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**Working Party on the  
Accession of the Sultanate of Oman**

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## ACCESSION OF THE SULTANATE OF OMAN

### Additional Questions and Replies

The Ministry of Commerce and Industry of the Sultanate of Oman has submitted additional replies to questions raised after the third meeting of the Working Party held on 21 October 1998, with the request that they be circulated to Working Party members. The questions and replies are reproduced hereunder. Attachments are available in the Secretariat (Accessions Division, Room 1126) for consultation by interested members.

#### TABLE OF CONTENTS

	Page No.	Question No.
II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE		
2. Economic Policies		
(a) Main directions	1	1-2
(d) Foreign and domestic investment policies	5	3-4
III. FRAMEWORK FOR MAKING AND ENFORCING POLICIES AFFECTING FOREIGN TRADE IN GOODS AND TRADE IN SERVICES		
1. Powers of Executive, Legislative and Judicial Branches of Government		
(a) General introduction to executive branch of government	2	3
(b) Composition of parliament and legislative branch	2	4
6. Description of Judicial, Arbitral or Administrative Tribunals or Procedures	3	5-8
IV. POLICIES AFFECTING TRADE IN GOODS		
1. Import Regulation		
(a) Registration requirements for engaging in importing	4	9-24
(b) Characteristics of national tariff	9	25-28
(d) Other duties and charges, specifying any charges for services rendered	10	29-33
(e) Quantitative import restrictions, including prohibitions, quotas and licensing systems	11	34-39
(h) Customs valuation	13	40-43

	Page No.	Question No.
(j) Pre-shipment inspection	14	44
(k) Application of internal taxes on imports	14	45
(m)(n)(o) Anti-dumping, countervailing duty and safeguard regimes	15	46-48
2. Export Regulation		
(f) Export financing, subsidy and promotion policies	16	49-59
3. Internal Policies Affecting Foreign Trade in Goods		
(a) Industrial policy, including subsidy policies	19	60-61
(b) Technical regulations and standards, including measures taken at the border with respect to imports	19	62-70
(c) Sanitary and phytosanitary measures, including measures taken with respect to imports	22	71-76
(d) Trade-related investment measures	24	77
(e) State-trading practices	24	78-79
(l) Government procurement practices	25	80-81
4. Policies Affecting Foreign Trade in Agricultural Products		
(a) Imports	26	82
 V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME		
1. General	26	83-85
(c) Membership of international intellectual property conventions and regional or bilateral agreements	27	6
(d) Application of national and MFN treatment to foreign nationals	28	87
2. Substantive Standards of Protection	25	64
(b) Trademarks, including service marks	28	88-90
(c) Geographical origins, including appellations of origin	29	91
(e) Patents	29	92
(g) Layout designs of integrated circuits	29	93
4. Enforcement		
(a) Civil judicial procedures and remedies	30	94
(b) Provisional measures	30	95
(c) Any administrative procedures and remedies	30	96-97
(d) Any special border measures	31	98-100
(e) Criminal procedures	31	101-105
 VI. TRADE-RELATED SERVICES REGIME	33	106-109
 VII. INSTITUTIONAL BASE FOR TRADE AND ECONOMIC RELATIONS WITH THIRD COUNTRIES		
2. Economic Integration, Customs Unions and Free Trade Area Agreements	35	110-113
ATTACHMENTS	38	

## II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE

### 2. Economic Policies

#### (a) Main Directions

##### Question 1

**Concerning the reply to question 1 in document WT/ACC/OMN/9, the replies to questions 82, 83 and 84 in document WT/ACC/OMN/6/Add. 1 do not explain why telecom and oil prices are set above world prices and why water and electricity are subsidized. Please elaborate.**

##### Reply:

###### Telecommunication:

As had been explained before, the telecom tariff is uniform for all consumers. To narrow the gap between the local tariff and world prices, the tariff had been lowered four times since 1980, the last of which was in this year. It is worth mentioning that the Government is currently evaluating an option to privatize 30 per cent of GTO, ie. 20 per cent to be offered to foreign investors, and 10 per cent for public subscription. This is a part of a comprehensive plan of reform to restructure GTO so as to work as a private entity in a free competitive market. This step would lead to an overall review of the tariffs later on.

###### Local petroleum prices:

The hidden increase in the local petroleum prices, is in fact a fiscal measure adopted by the Government – i.e. it is an "indirect tax" levied on consumers for two reasons: firstly, to rationalize the domestic consumption of petroleum products, and secondly, to increase Government revenue from this source in the general budget. So, there is an economic justification for this measure.

###### Electricity and water tariffs:

Electricity tariffs have a graduated structure applied to different users – i.e. either to households for social reasons, or to infant industries for economic reasons. So, this measure has been taken for the benefit of various users, taking into consideration the late socio-economic development of Oman, which had only started in 1970, necessitating providing cheap electricity and water to the Omanis.

Now the authorities are studying carefully a strategy of electricity and water reforms which target reviewing and harmonizing the rates.

The Government is also evaluating various options to introduce privatization in the electricity and water sectors.

##### Question 2

**Concerning the reply to question 2 (WT/ACC/OMN/9), has any privatization been completed since the last Working Party? How does Oman to encourage foreign participation in the privatization projects? Will foreign investors be invited to the open tenders?**

**Reply:**

No privatization project has been fully completed yet since the last Working Party, but some of them are approaching their final stages – i.e. Muscat and Salalah Sewage Systems, GTO restructuring, electricity projects in Salalah, Sharqiya, Manah, Ghubra as well as water projects in Dhahira, Sharqiya and the Najd Area.

Foreign participation in the privatization projects is encouraged so as to benefit from foreign capital, technical and administrative expertise. This participation should be in accordance with the Foreign Capital Investment Law 1994.

Royal Decree No. 42/96 stipulates, in the sub-section regarding regulations, the following:

"The selection of the suitable company to finance, implement and operate the project shall be determined through open tender, to which the maximum number of Omani companies shall be invited".

According to the Foreign Capital Investment Law, non-Omanis can conduct a business either as an Omani company licensed and registered in Oman, or by virtue of special contract issued by a Royal Decree.

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

**1. Powers of the Executive, Legislative and Judicial Branches of Government**

**(a) General introduction to executive branch of government**

**Question 3.**

**Please confirm that ratification of Oman's accession, and the protocol package containing the terms of its accession, to the WTO Agreement will be accomplished by His Majesty, the Sultan's signature or his ratification of the signature of a person he has designated. If this is not so, please explain.**

**Reply:**

Yes, it is so confirmed.

**(b) Composition of parliament and legislative branch.**

**Question 4.**

**Is it intended that the Majlis ash-Shura or the Majlis ad-Dawla have any role in the approval or ratification of Oman's accession package?**

**Reply:**

The Majlis Ash-Shura and the Majlis ad-Dawla have no role in the approval or ratification of Oman's accession package.

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

**Question 5.**

**Please confirm whether the "Authority for the Settlement of Commercial Disputes" mentioned in the Factual Summary constitutes a judicial, arbitral or administrative tribunal " . . . for the purpose, inter alia, of the prompt review and correction of administrative action relating to customs matters". Please elaborate on the nature, structure, and role of Commercial Courts vis-à-vis the right of appeal provided for in WTO Agreements, i.e., what sort of cases covered by WTO rules could be brought?**

**Reply:**

The authority for Settlement of Commercial Disputes has been replaced by the Commercial Court, which is a judicial tribunal. We have carefully examined the requirements of appeal in customs matters and all trade matters under the GATT 1994 and under different WTO Agreements, and weighed these against the Royal Decree establishing the Commercial Court. Our tentative conclusion is that the Commercial Court does not fully meet the requirements of appeal under the GATT and the WTO.

The Basic Law (Constitution) of Oman does provide for a right of appeal to judicial bodies against all administrative rulings and decision. Precise laws to deal with the right of appeal against governmental decisions provided for in WTO Agreements, including in particular Article X of GATT 1994, will be promulgated shortly.

**Question 6.**

**Please confirm whether it is contemplated that either the "Authority" or the Commercial Courts will be the point of appeal from all administrative rulings under WTO Agreements or whether there are other bodies that might fill that role.**

**Reply:**

Please see reply to question 5.

**Question 7.**

**Can either the "Authority" or the Commercial courts be considered to be "independent of the agencies entrusted with administrative enforcement and their decisions shall be implemented by, and shall govern the practice of, such agencies unless an appeal is lodged with a court or tribunal of superior jurisdiction within the time prescribed". If so, how and why?**

**Reply:**

Please see reply to question 5.

**Question 8.**

**We seek a definitive statement in the Working Party Report as to how importers and exporters will exercise the right of appeal from governmental decisions provided for in WTO Agreements, including the provision for independent rulings contained in Article X:3 of the GATT 1994.**

**Reply:**

Please see reply to question 5.

**IV. POLICIES AFFECTING TRADE IN GOODS**

**1. Import Regulation**

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

**Question 9.**

**Oman's answer to question 7 in WT/ACC/OMN/9 stated that a foreign supplier can export goods to Oman without using a commercial agent and an importer can import goods even if he is not a commercial agent, and he is not obliged to import through a commercial agent. Our understanding is that this can only occur if the importer is registered in Oman's commercial register, and in the cases where the importer has more than 49 per cent foreign ownership the appropriate procedures need to be completed, as required under the Companies Commercial Law and the Foreign Capital Investment Law, before importation can take place. Foreign individuals cannot undertake importation. Can Oman confirm that our understanding is correct?**

**Reply:**

It is confirmed that commercial imports can be made only by individuals or companies which are registered in the Commercial Register. An individual, as a sole proprietor, can get commercial registration if he is an Omani national, is not less than 18 years of age, should have a place of business in Oman, should not have been convicted of an offence and should not have been declared as bankrupt.

A company can get commercial registration by applying to the Ministry of Commerce and Industry in the appropriate form along with the Memorandum and Articles of Association of the company, and the identification documents of the partners or Directors of the company. Joint Stock Companies and companies subject to Foreign Capital Investment Law should have completed the necessary procedures under the Companies Commercial Law and/or the Foreign Capital Investment Law before they can apply for registration in the Commercial Registration. A company which is registered in the Commercial Register can engage in importation or distribution of imports in Oman if importation and distribution of imports is covered in its Memorandum and Articles of Association.

Individuals and companies described in the foregoing paragraphs can import goods without being a commercial agent or without going through or using a commercial agent. Foreign individuals as such cannot undertake importation.

**Question 10.**

**In the response to question 53 of document WT/ACC/OMN/5, Oman states that "A company which is registered in the Commercial Register can engage in importation or distribution of imports in Oman if importation and distribution of imports is covered in its Memorandum and Articles of Association". This would appear to indicate that the ability to import, and possibly export, can be limited by the "scope of business" registered in the Memorandum and Articles of Association. The response to question 95 in document WT/ACC/OMN/6/Add.1 indicates that it is relatively easy for a firm to establish the right to engage in trade when it first registers. Can registered companies easily amend their registration and acquire the right to trade, notwithstanding their Articles of Association? If not, how would a firm already registered without the right to trade acquire it?**

**Reply:**

Registered companies can amend their registration and acquire the right to trade if trading is provided in their Memorandum and Articles of Association. If not, they first have to get their Memorandum and Articles of Association amended before they can change their registration. A firm already registered in the Commercial Register has to get its Memorandum and Articles of Association amended and apply for an amendment in its commercial registration so as to acquire the right to engage in trade.

**Question 11.**

**Per the responses to questions 53 and 57 of document WT/ACC/OMN/5, please confirm that in Oman the right to engage in commerce is restricted to (a) Oman nationals, (b) GCC nationals per Article VIII of the GCC Agreement, and (c) foreign firms registered in the Commercial Register whose Memorandum and Articles of Association provided for trade and distribution. Please confirm that it is not legal for foreign individuals to engage in trade.**

**Reply:**

It is so confirmed.

**Question 12.**

**The response to question 96 in OMAN/6/Add.1 states that Oman's Foreign Agency Law "provides that if a foreign supplier appoints an agent in Oman, it must be an Omani national or an Omani company (a company with at least 51 per cent Omani participation) and a supplier can appoint more than one agent. Even when an agent/agents is appointed, other importers (non-agents) can import the same goods". Please clarify the rights of GCC nationals under Oman's Foreign Agency Law. Does Article VIII of the GCC Agreement guarantee them the right to act as commercial agents on the same level as Omani nationals?**

**Reply:**

Only Omani nationals or Omani companies in which the share of Omani nationals is not less than 51 per cent can act as commercial agents. Article 8 of the GCC Agreement does not guarantee GCC nationals to act as commercial agents in Oman.

**Question 13.**

**Please confirm that foreign owned firms, ie., those with less than 51 per cent Oman or GCC equity participation, can import on an equal basis with commercial agents. If this is not so, please describe how it is not so.**

**Reply:**

Foreign owned firms registered in the Commercial Register can import on equal basis with commercial agents.

**Question 14.**

**Can foreign firms distribute imports in Oman without a commercial agent? If so, what provision of law guarantees this right?**

**Reply:**

Foreign firms based in Oman and registered in the Commercial Register can distribute imports in Oman without a commercial agent. Foreign firms not based in Oman can export goods to Oman through any importer/distributor so registered in the Commercial Register; they do not have to use a commercial register.

**Question 15.**

**With regard to question 7 in document WT/ACC/OMN/9, we seek further clarification of Oman's responses. Please define the terms "commercial agent" and "non-commercial agent".**

**Reply:**

A commercial agent is an individual or a company that sells, promotes the sale and distribution of goods or provides services whether in his capacity as agent, representative or intermediary of the manufacturer or supplier of goods.

A non-commercial agent is an individual or company registered in the Commercial Register as an importer or distributor of goods but not acting as an agent, representative or intermediary of a manufacturer or supplier.

**Question 16.**

**It is stated that "A foreign supplier can export goods to Oman without using a commercial agent". Are there any other requirements for a foreign supplier seeking to export goods to Oman? Can or must any other type of agent be used? Is there a penalty incurred by not using an Omani commercial agent? Please be specific.**

**Reply:**

No, there are no other requirements for a foreign supplier seeking to export goods to Oman. No other type of agent is required to be used. There is no penalty for not using an Omani commercial agent, as there is no requirement to use such an agent.

**Question 17.**

**One "... is not obliged to import through a commercial agent ...". Are there differing requirements for importers who use an agent as opposed to those who do not?**

**Reply:**

No, there are no different requirements for those who use a commercial agent and those who do not use such an agent.

**Question 18.**

**If a foreign supplier does not appoint a commercial agent does the supplier need an Omani partner? Conversely, if a commercial agent is appointed does the supplier need an Omani partner?**

**Reply:**

No, the supplier does not need an Omani partner if he does not appoint a commercial agent. If he appoints a commercial agent, the supplier again does not need an Omani partner.

**Question 19.**

**The answer to question 8 of document WT/ACC/OMN/9 states: "In accordance with Article 8 of the Unified Economic Agreement of GCC countries, GCC citizens are treated as Omani citizens ...". and "... this Article is being implemented in a progressive manner". Please explain in detail, with special attention to a timetable, Oman's movement to treat GCC citizens as Omani citizens.**

**Reply:**

During successive years, measures had been taken to treat GCC citizens as Omani citizens. Some of the concrete and comprehensive examples of the progressive implementation of Article 8 of the Unified Economic Agreement of GCC countries adopted by Oman are as follows:

- Ministry of Health – Ministerial Resolution No. 18/95 issued on 5 May 1995 allowing GCC citizens the freedom of undertaking economic activity in health services.
- Ministry of Education – Ministerial Resolution No. 24/96 issued on 11 February 1996 allowing GCC citizens the freedom of undertaking economic activity in educational aspects.
- Authority for Vocational Training – The Authority Resolution No. 313/96 issued on 21 July 1996 allowing GCC citizens freedom of undertaking economic activity in establishing private vocational training institutes and centers.
- Ministry of Social Affairs and Labor and Vocational Training – Ministerial Resolution No. 99/96 issued on 29 September 1996 allowing GCC citizens freedom of undertaking economic activity in establishing private children nurseries (attachment No. 4).
- Ministry of National Economy – Ministerial Resolution No. 33/97 issued on 5 July 1997 allowing GCC citizens freedom of movement and employment in Oman (attachment No. 5).

**Question 20.**

**Concerning the response to question 9<sup>A</sup> (WT/ACC/OMN/9), please indicate how the GCC is not a full-fledged free trade area in services, eg. which sector or other aspects are not covered?**

**Reply:**

A full-fledged free trade area depends on the gradual and firm progress made by GCC to pass different economic stages on its march to full economic integration. GCC countries are actually adopting and implementing some of the main characteristics of a Common Market, and efforts are on the way to adopt more. As regards the services sector, the aspects which are not yet allowed include insurance, transport (road, sea and air) and agency activities.

**Question 21.**

**Following up on question 10 (WT/ACC/OMN/9), since the Oman Commercial Agency Law prohibits foreign companies and foreigners from being appointed as agents, thus limiting importation through only an Omani national or a joint-venture with an Omani company, how can Oman contend that imported goods are accorded treatment no less favourable than domestic goods, whose sale and distribution are not subject to similar requirements?**

**Reply:**

The sale of domestic Omani goods is subject to exactly the same requirements as those to imported goods. There is absolutely no denial of or departure from the principle of national treatment. Omani domestic goods can be distributed by producers/exporters only through individuals or companies which are registered in the Commercial Register as distributors of goods. Similarly, imported goods can be distributed also through individuals or companies which are registered in the Commercial Register as distributors of goods. We do not find any violation of or departure from the provisions of Article III of GATT 1994.

**Question 22.**

**We seek Oman's assistance in clarifying the information provided to date on Commercial Agencies, so that we may better understand how Oman's Commercial Agencies Law relates to the requirement in GATT Article III: 4 that imports from WTO Members shall receive treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use.**

**Reply:**

Please refer to replies to questions 9 to 21 above which explain the position. Attention is also invited to replies to question 59 in document WT/ACC/OMN/5, to question 96 in document WT/ACC/OMN/6/Add 1 and question 7 in document WT/ACC/OMN/9.

To sum up, the Law on Commercial Agencies is not in any way violative of the provisions of Article III of GATT 1994, including paragraph 4 of that Article, as the Law does not obligate a foreign supplier or a foreign exporter to appoint a commercial agent in Oman or to sell or export his goods to Oman only through a commercial agent. He may appoint a commercial agent if he so likes, but he may sell, export or distribute goods without going through a commercial agent. Imported goods are thus not in any way given a less favourable treatment as compared with domestically produced goods.

**Question 23.**

We seek confirmation that Oman has no special or unique registration requirements for persons or firms engaging in importing or exporting goods except as provided in WTO Agreements; that individuals and firms are not restricted in their ability to import or export goods based on the scope of business or their registration and that they can easily change their registration to allow for trade; that there are no restrictions, such as capital or nationality requirements, on firms wishing to engage in foreign trade; and that the criteria for registration are published in the official journal and generally applicable to all.

**Reply:**

It is so confirmed.

**Question 24.**

Regarding question 9 in document WT/ACC/OMN/9; is Oman able to respond to this question yet?

**Reply:**

Please refer to reply to question 20 above.

**(b) Characteristics of national tariff****Question 25.**

The response to question 11 in document WT/ACC/OMN/9 states that "Oman intends to implement the HS System at the 6-digit level". We understand that Oman is prepared to negotiate its WTO goods market access commitments in H/s nomenclature. Oman is to be congratulated for this effort, which will clearly facilitate the negotiation. Please outline progress towards implementation of 6-digit HS System in Oman's applied customs tariff and when conversion will be completed.

**Reply:**

Oman is already working towards implementation of Harmonized System at 6-digit level for purposes of customs classification. As announced by H.E. the Minister of Commerce and Industry of Oman at the third meeting of the Working Party held on 2 October 1998, Oman will implement the Harmonized System from June 1999.

**Question 26.**

We are pleased that Oman is in the process of implementing a six-digit HS system. Can Oman provide some further detail on how it is progressing with the implementation of the HS 96 system?

**Reply:**

Please see reply to question 25 above.

**Question 27.**

**We acknowledge Oman's good intentions in regard to its undertaking not to apply provisions of the Law on Organization and Encouragement of Industry that are not in conformity with WTO rules. We would expect that Oman will modify laws that are inconsistent with the WTO rules prior to accession. If this is not possible in this case, can Oman explain how and to what extent the WTO Treaty would take precedence over domestic laws in this area?**

**Reply:**

The Law on Organization and Encouragement of industry will be amended, prior to Oman's accession to the WTO, to bring it into conformity with WTO rules.

**Question 28.**

**We appreciate Oman's undertaking (in the reply to question 13) not to apply the provisions of the Law on Organization and Encouragement of Industry which are not in conformity with the WTO rules, and to amend clause 4 of Article 19 of the same Law. Could Oman keep the Working Party members informed of any development concerning other possible amendments to the same Law?**

**Reply:**

The Law is being revised to bring it into conformity with WTO rules. The revision/amendment will be completed prior to Oman's accession to the WTO. The Working Party will be informed when the draft revision is ready.

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

**Question 29.**

**To follow up on questions 13 and 16 of document WT/ACC/OMN/9, regarding the Law on Organization and Encouragement of Industry: Has Oman determined how it will modify the Law on Organization and Encouragement of Industry? If so, please describe the modifications in detail. If not, when will this determination be made?**

**Reply:**

Oman has made a preliminary determination to delete Clause 4 of Article 19 of the Law on Organization and Encouragement of Industry. Other aspects of the Law are being examined. As soon as draft amendments are ready, the Working Party will be informed. As stated earlier, the revision/amendment of the Law will be completed before Oman's accession to the WTO.

**Question 30.**

**While we appreciate the confirmation that the law would not be used in conflict with WTO provisions, we would prefer that those aspects of the law that provide for the application of charges in excess of Oman's bindings without recourse to WTO provisions in this area be changed prior to accession, to eliminate the possibility of further conflict.**

**Reply:**

It will be so done. Please refer to replies to Questions 27, 28 and 29 above.

**Question 31.**

**Can Oman confirm its position on other duties and charges (ODCs) of a kind covered by Article II: 1(b) of the GATT 1994? The report from the last meeting indicated that Oman did not intend to use ODCs, but they did not clarify whether they would be bound at zero.**

**Reply:**

Oman does not apply other duties and charges (ODC's) and will not apply such duties in future. It will bind ODC's at zero.

**Question 32.**

**In answering question 14, Oman stated that ". . . because of the small size of the port no other corporation has so far approached the Port Authority for a contract". If another company wanted to enter the market despite the small size of the port, how would this corporation go about getting approval and getting a contract?**

**Reply:**

The Port Authority's present thinking is not to encourage another corporation to enter the market as more than one company doing the work in a small port would likely adversely affect the port services as for neither of the companies the operation would be economical.

**Question 33.**

**Oman's response to question 17 asserted that for a foreign company to participate in the activities of those services in which the Port Services Corporation is currently engaged, "The interested company has to apply to the Port Authority . . .". What does the application process entail and upon what factors does the decision making process depend?**

**Reply:**

Please see reply to question 32 above.

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

**Question 34.**

**We understand that Oman has lifted the quantitative restrictions on imports of eggs and milk. Have consequential amendments been made to the import licensing arrangements? If so, does the reply to the import licensing questionnaire (document WT/ACC/OMN/5/Add.2) need to be amended?**

**Reply:**

Oman has not yet lifted quantitative restrictions on import of eggs and milk. However, Oman said earlier and it repeats that quantitative restrictions on import of eggs and milk will be lifted before Oman joins the WTO. Consequential changes in import licensing will be made.

**Question 35.**

**We commend Oman for its commitment to eliminate the prohibition on importation of petroleum products (reply to question 26). We would appreciate further details on the steps that Oman intends to take in this direction.**

**Reply:**

Oman would eliminate the prohibition on importation of petroleum products upon accession to the WTO.

**Question 36.**

**Following up on questions 20 and 21, by what standards does the Ministry of Posts, Telegraphs and Telephones grant authorization for the import of radio sets and wireless telegraphs? How is this authorization obtained?**

**Reply:**

Authorization is granted by the ITU standards or by other internationally recognized standards, such as CEPT standards.

Authorization is obtained from the Ministry of PTT for all wireless equipment which have to be licensed.

**Question 37.**

**In response to question 22 Oman answered that "Anyone importing telecommunications equipment which will interface with the GTO Network need type approval and authorization from the GTO. However, if the equipment involves radio frequency, it has also to be cleared with the Ministry of Posts, Telegraphs and Telephones". In cases where the decision of the GTO and Ministry of Posts, Telegraphs and Telephones conflict, which ruling holds the most authority? Moreover, how must telecommunications equipment comply with current standards to attain type approval?**

**Reply:**

Where the decisions of the GTO and the Ministry of PTT conflict, the decisions of the Ministry hold the most authority.

Telecom equipment would attain type approval if they meet: (i) frequency standards, (ii) radiation standards, (iii) interface conditions if they are to be interconnected, and (iv) signalling standards where applicable.

**Question 38.**

**In document WT/ACC/OMN/9 question 23, Oman noted that regarding the export of lobster and abalone, at the end of the fishing season, exports can be made from the registered stock only. Does the same rule apply for domestic sales of lobster and abalone? Does this rule apply to both foreign and Omani companies?**

**Reply:**

Yes, the same rule applies to domestic sales of lobster and abalone, and it applies to both foreign and Omani companies.

**Question 39**

**We would like for Oman to supply in circulated documentation its list of its current and authorized bans and restrictions applied to imports and exports, by tariff line item and, as appropriate, the WTO justification for applying the restriction. This will assist the Working Party and developing appropriate protocol commitments.**

**Reply:**

The list of banned items is attached. WTO justification is given for each item.

**(h) Customs valuation****Question 40.**

**We have reviewed document WT/ACC/OMN/13 and we are pleased to note that Oman has begun to take steps to implement the Customs Valuation Agreement. We believe, however, that the timeline outlined in this document can be accelerated. As noted in document WT/ACC/OMN/13, much of Oman's current practice is not in conflict with the Agreement. We intend to work with Oman to assist in adoption in Oman law and regulation the provisions of the Agreement.**

**Reply:**

Though Oman's current valuation practice is in essence not in conflict with the Customs Valuation Agreement, the detailed laws, regulations, procedures and administrative guidelines have to be drafted, approved and issued, and the customs staff has to be trained. We believe the time frame indicated in document WT/ACC/OMN/13 is reasonable. Oman welcomes offers of technical assistance.

**Question 41.**

**Can Oman provide details of work undertaken to implement the Customs Valuation Agreement?**

**We welcome the steps that Oman has taken so far to bring its customs valuation system towards conformity with the WTO Agreement and the action plan that Oman has submitted in this connection. However, it seems that Oman is intending to take an unnecessarily long time to undertake some steps, in particular the preparation of implementing regulations, administrative guidelines and manuals. We are wondering if Oman would be able to conduct this step concurrently with other phases, in particular at the same time as the legislative phase planned for the first half of 2000. Based on the timetable provided, this would allow Oman to implement a WTO-consistent customs valuation system by the end of the year 2000 – a full year ahead of Oman's currently envisaged timetable.**

**Reply:**

The Sultanate of Oman is seriously working towards implementation of the Customs Valuation Agreement. An expert of the World Customs Organization visited Oman in the beginning of November 1998 and held a workshop and intensive meetings for implementation of the Customs Valuation Agreement. A Task Force has been set up for this purpose.

We believe the action plan submitted in document WT/ACC/OMN/13 is reasonable and cannot be abridged as Oman is starting from a scratch in this area.

**Question 42.**

**We commend Oman for undertaking to apply the Customs Valuation Agreement upon accession. Could Oman update document WT/ACC/OMN/13 to this end? We would be interested in being regularly updated on the steps that Oman will take in the implementation of the Agreement.**

**Reply:**

Please refer to replies to questions 40 and 41 above. We would keep the Working Party informed of further developments.

**Question 43.**

**We seek a commitment from Oman that it will fully apply the WTO provisions concerning customs valuation from the date of accession without recourse to a transition period.**

**Reply:**

Oman will implement the Agreement on Customs Valuation Agreement in accordance with the Action Plan submitted in document WT/ACC/OMN/13.

**(j) Pre-shipment inspection**

**Question 44.**

**Does Oman use pre-shipment inspection services for valuation or certification purposes? If so, please describe the system used.**

**Reply:**

No, Oman does not use pre-shipment inspection services for valuation or certification purposes.

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

**Question 45.**

**We understand that Oman is in the process of changing the tax system applied to domestic and foreign firms. We would appreciate details on this point.**

**Reply:**

A study about the tax system in the Sultanate is being carried out by a reputable international consultant. It is expected that it would be submitted to the authorities by late December 1998 for review and approval. It is hoped that some sound recommendations regarding the tax system applied to domestic and foreign firms might be adopted.

(m) **Anti-dumping regime**

(n) **Countervailing duty regime**

(o) **Safeguard regime**

**Question 46.**

**The response to question 32 states that Oman will bring into conformity with WTO rules its policies on anti-dumping, countervailing duties, and safeguard regimes only after it becomes a Member of the WTO. Oman should comply with WTO rules prior to accession to avoid problems with implementation of trade remedies in a manner consistent with the WTO after accession. If Oman has a time frame for the implementation of these Agreements, please describe it for the Working Party.**

**Reply:**

At present Oman does not have anti-dumping, countervailing or safeguard legislation. It will not be possible for Oman to draft and enact these laws before it joins the WTO, as Oman has to enact or amend a number of other laws to ensure full conformity with WTO agreements.

Oman commits and assures the Working Party that it will not apply anti-dumping, countervailing or safeguard measures unless it has WTO-consistent laws in these areas.

**Question 47.**

**We seek a commitment from Oman in the protocol and Working Party text that it will not apply any anti-dumping, countervailing or safeguard measure until it had implemented appropriate laws in conformity with the provisions of the WTO Agreements on the Implementation of Article VI, on Subsidies and Countervailing Measures and on Safeguards. In addition, in the elaboration of any legislation concerning anti-dumping duties, countervailing duties and safeguards, Oman would ensure their full conformity with the relevant WTO provisions, including Article VI and XIXI of the GATT 1994 and the Agreement on the Implementation of Article VI, the Agreement on Subsidies and Countervailing Measures and the Agreement on Safeguards. After such legislation was implemented, Oman should only apply any antidumping duties, countervailing duties and safeguard measures in full conformity with the relevant WTO provisions.**

**Reply:**

Oman is prepared to give the required commitment in the protocol and in the Working Party report.

**Question 48.**

**The response to question 33 in document WT/ACC/OMN/9 states that Oman will not apply Article 19, paragraph 4, of the Law on the Organization and Encouragement of Industry after it joins the WTO. As this section of the law involves WTO-inconsistent measures, will Oman commit to repeal this provision upon accession?**

**Reply:**

Yes, Oman will repeal this provision upon accession.

**2. Export Regulation**

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

**Question 49.**

**The answer to question 37, (document WT/ACC/OMN/9) states that "No government funded institution provides loans for export industries". Please define and describe the role of the Oman Development Bank, with emphasis on its role as an alternative to private sources of funding, at commercial rates of interest.**

**Reply:**

The Oman Development Bank is an Omani shareholding company established under a Royal Decree. The share capital of the Bank currently stands at RO 10 million, of which the Government of Oman holds a 51 per cent share. The Oman Development Bank provides soft loans to agricultural, industrial and services projects in terms of Royal Decree No. 17/97 (details discussed elsewhere, and copy of the Royal Decree already submitted to the Working Party - WT/ACC/OMN/9). These soft loans are available to all industries and enterprises on the basis of objective, published criteria (as in Royal Decree No. 17/97). The loans are not specific to certain enterprises or industries.

**Question 50.**

**We understand that there are a number of new industrial projects proposed, including the Sohar aluminium smelter, a petrochemical joint-venture that is like to produce polyethylene for export, a fertilizer plant, and possibly a new sugar refinery. Is Oman government support to be provided for these projects?**

**Reply:**

No, the Government of Oman is not providing any government support to the proposed large projects including Sohar Aluminium Smelter, a petrochemical joint venture and a fertilizer plant and a possible new sugar factory.

**Question 51.**

**Are Oman government subsidies or incentives provided, through the Omani Development Board or otherwise? If so, could details be provided?**

**Reply:**

Please see reply to question 49 above. The loans provided by Oman Development Bank are in the nature of permissible, non-actionable subsidies as these are not limited to and not specific to certain enterprises or industries or groups of enterprises or industries. These are available to all enterprises and industries on the basis of objective, published criteria. (For more details, please see reply to questions 171 and 172 in document WT/ACC/OMN/5).

**Question 52.**

**Are there any subsidies or incentives that relate to export performance?**

**Reply:**

There are no subsidies or incentives that relate to export performance.

**Question 53.**

**Are there any subsidies or incentives that provide preferences to Omani products, services or individuals?**

**Reply:**

There are no subsidies or incentives that provide preferences to Omani products or services. Royal Decree No. 17/97 provides that soft loans for projects whose investment cost exceeds RO 250,000 shall, inter alia, be granted to projects in which Omanis own no less than 51 per cent of the capital of the project throughout the validity period of the loan.

**Question 54.**

**With regard to the Export Guarantee and Financing Unit of the Oman Development Bank, what are the criteria for determining whether a product is Omani or not?**

**Reply:**

There are no criteria under the EGFU to determine whether a product is Omani or not.

In order to be eligible for interest subsidy in relation to export credit, value added criteria are prescribed. However, according to the criteria the elements of value added are: "labour costs, interest, depreciation, taxes and net profit". There is no requirement of use of domestic over imported goods.

**Question 55.**

**In response to question 41, document WT/ACC/OMN/9, Oman states that the rate at which Omani commercial banks grant all credit-insured exporters a post-shipment advance is much less than what US Eximbank, ECGD and Coface offer to their exporters. Will this low rate continue even after Oman accedes to the WTO?**

**Reply:**

Yes, the low rate will continue, subject to developments in global interest rates.

**Question 56.**

**In response to question 42 (document WT/ACC/OMN/9) Oman states that under Oman's Royal Decree No. 17/1997 "... loans are not conditional on export performance or local content requirements". Are the loans conditional on any performance requirements? If so, please specify.**

**Reply:**

In terms of Royal Decree No. 17/97, loans exceeding RO 250,000 are conditional on the requirement that the project undertakes to employ Omanis at a minimum of 25 per cent of the total workforce of the project.

**Question 57.**

**Will Oman confirm that as stated in the reply to question 133 in document WT/ACC/OMN/6/Add. 1, Royal Decree No. 49/91 has been superseded by Royal Decree No. 17/1997 under which loans are not conditional on export performance or local content requirements?**

**Reply:**

It is confirmed that Ministerial Decree No. 49/91 has been superseded by Royal Decree No. 17/97.

**Question 58.**

**Do Oman government-funded institutions grant loans for industrial projects which produce for export? If so, please cite the law that provides for this. Please indicate which institutions are involved and the conditions on which the loans are granted.**

**Reply:**

The answer to the question is : No.

**Question 59.**

**Can Oman indicate if it can confirm that it does not maintain subsidies which meet the definition of a prohibited subsidy, within the meaning of Article 3 of the Agreement on Subsidies and Countervailing Measures and that it would not introduce such prohibited subsidies in the future?**

**Reply:**

Oman confirms that it does not maintain subsidies which meet the definition of a prohibited subsidy within the meaning of Article 3 of the Agreement on Subsidies and Countervailing Measures. Oman further confirms that it would not introduce such prohibited subsidies in the future.

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

**(a) Industrial policy, including subsidy policies**

**Question 60.**

**Following up on question 47, has the Venture Capital Fund been established? Over what period of time will it be implemented? Please provide details on the type of loans being considered.**

**Reply:**

The Venture Capital Fund has not been established. As and when it is established, a notification giving all details will be submitted to the WTO.

**Question 61.**

**We request further clarification to Oman's answer in response to question 48. Oman has stated that "Import substitution is only an indicative objective of economic policy". How does the Government of Oman support import substitution implicitly?**

**Reply:**

As stated earlier, the Government of Oman does not take any specific measures for import substitution industries. It encourages such industries by promotional measures such as studies on the scope and potential of such industries, but it does not provide any particular financial support or incentives for these industries, apart from generally available subsidies (which are available to all industries) in terms of Royal Decree No. 17/97.

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

**Question 62.**

**In document WT/ACC/OMN/12 and in its response to question 49 in document WT/ACC/OMN/9, Oman commits to implement the TBT Agreement as from the date of its accession to the WTO. When will the Government of the Sultanate of Oman fully conform to the requirements of the Agreement on Technical Barriers to Trade in Annex-3 of the Standards Agreement?**

**Reply:**

As stated in the Action Plan a decree implementing the TBT Agreement will be issued by September 1999. Oman will be fully implementing the TBT Agreement by the time of its accession to the WTO.

**Question 63.**

**We commend Oman for undertaking to apply the TBT Agreement upon accession. Oman says on page 2 of document WT/ACC/OMN/12 that DGSM is the only government agency responsible for issuing and enforcing technical regulations and mandatory standards. Are there other government departments/agencies responsible for voluntary standards? Are there any non-government standards bodies? If so, have they signed (or do they intend to sign) the Code of Good Practice?**

**Reply:**

The Directorate General for Specifications and Measurements (DGSM) within the Ministry of Commerce and Industry is the only National Standards Body (NSB) in Oman responsible for mandatory and voluntary standards. There are no other governmental or non-governmental bodies responsible for standards.

**Question 64.**

**Oman says in document WT/ACC/OMN/12 that her analysis of the TBT compatibility of her current system will be completed by December 1998. We would be grateful if Oman would circulate the result of the study to WTO members.**

**Reply:**

The attached table shows that the Omani procedures for the most part conform with the provisions of Annex 3 of TBT Agreement, Code of Good Practice for the preparation, adoption and application of standards. For the points which are not in conformity with the provisions of Annex 3 – the necessary changes will take place prior to accession to the WTO.

**Question 65.**

**Oman says in document WT/ACC/OMN/12 that she will begin drafting a Ministerial Decree in January 1999. We would appreciate if Oman would provide a copy of the draft to WTO Members for comment.**

**Reply:**

A copy of the draft decree will be provided to WTO members soon after it is ready.

**Question 66.**

**The answer to question 50 in document WT/ACC/OMN/9 refers to the use of a "competent body". Please define the "competent body" and how it will be selected by the DGSM in the manufacturers' country of origin to award the Omani Quality Mark. Must it be an Omani company?**

**Reply:**

The "competent body" which will be selected by the DGSM in the manufacturer's country of origin to award the Omani Quality Mark could be any independent accredited laboratory or any independent testing and inspection body, satisfying the requirements of ISO/IEC Guide 39 – General requirements for the acceptance of inspection bodies. It will not necessarily be an Omani Company.

**Question 67.**

**Will the "competent body" abide by the same standards and testing procedures as the DGSM does in Oman? Will the DGSM directly oversee its actions? Will the fees vary from those charged by the DGSM? Will the DGSM charge both Omani and foreign companies the same prices?**

**Reply:**

The competent body will abide by the same standards and testing procedures as the DGSM does in Oman. Its activities will be overseen by DGSM. The fees will be equitable as between Omani and foreign companies.

**Question 68.**

**Following up on question 51 of document WT/ACC/OMN/9, has the DGSM issued its regulations for the Omani Quality Mark?**

**Reply:**

The regulations for Omani Quality Mark have not yet been issued. These will be issued within a period of six months.

**Question 69.**

**We applaud Oman's efforts to assess the conformity of its laws and procedures with the WTO TBT provisions. This is a necessary step in the accession process. In the interests of advancing the WTO Working Party process, as well as expediting its compliance with TBT rules, we encourage Oman to share the preliminary results of its review.**

**Reply:**

The preliminary results will be shared with the Working Party.

**Question 70.**

**At present, Oman's regulatory system is not consistent with WTO TBT requirements. In particular, we note Oman's legal and administrative provisions do not adequately address fundamental obligations, such as transparency, non-discrimination and national treatment, and the prohibition of unnecessary barriers to trade. In the area of transparency, for instance, Oman does not formally publish a public notice that draft standards, technical regulations or conformity assessment procedures are being considered. Oman does not appear to provide a proper opportunity for all parties to comment on draft procedures and Omani final standards are not promptly published. Omani administrative decrees do not appear to explicitly address the fundamental obligations of non-discrimination and national treatment for imported products. It is not clear how Omani procedures explicitly ensure the standards-related measures it develops and applies are no more trade-restrictive than necessary. Understanding specific TBT obligations, and identifying shortfalls in Oman's regulatory system, is essential before work on an effective Ministerial Decree begins. We look forward to working cooperatively with Oman as it develops necessary implementation procedures for the Agreement.**

**Reply:**

The Action Plan submitted by Oman in document OMN/12 confirms that Oman's present regulatory system on TBT does not fully measure up to the various requirements of the TBT Agreement. As stated in the Action Plan, Oman will rectify this situation by issuing an appropriate decree before its accession to the WTO. We appreciate and welcome offers of technical assistance.

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

**Question 71.**

**We draw attention to the related disciplines in the TBT and SPS Agreements of transparency, non-discrimination and national treatment, and the appropriate use of international standards. Many of the efforts in implementing the TBT may strengthen Oman's ability to implement similar aspects of the SPS Agreement. Will the legislation noted in document WT/ACC/OMN/12 also apply to SPS issues? Is the action plan outlined in document WT/ACC/OMN/12 intended to address similar aspects of the SPS Agreement as well? If so, could Oman indicate this to the Working Party, and note where such overlap is expected.**

**Reply:**

Yes, the legislation will address similar aspects of the SPS Agreement, in particular in the areas of transparency, MFN treatment, national treatment, comments on draft measures etc.

**Question 72.**

**Has Oman conducted an assessment similar to that noted in document WT/ACC/OMN/12 of its laws and procedures with respect to the SPS Agreement? Will Oman provide a document similar to document WT/ACC/OMN/12 for SPS issues that contain an action plan for the review or implementation of the Agreement? In the interests of advancing the WTO Working Party process, as well as expediting its compliance with SPS Agreement, we encourage Oman to carry out such a review and share the preliminary results of its review with the Working Party.**

**Reply:**

An assessment is being conducted. Oman will shortly provide a document similar to OMN/12 containing action plan for implementation of the SPS Agreement.

**Question 73.**

**We are concerned that Oman may not be making equal progress on reviewing its implementation of the SPS Agreement as is demonstrated in document WT/ACC/OMN/12 for the Agreement on TBT. There are clear overlaps and potential synergies in the efforts described in document WT/ACC/OMN/12 vis-à-vis TBT for implementation of the SPS Agreement as well. If a review of compatibility with the SPS Agreement were to be accelerated, common areas between the two Agreements could be addressed simultaneously in the processes of implementation.**

**Reply:**

Please refer to replies to questions 71 and 72 above.

**Question 74.**

**Concerning shelf-life requirements, in Oman's view, how do GCC shelf-life standards differ from SPS Agreement requirements?**

**Reply:**

SPS Agreement provides that no member should be prevented from enforcing measures necessary to protect human, animal or plant life or health, subject to the requirement that these measures are not applied in a manner which would constitute a means of unjustifiable discrimination between domestic and imported products, and would not constitute a disguised restriction on trade.

Oman government's legitimate responsibility is to ensure the products reach the consumers in a safe condition of use. Codex defines shelf life as the period during which the food keeps its Microbiological and sensory quality at a specific temperature of storage. Codex states that the purpose of date marking and shelf life is to provide the consumer the information about the expected quality of the product provided that it has been properly stored. Besides, mandatory shelf-life dates and marking of foodstuffs will help the government authorities to prescribe maximum storage periods for food products, and to inform the consumer when key quality attributes are at their optimum levels in the product (i.e., nutritional values and product characteristics). In highly perishable products (i.e. dairy products) these shelf life dates can also provide information on spoilage and contamination. Shelf-stable products are normally stored under room/ambient temperature. The shelf-life estimated by most foodstuff manufacturers, for shelf-stable products is based on assumptions that storage temperatures would not exceed 25° C. While the actual temperatures at which shelf-stable products were being stored (conditions of the Gulf region) vary drastically due to wide fluctuations between day and night and different seasons and regions, ranging from 10° C to 55° C averaging 33° C on a year round basis, coupled with extreme variations in relative humidity. It is known that the rate of chemical reactions doubles with 10° C increase in temperature. In addition the microbial activity dreadfully intensifies at a temperature of 20-30° C.

Researchers use a general rule of halving a specific shelf-life period for every 10° C increase in temperature. A study conducted by Natic Research for the US Army found that shelf-life periods of shelf-stable products under a constant storage temperature of 32.22° C are generally half those determined 21.1° C, thereby confirming Arrhenius Equation and the Q10 rule used by researchers. Nevertheless, comparison of shelf-life periods actually determined by GCC countries with the results of the study shows that they generally fall in the mid-range between the period determined by the study at these two storage temperatures. In the case of several products, the GCC shelf-life period coincided with the study's 21.1° C condition, with only few exceptions coinciding with the 32.22° C condition (e.g. highly risky products such as baby food). Thus, GCC shelf-life determinations for shelf-stable products are in fact less strict than warranted by the climatic and infrastructural conditions of the region.

In determining shelf-life of any food product, GCC countries take into consideration and keep up with the latest developments and improvements in processing and preservation methods, type of packaging etc.

In fact, any Government, national industry association or individual manufacturer adopting unique durability extending techniques is always welcome to submit relevant technical evidence and request consideration of specific shelf-life determination. The case will be studied by the GCC Standards Organization, and if valid, the relevant shelf-life standard will be amended accordingly.

The requirement for half the shelf-life of an imported food product to remain valid at time of its entry into a GCC country, is purely a marketing requirement. The 50 per cent of shelf-life allowed to be lost before entry exceeds the time required for shipping food products from the most distant exporting country to the region, thereby accounting for any inherent geographical disadvantage between countries, and insuring non-discrimination in treatment. Even with the half shelf-life requirement imposed, the local distributors are still at a disadvantage situation when buying imported

food products versus domestically manufactured products, whereby the latter can provide full shelf-life and freshness utility. Needless to mention, food products arriving in GCC countries with inadequate or close-to-expiry shelf-life remaining, would put unreasonable strain on the distribution and marketing system and may wind up having to be wasted, thereby inflicting unnecessary losses on the national economy of these countries.

**Question 75.**

**Following up on question 53 of document WT/ACC/OMN/9, please indicate the costs and time generally necessary for inspection under Oman's shelf-life requirements.**

**Reply:**

There are no costs involved in inspections. The time is very short, almost insignificant.

**Question 76.**

**We commend Oman for undertaking to apply the SPSP Agreement upon accession. We would be interested in being regularly updated on the steps that Oman will take in this direction.**

**Reply:**

Oman will keep the Working Party regularly informed on the steps it will take to implement the SPS Agreement from the date of accession.

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

**Question 77.**

**Can Oman confirm that it does not maintain any measures inconsistent with the TRIMs Agreement and would apply the TRIMs Agreement from the date of accession without recourse to any transitional period?**

**Reply:**

Oman confirms that it does not maintain any measures inconsistent with the TRIMs Agreement and would apply the TRIMs Agreement from the date of accession. Oman does not need any transitional period as it does not maintain prohibited TRIMs.

**(e) State-trading practices**

**Question 78.**

**To clarify Oman's answer to question 54, please report on the progress of the privatization of PAMAP. After privatization, will its role in regulation of agricultural supply be replaced by another State institution?**

**Reply:**

The PAMAP will hopefully be privatized in 1999. After privatization, its role will not be replaced by another state institution.

**Question 79.**

**If PAMAP is still in operation when this negotiation concludes, we seek agreement from Oman that it will be notified as a state-trading enterprises and that any trade restrictions or other measures it manages inconsistent with WTO will be eliminated. In any case, we seek a statement on the status of the organization be incorporated in the Working Party Report.**

**Reply:**

The PAMAP will hopefully be privatized in 1999. In the very unlikely eventuality that the PAMAP is still in operation when Oman joins the WTO, it is confirmed that Oman will notify it as a state enterprise and that any trade restrictions or other measures it manages inconsistent with the WTO will be eliminated.

**(l) Government procurement practices**

**Question 80.**

**The answer to question 56 states that "Oman will not join the Agreement on Government Procurement". Please explain why Oman will not join the Agreement, which was developed to maximize efficiency and fairness in procurement.**

**Reply:**

Oman does not intend to join the Agreement on Government Procurement as it is a plurilateral agreement and not a multilateral trade agreement, and that joining this Agreement is not a necessary requirement of WTO membership. The Agreement has been accepted by less than 30 WTO countries. More than 100 WTO members have not joined this Agreement.

Having said that, Oman confirms that after accession it will participate in the work of the working group on transparency in government procurement procedures and will join any multilateral agreement that is adopted by consensus by WTO members.

**Question 81.**

**Further clarifying question 56, please explain how Oman currently ensures the transparency of procedures and the practice of government procurement, such as:**

- **where the publication of an opportunity will be placed;**
- **the procedures to participate in procurement;**
- **qualification of suppliers;**
- **conditions for gaining contracts; and**
- **the procedures for suppliers to appeal the government's decision..**

**In addition, would publications of opportunities and other regulations be made in the English language?**

**Reply:**

The transparency of practices and procedures of government procurement are ensured by the Tender Law of Oman and other related laws prevailing in the Sultanate of Oman. In particular, transparency is ensured as follows:

The publications of tenders are placed in local newspapers, radio, TV, official gazette, the internet and in some international magazine (MEED). Tender opportunities are published in Arabic and English.

The procedures to participate in tenders have been specified in the Tender Law and regulations.

The qualifications of suppliers are based on the nature of goods and services required as per the tender notice and tender documents.

The conditions for gaining contracts for the qualified suppliers/contractors are based on price factor and fair competition while fulfilling specification requirements.

Suppliers have the right to appeal for review of tender decisions. The procedures for appeal have been specified in the Tender Law and regulations.

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

**(a) Imports**

**Question 82.**

**Please confirm that Oman will eliminate all import bans and quantitative restrictions on agricultural products (eg., eggs, milk, fruits, vegetables) upon accession, in accordance with the provisions of the Agricultural Agreement, and replace them, as necessary, only with WTO-consistent requirements.**

**Reply:**

It is confirmed that upon accession Oman will eliminate import bans and quantitative restrictions on agricultural products and replace them, as necessary, only with WTO-consistent measures.

**V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME**

**1. General**

**Question 83.**

**We appreciate Oman's status report, contained in document WT/ACC/OMN/11, on implementation of the WTO Agreement on Trade Related Aspects of Intellectual Property. It indicates that Oman acknowledges the gaps in its current legal and enforcement framework for the protection of intellectual property, and outlines, in general terms, the current plans for addressing those gaps. We have some reservations, however, about the times for implementation proposed, in that they do not correspond with Oman's stated objective of completing its accession negotiations on an accelerated basis. We remain convinced that compliance with TRIPS obligations on the date of accession, without transition, is both possible**

and desirable. This objective is a standard policy for us in accession negotiations. We look forward to reviewing the draft laws noted in the action plan, and working close with Oman to carry out the plan. To achieve this goal, we believe that the Working Party can assist Oman by reviewing its draft laws and regulations, and by providing comments and other advice on implementation.

**Reply:**

The statement has been noted. Oman is in the process of revising/enacting intellectual property laws in line with the Action Plan and in line with the statement made by H.E. the Minister of Commerce and Industry of Oman at the third meeting of the Working Party held on 2 October 1998.

**Question 84.**

Oman has taken a number of steps in relation to its intellectual property regime which are briefly described in the answers to questions 63 to 78 in document WT/ACC/OMN/9 (eg. decisions to join the Paris and Berne Conventions, amendment and drafting of laws, establishment of a copyright office). Can Oman provide a fuller report on recent progress?

**Reply:**

A fuller report is contained in document WT/ACC/OMN/11, and H.E. the Minister of Commerce and Industry's statement at the third meeting of the Working Party on 2 October 1998, copy of the statement attached.

**Question 85.**

Given the relatively rudimentary nature of Omani legislation on intellectual property rights, would Oman provide regular up-dates on the legislative steps taken? Such up-dates should also specify the legal issue Oman intends to tack (including the time-frames). In this respect document WT/ACC/SPEC/OMN/5 is too general. Regarding paragraph 17 of that document, it would be interesting to know the reasoning behind the different implementation periods for the enforcement of intellectual property rights concerning literary works; performers, producers of phonograms, broadcasting organizations and computer software.

**Reply:**

Document WT/ACC/SPEC/OMN/5 has been overtaken by document WT/ACC/OMN/11 which gives a detailed time bound action plan for implementation of the TRIPS Agreement.

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

**Question 86.**

The response to question 63 in document WT/ACC/OMN/9 indicates that a decision to join the Paris and Berne Conventions has already been taken by the Government of Oman and that administrative steps in that direction are being taken. Could Oman please provide a status report of current efforts to join the Paris and Berne Conventions?

**Reply:**

A Royal Decree No. 63/98 was issued on 19 September 1998, whereby Oman has ratified its accession to the Paris and Berne Conventions.

**(d) Application of national and MFN treatment to foreign nationals**

**Question 87.**

**Does Oman currently accord any preferential treatment to any country in the area of intellectual property? Are all fees charged equally for equal work?**

**Reply:**

Oman does not currently grant preferential treatment to any country in the area of intellectual property. Fees are charged equally for equal work.

**2, Substantive Standards of Protection, including Procedures for the Acquisition and Maintenance of Intellectual Property Rights**

**(b) Trademarks, including service marks**

**Question 88.**

**Following up on the response to question 69 in document WT/ACC/OMN/9, under Oman's revised Trademark Law, what test will be used to determine that a well-known mark is being infringed? What is the timetable for implementation of the new Trademark Law? Is the term "relevant section of the public" defined in either the current or the new Trademark Law?**

**Reply:**

The draft Trade Mark Law is still in preparation in cooperation with WIPO. The revised Trade Mark Law will be promulgated by June 1999. The term relevant section of the public is not defined in the current Trade Mark Law. The new law is not yet ready.

**Question 89.**

**The response to question 70 in document WT/ACC/OMN/9 states "a well-known mark is refused registration if another party wanted to register the same mark in its name". Can the owner of a well-known mark stop the use of that mark by an infringer during this interim period? What law would the owner of a well-known mark invoke in order to stop infringing use?**

**Reply:**

The owner of the well-known mark can stop the usage of such marks by the infringing person during the interim period pursuant to Articles 31 to 34 of the Trade Marks Law.

**Question 90.**

**Can the owner of the well-known mark stop infringing goods from entering or leaving Oman? If so, how does the owner do that?**

**Reply:**

The owner of the well known mark can prevent the entry of infringing goods if the mark is registered in Oman, as in that case it will be enjoying protection under the Law.

**(c) Geographical indications, including appellations of origin**

**Question 91.**

**Please explain how Oman plans to protect geographic indications in the new Trademark Law.**

**Reply:**

Geographical indications will be protected by inserting specific provisions in the revised Trade Marks Law. This issue is now under examination in consultation with the WIPO.

**(e) Patents**

**Question 92.**

**Oman states in response to question 72 in document WT/ACC/OMN/9 that it will implement TRIPS-consistent measures in the context of a GCC-wide effort, but gives no information on its own efforts to move this process forward or to ensure that its own laws and regulations will be read to enforce the GCC patent regulations upon accession to the WTO. Please provide information on affirmative steps that Oman plans to take to ensure that the GCC regime is TRIPS-consistent and active efforts Oman has made to move the GCC process forward.**

**Reply:**

The GCC patent regulations are now under examination, for their conformity with the TRIPS Agreement, by the GCC Secretariat in consultation with the WTO and WIPO. Consequently, the GCC patent regulations may be suitably amended to ensure their full conformity with the TRIPS Agreement. Once GCC Secretariat completes this task, Oman will adopt these regulations by an appropriate decree.

**(g) Layout designs of integrated circuits.**

**Question 93.**

**In document WT/ACC/OMN/5, in response 307, Oman indicates that it does not have laws protecting layout designs of integrated circuits. The response to question 64 in document WT/ACC/OMN/9 states that work is underway to provide such protection for industrial designs and geographic indications. Please provide information regarding efforts underway for the protection for layout designs of integrated circuits.**

**Reply:**

As indicated in document WT/ACC/OMN/11, a law on layout-design of integrated circuits will be promulgated by December 1999. To that end, a draft law is under preparation in consultation with the WIPO.

**4. Enforcement**

**(a) Civil judicial procedures and remedies**

**Question 94.**

**What public awareness or other educational campaigns for the general public does Oman plan to implement?**

**Reply:**

Oman is holding seminars on TRIPS with the assistance of WIPO. Three seminars have already been held. Another seminar for all Arab countries will be held in Muscat in February 1999. Also Omani officials have participated in numerous seminars on TRIPS. Public awareness program through the press and media is going on and will be intensified to ensure implementation of TRIPS.

**(b) Provisional measures**

**Question 95.**

**Do judicial authorities have the legal authority to impose provisional measures to prevent an intellectual property infringement from occurring? Please explain.**

**Reply:**

In accordance with Article 15 of the Copyright Law promulgated by Royal Decree No. 47/96, the Authority for the Settlement of Commercial Disputes (currently, the Commercial Court) may take a number of effective measures in the case of protecting the right of the author whose work is published or displayed without a written authorization from him or his successor. Among such measures is to stop the publication, display or production of such work as a temporary, precautionary measure to be ordered by the Court pending the settlement of the disputable right. Another temporary measure is the attachment of the work and the income generated from the illegal publication or display and appointment of an official receiver on the disputable work provided that the income from the work is deposited into the treasury of the Court until the dispute is settled cordially or judicially.

At present judicial authorities do not have the legal authority to impose provisional measures in cases of infringement of intellectual property.

**(c) Any administrative procedures and remedies**

**Question 96.**

**Can intellectual property owners initiate complaints of intellectual property infringement directly with judicial authorities?**

**Reply:**

Yes, they can according to Articles 18 and 32 of the Trade Marks Law and Article 15 of the Copyright Law.

**Question 97.**

**Please describe the procedures by which all entities responsible for intellectual property rights enforcement exercise their authority and whether they comply with TRIPS Articles 41-49. What remedies do these entities have the legal authority to impose (ie. fines, injunctions)?**

**Reply:**

The existing Trade Marks Law contains provisions for violations by providing that a person shall be punishable with imprisonment for a period not exceeding three years and shall be liable to a fine not exceeding RO 500 or one of the two penalties. With regard to copyright violations, punishment of imprisonment for a period not exceeding two years and/or a fine not exceeding RO 2,000 is provided under the Copyright Law.

Having said that, it is stated that as indicated in document WT/ACC/OMN/11, amendments to Civil and Criminal Codes and to the Customs Law, in line with Articles 41 to 61 of the TRIPS Agreement will be made.

**(d) Any special boarder measures****Question 98.**

**Does customs have the legal authority to detail and/or seize suspect goods at ports of entry?**

**Reply:**

Yes Customs have the legal authority to detain and/or seize suspected goods at ports of entry.

**Question 99.**

**Does customs or another competent authority have the legal authority to suspend the release of imported counterfeit trademark and pirated good, as required by TRIPS Section 4?**

**Reply:**

Yes, Customs has the authority to suspend the release of imported counterfeit and pirated goods.

**Question 100.**

**Does Customs have the legal authority to confiscate and destroy infringing goods?**

**Reply:**

Yes, Customs have the authority to confiscate and destroy infringing goods.

**(e) Criminal procedures****Question 101.**

**What law enforcement agencies have or will have jurisdiction in the intellectual property area?**

**Reply:**

The question is under examination as to what law enforcement agencies should have the jurisdiction in the intellectual property area.

**Question 102.**

**What training does Oman anticipate providing for law enforcement officers (ie., prosecutors, judges, Customs officers, police etc.)?**

**Reply:**

Oman will organize a series of training courses, seminars and workshops for law enforcement officers to train them thoroughly in the TRIPS Agreement, the Omani laws, regulations and procedures to implement the TRIPS Agreement and the details and techniques of enforcement.

**Question 103.**

**What other entities (administrative or judicial) receive and act on complaints of infringement (patent, trademark, copyright office, national police, economic police, financial police agency, other) the intellectual property area? Please describe the scope of their authority. Will Oman establish separate enforcement offices, prosecutors and/or courts for intellectual property enforcement?**

**Reply:**

The Ministry concerned with the implementation of the Copyright Law is the Ministry of Commerce and Industry in cooperation with other relevant Ministries such as the Ministry of the National Heritage and Culture and the Ministry of Information. These Ministries have specialized departments that receive complaints in connection with infringement of intellectual property rights and refer them to the police and then to penal courts to impose the penalties prescribed in Article 16 of the aforementioned Copyright Law on whoever infringes such right. Penalties for infringement of copyright vary between imprisonment, fine and seizure of the imitated copies and the instruments used in such infringement as well as the possibility of closing the involved establishment.

At the moment, we do not think that the matter needs the establishment of a police force or courts specialized in intellectual property rights as administrative stringency in enforcing laws lessens disputes.

**Question 104.**

**What categories of intellectual property infringement are subject to criminal penalties?**

**Reply:**

Infringement of trade marks and copyrights are subject to criminal penalties at present.

**Question 105.**

**Document WT/ACC/OMN/11 indicates that Oman intends to amend its Civil and Criminal codes and the Customs Law, in line with Articles 41 to 61 of the TRIPS Agreement, but may delay promulgation of these amendments to the end of year 2001. We would appreciate more information on why Oman believes that the enforcement provisions to amend the Civil and Criminal codes must be delayed for two additional years after the substantive changes to the intellectual property laws have been made. In addition, we are interested in knowing why Oman believes that the officials and staff responsible for enforcing Oman's intellectual property laws will require two additional years for training.**

**Reply:**

As indicated document WT/ACC/OMN/11, the Government of the Sultanate of Oman is making a tremendous effort to enact relevant laws in different areas of intellectual property by the end of 1999. Amendment to the Civil and Criminal Codes on the lines of Articles 41 to 61 of the TRIPS Agreement is an extremely tedious, lengthy and time consuming process and it would not be possible to do it earlier despite our earnest intention and best efforts.

Training the staff, and the law enforcement is also a long drawn effort. Our intention is to train them thoroughly so that enforcement is effective. A half-hearted training will not yield the best results. Training, which will start from a scratch, will include series of training courses, seminars and workshops. It will not be feasible to complete the programme earlier.

**VI. TRADE-RELATED SERVICES REGIME**

**Question 106.**

**We appreciate Oman's work to prepare and table information on policy measures affecting trade in services and responses to working party members' questions on services trade issues (documents WT/ACC/OMN/8 and 9, respectively). Both of these documents will prove helpful as WTO Members continue to negotiate with Oman on the terms of its accession to the WTO. Regarding the information contained in document OMN/8, we welcome the fact that Oman does not maintain many sector-specific restrictions on trade in services, but we are concerned about the effect of the broad horizontal (cross-sectoral) restrictions, including foreign equity limitations, foreign employment limitations and capital requirements. We also are concerned about restrictions in the telecom, audiovisual and some other sectors. We look forward to any additional information Oman can provide regarding liberalization of these and other sectors. We also will continue discussion of these issues during bilateral negotiations.**

**Reply:**

The statement is noted. These are issues of negotiations which are already under discussion in bilateral negotiations with Oman's trading partners. We welcome the opportunity to continue discussions in bilateral negotiations.

**Question 107.**

**What are the conditions that have to be met in order to obtain a work permit? Is the work permit system administered in a manner consistent with GATS Articles 3 and 6?**

**Reply:**

Companies, whether Omani, foreign or joint-venture companies, wishing to employ foreign workers are required to apply to the Ministry of Social Affairs, Labour and Vocational Training to obtain work permits. The Ministry will issue the work permit if the company has made satisfactory progress in employing Omani nationals and in achieving the required targets under the Omanization programme (details of the Omanization programme, please see replies to questions 49 and 50 in document WT/ACC/OMN/6). The other conditions for issuance of a work permit are:

The foreign worker must have already obtained the Ministry's provisional approval prior to his entry into Oman.

The foreign worker must have entered Oman legally and in accordance with the conditions stipulated in the Residency Regulations.

If the applicant company has not achieved satisfactory progress in Omanization, the work permit will only be issued if Omanis with requisite qualifications are not available.

The foreign worker must have an employment contract with a company established in Oman, either an Omani company or a company authorized under the Foreign Capital Investment Law.

The work permit shall have no effect on the rights and obligations under the Residency Regulations.

The work permit system is administered in a manner consistent with Articles III and VI of the GATS.

**Question 108.**

**According to the Factual Summary, a securities licence will be granted within two months upon receipt of a "completed application" (page 30). Could Oman describe what conditions have to be met and what information should be provided in order to submit a complete application? Are there any conditions that firms have to meet other than those specified in the application form, in order to be granted a licence?**

**Reply:**

In order to obtain a securities license, the applicant has to fulfill the following conditions:

- the applicant should be a commercial company
- the company's activity has to be confined to securities business
- capital of the company should be in the range specified by the Executive Statute (exact range will be determined under regulations to be issued)
- the management of the company has to be competent and experienced
- none of the founders or members of board of directors has been within the previous five years convicted of crimes, crimes specified in the Commercial Companies Act or have gone bankrupt.

**Question 109.**

**According to the second revision of the offer on the services sector, foreign lawyers can provide "consulting work in home country law and international law" without establishing a joint-venture company with an Omani partner. In this relation:**

- **are there any conditions that a foreign lawyer should fulfill in order to be able to provide "consulting work in home country law and international law"? If so, please describe the relevant details; and**
- **is it correct to understand that foreign lawyers can provide "consulting work in home country law and international law" as an individual, by hiring an Omani lawyer, or by establishing a partnership with an Omani lawyer?**

**Reply:**

The second revision of the services offer does not provide that foreign lawyers can provide consulting work in home country law and international law without establishing a joint venture company with an Omani partner. In fact, the horizontal limitations do apply to legal services.

A foreign lawyer can provide legal services only by establishing a joint-venture law company with an Omani lawyer/s, in which the foreign partner cannot have more than 49 per cent share. The foreign lawyer is also required to obtain license for practicing law from the Minister of Justice. A foreign lawyer can perform all legal services relating to practice of home country law and international law but he cannot appear in courts to plead cases.

No, a foreign lawyer cannot provide legal services as an individual by hiring Omani lawyers, but he can do so by establishing a joint-venture with an Omani lawyer with the share of foreign lawyer limited to 49 per cent.

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

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

**Question 110.**

**The response to question 89 (document WT/ACC/OMN/9) states that Oman has recently joined the Free Trade Area Agreement between Arab League members under which a free trade area will come into existence within 10 years starting from 1 January 1998. In this Agreement, each member country has agreed to reduce its existing duties by 10 per cent each year so that by the year 2007 the free trade area will be fully operational. Did Oman reduce its tariffs by 10 per cent on 1 January 1998 vis-à-vis imports from other Arab League FTA members?**

**Reply:**

Yes, Oman did reduce its tariff by 10 per cent since the first of January 1998.

**Question 111.**

**We seek confirmation that Oman will observe the provisions of Article XXIV of the GATT 1994 and Article V of the GATS in its trade agreements, and will ensure that the provisions of these WTO Agreements for notification, consultation and other requirements concerning free trade areas and customs unions of which Oman was a member were met from the date of accession.**

**Reply:**

It is confirmed that Oman will observe the provisions of Article XXIV of GATT 1994 and Article V of the GATS in its free trade areas and customs unions, and will ensure that the provisions of these WTO Agreements for notification, consultation, and other requirements are met from the date of accession.

**Question 112.**

**The response to question 8 in document WT/ACC/OMN/9 stated that "in accordance with Article 8 of the Unified Economic Agreement of GCC countries, GCC citizens are treated as Omani citizens, as they have freedom of movement, work and residence and freedom of undertaking economic activities. However, this Article is being implemented in a progressive manner". Please give concrete and comprehensive examples of how the implementation of Article 8 is "progressive". What is the timetable for this progressive implementation?**

**Reply:**

During successive years, measures had been taken to treat GCC citizens as Omani citizens. Some of the concrete and comprehensive examples of the progressive implementation of Article 8 of the Unified Economic Agreement of GCC countries adopted by Oman are as follows:

- (i) Ministry of Health – Ministerial Resolution No. 18/95 issued on 5 May 1995 allowing GCC citizens the freedom of undertaking economic activity in health services.
- (ii) Ministry of Education – Ministerial Resolution No. 24/96 issued on 11 February 1996 allowing GCC citizens the freedom of undertaking economic activity in educational aspects.
- (iii) Authority for Vocational Training – The Authority Resolution No. 313/96 issued on 21 July 1996 allowing GCC citizens freedom of undertaking economic activity in establishing private vocational training institutes and centers.
- (iv) Ministry of Social Affairs and Labor and Vocational Training – Ministerial Resolution No. 99/96 issued on 29 September 1996 allowing GCC citizens freedom of undertaking economic activity in establishing private children nurseries (attachment No. 4).
- (v) Ministry of National Economy – Ministerial Resolution No. 33/97 issued on 5 July 1997 allowing GCC citizens freedom of movement and employment in Oman (attachment No. 5).

**Question 113.**

**The response to question 9 in document WT/ACC/OMN/9 stated that Oman would indicate how the GCC is not a full-fledged free trade area in services, eg., which sector or other aspects are not covered "after consulting the GCC General Secretariat". We hope that during the last year, Oman has had an opportunity to consult the GCC Secretariat. We would appreciate an answer to that question now.**

**Reply:**

A full-fledged free trade area depends on the gradual and firm progress made by GCC to pass different economic stages on its march to full economic integration. GCC countries are actually adopting and implementing some of the main characteristics of a Common Market, and efforts are on the way to adopt more.

As regards the services sector the aspects which are not yet allowed include insurance, transport (road, sea, and air), and agency activities.

### **ATTACHMENTS**

- List of Banned Items
  - Code of Good Practice for the Preparation, Adoption and Application of Standards
  - Statement by H.E. Maqbool Bin Ali Sultan, Minister of Commerce and Industry, Sultanate of Oman, at the third meeting of the Working Party on accession to the WTO.
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