan's notification agenda, circulated in document WT/ACC/JOR/31.

Agenda for Adopting Regulations/Instructions for WTO Conformity
November 1999

Regulations/Instructions	Agreement(s)	Expected Adoption Date
1. Decision on elimination of Jordanian Export Companies	SCM	November 1999
2. Instructions on Implementing Customs Valuation (includes interpretative notes, software, and interest)	Customs Valuation	Upon enactment of the Amendments to the Customs Law
3. Instructions on Border Enforcement of Intellectual property Rights	TRIPS	Upon enactment of the Amendments to the Customs Law
4. Decree on TBT Notification	TBT	Upon enactment of the Law on Standards and Metrology
5. Decree on SPS Inquiry Point and Notification	SPS	Upon enactment of the Law on Agriculture and the Law on Food Control
6. Regulations on Copyrights	TRIPS	January 2000
7. Regulations on Integrated Circuits	TRIPS	Upon enactment of the Law on Integrated Circuits
8. Regulations on Imports and Exports	GATT 1994 (Article I, III, and XI) Agreement on Import Licensing	Upon enactment of the Law on Imports and Exports
9. Instructions on Import No. 1, 1999	GATT 1994 (Article I, III, and XI) Agreement on Import Licensing	Upon enactment of the Law on Imports and Exports
10. Instructions on the Importation of Live Sheep and Calves	GATT 1994 (Article XI)	Upon enactment of the Law on Agriculture
11. Regulations on Animal and Agricultural Products Fees	GATT 1994 (Article VIII)	Upon enactment of the Law on Agriculture