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of the Kyrgyz Republic**

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ACCESSION OF THE KYRGYZ REPUBLIC

Additional Questions and Replies

Additional questions submitted by Members and the replies thereto provided by the authorities of the Kyrgyz Republic are reproduced hereunder. Commitments of the Kyrgyz Republic on bringing its legislation into conformity with WTO norms and requirements and lists of specific goods exported and imported under licenses contained in the draft Resolution on Import/Export Licensing, including their justification, are reproduced in Annexes I and II respectively. Attachment A reproduces a data profile on privatization 1991-1997 and provides tabulations listing the goods requiring phytosanitary and veterinary certificates and certification of compliance. Legislative texts listed in Attachments B and C are available in electronic format in the Secretariat (Accessions Division, Room 1126).

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II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE

2. Economic Policy

(a) Main directions of ongoing economic policies

Trading rights

Question 1.

We note that the Kyrgyz Republic, in its response to question 1 (WT/ACC/KGZ/13) notes that the State foreign trade monopoly is no longer in force for most products. We seek a specific commitment in the protocol text drawing on this response.

Answer:

The Kyrgyz Republic has no objections to include in the protocol text such commitment.

State trading

Question 2.

The information provided in responses 2-16 in WT/ACC/KGZ/13 make it clear that the State-trading enterprises that handle trade in alcoholic beverages and tobacco have a great impact on market access for imports, notwithstanding that imports are permitted. We agree that they should be notified as State-trading enterprises

Specifically, the State alcohol monopoly licenses all imports of non-beer alcoholic beverages and licenses the domestic sale of beer. The response to question 10 states that "there are no special conditions" on the domestic sale of tobacco products.

Are licenses required? If so, who issues them? Are there any licensing requirements for domestic distribution?

Answer:

Licenses are not required for the domestic distribution or sale of tobacco products.

Question 3.

The response to questions 13 and 14 (WT/ACC/KGZ/13) concerning KyrgyzAltyn indicates that since 1994, that this fully State-owned enterprise has been the only producer, importer, or exporter of antimony. We believe that it should be notified as a state trading enterprise and subject to Article XVII disciplines.

Answer:

Although KyrgyzAltyn has been the only, *de facto*, producer, importer, and exporter of antimony, the Kyrgyz Republic does not believe that this company falls under the definition of Article XVII of the GATT 1994. KyrgyzAltyn does not have any exclusive or special rights or privileges in conducting foreign trade. Any person may apply and obtain a license to export antimony. Licenses are not required for the import antimony.

During the Working Party meeting of 5 February 1998, it was suggested that KyrgyzPharmacia should be notified also as a state trading company. The Kyrgyz Republic confirms that KyrgyzPharmacia has no role whatsoever in the issuance of licenses and, therefore, will not be notified as a state trading company.

Question 4.

Will the Kyrgyz Republic notify its telecommunications monopoly as a state trading enterprise?

Answer:

The Kyrgyz Republic's telecommunications monopoly provides services and does not trade in goods. Therefore, it should not be considered a state trading enterprise.

Question 5.

We seek specific protocol assurances concerning Kyrgyzalco's role in import licensing and concerning other requirements applied to imports where a state-owned firm exercises a production or trade monopoly to ensure that the provisions of Articles III, XI, and XVII of the GATT are also applied.

Answer:

Article 8 of the Law on Licensing of 3 March 1997 states that foreign legal entities or individuals, as well as individuals without citizenship shall receive licenses on the same conditions and in the same procedure as legal entities and individuals of the Kyrgyz Republic, unless otherwise stipulated by legislative acts. Currently, no legislative acts stipulate otherwise for licenses issued by Kyrgyzalco. Article 18 of the same law permits license applicants to have judicial appeal. Any MFN or National treatment (Article III) violations may be appealed to the court by license applicants. Policy decisions with respect to any quantitative restrictions and prohibitions are made by the Government and not by KyrgyzAlco.

The Kyrgyz Republic commits to ensure that the operations of Kyrgyzalco in the issuance of import and export licenses for alcohol and alcoholic products are administered in a manner consistent with WTO requirements.

Question 6.

Companies that exceed their profitability margin must provide a written justification to the Anti-Monopoly Department. It is not clear whether the way the monopolies work and Government controls on prices and profits will be consistent with Articles II and III of the GATT 1994 and Article VIII of the GATS, and more information should be provided. A commitment that the regime will be in conformity with the requirements of Articles II and III of the GATT 1994 and Article VIII of the GATS should be made. (Draft Report, paragraph 14)

Answer:

The Kyrgyz Republic suggests that paragraphs 14 and 15 be deleted and replaced by the following text:

The tariff rates set by the following natural monopolies must be approved by the Anti-Monopoly Department at the Ministry of Finance (AMD). Tariff rates are regulated using levels and norms of profitability: cost of operating a specific infrastructure (e.g. power transmission line, pipeline) or producing a specific product plus a profit margin set by the AMD:

- Kyrgyz Energy Holding (production, transmission, and distribution of electricity and thermal power);
- Kyrgyzgasmunaizat (natural gas);
- Kyrgyztelecom (communication services);
- Kyrgyzalco (alcohol and alcoholic products);
- Kyrgyztamekesei (tobacco and tobacco products);
- Kyrgyz Aba Joldoru (air transport of passengers and cargo); and
- Kyrgyzrailroad (rail transport of passengers and cargo).

In addition, the prices of services provided by Kyrgyztelecom (e.g. cost for installing a phone, rate of long distance calls/per minute) are established by the AMD. The prices of services provided by Kyrgyzgasmunaizat (only gas for population) and Kyrgyz Energy Holding (e.g. electricity HS 2716 rate/kwh) are established by the State Agency on Energy. Other natural monopolies may set their prices freely.

Prices for using sewage systems, water, and city public transport are set by city or oblast administrations.

All fees for services provided by the state are subject to control (e.g. fee for driver's license, fee for obtaining phytosanitary certificate, fee for obtaining veterinary certificate).

Permitted monopolies (eight companies) and temporary monopolies (34 companies) - these are companies which have dominant position in the market (more than 35 per cent market share) - are not subject to price or profitability control. Permitted monopolies are, however, required to simply declare (notify) their prices to the Anti-Monopoly Department at the Ministry of Finance.

The Kyrgyz Republic commits that its regime of controlling natural monopolies will be in conformity with the requirements of Articles II and III of the GATT 1994 and Article VIII of the GATS.

Privatization

Question 7.

We note the commitment offered by the Kyrgyz Republic in the response to question 15 (WT/ACC/KGZ/13), concerning annual reports to the WTO on economic reform and the progress of privatization.

We seek a specific commitment in the protocol text containing this information.

We would also appreciate a brief substantive report on the current status and near term plans for privatization in the Kyrgyz Republic in the draft Working Party report, drawing on the material submitted in WT/ACC/SPEC/KGZ/7, which also touches on eligibility for foreign participation and methods of privatization used.

When formulating its response to the questions on the status of privatization, we ask that the information on the progress and status of the programme be displayed in tabular form as well as in text, in the format used by Bulgaria in WT/ACC/BGR/5, "Information on Progress of the Privatization Process of State Enterprises".

Answer:

The Kyrgyz Republic has no objections to include in the protocol text commitments made in the response to question 15 of WT/ACC/KGZ/13.

The Kyrgyz Republic apologizes for not providing information according to the format used in WT/ACC/BGR/5 because the privatization process in the Kyrgyz Republic is much simpler than that and centralized in one agency (the State Property Fund of the Kyrgyz Republic) rather than 11 State bodies as in the case of WT/ACC/BGR/5.

The status of privatization in the Kyrgyz Republic is provided in Table 1 and Table 2 of Attachment A. As of 1 January 1998, approximately 64 per cent of State-owned objects (base is 1 January 1991) have been privatized. The total value of privatized state objects since 1991 is 13,418,900 Million Som.

The mass privatization program was completed on 30 June 1997. The shares of 1,056 Joint-Stock Companies were sold using coupon auctions.

According to Article 4 of the Kyrgyz Republic Constitution of 5 May 1993, land, its minerals, water, air space, forests, plant and animal world, all natural resources shall be in State ownership. In addition, according to Article 3 of the Law on Privatization and Denationalization of 12 January 1994, objects in exclusive ownership of the Kyrgyz Republic (land, its minerals, forests, reservoirs and other water resources) shall not be subject to privatization. The lease of such property is, however, possible.

The Law on Privatization and Denationalization also authorizes the Cabinet of Ministers to specify additional objects not subject to denationalization and privatization, even though their privatization and denationalization might not be specifically prohibited in the Kyrgyz Republic Constitution and the Kyrgyz Republic Law On Privatization and Denationalization. The current list of objects not subject to privatization is the following:

- mineral resources, forest fund, water resources, air space;
- protected or used in a special manner natural territories;
- objects of historical and cultural heritage of the people of Kyrgyzstan (unique cultural and natural monuments, objects of nature, history, culture, science and technology, as well as rarities kept in state museums, libraries and their subsidiaries, the association of folk art production "Kyial");
- property compounds of state power and management bodies;
- funds of the republican budget and [foreign] currency reserve of the Kyrgyz Republic, Social Fund under the Kyrgyz Republic Government, other State out-of-the-budget funds, as well as the gold reserve;
- National Bank of the Kyrgyz Republic, Treasury, Monetary chamber;

- arms, military equipment and other property of military use, budget-financed entities and organizations (including arsenals), as well as vehicle columns of military type under the operative management of the Ministry of Defense of the Kyrgyz Republic, Ministry of National Security of the Kyrgyz Republic; Ministry on emergencies and civil defense of the Kyrgyz Republic, Ministry of interior of the Kyrgyz Republic, other ministries and agencies that have military units;
- military objects of CIS countries located on the Kyrgyz Republic territory in accordance with existing inter-state agreements;
- objects of the civil defense of the Ministry of Emergencies and Civil Defense of the Kyrgyz Republic;
- science-technical entities and organizations within the system of the State agency on forests under the Kyrgyz Republic Government;
- enterprises and science-technological entities and organizations within the system of the State inspection on standardization and metrology under the Kyrgyz Republic Government and State archive agency under the Kyrgyz Republic Government;
- entities and organizations subordinate to the National Committee on Statistics of the Kyrgyz Republic;
- enterprises and organizations of hydro-meteorological service, services of control over the state of environment and protection of the nature;
- enterprises and organizations of the mapping-geodesic service;
- enterprises and entities of sanitary-epidemiological and quarantine service of the Kyrgyz Republic, plant protection service;
- objects and equipment for permanent storage of hard industrial and household wastes, hard and liquid radioactive wastes, animal cemeteries;
- cemeteries, enterprises on their service and provision of ritual services;
- technical inventory bureau.

The Law on Denationalization and Privatization of State Property of 12 January 1994 provides the Cabinet of Ministers the authority to restrict or otherwise limit foreign investors from participating in the privatization of certain industries; however the Cabinet of Ministers has not yet exercised this authority. The Kyrgyz Republic will not use such authority in a manner that is inconsistent with its obligations as a future member of the WTO. Foreign investors currently participate in the privatization process in the Kyrgyz Republic according to the same rules applied to domestic investors.

Privatization methods which will be used for privatizing remaining State assets, subject to privatization, are the following:

- (i) corporatization (turning a State-owned enterprise into a Joint Stock Company-JSC) followed by privatization through sales of shares using auctions or commercial tenders (used mainly for the privatization of medium and large scale enterprises);

- (ii) transformation of a State-owned object into a limited liability partnership followed by sale of partnership rights;
- (iii) direct sale (including bidding) to strategic investors (especially foreign companies) of large-scale objects. Companies are invited to bid through international press;
- (iv) direct sale (including bidding), auctions, and commercial tenders of any objects;
- (v) lease (contract management) for a period of time including the right of purchase by lessee.

During 1998, the Kyrgyz Republic plans to privatize large enterprises in strategic sectors of the economy including mining, energy, telecommunications, and systems of supply (oil and gas). These include companies such as Kyrgyztelecom-telecommunications company, Kyrgyz Aba Zholdoru-National airline company, Karabalta-Mining, Kadmajay Antimony, Uchkun JSC-Printing, Akyl JSC-Printing, Kyrgyz Energy Holding, Kyrgyzgasmunaizat, and Bishkek Machinery JSC. Also, the Kyrgyz Republic plans to privatize and denationalize companies and facilities of the non-productive sphere (e.g. movie theatres, recreation objects, resorts) in 1998-2000.

Question 8.

Could the Kyrgyz Republic provide plans to privatize State ownership?

Answer:

As described in great detail in previous communications to the WTO, the Kyrgyz Republic initiated its privatization program in 1991. The program is well underway. As of 1 January 1998, approximately 64 per cent of state objects (base is 1 January 1991) have been privatized. A detailed update regarding privatization status and plans has been provided. (Please see the reply to question 6 and Attachment A).

Pricing policy

Question 9.

We appreciate the commitment outlined in the response to question 16(WT/ACC/KGZ/13).

We seek a specific commitment in the protocol text containing this information.

As part of the enhanced transparency noted, we seek a list of current price controls by HS or service sector designation in a chart attached to the Working Party report, and reference in the Working Party text to the legal basis upon which these and subsequent controls would be applied.

Answer:

The tariff rates set by the following natural monopolies must be approved by the Anti-Monopoly Department at the Ministry of Finance (AMD). Tariff rates are regulated using levels and norms of profitability: cost of operating a specific infrastructure (e.g. power transmission line, pipeline) or producing a specific product plus a profit margin set by the AMD.

- Kyrgyz Energy Holding (production, transmission, and distribution of electricity and thermal power)
- Kyrgyzgasmunaizat (natural gas)
- Kyrgyztelecom (communication services)
- Kyrgyzalco (alcohol and alcoholic products)
- Kyrgyztamekesei (tobacco and tobacco products)
- Kyrgyz Aba Joldoru (air transport of passengers and cargo)
- Kyrgyzrailroad (rail transport of passengers and cargo)

In addition, the prices of services provided by Kyrgyztelecom (e.g. cost for installing a phone, rate of long distance calls/per minute) are established by the AMD. The prices of services provided by Kyrgyzgasmunaizat (only gas for population) and Kyrgyz Energy Holding (e.g. electricity HS 2716 rate/kwh) are established by the State Agency on Energy. Other natural monopolies may set their prices freely.

Prices for using sewage systems, water, and city public transport are set by city or oblast administrations. These prices are set through Orders issued by City or Oblast Administration.

All fees for services provided by the state are subject to control (e.g. fee for driver's license, fee for obtaining phytosanitary certificate, fee for obtaining veterinary certificate). These fees are stipulated by relevant laws and legal acts concerning various state services.

The Law on Restriction of Monopolistic Activities, Development and Protection of Competition of April 1994 authorizes the AMD to regulate natural monopolies. Companies may be included on the list of natural monopolies by Presidential Decrees, Government Resolutions, or AMD orders. Profit margins and prices are set by the AMD through Orders.

Question 10.

A list of products and services subject to price controls should be included. (Draft Report, paragraph 18)

Answer:

The Kyrgyz Republic controls prices of the following three goods: electricity (HS 2716), water (2201), and heat.

The prices of services provided by Kyrgyztelecom (e.g. cost for installing a phone, rate of long distance calls/per minute) are established by the AMD. The prices of services provided by Kyrgyzgasmunaizat (only gas for population) and Kyrgyz Energy Holding (e.g. electricity HS 2716 rate/kwh) are established by the State Agency on Energy. Other natural monopolies may set their prices freely.

Prices for using sewage systems, water, and city public transport are set by city or oblast administrations.

All fees for services provided by the state are subject to control (e.g. fee for driver's license, fee for obtaining phytosanitary certificate, fee for obtaining veterinary certificate).

Question 11.

We have a concern regarding the pricing policy of the Kyrgyz Republic which controls profitability of some producers. We would like to know the reasons why the Kyrgyz Republic keeps the profitability control measures. Normally, price approval and price notification are widely used for anti-monopoly measures in European countries, the United States and Japan. We hope that the Kyrgyz Republic may alter profitability control to price approval and/or price notification in view of transparency of the procedure.

Answer:

The tariff rates set by the following natural monopolies must be approved by the Anti-Monopoly Department at the Ministry of Finance (AMD). Tariff rates are regulated using levels and norms of profitability: cost of operating a specific infrastructure (e.g. power transmission line, pipeline) or producing a specific product plus a profit margin set by the AMD.

- Kyrgyz Energy Holding (production, transmission, and distribution of electricity and thermal power)
- Kyrgyzgasmunaizat (natural gas)
- Kyrgyztelecom (communication services)
- Kyrgyzalco (alcohol and alcoholic products)
- Kyrgyztamekesei (tobacco and tobacco products)
- Kyrgyz Aba Joldoru (air transport of passengers and cargo)
- Kyrgyzrailroad (rail transport of passengers and cargo).

The reason for using profitability control in the Kyrgyz Republic for regulating natural monopolies is its simplicity.

Once all these companies are privatized, the Kyrgyz Republic will reconsider its approach of regulating natural monopolies. Please note that most of these companies are slated for privatization in 1998.

The prices of services provided by Kyrgyztelecom are established by the AMD. The prices of services provided by Kyrgyz Energy Holding and Kyrgyzgasmunaizat are established by the State Agency on Energy . Other natural monopolies may set their prices freely.

(d) Foreign and domestic investment policy

Question 12.

According to the information provided in the elements of a draft report issued by the Secretariat, we have a concern over some laws and regulations of the Kyrgyz Republic which treat foreign persons less favourably than Kyrgyz citizens and legal entities. We hope that the Kyrgyz Republic will abolish such measures that do not provide "national treatment" to foreign persons and entities.

We would appreciate it if more detailed information could be provided about restrictions to foreign investors including information concerning the Law on Foreign Investment in September 1997.

Answer:

Current restrictions on foreign investors in the service sector are described in WT/ACC/SPEC/KGZ/3 (ACC/5 Information on Policy Measures Affecting Trade in Services) dated 5 June 1997. Also, the Kyrgyz Republic's schedule of commitments on services outlines restrictions on foreign investors in the service sector.

The new law on Foreign Investment of 16 September 1997 provides guarantees of national treatment, equitable and fair treatment, and full and constant protection for foreign investors. Exceptions from national treatment, according to the same law, are restrictions which may be introduced by law in the areas connected with defense and the protection of national security, health of population, and public moral all of which fall under Article XX and XXI exceptions under the GATT 1994. At this point, no such restrictions have been introduced by law.

The Law on Denationalization and Privatization of State Property of 12 January 1994 provides the Cabinet of Ministers the authority to restrict or otherwise limit foreign investors from participating in the privatization of certain industries; however the Cabinet of Ministers has not yet exercised this authority. The Kyrgyz Republic will not use such authority in a manner that is inconsistent with its obligations as a future member of the WTO.

Question 13.

We have a concern regarding paragraph 26 of the Law on Denationalization of State Property of 12 January 1994, which are not consistent with the WTO Agreement. We know that the Kyrgyz Republic has not yet exercised the power. If so, will the article be abolished?

Answer:

Please see the response to question 13 above.

Question 14.

There are national treatment issues involved in the investment regime, and changes in the Foreign Investment Law will need to be reflected in the working party report (paragraph 6).

Answer:

Current restrictions on foreign investors in the service sector are described in WT/ACC/SPEC/KGZ/3 (ACC/5 Information on Policy Measures Affecting Trade in Services) dated 5 June 1997. Also, the Kyrgyz Republic's schedule of commitments on services outlines restrictions on foreign investors in the service sector.

The new law on Foreign Investment of 16 September 1997 provides guarantees of national treatment, equitable and fair treatment, and full and constant protection for foreign investors. Exceptions from national treatment, according to the same law, are restrictions which may be introduced by law in the areas connected with defense and the protection of national security, health of population, and public moral all of which fall under Article XX and XXI exceptions under the GATT 1994. At this point, no such restrictions have been introduced by law.

The Law on Denationalization and Privatization of State Property of 12 January 1994 provides the Cabinet of Ministers the authority to restrict or otherwise limit foreign investors from participating in the privatization of certain industries; however the Cabinet of Ministers has not yet exercised this authority. The Kyrgyz Republic will not use such authority in a manner that is inconsistent with its obligations as a future member of the WTO.

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

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

Question 15.

We very much appreciate the complete information provided by the Kyrgyz Republic on its legal and political system, much of which has been included in the draft elements text. While this information is very useful as background, we would appreciate a more focused treatment on specific elements of the system that relate to trade.

We seek focused information in the draft Working Party report on (a) the relationship between central and subcentral authorities in establishing and enforcing trade policy, (b) implementing WTO provisions, and (c) the right of appeal by foreign and domestic importers and exporters of official rulings affecting trade.

We seek a commitment in the draft Working Party report addressing these issues.

Answer:

The Government is the highest body within the executive power system of the Kyrgyz Republic, (except the President) and as such directly controls activities of local state administrations on a range of issues, including those involving external trade matters and implementation of provisions of international treaties to which the Kyrgyz Republic is a party. Article 6 of the Civil Code states that international agreements ratified by the Kyrgyz Republic are to take precedence over conflicting provisions in civil legislation.

The Kyrgyz Republic Law "On Government" of 25 March 1997 No. 17 sets out the functions and authority of the central government and provides in Article 20 and 21 that the Government shall direct the implementation of all laws and decrees of the Kyrgyz Republic.

The Kyrgyz Republic Law "On local self-government and local state administrations in the Kyrgyz Republic" of 19 April 1991 N-437-XII sets out the powers of the local governments. These powers are subordinate to those of the national government and do not entail authority concerning trade policy, which is the sole purview of the central authorities.

Agency actions affecting trade are subject to administrative and appellate review. Article 2(3) of the Civil Code provides for the right to appeal an administrative decision in court. Specifically, Articles 417 to 428 of the Customs Code provides for the right to appeal decisions of the customs bodies. Article 57 of the Tax Code provides for administrative appeals of decisions of an official of the Tax Service. Article 58 provides for appellate review of any final decision of the Tax Service. And Article 18 of the Law on Licensing provides for the right to appeal issues relating to the refusal in the issue of a license.

The Kyrgyz Republic commits:

- to provide the right of appeal by foreign and domestic importers and exporters of official rulings affecting trade;
- that central authorities will be solely responsible for establishing foreign trade policy; and
- that the central Government will ensure observance of WTO obligations by sub-central Governments.

Question 16.

This paragraph states that local government policy affecting trade in goods and services is almost exclusively determined by the central Government. "Almost exclusively" indicates that some areas are not covered by central Government. It is also stated that each regional Kenesh is responsible for dealing with "regional economic matters", which could presumably have a trade impact. We seek clarification as to whether there are any areas not covered by central Government authority. If there are some, then information will need to be provided as to how the Kyrgyz Republic will maintain conformity with WTO obligations in these areas, and an assurance provided that the central Government will ensure observance of WTO obligations by sub-central Governments. (Draft Report, paragraph 22.)

Answer:

The word "almost" should be deleted.

The Government is the highest body within the executive power system of the Kyrgyz Republic, (except the President) and as such directly controls activities of local state administrations on a range of issues, including those involving external trade matters and implementation of provisions of international treaties to which the Kyrgyz Republic is a party. Article 6 of the Civil Code states that international agreements ratified by the Kyrgyz Republic are to take precedence over conflicting provisions in civil legislation.

The Kyrgyz Republic Law "On Government" of 25 March 1997 No. 17 sets out the functions and authority of the central government and provides in Article 20 and 21 that the Government shall direct the implementation of all laws and decrees of the Kyrgyz Republic.

The Kyrgyz Republic Law "On local self-government and local state administrations in the Kyrgyz Republic" of 19 April 1991 N-437-XII sets out the powers of the local governments. These powers are subordinate to those of the national government and do not entail authority concerning trade policy, which is the sole purview of the central authorities.

The Kyrgyz Republic commits:

- that central authorities will be solely responsible for establishing foreign trade policy; and
- that the central Government will ensure observance of WTO obligations by sub-central Governments.

4. Legislative Programmes or Plans to Change the Regulatory Regime

Question 17.

We note from the list of draft and enacted legislation in WT/ACC/KGZ/13 and WT/ACC/SPEC/KGZ/7 that much of the legislative agenda to implement WTO provisions will be acted upon later in 1998.

We would appreciate periodic updates on these efforts.

Answer:

Since the last set of questions and answers (WT/ACC/KGZ/13) which was forwarded to the WTO in September 1997, the following were enacted:

- (i) the Law On Copyright and Neighbouring Rights, 14 January 1998;
- (ii) the Law On Trademarks, Servicemarks and Appellation of Places of Origin, 14 January 1998 ;
- (iii) the Patent Law, 14 January 1998;
- (iv) the Civil Code Part II (Section on Intellectual Property), 5 January 1998;
- (v) the Criminal Code (Section on Intellectual Property), 1 January 1998;
- (vi) the Law on Consumer Protection, 10 December 1997;
- (vii) the Law on Bankruptcy, 15 October 1997;
- (viii) Amendments to Part I of the Civil Code, 15 October 1997.

Copies of the above laws are provided in Attachment C. Resulting from the enactment of the aforementioned laws, the following laws became invalid:

- (i) Temporary Regulation on Industrial Property in the Kyrgyz Republic, 16 January 1997;
- (ii) Law on Consumer Protection, 27 February 1992;
- (iii) Law on Bankruptcy, 15 January 1994;
- (iv) Amendments to Part I of the Civil Code, 3 June 1996.

Per request of working party members, the Kyrgyz Republic is providing a list of all draft laws and all draft amendments to laws relevant to its foreign trade regime:

Draft Law	Status	Date of submission to WTO
i. The Law on Anti-Dumping	At the Parliament for approval	Last draft was provided in October 1997. An updated draft is provided in Attachment B
ii. The Law on Countervailing	At the Parliament for approval	Last draft was provided in October 1997. An updated draft is provided in Attachment B
iii. The Law on Safeguards	At the Parliament for approval	Last draft was provided in October 1997. An updated draft is provided in Attachment B
iv. The Law on PC, Software Programs, and Databases	Adopted by the Parliament on 2 March 1998. Awaiting President's signature.	Draft was provided in September 1997. A copy of the law will be provided after President's signature.
v. The Law on Integrated Circuits Topography	Adopted by the Parliament on 2 March 1998. Awaiting President's signature	Draft was provided in September 1997. A copy of the law will be provided after President's signature
vi. The Law on Commercial Secrets	Adopted by the Parliament on 2 March 1998. Awaiting President's signature	A copy of the law will be provided after President's signature
vii. The Law on Selection Achievements	Being reviewed by the Parliament	Provided in September 1997
viii. Amendments to the Law on Standardization	Being approved by the Government	Provided in Attachment B
ix. Amendments to the Law on Certification	Being approved by the Government	Provided in Attachment B
x. Regulations on Import/Export Licensing	Being approved by the Government	Will be provided in April 1998.
xi. Amendments to the Customs Code	Being approved by the Government	Provided in Attachment B
xii. Amendments to the Law on Free Economic Zones	Being approved by the Government	Will be provided in April 1998
xiii. On Introducing Changes and Amendments to some Legislative Acts of the Kyrgyz Republic (includes Amendments to the Law on Normative Acts and Amendments to the Law on Publication of Laws)	Being approved by the Government	Provided in Attachment B
xiv. Amendments to the Tax Code	Being approved by the Government	Will be provided in April 1998.
xv. Amendments to the Law on Veterinary	Being approved by the Government	Will be provided in April 1998.
xvi. Amendments to the Law on Plant Quarantine	Being approved by the Government	Will be provided in April 1998.

IV. POLICIES AFFECTING TRADE IN GOODS

1. Import Regulations

(a) Registration requirements for engaging in importing

Question 18.

More detail should be provided in this paragraph covering requirements to be met to engage in foreign trade, and whether there are any restrictions such as capital or nationality requirements. (Draft Report, paragraph 23)

Answer:

There are no special registration requirements to be met to engage in foreign trade. Registration of physical persons as entrepreneurs and registration of businesses as legal persons are required to be engaged in any type of economic activity in the Kyrgyz Republic. There are no restrictions, such as capital or nationality requirements, to engage in foreign trade.

(b) Characteristics of national tariff

Question 19.

It is stated that the customs tariff is based on the commodity list of foreign economic activity which is generally patterned after the Harmonized System (HS). We seek clarification as to whether the Kyrgyz Republic applies the HS 96 nomenclature, and whether there are some exceptions. If there are any exceptions, when will they be incorporated into the national tariff. If the HS 96 nomenclature is not used, when it is expected to be adopted? (Draft Report, paragraphs 25 and 26.)

Answer:

In 1997, the Kyrgyz Republic adopted HS 96 as its tariff nomenclature.

Question 20.

Clarification is sought to make clear what is meant when the Kyrgyz Republic says that there are no MFN duty rates, and that no special MFN rates have yet been established.

Answer:

The word "special" may be deleted.

Question 21.

We note that with respect to the implementation of seasonal duties, Article 17 of the Customs Tariff Law permits the Cabinet of Ministers to issue rulings which establish seasonal customs duties for certain types of goods and their effective terms. No such implementing regulations have been enacted at this stage and no seasonal duties have been imposed. Are there any plans for the introduction of seasonal duties, and if so, on what goods? The Kyrgyz Republic will need to give a commitment that any such seasonal duties will not exceed bound levels of tariffs in their tariff schedule. What arrangements will be made to ensure that traders are given adequate notice of any changes in seasonal duties prior to their implementation (in other words, that they will conform to the requirements of Article X of the GATT 1994).

Answer:

Seasonal customs duties have never been imposed by the Kyrgyz Republic. Seasonal duties, when imposed, will not exceed the bound level of tariffs and will be applied in a consistent manner with the Kyrgyz Republic's obligations to the WTO. Also, adequate notice will be provided before imposing seasonal duties in accordance with the Amendments to the Law on Normative Acts and Amendments to the Law on Publications of Laws provided already to the WTO Secretariat.

The Customs Tariff law of 15 December 1992 is scheduled to be cancelled in 1998.

Question 22.

Clarification is sought to make clear what is meant when the Kyrgyz Republic says that there are no MFN duty rates, and that no special MFN rates have yet been established.

Answer:

The word "special" may be deleted.

Question 23.

We note that with respect to the implementation of seasonal duties, Article 17 of the Customs Tariff Law permits the Cabinet of Ministers to issue rulings which establish seasonal customs duties for certain types of goods and their effective terms. No such implementing regulations have been enacted at this stage and no seasonal duties have been imposed. Are there any plans for the introduction of seasonal duties, and if so, on what goods? The Kyrgyz Republic will need to give a commitment that any such seasonal duties will not exceed bound levels of tariffs in their tariff schedule. What arrangements will be made to ensure that traders are given adequate notice of any changes in seasonal duties prior to their implementation (in other words, that they will conform to the requirements of Article X of the GATT 1994).

Answer:

Seasonal customs duties have never been imposed by the Kyrgyz Republic. Seasonal duties, when imposed, will not exceed the bound level of tariffs and will be applied in a consistent manner with the Kyrgyz Republic's obligations to the WTO. Also, adequate notice will be provided before imposing seasonal duties in accordance with the Amendments to the Law on Normative Acts and Amendments to the Law on Publications of Laws provided already to the WTO Secretariat.

The Customs Tariff law of 15 December 1992 is scheduled to be cancelled in 1998.

Question 24.

We have a concern regarding Article 17 of the Customs Tariff Law that provides for seasonal customs duties. We hope that they are below the bound rates of duties and that they are consistent with the WTO Agreements.

Answer:

Seasonal customs duties have never been imposed by the Kyrgyz Republic. Seasonal duties, when imposed, will not exceed the bound level of tariffs and will be applied in a consistent manner with the Kyrgyz Republic's obligations to the WTO. Also, adequate notice will be provided before imposing seasonal duties in accordance with the Draft Amendments to the Law on Normative Acts and the Draft Amendments to the Law on Publications of Laws (Draft Law on Introducing Changes and Amendments to some Legislative Acts of the Kyrgyz Republic) provided already to the WTO Secretariat (Attachment C).

Question 25.

We know that some enterprises receive tariff exemption for imports of certain items for the production of final products. It is important to ensure procedural transparency regarding receiving tariff exemptions and not to discriminate against foreign enterprises.

Answer:

The same procedure to obtain these tariff exemptions applies to Kyrgyz legal entities with or without foreign participation. There are no restrictions or conditions imposed on Kyrgyz legal entities which are partially or fully foreign-owned.

Question 26.

Is there any restriction on the definition of domestic business enterprise (in other words, is a totally owned foreign company allowed to receive tariff exemptions on the same basis as wholly domestically owned companies?) (Draft Report, paragraph 28.)

Answer:

Domestic business enterprise include wholly domestically owned, partially foreign owned, and fully foreign owned. The same procedure to obtain these tariff exemptions applies to Kyrgyz legal entities with or without foreign participation. There are no restrictions or conditions imposed on Kyrgyz legal entities which are partially or fully foreign owned.

Question 27.

We would suggest that this paragraph should be redrafted. The intention is not to preclude legitimate tariff concessions (for example, where there is no domestic production) provided that these are granted on a non-discriminatory MFN basis. (Draft Report, paragraph 30.)

Answer:

Tariff concessions, including concessions to provide zero tariff, will be part of the Kyrgyz Republic's schedule of concessions on goods.

(c) Tariff quotas, tariff exemptions

Question 28.

There will need to be a commitment to abide by WTO obligations, particularly Article XIII of the GATT 1994.

We presume that the reference to Article XVII means to Article XVIII. (Draft Report, paragraph 37)

Answer:

The Kyrgyz Republic commits to abide by Article XIII of the GATT 1994.

Article XVII should be replaced by Article XVIII.

(d) Other duties and charges

Question 29.

In response to question 20, the Kyrgyz Republic commits to bring its customs processing fee into conformity with Article VIII of the GATT 1994 and describes in some detail a plan to do so.

Has this new fee structure been implemented in the new Customs Law?

Answer:

Article 112 of the Customs Code states that the fee for customs processing should be 0.15 per cent and should not exceed the cost of services. A government resolution will be issued on the date of accession to the WTO setting the minimum and maximum fees according to the methodology described in the reply to question 20 of WT/ACC/KGZ/13.

Question 30.

The fee structures for import and export licensing, and for phytosanitary and veterinary certificates are also described.

Have these fees already been implemented?

Does the Kyrgyz Republic apply any other fees, taxes, or charges to imports (not including VAT and excise taxes)?

We seek a general commitment from the Kyrgyz Republic that all fees applied to imports will be operated consistent with the provisions of Article VIII of the GATT.

Answer:

As described in the reply to question 20 of WT/ACC/KGZ/13, the current fees (in effect) for phytosanitary certificate and import/export licensing reflect the cost of services rendered and are, therefore, in full conformity with Article VIII of the GATT 1994. The current fees charged for veterinary certificate are way below the cost of services. (See analysis provided in Attachment A.III to WT/ACC/KGZ/13)

In addition to the aforementioned fees and the customs processing fee, the Kyrgyz Republic charges fees for obtaining the certificate of compliance and the certificate of origin. The Kyrgyz Republic is currently evaluating these two fees to determine whether or not they reflect the cost of services rendered. A report on such findings will be provided in April 1998.

The Kyrgyz Republic does not apply any other fees, taxes, or charges to imports (not including VAT and excise taxes).

The Kyrgyz Republic commits that all fees applied to imports will be operated consistent with the provisions of Article VIII of the GATT on the date of accession.

Question 31.

We note the costs associated with the issuance of a phytosanitary certificate. We would like to see the name of the organization responsible for issuing the certificate included in the report. Are there any mechanisms in place for decisions to challenged concerning the issuance of phytosanitary certificates? (Draft Report, paragraph 34.)

A commitment to abide by the provisions of Article VIII of the GATT 1994 should be included to this section.

The Kyrgyz Republic should make a clear statement as to whether or not its schedule of commitments will include any other duties or charges (ODCs) within the meaning of GATT Article II.

Answer:

The Phytosanitary Certificate is issued by the Ministry of Agriculture. The current fee structure for issuing phytosanitary certificate is in conformity with Article VIII of the GATT 1994. The Kyrgyz commits to abide by the provisions of Article VIII.

The Kyrgyz Republic will not include any other duties or charges (ODCs) within the meaning of GATT Article II.

(e) Quantitative import restrictions

Question 32.

This paragraph states that the Kyrgyz Republic does not plan to introduce import quotas "except of these circumstances permitted by the WTO Agreements". We seek clarification as to whether this is simply a statement of the normal rights of all WTO members, or whether the Kyrgyz Republic is suggesting possible plans to introduce import quotas in the future. If there are plans to introduce import quotas in the future, could the Kyrgyz Republic provide information on areas where they might be applied and the circumstances under which they might be introduced. (Draft Report, paragraph 47)

Answer:

This is simply a statement of the normal rights of all WTO members. Currently the Kyrgyz Republic does not plan Any plans to introduce import quotas.

(f) Import licensing procedures

Question 33.

The March 1997 Law on Licensing contains provisions that could be applied against WTO provisions, e.g., for protective purposes.

Will the Kyrgyz Republic commit to apply this law in conformity with WTO provisions, e.g., GATT Articles XI and XIX, and the Agreements on Licensing and Safeguards?

Answer:

The Kyrgyz Republic commits to apply the March 1997 Law on Licensing in conformity with WTO provisions, e.g., GATT Articles XI and XIX, and the Agreements on Licensing and Safeguards. Draft regulations for proper implementation of the import/export provisions of the Law on Licensing being finalized and will be provided in April 1998.

Question 34.

Can the Kyrgyz Republic list the five categories subject to import licensing? (Draft Report, paragraph 48)

What are the consumer welfare provisions (apart from health and safety) for which licensing is imposed?

Answer:

The five generalized categories of products subject to import licensing mentioned in Paragraph 48 were stipulated by Cabinet of Ministers Resolution No. 408 of 13 June 1994. Resolution No. 408 became invalid in May 1997. Government Resolution No. 56 took effect on 21 July 1997. Resolution No. 56 listed 15 categories of products as subject to import licensing and 18 categories of products as subject to export licensing.

The Kyrgyz Republic's import and export licensing regime is currently being revised to conform to the Law on Licensing of March 1997 and the WTO Import Licensing Agreement. The Draft Regulations on Import/Export Licensing is being finalized and will be provided to the WTO Secretariat in April 1998. This draft regulation will be enacted during the next two months. Please find attached two tables listing goods subject to import and export licensing along with justification for such licenses.

Question 35.

What is the certificate of conformity referred to this paragraph? Is it related to a standard? (Draft Report, paragraph 49)

Answer:

It is a certificate indicating that a given product meet standards. It is referred to elsewhere in the Draft Report as "Certificate of Compliance."

Question 36.

The commitment in this paragraph will need to be improved. In paragraph 52 there is a commitment that fees will be in conformity with Article VIII. This commitment should be moved to paragraph 54 and should be improved by also including a commitment to abide by the provisions of the Agreement on import licensing. (Draft Report, paragraph 54)

Answer:

The Kyrgyz Republic commits to apply the March 1997 Law on Licensing in conformity with the WTO Agreement on Import Licensing. Instead of amending the Law on Licensing, the Kyrgyz Republic has made a recent decision to adopt implementing regulations which will clarify the provisions on import and export licensing found in the Law on Licensing. These draft regulations are being finalized and will be sent to the WTO in April 1998.

The information provided in Paragraph 52 regarding the fee for import/export licensing is inaccurate. The current fee to obtain an import or export license is 1,000 Som (approximately US\$56). A detailed analysis, which was provided in Attachment A.IV to WT/ACC/KGZ/13, demonstrates that the current fee reflects the cost of services rendered.

(h) Customs valuation

Question 37.

We are reviewing the text of the new Customs Code. We will provide comments within the next month.

Answer:

We suggest that such review be conducted in light of the draft amendments to the Customs Code provided in Attachment B.

(k) Application of internal taxes on imports

Value added tax

Question 38.

We would appreciate an update on the progress within the CIS in bringing VAT into conformity with GATT Article I.

Answer:

Three agreements have been signed respectively with Kazakstan, Ukraine and Uzbekistan on applying VAT at destination rather than origin. An agreement has been initiated with Georgia

Question 39.

It would be useful if the language could be strengthened to reflect a commitment that the VAT system will be in full conformity with Article III as well as Article I of the GATT 1994 upon accession. (Draft Report, paragraph 41)

Answer:

The Kyrgyz Republic commits that the VAT system will be in full conformity with Article III as well as Article I of the GATT 1994 upon accession.

Question 40.

In paragraph 40 the draft "elements" document, the Kyrgyz Republic states that from 14 January 1997, VAT has been collected on all imports from all sources on an MFN basis, including imports from the CIS. Paragraph 41 and the response to question 24, however, seem to imply that the new tax legislation, slated for passage in early 1998, will actually implement this measure.

Could Kyrgyz Republic clarify whether the VAT is applied on an MFN basis on all imports, and what, if anything, the new tax legislation will provide in this regard?

The draft "elements" document also notes that currently excise taxes are applied at higher rates on imports than on similar domestic goods.

Will the "Law on Making Amendments and supplements to the Tax Code of the Kyrgyz Republic" to be enacted by the end of May 1998, equalize the application of excise taxes?

We seek a commitment in the protocol from the Kyrgyz Republic that it will implement VAT and excise tax systems that are in full conformity with WTO national treatment and most-favoured-nation requirements prior to WTO accession.

Answer:

Paragraph 40 of the draft "elements" needs to be changed. VAT does not apply on an MFN basis with respect to imports.

Three agreements have been signed respectively with Kazakhstan, Ukraine, and Uzbekistan on applying VAT at destination rather than origin. An agreement has been initiated with Georgia. Only the agreement with Kazakhstan has been ratified.

Draft amendments to the Tax Code are being prepared to ensure the eventual application of VAT on imports on MFN basis and will be provided in April 1998. The same draft amendments to the Tax Code will also provide for national treatment with respect to the application of excise taxes.

The Draft amendments to the Tax Code envisages a mechanism to transition the application of VAT from source to destination for those countries which apply the same principle.

The Kyrgyz Republic commits to implement excise tax system that is in full conformity with WTO national treatment and most-favoured nation requirements prior to WTO accession.

Excise taxes

Question 41.

We have concerns over the discriminatory excise taxes which differentiate between foreign and domestic products, as they are not consistent with the WTO Agreement. We would appreciate it if a plan to unify the tax is provided.

Answer:

The Kyrgyz Republic is committed to establish, upon accession to the WTO, one equal excise tax regime for imported and domestically produced goods. Currently, the Tax Code is being amended to ensure that excise taxes will apply equally to foreign and domestic products. The Tax Code is also being amended to provide the Government with the authority to establish excise tax rates. Upon approval of the Amendments to the Tax Code, the Ministry of Finance will submit to the Government the list of goods subject to excise tax rates to be applied equally on imported and domestically produced goods.

Question 42.

It should be made clear that the Law referred to here is the one that will rectify the discriminatory excise tax treatment of imported goods. The commitment in paragraph 45 "that upon accession to the WTO, one equal excise tax regime would apply to both imported and domestically produced goods", should be moved from paragraph 45 to paragraph 46. (Draft Report, paragraph 46)

Answer:

The legislation referred to in Paragraph 45 is a Government Resolution which will establish the actual excise rates for domestic and imported products. The Amendments to the Tax Code (referred to in paragraph 46) will include provisions in the tax code that excise taxes shall apply equally to domestic and imported products.

(l) Rules of origin

Question 43.

The response to question 27 (WT/ACC/KGZ/13) indicates that the "new" or "adopted" Customs Code contains provisions for rules of origin and for the right of appeal of customs administrative rulings.

Is this the new Customs Tariff Law of 30 July 30 1997? Are the Amendments to the Customs Tariff of 28 July 1997 relevant?

We seek a specific commitment to implement the provisions of the Agreement on Rules of Origin prior to accession.

Answer:

The Kyrgyz Republic did not enact a new Customs Tariff Law 30 July 1997. Amendments to the Customs Tariff Law of 15 December 1992 were enacted on 29 July 1997. These amendments are not relevant to Rules of Origin and simply provides the authority to the Parliament for establishing import tariff rates.

The new Customs Code, which took effect on 1 October 1997 included provisions on rules of origin and for right of appeal which are in conformity with WTO Agreement on Rules of Origin.

The Customs Tariff law of 15 December 1992, which now is largely redundant of the Customs Code, is scheduled to be cancelled after the enactment of the three laws on anti-dumping, countervailing, and safeguards.

- (m) **Anti-dumping regime**
- (n) **Countervailing duty regime**
- (o) **Safeguard regime**

Question 44.

What is the status of these draft laws?

Answer:

Initial drafts of all three laws were submitted to the WTO Secretariat in September 1997. Updated versions were provided in late October 1997. Currently, all three laws are awaiting final government approval before submission to the Parliament. The most recent versions of these three draft laws are provided in Attachment B.

Question 45.

There should be a commitment in this paragraph that any legislation in place at the time of accession or implemented in the future providing for the application of measures taken for anti-dumping, countervailing duty, or safeguard purposes would conform to the provisions of the WTO Agreements of Anti-dumping, on Subsidies and Countervailing Measures, and on Safeguards. In the absence of such legislative authority in place at the time of accession, the Kyrgyz Republic would not apply measures for anti-dumping, countervailing duty, of safeguard purposes until legislation in conformity with the provisions of these WTO Agreements had been implemented. (Draft report, paragraph 62)

Answer:

The Kyrgyz Republic agrees to such commitment.

2. Export Regulation

- (b) **Customs tariff nomenclature**

Question 46.

This paragraph appears inconsistent with the information in paragraph 40 on VAT collection. The situation with regard to VAT exemptions and collections on intra-CIS trade needs to be clarified and there should be an assurance concerning consistency with Article I of the GATT 1994. (Draft report, paragraph 63)

Answer:

Paragraph 40 should be eliminated.

Please see the response to question 40 above.

The Kyrgyz Republic commits to comply with Article I (MFN) in applying VAT.

(d) Export licensing procedures

Question 47.

This paragraph will need to contain a commitment that the Kyrgyz Republic will abide the provisions of the Article XI of the GATT. (Draft report, paragraph 69)

Answer:

The Kyrgyz Republic commits to abide the provisions of Article XI of the GATT.

(f) Export financing, subsidy and promotion policies

Question 48.

We are reviewing the new Foreign Investment Law, enacted in September 1997 which Kyrgyz Republic has indicated (para 74 of the "elements" text) eliminates the profit tax reduction for export performance.

Could the Kyrgyz Republic outline how tax incentives based on export performance currently used by firms under the previous foreign investment law will be phased out or otherwise eliminated prior to WTO accession?

Answer:

According to Article 24 of the new Foreign Investment Law of September 1997, tax incentives, based on export performance currently used by foreign firms under the previous foreign investment law, shall continue to apply until the expiration of the term of their validity. Any attempt at this point to terminate such incentives prior to the term of their validity is likely to cause significant problems to existing foreign investors.

3. Internal Policies Affecting Foreign Trade in Goods

(b) Technical regulations and standards

(c) Sanitary and phytosanitary measures

Question 49.

Can the Kyrgyz Republic explain how standards are used to preserve all types of resources? (Draft report, paragraph 75)

Answer:

Article 1 of the Law of Kyrgyz Republic on Standardization states that objectives of standardization is: "to provide saving (economy) of all sorts of resources"

Standards provide for indexes aimed at economizing different kinds of resources. In the development and production of articles, it is recommended not to exceed specific indexes of consumption of materials, power, fuel, etc. These indexes are, however, not mandatory.

Question 50.

There is a need for details to be provided on plans to overcome the difficulties outlined in meeting the requirements of Agreement on Technical Barriers to Trade. (Draft report, paragraphs 81 and 81)

Answer:

The Kyrgyz Republic has been working on overcoming difficulties in meeting the requirements of the TBT Agreement.

The Law on Standardization and the Law on Certification are currently being amended to meet the TBT requirements for publication of draft standards and technical regulations. Kyrgyzstandard publishes a quarterly periodical entitled the Information Bulletin of Kyrgyzstandard where such notices will be published.

Under Resolution No. 12 of 6 January 1997 the Cabinet of Ministers of the Kyrgyz Republic officially established the Information Center of the State Inspectorate on Standardization and Metrology (Kyrgyzstandard) as the Inquiry Point for standards and sanitary and phytosanitary measures in the Kyrgyz Republic. This Inquiry Point meets WTO requirements.

It contains all adopted and proposed standards and conformity assessment procedures and information concerning the membership and participation of the Kyrgyz Republic in regional and international standardizing bodies as well as in bilateral and multilateral arrangements. The Inquiry Point receives questions and sends responses by telephone, mail, fax and e-mail. Notification to the WTO of the establishment of this Inquiry Point is currently being prepared. Kyrgyzstandard has hired employees, fluent in Russian and English, who will receive and transmit information in English.

To the extent that resources will allow, Kyrgyzstandard will participate in international standards activities. The Kyrgyz Republic is currently a corresponding member of the ISO. It is also a member of the CIS Inter-Governmental Council on Standardization, Metrology and Certification. This body is recognized by the ISO as a regional organization moving towards the eventual implementation and usage of international standards

Question 51.

We have reviewed some of the draft legislation provided by the Kyrgyz Republic with a view to evaluating its ability to comply with TBT obligations. There is very little in place at the present time that meets the obligations of the TBT Agreement. For Example:

- (i) there is no mechanism for publishing draft standards and technical regulations;**
- (ii) there is no operating inquiry point, either for the TBT or SPS, and the TBT inquiry point is only in the initial stages of formation;**
- (iii) the Kyrgyz Republic indicates it will have difficulty in receiving and transmitting information in one of the accepted languages of the WTO;**
- (iv) mandatory certification covers a broad range of product classes, but there does not appear to be any information on what standards or certification procedures apply in particular cases, and no information on what risks are being addressed through certification;**

- (v) **some products require multiple certificates- safety, hygiene, etc. but there is no information on which products require which types of certificates. Charges for veterinary certificates appear to be value-based, rather than being based on the cost of service being provided. In addition, import licenses are required for pharmaceuticals, medical and veterinary equipment;**
- (vi) **there appears to be no provision for notifying updates to the list of products requiring mandatory certification, with the exception that other CIS countries receive prior notice of changes to the list and also have a grace period for compliance;**
- (vii) **the Kyrgyz Republic does not accept foreign certificates, with the exception that it does accept certificates from any accredited institution in CIS countries. Yet the country has only eight accredited certification bodies, 13 test labs and four regional branches of Kyrgyzstandard responsible for certifying products. This indicated there may be too few authorized certification entities to satisfy demand;**
- (viii) **the Kyrgyz Republic has indicated that it does not have the financial ability, the necessary specialists, or the infrastructure necessary to participate in international standards activities or to develop its own standards and technical regulations. For example, it has noted that membership in ISONET, which would assist in meeting TBT Agreement provisions, poses organizational, technical and financial difficulties for Kyrgyzstandard.**
- (ix) **many of the same deficiencies are present vis-à-vis the SPS Agreement as well, i.e. there is no inquiry point, no provision for prior publication of new requirements for comment, and no requirements or guidelines in place to conduct risk assessments. There does not appear to be any provision for the acceptance of equivalent requirements.**
- (x) **we recognize that the Kyrgyz Republic may need help in setting up initial institutions and enacting basic WTO-consistent laws to implement the TBT and SPS Agreements in the trade regime. These minimum requirements, however, are fundamental to beginning to move the current system into line with international norms and WTO provisions.**

Answer:

Draft amendments to the Law on Standardization and Draft Amendments to the Law on Certification are provided in Attachment B.

(i) The Law on Standardization is currently being amended to meet the TBT requirements for publication of draft standards and technical regulations. Kyrgyzstandard publishes a quarterly periodical entitled the Information Bulletin of Kyrgyzstandard where such notices will be published.

(ii) Under Resolution No. 12 of 6 January 1997, the Cabinet of Ministers of the Kyrgyz Republic officially established the Information Center of the State Inspectorate on Standardization and Metrology (Kyrgyzstandard) as the Inquiry Point for standards and sanitary and phytosanitary measures in the Kyrgyz Republic. This Inquiry Point meets WTO requirements.

It contains all adopted and proposed standards and conformity assessment procedures and information concerning the membership and participation of the Kyrgyz Republic in regional and international standardizing bodies as well as in bilateral and multilateral arrangements. The Inquiry Point receives questions and sends responses by telephone, mail, fax and e-mail. Notification to the WTO of the establishment of this Inquiry Point is currently being prepared.

(iii) Kyrgyzstandard has hired employees, fluent in Russian and English, who will receive and transmit information in English.

(iv) Certification requirements as well as the risks being addressed are set out in the standard of the individual product.

(v) Attachment A provides the list of products requiring phytosanitary certificate, the list of products requiring certificate of compliance, and the list of products requiring veterinary certificate. As for products subject to import and export licensing, a draft resolution on Import/Export Licensing will be provided in April 1998. The resolution contains two lists of products which will be subject to import and export licensing.

Although the charges for veterinary certificates are value-based, they are way below the cost of services rendered. The current charges range from 30 Som to 500 Som. Analysis provided in Attachment A.III to WT/ACC/KGZ/13 indicates that the fees which should be charged to reflect the cost of services rendered range from 250 Som to 3,272 Som depending on the level of effort. That means the Kyrgyz Republic needs to increase fees charged for issuing veterinary certificate in order to reflect the cost of services rendered.

(vi) If a change is made to the list of products that require mandatory certification, the new list will be published and notification of the changes will be sent to the WTO Secretariat. A grace period will be provided to all countries on an MFN basis. The Amendments to the Law on Standardization include provisions which conform to TBT publications requirements.

(vii) According to Official Instructions issued by the government of the Kyrgyz Republic, certificates of accordance or certificates of quality that are issued by internationally known companies or firms are accepted even where there is no bilateral or multilateral agreement. A procedure of acknowledgment for acceptance of international certificates is set out in government instructions. Please see Instruction "On Order of Acknowledgment of Foreign Certificate of Compliance" of 1 November 1996. (provided in Attachment C).

(viii) To the extent that resources will allow, Kyrgyzstandard will participate in international standards activities. The Kyrgyz Republic is currently a corresponding member of the ISO. It is also a member of the CIS Inter-Governmental Council on Standardization, Metrology and Certification. This body is recognized by the ISO as a regional organization moving towards the eventual implementation and usage of international standards.

(ix) The Law on Veterinary and the Law on Plant Quarantine are being amended to meet the requirements of the SPS Agreement. A law on Food Safety is currently being drafted and will meet SPS requirements.

(x) We recognize the importance of establishing institutions and enacting WTO-consistent laws to implement the TBT and SPS Agreements and are currently in the process of amending relevant laws to ensure compliance. Draft amendments to two relevant laws (the Law on Standardization and the Law on certification) are provided in Attachment B. Draft Amendments to two additional laws (the Law on Plant Quarantine and the Law on Veterinary) will be provided in April 1998. We have also established inquiry point in conformity with TBT and SPS.

Question 52.

We consider that further efforts may be necessary to implement the TBT and SPS Agreements. We would like to have information concerning the Enquiry Point. We would like to know the plan to establish the Enquiry Points.

Answer:

The Enquiry Point for TBT and SPS has been established in KyrgyzStandard.

Question 53.

With regard to the Kyrgyz Republic's phytosanitary certificate measures, we would like to clarify which goods are subject to the phytosanitary certificate measures and the fee corresponding to each individual goods subject to SPS measures.

Answer:

The list of goods subject to phytosanitary certificate along with corresponding fees is provided to the WTO in Attachment A.

Question 54.

Regarding the Kyrgyz Republic's veterinary certificate measures, we would like to clarify which goods are subject to the veterinary certificate and the fee corresponding to each goods subject to the measures.

Answer:

The list of goods subject to veterinary certificate along with fees is provided to the WTO in Attachment A.

Question 55.

What is the time frame for the internal review processes referred to in these paragraphs and for implementing adjustments that may be necessary to the SPS regime? (Draft report, paragraphs 84 and 86)

Answer:

The Law on Veterinary and the Law on Plant Quarantine are being amended (draft amendments to both laws are being finalized and will be provided to the WTO no later than April 1998) to meet the requirements of the SPS Agreement. A law on Food Safety is currently being drafted and will meet SPS requirements. See also reply to question 51 above.

(d) Trade Related Investment Measures (TRIMS)

Question 56.

The commitment needs to be made to bring all measures into conformity with the requirements of the TRIMs Agreement, rather than only one piece of legislation which is referred to in this paragraph. (Draft report, paragraph 92)

Answer:

The only TRIMs inconsistent measures in the Kyrgyz Republic are those connected with Free Economic Zones. Amendments to the Law on Free Economic Zones will ensure the elimination of all TRIMs inconsistent measures. Draft amendments to this law are being finalized and will be provided to the WTO in April 1998 (See Annex 1).

- (f) Free zones
- (g) Free economic zones

Question 57.

In WT/ACC/KGZ/10, the Kyrgyz Republic identified specific incentives for firms in the Bishkek Free Economic Zone providing exemptions from lease payments for up to 15 years for establishments which are (1) engaged in export-oriented and import substitution production activities, (2) use domestic raw materials and spare parts, and (3) employ certain number of people per year. In addition, export-oriented production is exempt from quantitative restrictions.

In its response to question 32, the Kyrgyz Republic acknowledged that these provisions were violations of the WTO Agreement on Subsidies and Countervailing Measures and, in some cases, the TRIMS Agreement, and that "appropriate legislation will be prepared during the first half of 1998" to eliminate these WTO-inconsistencies.

Please give a status report on this effort. How will the Kyrgyz Republic, in general, deal with companies currently making use of these benefits and requirements?

We would appreciate a list of all such programs and Kyrgyz Republic's outline of how such programs will be changed or eliminated.

We seek a commitment in the protocol addressing the WTO-consistent operation of the Bishkek Free Economic Zone and other free zones after accession.

Answer:

Draft amendments to the Law on Free Economic Zones, addressing the elimination of all WTO-inconsistent measures in connection with free economic zones, are being finalized and will be provided to the WTO Secretariat in April 1998. The Kyrgyz Republic will ensure that operation of free economic zones will be WTO-consistent after accession. There are no additional programs to the ones listed in the reply to question 32 of WT/ACC/KGZ/13.

The Kyrgyz Republic is currently finalizing its decision on how to deal with companies which are currently operating in the zone and have received such benefits. Such decision will be reflected in the Amendments to the Law on Free Economic Zones.

Question 58.

As noted in the Subsidies section above, we would appreciate information from the Kyrgyz Republic about how the requirements in the Bishkek Free Economic Zone for the use of domestic raw materials and spare parts in exported products in return for reduced lease payments would be eliminated.

Answer:

This will be implemented through amending the Law on Free Economic Zones. Draft amendments to this law will be provided in April 1998.

(l) Government procurement

Question 59.

Concerning the Kyrgyz Energy Holding Company: are its imports of power generation equipment considered "government procurement" or "state trade," i.e., does the Kyrgyz Republic consider its purchases from abroad covered by Article XVII?

Answer:

Imports of power generation equipment by Kyrgyz Energy Holding Company are not considered "state trade" and are not covered by Article XVII. Such imports, however, may be considered government procurement.

Article 2 of the Law on Government Procurement of 13 May 1997 states that the law shall apply to procurement of goods, works, and services done partially or fully with the use of State budget funds. Article 1 of the Explanatory Notes (also have the force of law) of the Law on Government Procurement defines state funds to include funds of enterprises established by the State (e.g. Kyrgyz Energy Holding Company)

Question 60.

We remain interested in working with the Kyrgyz Republic to facilitate and expedite its accession to the Government Procurement Agreement as soon as possible after accession.

What is the status of the establishment of the Kyrgyz Government Procurement Agency?

Answer:

The Kyrgyz Government Procurement Agency was established in January 1997.

Question 61.

We hope that the Kyrgyz Republic will accede to the Government Procurement Agreement.

Answer:

As stated in previous communications to the WTO, the Kyrgyz Republic will consider joining the Government Procurement Agreement in January 1999 (two years after the date of establishment of the Kyrgyz Government Procurement Agency).

4. Policies Affecting Trade in Agricultural Products

(b) Exports

Agricultural export subsidies

We applaud the commitment offered in the response to question 38 (WT/ACC/KGZ/13) for the Kyrgyz Republic to bind its agricultural export subsidies at zero.

V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME

As many of the initial questions were compound when submitted, for purposes of clarity they have been severed which has resulted in a certain amount of paraphrasing. Also, the questions were based on the draft laws submitted to the WTO in 1997. Since that time the Law on Patents, the Law on Copyright and Neighbouring Rights and the Law on Trademarks have been passed by Parliament and signed into law.

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

Question 62.

Most of the sections conclude with a paragraph containing an untested statement made by the Kyrgyz Republic that the law is consistent with TRIPs requirements. These paragraphs will need to reflect a clear commitment to the provisions of the TRIPs Agreement, both in respect to laws and to procedures/practices. Details on when the laws of the Kyrgyz Republic will fully conform to the requirements of the TRIPs Agreement should be provided.

Answer:

The following TRIPs related laws were enacted recently:

- (i) The Law On Copyright and Neighbouring Rights (adopted by Parliament on 16 December 1997; signed by President on 14 January 1998; and went into force on 23 January 1998)
- (ii) The Law On Trademarks, Service marks and Appellation of Places of Origin (adopted by Parliament on 16 December 1997; signed by President on 14 January 1998; and went into force on 28 January 1998)
- (iii) The Patent Law (adopted by Parliament on 16 December 1997; signed by President 14 January 1998; and went into force on 4 February 1998)
- (iv) The Civil Code Part II (Section on Intellectual Property) (adopted by Parliament on 5 December 1997; signed by President on 5 January 1998; and will go into force on 1 March 1998)
- (v) The Criminal Code (Section on Intellectual Property) went into force 1 January 1998.

The Law on PC, Software Programs, and Databases, the Law on Integrated Circuits, and the Law on Commercial secrets were adopted by the Parliament on 2 March 1998 and are awaiting President's signature. The Law on Selection Achievements is currently being reviewed by the Parliament and is expected to be adopted by the Parliament in April 1998.

The Kyrgyz Republic, in drafting all aforementioned laws, took into account its accession to the WTO and worked within the context of the TRIPs Agreement.

(a) Copyright and related rights

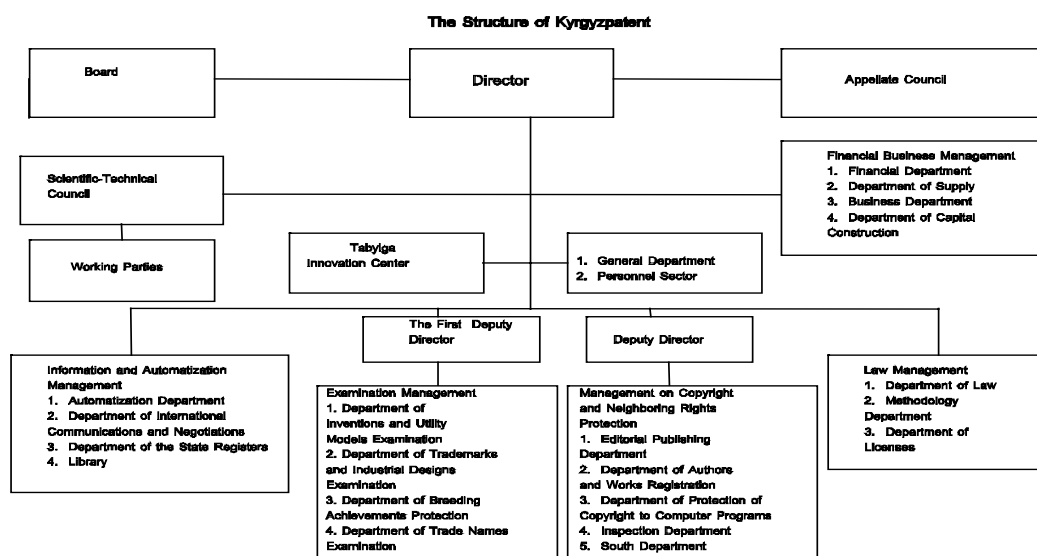
Law of the Kyrgyz Republic "On Copyright and Related Rights"

Question 63.

Explain the organization of Kyrgyzpatent Office (Article 3).

Answer:

See the following organizational chart.



Question 64.

Explain the use of the term "systems" as used in Article 6 (4) of the Copyright Law and distinguish the term as used in Article 7 (2). They appear inconsistent (Articles 6 and 7).

Answer:

Article 6(4) states that copyright shall not extend to: "ideas, procedures, methods, concepts, principles, *systems*, proposed solutions, discoveries of objectively existing phenomena." (Emphasis added).

The term "systems", as used here, mirrors the use of the term in section 102(b) of the United States Copyright Act.

On the other hand, the term *operating systems* found in Article 7(1) of the enacted Copyright Law merely codifies the principle that computer programs are protected by copyright provided, of course, that the work meets the requirements of Article 6 of the law. This principle that computer software is treated as literary works was reaffirmed in the WIPO Copyright Treaty.

Question 65.

Clarify paragraph 3 of Article 16 relating to the resale of particular copies after they have been published (Article 16).

Answer:

Paragraph 3 of Article 16 clearly provides, that if copies of a lawfully published work have been introduced into the economy through their sale, the further resale of these copies is allowed without the agreement of the author and without payment of a copyright fee.

Article 16(3) states: "If copies of a legitimately published work have been introduced into civil circulation by means of sale, they may be further distributed without the consent of the author and [without] payment of author's remuneration."

Question 66.

Clarify the charge for the use of certain public domain works (Article 28).

Answer:

Article 3(3) of the Copyright Law provides: "In order to develop the culture of the Kyrgyz Republic and promote creative activities of the authors, the State Intellectual Property Fund is being established. Regulation on the State Intellectual Property Fund shall be approved by Kyrgyzpatent."

This fund, established for the promotion of authors, will be financed by a fee charged for the commercial use of all public domain works sold on the territory of the Kyrgyz Republic.

Article 28(3) provides: "The government of the Kyrgyz Republic shall establish the amount of deductions paid to the State Intellectual Property Fund for the use of works transferred to the public domain in the territory of the Kyrgyz Republic."

Question 67.

Are authors' agreements to be interpreted in accordance with the laws of the particular foreign country under which they were made (Articles 30-33)?

Answer:

Kyrgyz law recognizes choice of law provisions contained in authors' agreements.

Question 68.

Paragraph 4 of Article 36 of the Copyright Law used the registered symbol for trademarks for performers' rights and rights of phonogram producers; clarify.

Answer:

The law uses the symbol that is the international symbol of the protection of related rights, (i.e. (P)) not a ®. There may have been a misprint in the earlier translation of the law.

Article 36(4) states: "No formalities are required for neighbouring rights to arise and be exercised. The producer of a recording and performer, in order to announce their rights, have the right to use the neighbouring rights protection sign which is affixed to each copy of such phonogram and/or on each case containing it and consists of three components: *a Latin letter "P" in a circle*; the name of the owner of exclusive neighbouring rights; and the year of the first publication of the recording." (Emphasis added).

Law on the Protection of Computer Software

Question 69.

How does the Software Law modify the Copyright Law? Specifically, Article 12 of the Law on Software and Databases seems to conflict with Article 14 of the Copyright Law; which of these provisions takes precedence (Article 12)?

Answer:

Article 12 of the software law states who owns the copyright as between the employer and the employee to those copyrightable elements contained in software and databases created by the employee within the scope of his employment. The owner of the copyright is the employer unless contract provides otherwise.

Article 14 of the Copyright Law states that the employee is the owner of the non-economic rights for works created by him within the scope of employment although the employer retains the copyright in the work unless contract provides otherwise. In accordance with Article 9 of the noted Law, personal non-property [non-economic] rights rest with the author of the computer software program or the database with regard to his property [economic] rights. There is no conflict between these two principles.

(b) Trademarks, including service marks

Question 70.

Articles 19 and 20: What entity is responsible for ensuring that the qualitative or other characteristic of the good using a collective mark is maintained?

Answer:

Collective marks are used by members of the organization in whose name the mark is registered. Consequently it is standard practice to require that the organization ensure that its members comply with the prescribed standards regarding the use of the mark.

The monitoring of the qualitative characteristics of a product may be assigned, by agreement of the Parties, to any of the legal entities that have registered the collective mark. In addition, compliance with qualitative characteristics of products is the responsibility of Kyrgyzstandard (standard setting agency of the Kyrgyz Republic).

Question 71.

Who has standing to challenge the use of a collective mark on the basis that such standards are not being met?

Answer:

Any interested third party has the right to dispute a collective trademark.

Question 72.

Article 24: This article requires that a licensing agreement provide that the quality of the goods is maintained; who enforces this requirement?

Answer:

Control of the quality of goods of the licensee is assigned to the licensor. In the event that goods of the licensee are found not to conform with the requirements of the licensor, then, according to the licensing agreement, the right to use the trademark can be cancelled.

Question 73.

What is the consequence of a determination that the quality of the goods is insufficient?

Answer:

The licensing agreement can be cancelled. Part two of Article 23 of the Law provides for the obligation of the licensor to control compliance with the requirements on the quality of goods under the licensing agreement.

Question 74.

What is the consequence of the failure of a licensor to monitor the licensee's goods?

Answer:

See answer above.

Question 75.

Article 36: Does this article require that a Kyrgyz national first register a geographic indicator with Kyrgyzpatent before applying for a foreign registration?

Answer:

This provision is now in Article 35 of the enacted Trademark Law. Paragraph 2 of Article 35 provides: "The application for registration of the appellation of place of origin of goods in foreign countries shall be filed after its registration and obtaining the right to use that appellation of place of origin of goods in the Kyrgyz Republic."

This requirement of the initial registration in the Kyrgyz Republic applies only to those appellations of place of origin the sites of which is located in the territory of the Kyrgyz Republic.

(e) Patents

Law of the Kyrgyz Republic "On Patent Rights"

Question 76.

Article 3: Explain what a "preliminary patent" means?

Answer:

A "preliminary patent" is a protective document granted for inventions and industrial designs. It is valid for seven years after the preliminary examination is conducted to insure that the patentability criteria are met based on the applicant's materials and a search of other valid applications with earlier priority dates.

The Kyrgyz patent system has a two-stage procedure for examining and awarding patents. First a preliminary examination is conducted after which a *preliminary patent* is granted. Subsequently a second examination is conducted wherein a *patent* may be granted.

Question 77.

Why does Article 3 give patent owners the right to own, use and dispose of the invention, industrial design and utility model, but not to prevent others from doing the same?

Answer:

Pursuant to paragraph 1 of Article 11 on the Rights of Patent Owner the patent-holder is entitled to prohibit other parties from using one's objects of industrial property.

Article 11(1) provides: "The patent owner shall have the exclusive right to protection of the preliminary patent, patent for an invention, industrial design, utility model protected certificate *including the right to prohibit the use of these objects by other persons*, except for the cases when such use does not infringe the exclusive rights of the patent owner according to this Law." (Emphasis added).

Question 78.

Article 4: Clarify the provisions regarding the terms and their extensions for patents and industrial designs.

Answer:

Note the following terms apply:

- patent for an invention: 20 years
- preliminary patent for an invention: 7 years
- patent for an industrial design: 10 years (5 year extension)
- preliminary patent for an industrial design: 7 years
- certificate for a utility model: 5 years (up to a 3 year extension)

Article 4(2) through (5) provides: "The patent for an invention shall be effective within the period of twenty years as of the date of filing of an application with Kyrgyzpatent.

A certificate for a utility model shall be effective for five years as of the date of filing an application with Kyrgyzpatent. At the request of the owner, Kyrgyzpatent may extend the effective period of the certificate for a term not longer than three years.

A preliminary patent for an industrial design shall be effective for seven years as of the date of submission of an application to Kyrgyzpatent.

Patent for an industrial design shall be effective for ten years as of the date of filing of an application with Kyrgyzpatent. At the request of the patent owner, Kyrgyzpatent may extend the effective term of the patent for an industrial design for a term not longer than five years."

Question 79.

Article 5: Define "generally available" as it relates to the notion of "prior art".

Answer:

Pursuant to Article 5 (7), the notion of being "generally available" means being accessible to the public by having been published or otherwise disseminated through print or electronic media as of a certain date.

The principle of "prior art" corresponds to the to the notion of the level of technology discussed in Article 5 and accords with the general principle of prior art as that term is used in the United States.

Article 5 provides, in part: "An invention shall be considered new if it is not known from the standard (i.e. level) of technology.

An invention shall be considered as having an inventive level if it does not obviously follow from the standard (i.e. level) of technology.

The standard (i.e. level) of technology shall include any information, which has become *generally available* in the world before the priority date of the invention.

While establishing the novelty of an invention, the information on the standard of technology shall include not withdrawn applications of other persons, submitted to Kyrgyzpatent with an earlier priority, as well as inventions and utility models patented in the Kyrgyz Republic." (Emphasis added).

Question 80.

Concern: The grace period of six months is insufficient.

Answer:

The law provides for a twelve-month grace period for public disclosure of information affecting the patentability criteria. Article 5(7) states:

"No public disclosure of information shall be considered as affecting patentability if it was made by the applicant, author or by any other person who obtained it from him directly, or indirectly, under which the information about the substance of an invention became publicly open not earlier than *twelve months* before the date of filing of an application or before the priority date if it is sought. The obligation of proof of this fact lies with the applicant." (Emphasis added).

Article 5(7) provides for the 12 month deadline for disclosure of the information relevant to protection ability of the invention.

Question 81.

Why does not the Patent Law provide for the patenting of integrated circuit layout designs?

Answer:

Legal protection of topography of integrated circuits is regulated by the provisions of the Law on Legal Protection of Topography of Integrated Circuits.

TRIPS requires integrated circuit layout-designs to be protected according to the principles of the Treaty on Intellectual Property in Respect of Integrated Circuits with certain modifications and additional provisions. The Kyrgyz Republic does this in a separate law which was adopted by the Parliament on 2 March 1998.

Question 82.

Article 8: What constitutes the inalienable "right of authorship" in an invention?

Answer:

The "right of authorship" referenced by the question is akin to the right of attribution and as such does not affect any of the economic rights to the object of intellectual property. Article 1039(3) of the Civil Code states:

"The right of authorship (the right to be recognized as the author of intellectual activity result) shall be a personal non-economic right and may belong only to the person who created the result of intellectual activity. The right of authorship shall be inalienable and non-transferable".

Question 83.

Article 9: Does Article 9 imply that the employee who produced the patented object would have a right to license to others or to sell his right to others?

Answer:

If the author, in this case the employee, is the owner of the patent, then according to Article 11 he has all exclusive rights, including the right to license.

Question 84.

Concern: The four-month period provided by the law for an employer to give notice is insufficient. The law also does not include the employer's right to file an application for itself'.

Answer:

This provision delineates the rights to inventions as between an employer and the employee/inventor where the object was created within the scope of one's employment.

An object of industrial property is employment-related if it has been created in the course of performance of one's job obligations or tasks.

The law provides that the employer retains the right to file for a patent provided he takes one of the following three actions within four months of being put on notice by the employee that an object subject to patent has been created. The employer must:

- (i) file an application with Kyrgyzpatent;
- (ii) reassign the right to another to obtain a protected document; or
- (iii) inform the author/inventor that the object of industrial property is to be kept secret.

If the employer fails to take one of the above actions within the prescribed four month period, the employer's right to file for a patent shifts to the employee/creator.

Question 85.

Article 12: Do the patent rights include the right to prevent others from importing the patented invention?

Answer:

The rights of the patent owner are stated in Article 11 of the enacted law. Paragraph four provides that the patent owner has the right to prohibit third parties from importing a product that contains inventions protected by the preliminary patent or covered by a patent.

Article 11(4) states: "The manufacture, application, *import*, offer for sale, sale, any introduction to the economic turnover or storage of a product for this purpose that contains an invention, industrial design, protected by a preliminary patent, patent, certificate for the utility model as well as exploitation of the method protected by a preliminary patent, patent for an invention shall be considered as the exploitation of an object of industrial property." (Emphasis added).

Question 86.

Explain the scope of your doctrine of equivalents.

Answer:

Paragraph 5 of Article 11 references the doctrine of equivalents. It states that features are equivalent if they are *interchangeable in the solution of specific tasks*, which coincide by *the function to be fulfilled and the result to be achieved* and which *differ only in form of fulfilment* (i.e. by construction, technology or material). (Emphasis added).

Question 87.

Concern: It is problematic that the burden of proof regarding products produced by patented processes is on the defendant if the product involved is new.

Answer:

According to paragraph 8 of Article 11, there is a presumption that the new process violates the existing patented process until proven otherwise.

Question 88.

Why must the assignments of patents be registered before they are considered valid?

Answer:

Registration of assignments is required so that an accurate record is maintained on the ownership of patents. The requirement for registration of agreements is provided for in Article 15 of the law. Paragraph 6 of Article 15 provides a special requirement for registering contract relations, compliance with which is mandatory. The need for the registration procedure for contracts is preconditioned by specifics of the registration system of emergence and fixation of exclusive rights to industrial property objects. The temporary procedure [regulation] of registration of licensing agreements, approved by the Head of the Patent Agency on 24 July 1995 provides for a one-month registration deadline. Currently, Kyrgyzpatent is developing a new regulation on registration of licensing agreements, which will provide for shorter deadlines for licensing agreements registration in compliance with the established requirements.

Question 89.

Why can the registration of assignments not be voluntary, especially considering that patents may be inherited without the need to be registered in order to be valid?

Answer:

Patents, which are inherited, are not required to be registered as assignments but the law does require that the change in ownership be recorded.

Question 90.

Article 16: Concern: Requiring licenses to be registered before they are deemed valid seems inappropriate and delays the effective date between the parties.

Answer:

The estimated time in which to record a license at KyrgyzPatent is approximately four weeks.

TRIPS states in Article 40 that Members may take measures to ensure that license contracts are not coerced or anti-competitive; it states in section 8:

"Nothing in this Agreement shall prevent Members from specifying in their legislation licensing practices or conditions that may in particular cases constitute an abuse of intellectual property rights having an adverse effect on competition in the relevant market".

Question 91.

Article 24 and 25: Concern: The two-month time period in which an applicant must provide additional documents is too short to be practical. The three-month time period in which to appeal is too short as to be practical.

Answer:

The two-month deadline for provision of the changed and missing materials at request of the preliminary expertise body and appealing the decision to refuse in issuance of the preliminary patent are provided for in Article 23 of the Law, and the two-month deadline for responding to a substantive request of the expertise body for provision of additional materials and the three-month deadline for objecting to the decision to refuse in issuance of the patent are provided for in Article 24 of the Law. Calculation of the listed deadlines starts from the date of receiving the request and the decision accordingly.

Question 92.

Article 34: Are foreigners entitled to the special benefits referenced by these articles on the same basis as nationals?

Answer:

Yes they are.

Question 93.

Article 36: Describe the jurisdictional structure of the Kyrgyz courts.

Answer:

The Kyrgyz judiciary system includes: the Constitutional court, courts of general jurisdiction, courts of arbitration, military court and courts of aldermen.

The highest judiciary body is the Constitutional court. It is tasked with ensuring compliance of all legal acts developed and adopted in the republic with the Constitution and constitutional legislation.

Courts of general jurisdiction hear both criminal and civil cases. They hear cases where the parties to a dispute involve either individuals, or individuals and legal entities. However, within the courts of general jurisdiction system there are collegians of judges which specialize on considering and adjudicating either criminal or civil cases.

Courts of general jurisdiction have three levels: rayon, blast (city of Bishkek) and the Supreme Court. Courts of arbitration settle disputes exclusively between legal entities. They also have three levels: rayon, oblast (city of Bishkek) and the Supreme Court of Arbitration.

If there is an issue involving intellectual property dispute, then it must be settled through a court, as any other dispute, after all means of internal relief have been exhausted.

Question 94.

Article 41: Are international treaties self-executing and therefore directly applicable before the Kyrgyz Courts upon ratification?

Answer:

According to Article 12 section 3 of the Constitution of the Kyrgyz Republic, if an international treaty to which the Kyrgyz Republic has acceded has been ratified by Parliament, it becomes part of Kyrgyz Republic legislation. In the event the treaty conflicts with any domestic legal act, the treaty prevails. This principle is stated in Article 40 of the enacted Patent Law.

Article 12 (3) of the Constitution states: "International treaties and other norms of international law that have been ratified by the Kyrgyz Republic shall be a component and directly applicable part of legislation of the Kyrgyz Republic."

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

2. Economic integration, customs union and free-trade area agreements

Question 95.

Further information is required on the Customs Union between the Kyrgyz Republic, Kazakhstan, Belarus and Russia. (Draft report, paragraphs 149-151)

Answer:

Currently consultants of all countries - participants of the Customs Union Agreement, are negotiating multilateral consultations on the common customs tariff, on the principle of imposing taxes for import and export.

Based on the fact that creation of the common territory is a complicated and long process countries-members of the Agreement have made a decision to join WTO independently and they have given the priority to this issue.

Every country is conducting such negotiations with WTO independently.

4. Multilateral economic cooperation, membership in the multilateral economic organizations, trade-related programmes of other multilateral organizations

Question 96.

We understand that the Kyrgyz Republic is going to join the WCO. We would appreciate further information on the joining to the WCO.

Answer:

The Kyrgyz Republic signed an agreement on joining the World Customs Organization in December 1996. However, the ratification was delayed until February 1998 due to other budgetary priorities. In February 1998, ratification documents were forwarded to Brussels for submission to the World Customs Organization.

Question 97.

We seek the Kyrgyz Republic's membership in the Civil Aircraft Code and the elimination of duties on imports of aircraft and their parts.

Answer:

The Kyrgyz Republic does not plan to join the Civil Aircraft Code.

Transparency

Question 98.

More information should be provided on the laws being drafted to ensure transparency of trade regulations. (Draft report, paragraph 148)

Answer:

Amendments to the Law on Normative Acts and Amendments to the Law on Publication of Laws have been drafted to ensure transparency of trade laws and regulations and have been submitted to the WTO Secretariat.

Question 99.

We seek a specific commitment, based on new laws, that the Kyrgyz Republic will publish all information relevant to trade, in accordance with the provisions of Article X of the GATT and other transparency provisions of the WTO.

Answer:

Draft amendments to the Law on Normative Acts and draft amendments to the Law on Publication of Laws are provided in Attachment B (Draft Law on Introducing Changes and Amendments to Some Legislative Acts of the Kyrgyz Republic) address this issue. The Kyrgyz Republic will comply with the provisions of Article X of the GATT 1994 and other transparency provisions of the WTO.

ANNEX I

Commitments of the Kyrgyz Republic on Bringing its Legislation into Conformity with WTO Norms and Requirements

	Draft Law	Status	Date of submission to WTO
1.	Law on Anti-dumping	At Parliament for approval	Last draft was provided in October 1997. An updated draft is provided in Attachment B
2.	Law on Subsidies and Countervailing Measures	At Parliament for approval	Last draft was provided in October 1997. An updated draft is provided in Attachment B
3.	Law on Safeguard Measures	At Parliament for approval	Last draft was provided in October 1997. An updated draft is provided in Attachment B
4.	Law on PC, Software Programmes and Databases	Adopted by Parliament on 2 March 1998. Awaiting President's signature.	Draft was provided in September 1997. A copy of the law will be provided after President's signature.
5.	Law on Integrated Circuits Topography	Adopted by Parliament on 2 March 1998. Awaiting President's signature.	Draft was provided in September 1997. A copy of the law will be provided after President's signature.
6.	Law on Commercial Secrets	Adopted by Parliament on 2 March 1998. Awaiting President's signature.	Draft was provided in September 1997. A copy of the law will be provided after President's signature.
7.	Law on Selection Achievements	Being reviewed by Parliament.	Provided in September 1997
8.	Amendments to the Law on Standardization	Being approved by the Government.	Provided in Attachment B.
9.	Amendments to the Law on Certification	Being approved by the Government.	Provided in Attachment B.
10.	Regulations on Import/Export Licensing	Being approved by the Government.	Will be provided in April 1998.
11.	Amendments to the Customs Code	Being approved by the Government.	Provided in Attachment B.
12.	Amendments to the Law on Free Economic Zones	Being approved by the Government.	Will be provided in April 1998.
13.	On Introducing Changes and Amendments to some Legislative Acts of the Kyrgyz Republic (includes Amendments to the Law on Normative Acts and Amendments to the Law on Publication of Laws)	Being approved by the Government.	Provided in Attachment B.
14.	Amendments to the Tax Code	Being approved by the Government.	Will be provided in April 1998.
15.	Amendments to the Law on Veterinary	Being approved by the Government.	Will be provided in April 1998.
16.	Amendments to the Law on Plant Quarantine	Being approved by the Government.	Will be provided in April 1998.

ANNEX II

List of Specific Goods Exported under Licenses contained in the Draft Resolution on Import/Export Licensing

	Goods	HS Code	Rationale/Justification
1.	Alive animals	010600990 (wild birds introduced in the Red Book ¹)	To protect wild birds provided for in the Red Book
2.	Pharmaceutical raw materials of vegetable origin	1201 (aconit, St. John's wort, liquorice, sweetbrier, sea-buck-horn, radiola, malt, thermopsis, ephedra) 1301 (raw mumie) 1302 (malt - juice and extract)	To protect flora
3.	Ciphering devices (including ciphering equipment, spare parts for the ciphering equipment, packages of ciphering programs), normative and technical documentation to the ciphering devices (including construction and exploitation)	8471 (ciphering equipment only), 847330000 (for the ciphering equipment only), 854380900 (ciphering equipment only), 854390900 (ciphering equipment only)	To maintain the national security of this Republic
4.	Arms and military equipment, special assembling articles for production, works and services in the sphere of military-technical cooperation	by the list of the Ministry of Defense of the Kyrgyz Republic	To maintain the national security of this Republic
5.	Means of protection from combat poisonous gas, parts and accessories thereof	by the list of the Ministry of Defense of the Kyrgyz Republic	To maintain the national security of this Republic
6.	Military uniform, wear and attributes thereof	by the list of the Ministry of Defense of the Kyrgyz Republic	To maintain the national security of this Republic

¹ This is a list of extinct flora and fauna statutory protected. [translator's explanatory note]

	Goods	HS Code	Rationale/Justification
7.	Normative and technical documents to the military products (construction and exploitation)	by the list of the Ministry of Defense of the Kyrgyz Republic	To maintain the national security of this Republic
8.	Devices for the combat actions, ammunition	9306 (torpedo, cartridges, and other ammunition)	To maintain the national security of this Republic
9.	Gun powder and explosives, explosive devices and pyrotechnics	3601 (except for the hunting powder), 3602, 3603, 3604	To maintain the national security of this Republic
10.	Nuclear materials, technologies, equipment and plants, special non - nuclear materials, sources for the radioactive emanation, including radioactive waste	In accordance with the list passed by the President of the Kyrgyz Republic (Resolution No. 55, 2 June 1996, Government of the Kyrgyz Republic)	To maintain the Republic's national security, as well as to adhere to international commitments related to non-proliferation of mass destruction and production technologies thereof
11.	Materials, equipment and technologies of peace purposes but can not be used while creating weapons for mass destruction	by the list passed by the President of the Kyrgyz Republic (Resolution No. 55, 2 June 1996, Government of the Kyrgyz Republic)	To maintain the Republic's national security, as well as to adhere to international commitments related to non-proliferation of mass destruction and production technologies thereof
12.	Certain types of raw materials, equipment, technologies and scientific information which may be used in production on farms and military technics	by the list passed by the President of the Kyrgyz Republic (Resolution No. 55, 2 June 1996, Government of the Kyrgyz Republic)	To maintain the Republic's national security, as well as to adhere to international commitments related to non-proliferation of mass destruction and production technologies thereof
13.	Precious metals, alloys, goods made from them, metals plated with precious metals and goods made from them; ores; concentrates; scraps and wastes	2616 (ores and concentrates), 2843 (metals, junctions, amalgams), 300640000 (from precious metals only), 7106-7112, 711311000, 711319000, 711411000, 711419000, 711510100, 711590100, 711590900, 7118 (from precious metals only), 8544 (only with conductors from precious metals), 960810300, 960839100	To preclude the exhaustion of exhaustible natural resources, to protect the financial position and maintain the balance of payment of this Republic
14.	Precious stones, and articles thereof; powder and recuperate of precious natural stones, and articles thereof	7101, 7102, 7103 (precious stones only), 7105 (natural precious stones only), 7116 (natural precious stones only)	To preclude the exhaustion of exhaustible natural resources, to protect the financial position and maintain the balance of payment of this Republic

	Goods	HS Code	Rationale/Justification
15.	Collection materials on mineralogy and palaeontology, semiprecious stones and goods made from them	970500000 (on mineralogy and palaeontology), 710310000 (semiprecious stones only), 711620110, 711620190 (from semiprecious stones only), 9706 (antique)	To prevent cultural valuables from illegal export and transfer of ownership thereof
16.	Waste and scrap non-ferrous metals	7404, 7503, 7602, 7802, 7902, 8002, 8101-8112	To protect object of communications and power supply against plundering
17.	Information on subsoil of the Kyrgyz Republic	by the list of the State Agency on Geology and Mineral Resources under the Government of the Kyrgyz Republic	To maintain the national security of this Republic
18.	Narcotic and psychotropic substances, virulent poisons	by the list compiled by the State Commission on Control of narcotics under the Government of the Kyrgyz Republic	To protect the population's health and welfare
19.	Virulent poisons	by the list compiled by the Ministry of Healthcare of the Kyrgyz Republic	To protect the population's health and welfare, as well as those of flora and fauna in general
20.	Hazardous waste	by the list of the Basil Convention on the Control over Trans-border Transportation of hazardous cargo of 22 March 1989 approved by Resolution of the Parliament of the Kyrgyz Republic on 18 January 1996, No. 304-1	To protect the population's health and welfare, as well as those of flora and fauna in general
21.	Pharmaceuticals	by the list of the Ministry of Health of the Kyrgyz Republic	To protect the population's life and welfare from uncontrolled use of medications containing narcotics
22.	Service and civil guns	by the list of the Ministry of Internal Affairs of the Kyrgyz Republic	To maintain public order
23.	Tobacco	by the list of SJSC Kyrgyztamakesi	To protect the financial position and to maintain the balance of payment of this Republic and to protect the population's health.
24.	Spirits and alcoholic products	by the list of SJSC Kyrgyzalco	To protect the financial position and to maintain the balance of payment of this Republic and to protect the population's health.

List of Specific Goods Imported under Licenses contained in the Draft Resolution on Import/Export Licensing

	Goods	HS Code	Rationale/Justification
1.	Ciphering devices (including ciphering equipment, spare parts for the ciphering equipment, ciphering programs), normative and technical documents to the ciphering devices (including designing and exploiting)	8471 (ciphering equipment only), 847330000 (for the ciphering equipment only), 854380900 (ciphering equipment only), 854390900 (ciphering equipment only)	To protect this Republic's national security
2.	Arms and weapons, specific parts for their production, works and services in the area of military - technological cooperation	by the list of the Ministry of Defense of the Kyrgyz Republic	To protect this Republic's national security
3.	Protection devices from the battle poisoning substances, parts and accessories thereof	by the list of the Ministry of Defense of the Kyrgyz Republic	To protect this Republic's national security
4.	Military uniform, clothing and attributes	by the list of the Ministry of Defense of the Kyrgyz Republic	To protect this Republic's national security
5.	Normative and technical documents to the military products (construction and exploitation)	by the list of the Ministry of Defense of the Kyrgyz Republic	To protect this Republic's national security
6.	Gun powder and explosives, explosive devices and pyrotechnics	3601 (except for the hunting powder), 3602, 3603, 3604	To protect this Republic's national security
7.	Nuclear materials, technologies, equipment and plants, special non - nuclear materials, sources for the radioactive radiation, including radioactive waste	by the list approved by the President of the Kyrgyz Republic (Resolution No. 55, 2 June 1996, the Government of the Kyrgyz Republic)	To maintain the Republic's national security, as well as to adhere to international commitments related to non-proliferation of mass destruction and production technologies thereof

	Goods	HS Code	Rationale/Justification
8.	Materials, equipment and technologies which are intended for peaceful purposes but can not be used while creating weapons for mass extermination	In accordance with the list passed by the President of the Kyrgyz Republic (Resolution No. 55, 2 June 1996, the Government of the Kyrgyz Republic)	To maintain the Republic's national security, as well as to adhere to international commitments related to non-proliferation of mass destruction and production technologies thereof -
9.	Certain types of raw materials, equipment, technologies and scientific information which can be applied while creating weapons and military techniques	by the list approved by the President of the Kyrgyz Republic (Resolution No. 55, 2 June 1996, the Government of the Kyrgyz Republic)	To maintain the Republic's national security, as well as to adhere to international commitments related to non-proliferation of mass destruction and production technologies thereof
10.	Precious metals, alloys, goods made from them, metals plated with precious metals and goods made from them; ores; concentrates; scrap and waste	2616 (ores and concentrates), 2843 (metals, junctions, amalgams), 300640000 (from precious metals only), 7106-7112, 711311000, 711319000, 711411000, 711419000, 711510100, 711590100, 711590900, 7118 (from precious metals only), 8544 (only with conductors from precious metals), 960810300, 960839100	To protect the financial position and the balance of payment of this Republic
11.	Precious natural stones and goods from them, powder and recuperate of precious natural stones, goods from them.	7101, 7102, 7103 (precious stones only), 7105 (from precious stones only), 7116 (from precious stones only).	To protect the financial position and the balance of payment of this Republic
12.	Narcotics and psychotropic drugs, virulent and stupefying concoctions	by the list of the State Commission for Drug Control under the Government of the Kyrgyz Republic	To protect the population's life and welfare
13.	Virulent poisons	by the list approved by the Government of the Kyrgyz Republic (Resolution of the Government of the Kyrgyz Republic of 6 February 1996, No. 55)	To protect the population's life and welfare, as well as flora and fauna in general
14.	Hazardous wastes	by the list of the Basil Convention on the Control over Trans-border Transportation of hazardous cargo of 22 March 1989, approved by Resolution of the Parliament of the Kyrgyz Republic of 18 January 1996, No. 304-1)	To protect the population's life and welfare, as well as flora and fauna in general

	Goods	HS Code	Rationale/Justification
15.	Chemical means of protection of plants	3808 (preparations for the plant protection only)	To protect the population's life and welfare, as well as flora and fauna in general
16	Pharmaceuticals	by the list of the Ministry of Health of the Kyrgyz Republic	To protect the population's life and health
17.	Service and civil guns	by the list of the Ministry of Internal Affairs of the Kyrgyz Republic	To maintain public order
18.	Tobacco	by the list of "Kyrgyztamekisi"	To protect the financial position and maintain the balance of payment of this Republic
19.	Spirits and alcoholic products	by the list of the State Joint Stock Company "Kyrgyzalco"	To protect the financial position and maintain the balance of payment of this Republic

ATTACHMENT A

Table 1: Sectoral Privatization Data Profile for 1991-1997

Sector	Number of Objects of State Property as of 1 January 1991	Number of Privatized Objects as of 31 December 1997	Percentage of Privatized Objects as of 1 January 1998
Industry	602	531	88.2
Consumer Services	1919	1917	99.9
Oil Production Sector	1253	434	34.6
Trade and Public Catering	1949	1894	97.1
Agriculture	855	354	41.4
Construction	730	418	57.3
Transport	295	154	52.2
Other sectors	2306	673	28.2
Total	9989	6375	63.8

Table 2: Sectoral Privatization Data Profile by Privatization Modes For 1991-1997

Sector	Privatization Mode	Number of Privatized Objects
Industry	Lease with subsequent buy-out	8
	Auctioning	400
	Sale through auctions	16
	Sale through tenders	12
	Gratis transfers	1
	Direct sale to private entities	18
	Direct sale to labour collectives (bodies)	49
	Incorporation (Joint-Stock Companies)	27
Consumer Services	Lease with subsequent buy-out	17
	Auctioning	36
	Sale through auctions	170
	Sale through tenders	529
	Direct sale to private entities	717
	Direct sale to labour collectives (bodies)	440
	Incorporation (Joint-Stock Companies)	8
Non-production sector	Lease with subsequent buy-out	2
	Auctioning	277
	Sale through auctions	30
	Sale through tenders	8
	Direct sale to private entities	41
	Direct sale to labour collectives (bodies)	28
	Incorporation (Joint-Stock Companies)	48

Sector	Privatization Mode	Number of Privatized Objects
Trade and public catering	Lease with subsequent buy-out	41
	Auctioning	213
	Sale through auctions	151
	Sale through tenders	581
	Direct sale to private entities	307
	Direct sale to labour collectives (bodies)	549
	Incorporation (Joint-Stock Companies)	52
Agriculture	Lease with subsequent buy-out	4
	Auctioning	128
	Sale through auctions	6
	Sale through tenders	1
	Direct sale to private entities	30
	Direct sale to labour collectives (bodies)	177
	Incorporation (Joint-Stock Companies)	8
Construction	Lease with subsequent buy-out	2
	Auctioning	298
	Sale through auctions	11
	Sale through tenders	3
	Direct sale to private entities	13
	Direct sale to labour collectives (bodies)	69
	Incorporation (Joint-Stock Companies)	22
Transport	Auctioning	137
	Direct sale to private entities	3
	Direct sale to labour collectives (bodies)	11
	Incorporation (Joint-Stock Companies)	3
Other sectors	Lease with subsequent buy-out	24
	Auctioning	151
	Sale through auctions	77
	Sale through tenders	28
	Direct sale to private entities	171
	Direct sale to labour collectives (bodies)	193
	Incorporation (Joint-Stock Companies)	28

Table 3: List of Goods Requiring Phytosanitary Certificate

HS Code	Cost of the Phytosanitary Certificate (Som)
0106 00 990	116.0
0601	171.0
0602	171.0
0603	116.0
0604	116.0
0701 10	201.0
0701 90	200.0
0702	200.0
0703 10	200.0
0703 10 110	249.0
0703 10 190	200.0
0703 20 000	200.0
0703 90 000	200.0
0704	200.0
0705	200.0
0706	200.0
0707	200.0
0708	200.0
0709	200.0
0712	122.0
0712 90 110	214.0
0713	200.0
0713 10 110	214.0
0713 10 190	214.0
0713 20 100	214.0
0713 31 100	214.0
0713 32 100	214.0
0713 33 100	214.0
0713 39 100	214.0
0713 40 100	214.0
0713 50 100	214.0
0713 90 100	214.0
0714 20 100	200.0
0801	164.0
0802	164.0
0803	200.0
0804	200.0
0805	200.0
0806	200.0
0807	200.0

HS Code	Cost of the Phytosanitary Certificate (Som)
0808	200.0
0809	200.0
0810	200.0
0813	122.0
0901	164.0
0904	122.0
0905	122.0
0906	122.0
0907	122.0
0908	122.0
0909	122.0
0910	122.0
1001	164.0
1001 10 100	214.0
1001 90 100	214.0
1001 90 910	214.0
1002	164.0
1003	164.0
1003 00 100	214.0
1004	164.0
1004 00 100	214.0
1005	164.0
1005 10	214.0
1006	164.0
1006 10 100	214.0
1007	164.0
1007 00 100	214.0
1008	164.0
1101	164.0
1102	164.0
1103	164.0
1104	164.0
1105	164.0
1106	164.0
1107	164.0
1201	164.0
1201 00 100	214.0
1202 10 100	214.0
1204 00 100	249.0
1205 00 100	249.0
1206 00 100	249.0
1207	249.0
1208	129.0
1209	249.0
1210	122.0

HS Code	Cost of the Phytosanitary Certificate (Som)
1211	122.0
1212	164.0
1212 91	200.0
1212 92	200.0
1213	129.0
1214	129.0
1301	122.0
1401	129.0
1402	129.0
1403	129.0
1404	129.0
1801	164.0
1903	129.0
2102 20	116.0
2302	129.0
2304	129.0
2305	129.0
2306	129.0
2308	129.0
2401	129.0
3002	116.0
3101	108.0
3821	116.0
4101	115.0
4102	115.0
4103	115.0
4110	115.0
4401	115.0
4403	115.0
4407	115.0
4409	115.0
4415	29.0
4601	29.0
4701	29.0
5001	129.0
5003	129.0
5007 90	129.0
5101	115.0
5102	115.0
5103	115.0
5201	129.0
5202	129.0
5203	129.0
5301	129.0
5302	129.0
9705	116.0

Table 4: List of Goods Requiring Veterinary Certificate

HS Codes	HS Codes
0101	1213
0102	
0103	1501
0104	1502
0105	1503
0106	1504
	1505
0201	1516 10
0202	1517
0203	1521 90 100
0204	
0205	1601
0206	1602
0207	1604
0208	1605
0209	
0210	1901 10 000
0301	2301
0302	2302
0303	2303
0304	2304
0305	2305
0306	2306
0307	2308
	2309
0401	
0402	3002 30 000
0403	3501
0404	3502
0405	3503
0406	
0407	4101
0408	4102
0409	4103
0410	4301
0502	5001 00 000
0503	5101
0504	5102
0505	5103
0506	
0511	9705

Table 5: Fees Levied for Issuance of Veterinary Certificates

Value of Goods, Cargo	Tariffs	Amounts in Soms
Under 10,000.0 Soms	30.0 Soms	30.0
From 10,000.0 to 50,000.0 Soms	30.0 Soms+0.3% of the amount in excess of 10,000.0 Soms	30.0-150.0
From 50,000.0 to 100,000.0 Soms	150.0 Soms+0.2% of the amount in excess of 50,000.0 Soms	150.0-250.0
From 100,000.0 to 200,000.0 Soms	250.0 Soms+0.1% of the amount in excess of 200.0 Soms	250.0-350.0
From 500,000.0 Soms and over	500 Soms and over	500.0

Table 6: List of Goods Requiring Certification of Compliance

HS Codes	HS Codes	HS Codes
0131	0801	1507
	0802	1508
0201	0803	1509
0202	0804	1510
0203	0805	1511
0204	0806	1512
0205	0807	1513
0206	0808	1514
0207	0809	1515
0208	0810	1516
0209	0811	1517
0210	0812	
	0813	1601
0301	0814	1602
0302		1603
0303	0901	1604
0304	0902	
0305	0904	1701
0306	0905	1702
0307	0906	1704
	0907	
0401		1801
0402	1001	1802
0403	1002	1803
0405	1003	1804
0406	1004	1805
0407	1005	1806
0409	1006	

HS Codes	HS Codes	HS Codes
	1007	1901
0701	1008	1902
0702		1903
0703	1107	1904
0704	1102	1905
0705	1103	
0706	1104	2001
0707	1105	2002
0708	1106	2003
0709	1107	2004
0710	1108	2005
0711		2006
0712	1501	2007
0713	1502	2008
0714	1504	2009
2101	4412	8309
2102		8311 10
	4803 00	
2103	4805 40 000	8404
2104		8418
2105	5208	8418 50
	5211	8422
2106	5309	8429
		8430 20 000
2201	6107	8436 10 100
2202	6108	8438
2203	6109	8438 50 000
2204	6111 10 900	8445
2205	6111 20 900	8446
2206	6112	8450
2208	6115 11 000	8452
2209	6115 12 000	8458
	6115 19 100	8459 10 000
2301	6115 19 900	8459 59 000
	6115 91 000	8460
2401	6115 92 000	8462
2402	6115 93 000	8462 21
2403	6115 93 990	8462 21 100
		8462 31 100
2501	6207	8462 91 100
	6208	8465
3102	6209	8465 92 000
	6211 11 000	8465 95 000
3301		8465 99 100
3302	6403	8470

HS Codes	HS Codes	HS Codes
3303 00	6404	8471
3304	6405	8472
3305		
3306	6506	8501
3307 20 000		8502
	6911	8504
3401	6912	8507
3402		8508
3403 19 910	7223	8508 20
		8508 80
3706	7311	8509
	7321	8510
3808		8516
	7418	8517
4011		8518
4014	7615	8519
4015		8520
	8206	8521
4410	8206 10	8522
		8527
8528	8708 10	9207
8529	8708 21	
8531	8708 31	9006
8532	8708 70	9020 00 900
8535	8708 80	9021
8536	8708 92	9022
8540	8708 94	
8544	8711	9303 20 100
	8712 00	9303 20 300
8701	8715 00	9303 30 110
8701 90	8716	9303 30 190
8702 10		9304 00 000
8702 90	8903	9306 10 000
8703 10		9306 21 000
8703 21	9001 40 100	9306 30 930
8703 22	9004 90 000	
8703 23	9007	9401
8703 24	9008	9403
8703 31	9009	9405
8703 32	9018	
8703 33	9019	9503
8704 21	9019 20 000	9504
8704 22		
8704 23	9030	9725
8704 31		
8704 32	9105	

ATTACHMENT B

Draft Laws and Draft Amendments to Laws

1. The Law on Anti-Dumping
2. The Law on Subsidies and Countervailing Measures
3. The Law on Safeguard Measures
4. The Law on Introducing Changes and Amendments to some Legislative Acts of the Kyrgyz Republic (includes Amendments to the Law on Normative Acts and Amendments to the Law on Publication of Laws)
5. The Law on Standardization with Draft Amendments Incorporated
6. The Law on Certification of Goods and Services with Draft Amendments Incorporated
7. The Law on Making Amendments and Supplements to the Customs Code of the Kyrgyz Republic.

ATTACHMENT C

Recently Enacted Laws

1. The Law on Copyright and Neighbouring Rights
 2. The Law on Trademarks, Service Marks and Appellation of Places of Origin of Goods
 3. The Law on Patent
 4. The Civil Code Part II (Section on Intellectual Property)
 5. The Criminal Code (Section on Intellectual Property)
 6. The Law on Protection of Consumer Rights
 7. The Law on Bankruptcy
 8. The Law on Changes and Amendments to Part I of the Civil Code of the Kyrgyz Republic
 9. Instruction "On Order of Acknowledgment of Foreign Certificate of Compliance"
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