

ACCESSION OF UZBEKISTAN

Additional Questions and Replies

The Government of Uzbekistan has submitted the following replies to additional questions raised by Members.

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II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE

2. Economic Policies

(a) Main directions

Question 1.

Pricing Policy. Uzbekistan states in this section that the transition to price liberalization is being implemented on a stage-by-stage basis, it has almost finished. WT/ACC/UZB/2 states that only few products are still subject to direct price regulation and claims that the process is basically over. Would Uzbekistan describe recent developments and progress in the elimination of price controls?

Answer:

Currently, there is no direct price control system in Uzbekistan.

In accordance with the Resolution of the Cabinet of Ministers On Measures of Price Liberalization dated 10 January 1992 since the mentioned period Uzbekistan is tackling gradual, step-by-step transition to mainly free prices, and practice of tariff regulation for commodities of production and technical designation, consumer goods, works and services.

Resolution of the Cabinet of Ministers of the Republic of Uzbekistan № 165 dated 31 March 1997 provides for state regulation of prices and tariffs exclusively with regard to commodities (products, services) of the enterprises that are natural monopolists.

At the same time, it is necessary to emphasize that, currently a complex of measures related to further reforms in the aforesaid areas are being carried out in the Republic of Uzbekistan.

Question 2.

Please list the products currently subject to indirect price regulation produced by enterprises classified as monopolists in the Register of Monopolistic Enterprises maintained by the Ministry of Finance.

Answer:

The following types of products are subject to non-direct price regulation by monopolist enterprises of the Republican State Register:

- Equipment for agricultural enterprises (tractors, trailer, ploughs, harrows, mowers, cultivators, compressors, etc.);
- Light industry products (bathrooms, washers, slates, concrete, tubes, roofing, etc.);
- Foodstuffs (tea, spirits, mayonnaise, margarine, etc.);
- Pharmaceuticals (bandage, liniment, tablets, vaseline, novocaine, etc.);
- Chemical products (ammonia nitre, carbamide, caprolactam, super phosphate, acetic acid, etc.);
- Electric products (elevators, cables, transformers, etc.);
- Furniture (kitchenware, furniture glassware, etc.);
- Oil and gas products (gasoline, black oil, diesel oil, gas, etc.);
- Air- and auto transportation services (transportation of cargoes and passengers);

Resolution of the Cabinet of Ministers of the Republic of Uzbekistan №231 dated 7 May 1997, the Ministry of Finance approves of the price list of procurement prices for locally grown wheat.

Resolution of the Cabinet of Ministers of the Republic of Uzbekistan №396 dated 14 August 1997, the Ministry of Finance approves of the price list of procurement prices for raw cotton.

The gasoline prices are specified by the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan.

In accordance with the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan №455 dated 8 September 1994, and Resolution of the Cabinet of Ministers of the Republic of Uzbekistan №165 dated 31 March 1997, Council of Ministers of the Republic of Qoraqalpoghiston, khokimiyats (local governments) of the provinces, State Association "TashGor PassTrans" with approval of the Ministry of Finance of the Republic of Uzbekistan specify the marginal rates of tariffs for urban passenger transport.

Question 3.

Please list those subject to any similar controls (i.e. indirect or direct price controls) by local governments ("khokimiyats") and entered in the local registers of regional financial departments.

Answer:

The following types of products are subject to non-direct price regulation on monopolist enterprises on local level:

- Foodstuffs (bakery products, meat, milk, cheese, dried fruits, tinned products, mineral water, etc.);
- The products of home industry (china works, pots, pans, and consumer goods);
- Local building materials production (crushed stone, bricks, gravel, tiles, construction blocks, etc.);
- Services (supply, hotels, tourist, typographical, etc.);

Question 4.

Please list any other price controls, including those applied to "natural monopolies".

Answer:

The State Committee on De-monopolization and Development of Competition carries out the control over the prices of consumer goods included in the Register of goods to be declared (including flour, sugar, vegetable oil) by giving approval of the declared prices.

In accordance with the reviewed version of the Law of the Republic of Uzbekistan On Natural Monopolies (dated 19 August 1999 №815-1), the price regulation of business operation of entities of natural monopolies is carried out by authorized state body (The State Committee on De-monopolization and Development of Competition).

To set the prices (tariffs) for products and/or services, entities of natural monopolies submit to the State Committee on De-monopolization and Development of Competition tentative prices (tariffs) and calculations pursuant to the rule stipulated by the Cabinet of Ministers of the Republic of Uzbekistan.

Tentative prices (tariffs) for products of natural monopolies are considered by the State Committee on De-monopolization and Development of Competition within one week, with account of their impact to the prices for goods produced for consumers.

Question 5.

Please list the names and HS numbers for the 20 generic pharmaceuticals for which prices are regulated by the Government.

Answer:

Product	Position in the harmonized scheme
Aspirin	300490190 291822
Analgin	300490190
Boric liniment	300490190
Bandage aseptic	300590990 3005
Validol	300490190
Mustard plaster	300590110/300590190
Levomycetin	300590310
Valerian tincture	300440100
Dibasol	300490190
Nitroglycerin	300490190
Tincture of iodine	300490110
Papaverine	300440100
Ammoniac solution	300490190
Senadeksin	300490190
Zufillin	300440100
Ferramid	300490190
Blakstonia	300490190
Medical cotton	300590990 3005
Dimedrol	300490190
Novocain for injections	300490190

Question 6.

Please provide a copy of Resolution № 80 "On Measures of Tariff Regulation" of the Cabinet of Ministers of 24 February 1998

Answer:

Available under document WT/ACC/UZB/4/Add.1 (Ref. No. 1).

Question 7.

Uzbekistan states that flour, sugar and vegetable oil are still subject to a rationing system.

Please provide details on the scope and operation of the rationing system. Does Uzbekistan foresee elimination of these controls in the future? Are the prices of rationed products, e.g., flour, sugar and vegetable oil, controlled in conjunction with the rationing?

Answer:

Since 1 January 1995 rationing system of sales of consumer goods is not practiced in the Republic of Uzbekistan.

Question 8.

"Cost recovery" pricing is not the same as market pricing, but rather reflects a guided or mandated price that, in the eyes of the price-setting agency, approximates the cost of production and delivery. Please list the products which Uzbekistan considers subject to "cost recovery" pricing.

Answer:

“Cost recovery” price reflects the cost of commodity, which includes:

- production (sale) expenses, including wages, raw materials costs, overhead expenses;
- taxes and other mandatory payments;
- costs of major production means, depreciation costs;
- forecasted amount of profit from sale of goods on different prices (tariffs);
- remoteness of various types of consumers from the location of production site;
- conformity of quality of produced (sold) products to the consumers’ demand;
- government subsidies and other measures of government support, if there are such measures.

Such approach is applied to all commodities included in the Register of goods to be declared.

Question 9.

In the section on currency convertibility, Uzbekistan states that licensed importers are subject to price controls (10 per cent maximum import mark-up for wholesalers and 20 per cent for retailers).

Please describe the system in more detail and relate it to the other price controls.

Answer:

This restriction of retail margin is no longer practiced. Currently, a new fiscal method of regulation of economic efficiency of trade enterprises-importers is being applied. Tax rates on their gross income are differentiated depending on the amount of profit gained.

(b) Monetary and fiscal policies

Question 10.

WT/ACC/UZB/2 states that there are 32 "commercial banks" and that four banks include participation of foreign capital and that there are six private banks in Uzbekistan.

Please provide additional information on the current structure of Uzbekistan's banking industry, including but not limited to the following:

What are the levels of foreign ownership in the four banks with foreign capital?

There are about 20 commercial banks not accounted for in the paper. Are these banks still wholly or partially state-owned?

What plans exist for privatizing the remaining state banks, including NBU and the People's Bank?

Answer:

The Resolution of the President of the Republic of Uzbekistan On Measures of Improving Activities of Joint-Stock Commercial Banks dated 2 October 1998 envisages reduction of state share in charter capitals of banks that have been established with participation of the state resources to 50 per cent. Moreover, in accordance with the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan №24 dated 15 January 1999 there was developed programme of reforming the banking system of the republic, which also provides for step-by-step reduction of state share to complete eradication.

In 1999 the Republican commission on reforming the banking system was created. Within the commission, there is a sub-commission, on denationalization and privatization of commercial banks, operating activities on attraction of investors to participate in charter capitals of banks through reduction of state share, introducing proposals for development of secondary stock market and creating the system for quotation of commercial banks' shares.

Presently, 36 commercial banks and 800 of their subsidiaries and branches, located within the republic, have operations in Uzbekistan.

In particular, out of 36 above-mentioned banks, there are:

- 1 state bank (fully state owned);
- 4 state joint-stock banks (banks in founding which the state performed as major shareholder. It is necessary to underline that as the result of reforms on de-nationalization of banks, there is an ongoing process of reduction of the state share in the charter capital. Thus, at present the state share in charter capital of the housing savings bank "Uzjilsberbank" is 14 per cent);
- 15 joint-stock commercial banks (the charter capital of which have been formed through funds of legal bodies and individuals);
- 4 banks with foreign capital participation (banks with foreign share of not less than 30 per cent in charter capital); the share of foreign shareholder banks in charter capital constitutes: Uzbek-Korean "UzDaewoo Bank" – 90 per cent, ABN AMRO Bank NBU JSC – 70 per cent, Uzbek-Turkish Bank – 50 per cent, Uzprivatbank – 36 per cent
- 2 subsidiaries of foreign banks (banks which charter capital have been fully paid by foreign bank);
- 10 private banks (banks with share of individuals in charter capital of not less than 50 per cent, the rest capital may be formed at the expense of contributions of non government legal bodies);

It is necessary to note, that almost all banks except for National Bank for Foreign Economic Activity, are joint stock companies. In accordance with the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan №511 dated 26 November 1999 On Measures on Denationalization and Privatization of Enterprises with Attraction of Foreign Investors in 2000-2001, the National Bank for Foreign Economic Activity is included into the list of entities with the stake of shares is subject to sell to foreign investors. Sale of 40 per cent of shares of the bank's charter capital to foreign investors on case-by-case projects is foreseen.

It is necessary to emphasize, that out of 36 banks, the state share in charter capital exists only in 8 following banks:

- National Bank for Foreign Economic Activity of the Republic of Uzbekistan – 100 per cent (40 per cent of which intended for sale to foreign investors);
- People's Bank – 100 per cent;
- Asaka Bank – 98.33 per cent (22 per cent of shares envisaged for sale to foreign investors);
- Zaminbank – 77.34 per cent;
- Tadbirkorbank – 42.30 per cent;

- Uzjilsberbank – 14 per cent;
- Privatbank – 13 per cent;
- Aviabank – 3.17 per cent.

Currently, Uzbekistan is conducting measures on attracting foreign international financial consultants for privatization of the above-mentioned banks.

(c) Foreign exchange and payments system, relations with International Monetary Fund, application of foreign exchange controls if any

Question 11.

The December 1996 imposition of exchange controls has severely hampered international trade and posed a disincentive to foreign direct investment, as well as prompting the IMF to suspend their stand-by arrangement with the Uzbek government. The lack of a convertible currency continues to be a major stumbling block to further growth of international trade with Uzbekistan. In particular, the current requirements for surrender of a certain percentage of a hard currency transaction is a major barrier to trade.

Is there a date set by which the Uzbekistan! Sum will be freely convertible in the current account? In the capital account?

What, in Uzbekistan's view, are the costs of maintaining this exchange-control regime, versus the benefits?

What are Uzbekistan's plans for the disposition of its currency-surrender requirement? When do the authorities plan to waive, suspend, or eliminate these controls?

Answer:

The monetary policy tackled in the republic, is primarily aimed at creation of prerequisites required to provide the convertibility of the national currency on current international transactions. Upon creation of necessary economic conditions and expansion of areas of foreign economic activity, with due consideration of the experience of other countries, current legislation and rules of exchange controls are constantly reviewed.

The Resolution of the Cabinet of Ministers of the Republic of Uzbekistan №118 from dated 18 March 1998 On Measures to Deepen Cooperation with International Monetary Fund has established working group on development of complex approach in realization of measures on further liberalization of currency and foreign trade systems.

Presently, there has been developed a set of stage-by-stage measures aimed at liberalization of exchange market, including the measures of preparation and introduction of convertibility of national currency on current transactions in the nearest perspective.

The Draft Programme of liberalizing exchange market submitted for consideration to the Cabinet of Ministers, in particular provides for:

- step-by-step unification of official, exchange and off—the-counter rates in the year 2000;
- step-by-step expansion of types of transactions on sale of foreign currency to legal bodies and individuals;
- revision of licensing and quotation systems on domestic exchange market;
- gradual reduction of the amount of mandatory surrender of a part of export gain and others.

These measures have already begun to be implemented. Since 1 May 2000 official and commercial exchange rates have been unified, fact that stands for another step forward in the process of further liberalization of currency and financial market of the Republic of Uzbekistan towards introduction of convertibility on current accounts. The Government Resolution, establishing since 1 July 2000 new rules on exchange of freely convertible currency in exchange offices of authorized commercial banks, became another important contribution into the process of liberalization of currency market.

In accordance with last decisions of the Government the market of currency transactions is liberalized considerably both for importers and population. Currently, calculations with mentioned persons incur agreed rate of sale and purchase of foreign currency. A 5 per cent tax for the purchase of the foreign currency has been abolished.

(d) Foreign and domestic investment policies

Question 12.

Given the dependence of Uzbekistan's economy on the export of commodities (gold, cotton, copper), the world prices for which have fallen steadily in the past several years, would it not benefit the Uzbek economy to be more open to foreign direct investment in these sectors?

Answer:

The legislation of the Republic of Uzbekistan does not provide for any restrictions on organizational legal forms of activities of foreign investments. Foreign companies are participants of security markets, real estate. They are also free to choose any forms, volumes, and directions of their investments with access to any areas of economy, except for natural monopolies and military complex.

Access to direct foreign investments for the mentioned product sectors is provided in different ways, including the establishment of joint ventures, among which are many enterprises created by the US shareholders, functioning in the above mentioned areas, for example:

- Uzbek-American joint venture "Zarafshan – Newmont" in form of limited liability company – production and sale of gold in world markets (established in 1992);
- Uzbek-American joint venture "Supertextile" – production of high grade cotton yarn, raw material is cotton fibre (established in 1992);
- Daughter company "Markaziy Osie Uruglik kompaniyasi of American "Elsut International Inc." – growing of cotton plant, cotton seed-growing (established in 1997);
- Uzbek-American joint venture "Alisher Navoi International" in form of closed joint-stock company – processing and production of cotton products (established in 1997).

Question 13.

Please provide more information on any restrictions that exist under laws relating to enterprises, investments, foreign investments 01 other spheres that would affect the ability of foreign service suppliers to establish and provide services in the Uzbekistan market, for example, restrictions that might exist on the type of legal entity (e.g., requiring joint-ventures, not allowing branches) or amount of foreign equity, the number of service suppliers, application of taxes, contract registration, business registration, or licensing.

Answer:

There are no restrictions on participation of foreign capital in the economy of Uzbekistan. The Government of the Republic of Uzbekistan is running measures on attracting foreign investments into the priority areas of the national economy, including area of services.

Laws On Foreign Investments, On Guaranties and Measures for Protection of Foreign Investors' Rights, On Investment Activity of the Republic of Uzbekistan adopted in 1998 can be brought as an example of the aforesaid.

The rules on establishment of legal bodies, regulation of their activities is regulated by the Chapter 4 of the Civil Code of the Republic of Uzbekistan, and there are no restrictions on establishment of the specific types of legal persons.

Moreover, in accordance with the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan №336 dated 2 July 1997 On System of Establishment, State Registration and Liquidation of Enterprises with Foreign Investments in the Republic of Uzbekistan, the main condition of considering such company as an enterprise with foreign investment is the size of the capital assets, which should be not less than US\$150,000 and the share of foreign participation should be not less than 30 per cent. Foreign legal body is supposed to be one of the participants of the entity.

Consequently, there are a number of benefits aimed to stimulation of activities of such enterprises.

(e) Competition policies

Question 14.

Please review GATS Article VIII (Monopolies and Exclusive Service Suppliers) and provide information on how Uzbekistan is complying, or is taking steps to comply, with the requirements of that Article.

Answer:

In Uzbekistan, there are legislative norms, specifying organizational and legal foundations of preventing, restricting and suppressing monopolistic behavior and unfair competition aimed at providing the necessary conditions for establishment and effective development of competitive relations on markets.

In particular, the Law of the Republic of Uzbekistan On Competition and Restriction of Monopolistic Activity on Trade Markets covers all practices affecting competition on trade markets of the country, in which foreign or local legal and natural persons are engaged. The Law also applies to the activities, where actions and agreements respectively, performed by legal entities and government bodies outside Uzbekistan, lead or may lead to the restriction of competition or result other adverse consequences on trade markets of the Republic of Uzbekistan.

Also, with the purpose of establishing the legal framework of international relations, the present Law stipulates that if international agreements foresee provisions other than this Law, then the provisions of international agreement apply.

Above mentioned measures show that activities of monopoly service suppliers are strictly regulated by relevant normative acts of Uzbekistan and international laws although, item 2 of Article II of the GATS referred to in the Article VIII, contains the provision that "the member may preserve the measure inconsistent with paragraph 1 provided such measure is in the list of exemptions, and meets the requirements of the Annex on Article II Exemptions".

(f) Privatization policies

Question 15.

Please provide more detail on whether and in which services sectors large- and medium-scale enterprises will be privatized (e.g., in telecom sector, financial services sector, distribution (wholesaling and retailing) sector, energy sector, transport sector).

Please provide more detail on the ability of foreign investors to participate in such privatization. Is it possible for foreign shareholders to gain 100 per cent of shares in certain sectors or of certain enterprises?

Answer:

Considering the experience of transition of many developed countries to the free market, Uzbekistan have applied own approaches to realization of privatization and development of multi-tier economy, taking into account the peculiarities of Uzbekistan, mentality of the people, local traditions and customs.

Since 1998 the process of privatization of natural monopolies in such areas as:

- electric energy;
- gas extraction and supply;
- extraction of mineral resources;
- telecommunications.

The program has been started on strengthening the process of privatization in the area of building materials production and banking sphere are being developed.

Foreign investors are actively encouraged to participate in the process of privatization and denationalization of state property.

The Resolutions of the Cabinet of Ministers of the Republic of Uzbekistan (№477 dated 18 November 1997) On Measures on Encouragement of Participation of Foreign Capital in privatization of state property and On Measures on Privatization of Enterprises with Encouragement of Participation of Foreign Investors in 2000-2001 (№511 dated 26 November 1998) provide for application of principally new approach towards the attraction of strategically important investors through:

- individual privatization of medium and large scale enterprises;
- sale of large enterprises and facilities to foreign investors;
- sale of shares (up to 85-90 per cent) of existing joint-stock companies;
- greater guarantees providing foreign investors with additional on conversion of their income, yielded from securities of Uzbek issuers;
- reduction of state share and additional issuance of securities of move stable issuer in order to comply with the requirements of foreign securities exchanges.

Implementation the programme of privatization of large enterprises with participation of foreign investors engages the active co-operation with the World Bank.

Within the framework of the aforesaid World Bank project privatization of large enterprises with involvement of financial consultant (determined through international tender bids) is carried out for the first time.

Currently, in Uzbekistan, the enterprises in the sphere of telecommunications and transport are transformed into joint stock and limited liability companies.

In 1999-2000, out of the enterprises in the energy sector, the privatization with foreign investors of such large enterprises as "Uzbekenergoremont", "Kuvasaiskaya GRES" and mid-size enterprises such as "Djizakteploset", "Tashteplocentral", "Ferteploset" is being planned.

The sale of facilities is carried out through tender bids or contents. Bids on privatization of enterprises and purchase of shares of Uzbek companies should be submitted not later the dates indicated in tender advertisements and considered on the session of the State Customs Committee. In taking decision with regard to submitted bids, preference is given to investors proposing the development of production of the enterprise being bought and sale of its products on foreign markets. Information (advertisements) about tenders is published in international and local mass-media outlets.

With deepening economic reforms in agricultural sector, there is an ongoing stage-by-stage privatization of this sector.

Privatization of medium and large-scale enterprises is being carried out through transformation of state enterprises into joint-stock companies with the state share in the charter fund of a company at 25 per cent.

Aiming to attract foreign investments in privatization of state property, ensure protection of the rights and interests of foreign investors, the Government of the Republic of Uzbekistan has taken relevant measures and decisions.

In accordance with Article 5 of the Foreign Investment Law of the Republic of Uzbekistan, foreign partners are entitled to invest through:

- Purchase of a property, shares, and other securities, including promissory notes issued by the residents of the Republic of Uzbekistan.
- Purchase of the property rights on trade and service sector, housing along with the land plots, on which they are located, and the rights of possession and use of the land (including inter alia the rights based on the leasing) and natural resources.

Question 16.

One provision of the Land Code allows foreign legal and physical persons (including companies), the rights to own plots of land when they are acquired with premises on same land.

Please provide more detail on how this has worked and will work in practice with regard to the ability of foreign suppliers of services to obtain land and premises for business activity.

Please provide information on the ability of foreign suppliers of services to obtain land needed for business activity, even if not linked to the existence of premises.

Answer:

In accordance with to the Land Code of Uzbekistan the land is owned by the state and considered as national, is to be used rationally, protected by the state and is not subject to the sale or buy, donation, deposit, except the cases stipulated in the laws of Uzbekistan.

Legal persons are entitled to possess land plots on the right of permanent possession, use, lease and property in accordance with the Land Code and other acts of legislation.

Physical persons are entitled to possess on the right of lifelong inheritable possession, lease and property in accordance with the Land Code and other acts of the legislation.

The right of ownership of physical and legal persons on land plots arises in the order provided for by the legislation, in the time of privatization of the objects of trade and service sector along with land plots on which they are located. The right of ownership on land plots of diplomatic missions and offices of international organizations accredited in Uzbekistan, arises in the time of sales of buildings or parts of the buildings, including residencies of the heads of the missions, on which they are located, and the land plots of buildings of these missions in the order provided for by the legislation.

The rights of ownership of foreign legal and natural persons for the land plots of the diplomatic missions' officers, mass-media representatives accredited in Uzbekistan, officers of the permanent representative offices of firms, companies and international organizations, persons working full-time on enterprises with foreign investments, and persons permanently residing in the republic and bearing residence permit, arise in the time of sales of housing along with land plots on which they are located.

Land plots can be given to natural and legal persons to permanent (temporary) possession and use.

For permanent possession the land plots is given to enterprises and organizations for agricultural and forestry activities, and for other purposes where stipulated by the law.

For permanent or temporary use the land plots is given to:

- citizens of the Republic of Uzbekistan;
- industrial, transport and other non-agriculture enterprises, institutions and organizations;
- enterprises with foreign investments, international associations and organizations;
- foreign legal and natural persons.

In cases provided for by the legislation, the land plots is given to use to other persons and organizations. The right of permanent possession of the land plots is certified by the State act on the right of the permanent possession of the land plots.

Forms of the State acts, the order of their registration and issuance are identified by the legislation. The temporary use of the land can be short-term – up to three years and long-term – from three up to ten years. Where necessary, these terms can be prolonged to the period not exceeding accordingly the terms of short-term and long-term temporary use. The organs that have given this land carry out prolongation of the terms of temporary use of the land plots.

Land for distant cattle farming can be given to agricultural enterprises, institutions and organizations for the term up to twenty years.

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 17.

Please describe local or regional governments' or governmental entities' authority, if any, to apply taxes, to set regulations for investment, or to grant benefits to domestic firms or to domestic goods or imports.

Answer:

In accordance with Article 5 of the Tax Code of the Republic of Uzbekistan, taxes and duties on the territory of the Republic of Uzbekistan are set and abolished by Oliy Majlis (Parliament).

Territorial authorities introduce presented local taxes upon agreement of the Government. The property and land taxes, which are also local taxes, are introduced by legislating acts of the Republic of Uzbekistan; the Cabinet of Ministers identifies rates of these taxes (with the exception of the tax on property of legal persons; the rate of this tax is identified by the Tax Code).

Local taxes and duties are – advertisement taxes, car resale taxes, duties for cleaning territories in towns and other similar taxes and duties that are of local nature and aimed to solve the problems of local level. In the line with this the Government fixes limited rates of these local taxes and duties.

Rates of these taxes and duties are not might and cannot considerably affect the economic development of the country and are not extended to the foreign economic activity.

The Laws of the Republic of Uzbekistan On Foreign Investments, On Guarantees and Measures of the Protection of Rights of Foreign Investors and On Investment Activity regulate foreign investment issues.

Question 18.

Please indicate whether, to what extent, and how the central authorities exercise ultimate authority over these activities, if they exist.

Answer:

Taking into account that imported goods are levied with taxes and duties (customs duties and levies and excise taxes, VAT) which are national in accordance with the Tax Code and Law On Customs Tariffs, all authority on introducing, abolishing and granting favorable treatment with regard to these payments belong to the Central Authorities.

6. Description of judicial, arbitral or administrative tribunals or procedures, if any

Question 19.

Concerning contract disputes, what recourse exists for contract disputes?

Answer:

The types of existing claims on dispute settlement on contracts are specified in Article 24 of the Economic Procedural Code of the Republic of Uzbekistan adopted in 30 August 1997 and entered into force 1 January 1998.

In particular, in accordance with Article 24 “Disputes settled through Economic Court”, the following categories of disputes are settled on contracts:

- disputes on contracts, which are signed in accordance with Law, or transfer of which is agree upon by the Parties;
- amendment of conditions or termination of contracts;
- non-fulfilment or inadequate fulfilment of obligations;
- recovery of losses;
- protection of honour, dignity, and business reputation.

The Economic Court also settles other disputes under its competence.

Question 20.

Are arbitration or foreign court judgments binding, or are only domestic decisions valid?

Answer:

Taking into consideration that Uzbekistan since 22 December 1995 is a member of the New-York Convention 1958 On Recognition and Enforcement of Foreign Arbitral Awards, and in accordance with the Instruction On Procedure of Enforcement of Judgments of Economic Courts of the Republic of Uzbekistan approved of by the Chairman of Supreme Economic Court of the Republic of Uzbekistan on 12 February 1997, foreign arbitral awards are enforced on the territory of the Republic of Uzbekistan on equal terms and conditions like judicial acts of economic courts of the Republic of Uzbekistan.

Question 21.

How are arbitration judgments enforced? What is the disposition of disputed property or assets while in arbitration?

Answer:

The Economic Procedural Code of the Republic of Uzbekistan provides for the procedure of enforcement of judgments of economic courts as well as procedure of handling the property, which is disputed. Such a procedure is an efficient tool of protection of rights of the parties, and covers in particular:

- enforcement by all natural and legal persons of the republic court acts entering in force;
- compulsory enforcement of court acts on the basis of the executive decree issued by the court adopting this act;
- sanctions on those persons who are guilty for non-enforcement of indicated actions in who are to do it.

Question 22.

Please describe how importers and exporters can appeal administrative decisions on issues covered by WTO provisions, including but not limited to customs decisions, both within the administrative framework and to independent tribunals or the court system, and cite the relevant laws and regulations.

Answer:

The Civil Code and other legal acts of Uzbekistan provide the possibility of appeal by natural and legal persons against actions of officials and public authorities through Courts. Moreover, losses of citizen or legal persons resulting from such actions are subject to recovery.

IV. POLICIES AFFECTING TRADE IN GOODS

1. Import Regulation

(a) Registration requirements for engaging in importing

Question 23.

Currently, all import transactions must be registered and approved by the Government, a cumbersome process that can be a hindrance to trade.

Why is this requirement in effect? Does the Government block import transactions? If so, based on what criteria and is there a right of appeal?

Answer:

Existing procedure of import transactions, all import contracts are registered in competence with generally applied practice and for the purposes of only statistical record keeping with relevant customs offices and authorized banks of the Republic of Uzbekistan.

Exception from this procedure covers contracts financed through:

- conversion of sums to hard-currency on domestic currency market;
- credits lines allocated by international and foreign financial institutions under the Guarantee of the Government of Uzbekistan;
- state budget, non-budgetary funds of ministries and institutions;
- Indicated import contracts are to be registered with Ministry of Foreign Economic Relations (MFER) of the Republic of Uzbekistan. Such procedure ensures three goals:
- provision of import of goods on adequate prices, that enables entities effectively utilize assets, and pay relevant customs duties;
- prevention of unreasonable outflows of hard-currency from the republic;
- allows to decrease the cost of the imported goods, that make positive impact on consumer markets prices.

In case of unreasonable refusal of registration of import contract in MFER, legal entity has right to appeal against such a decision to courts.

Question 24.

What are Uzbekistan's plans to drop this requirement?

Answer:

During the liberalization of foreign trade regimes of the country, the number of contracts registered in MFER is constantly decreased. Presently, with the purposes of liberalization of foreign trade, the drafts normative acts, which are logical steps forward in the policy of decreasing the number of import contracts registered in MFER are worked out.

Question 25.

With regard to importation, WT/ACC/UZB/2 states that any legal entity, except non-commercial organizations, may be registered by MFER as a participant in foreign economic relations.

Answer:

Currently, with adoption of the Law On Foreign Economic Activity and a number of other normative acts, state registration is a basis for pursuing foreign economic activities. Above-mentioned registration is completely abolished.

Question 26.

Can an individual, as opposed to an organization or firm, be considered a legal entity for purposes of the importation and exportation of goods?

Answer:

The legislation of Uzbekistan provides for possibility of carrying out business activities by natural persons without establishing legal entity. Accordingly, it enjoys all rights to carry out such activity along with the entities.

Question 27.

What are the registration procedures for a foreign individual or entity (not just a foreign invested enterprise) to import and export goods, and distribute them in Uzbekistan?

Answer:

Foreign natural or legal persons, to carry out export-import transactions are entitled to establish a company in the Republic of Uzbekistan and act as foreign entity.

In first case, the Law of the Republic of Uzbekistan On Enterprises in the Republic of Uzbekistan of 15 February 1991, and the Civil Code of Uzbekistan, enterprise shall be considered established and acquires civil capacities from the date of its state registration and inclusion in the Single State Register of the Republic of Uzbekistan.

Where, enterprise acts as foreign entity, as well as in any other country, it should enter into legal trade relationships with legal entities of the Republic of Uzbekistan to carry out export-import transactions.

Enterprises entering into import contracts for supply of goods to Uzbekistan for hard currency financed through:

- conversion of sums into hard currency in domestic currency market;
- credit lines allocated by international and foreign financial institutions under the Guarantee of the Government, register their contracts with MFER.
- Applicants are not charged for registration of import contract for issuance of certificates.

It is necessary to emphasize, that fulfillment of all mentioned and other requirements of the legislation of Uzbekistan applies to duties of Uzbek entities. Foreign partner is required to submit only certificates of quality, origin and other relevant characteristics of goods.

Question 28.

Please demonstrate how Uzbekistan's requirements for registration to import do not discriminate against foreign individuals or firms (compared with domestic individuals or firms) attempting to engage in importation, making a distinction between the right to import and the right to distribute.

Answer:

As noted above, the requirement of registration of indicated types of import contracts covers only Uzbek legal entities.

Question 29.

Uzbekistan states "an enterprise registration and inclusion into the Register of the Participants of Foreign Economic Relations is made on a personal appearance of applicant."

Answer:

See above-mentioned answer.

Question 30.

Do similar requirements exist to distribute domestic goods? Please describe.

Answer:

See above-mentioned answer.

Question 31.

It is unclear what "import contract registration" actually is or does.

Does the registration of import contracts by MFER only refer to those goods listed in Annex 3?

Answer:

As mentioned above, according to existing procedure of import transactions, all import contracts with the purposes of statistical record keeping are registered only in relevant customs bodies and banks of the Republic of Uzbekistan.

Exception from this procedure applies to contracts financed through:

- conversion of sums to hard-currency on domestic currency market;
- credit lines allocated by international and foreign financial institutions under the Guarantee of the Government of Uzbekistan or National Bank of Uzbekistan (due to assignment of the Government);
- state budget, non-budgetary funds of ministries and institutions. Such contracts are registered with MFER with the purposes mentioned above.

Question 32.

Does being registered confer any benefit in terms of access to import licenses or hard currency? Can persons or firms not licensed to import conduct any form of international trade?

Answer:

In accordance with the current procedure of registering imports contracts, the MFER accepts for registration those contracts of business entities, which are included into the forecast of imports and granted the licence of the Central Bank of the Republic of Uzbekistan for convertibility.

Registration of import contracts at the MFER is not required in cases when importing is financed through the business entity's own hard currency funds or when the payment for imported goods is made in the national currency of the Republic of Uzbekistan.

Question 33.

If not, the necessity to register an import contract in order to protect the interests of the state, of Uzbek companies and Uzbek consumers appears to be a licensing and import approval system for goods, particularly in view of the 10-day period MFER is allowed for registering such contracts.

Is the "contract" in these cases simply the terms agreed to when an importer places an order for goods to be imported? How might this "contract registration" be justified under GATT Article XI?

Answer:

At present time, licensing of imports is abolished for all goods except for those stipulated in the Decree of the President of the Republic of Uzbekistan №UP-1871 dated 10 October 1997. The exporting-importing of these goods requires licence of the MFER based on the regulations of the Cabinet of Ministers of the Republic of Uzbekistan.

They include:

- Arms, ammunition and military equipment, special parts and components used for their production
- Precious metals, alloys and items made from them, ores, concentrates, scraps and wastes, precious natural stones and items made from them, scraps, powders and recuperates of precious natural stones, pearls and items from them, amber and items made from it;
- Uranium and other radioactive substances, items made from them, wastes of radioactive substances;
- Devices and equipment using radioactive substances.

Implementation of indicated measures in the Republic of Uzbekistan fully reflects the requirements of the international, government and public agencies concerning efficient controls over the exports/imports of arms and radioactive materials.

Question 34.

The response to Question 7 of WT/ACC/UZB/3 states that the Ministry of Foreign Economic Relations registers «only import contracts which are not provided with own currency». However, we continue to express concern that import contract registration could operate as a non-tariff barrier.

Please clarify what is meant by "own currency" under the Government of Uzbekistan's import registration requirements. Does "own currency" refer to hard currency?

Answer:

Concerning registration of import contracts in the MFER, the term of "own currency" refers to those foreign currency resources, which are not generated from the following sources:

- through the exchange of national currency funds into the foreign currency funds in the domestic currency market;

- through the credit lines granted by the international and foreign financial institutions under the guarantee of the government or of the National Bank of Foreign Economic Activities of the Republic of Uzbekistan (on the basis of the assignment of the government of the Republic of Uzbekistan);
- the state budget, the non-budgetary funds of ministries and institutions.

Question 35.

In the context of the Government of Uzbekistan's currency regime, we are interested to know who might not have access to foreign exchange or “own currency”. Do individual and firms have unfettered ability to purchase foreign exchange or “own currency”. If not, import contract registration might acts as a *de facto* import licence.

Answer:

In accordance with the Decree of the President of the Republic of Uzbekistan №UP-1193 dated 27 June 1995, On Measures for Further Expansion of the Internal Convertibility of the National Currency of the Republic of Uzbekistan, in conversion of Sums into the foreign currency funds, the priority shall be given to the enterprises (including the enterprises with foreign investments), which are involved in the production of consumer goods intended to fill the domestic market, which for export, which are involved in the realization of priority projects in the basic and leading sectors of economy of the republic and which repatriate the part of their profits and dividends of foreign investors.

Conversion on the domestic currency market of the national currency into the foreign currency is fulfilled to entities under observance of the mandatory terms:

- Existence of the properly registered import contracts, as well as, of the expert appraisal of the authorized bank;
- Purchase of the foreign currency only by the enterprises' own national currency funds;
- Absence of the debts in payment to the state budget and to non-budgetary funds, deferred repayment to suppliers and creditors;
- With regards to the enterprises' own foreign currency funds that have been obtained as a result of business activities or from other sources of formation, except from those sources mentioned above, the owners of such funds are free to use it at their own discretion.

Question 36.

Does the Government of Uzbekistan plan to eliminate import registration requirements not consistent with WTO disciplines that insure non discrimination among applicants?

We are encouraged to find that “groundless refusal of registration” might be appealed by law. We seek further clarification on the contract registration process and the process for appeal.

Are the rules neutral in application and administered in a fair and equitable manner? Can applicants be denied for minor documentation errors? Are publications regarding import registration easily accessible in a timely manner to all interested parties? (For example, published in an official journal)

Answer:

In accordance with the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan №137 dated 31 March 1998, MFER of the Republic of Uzbekistan carries out registration of import contracts that are not being paid for through the entity's own foreign currency funds. Those import

contracts that are being settled by the enterprises' own foreign currency funds are not to be registered in the MFER.

The basis for rejection of registration of import contracts may be:

- disparity of the introduced contracts to conventional norms of the international commercial law and the current legislation of the Republic of Uzbekistan;
- overestimate of contract prices concerning the price level which has been usual on the world market for the goods of the appropriate quality at the moment of signing the contract. Such disparity is detected on the basis of the analysis of a conjuncture on the international markets, and actual state of supply and demand on Regional markets. In this case MFER of the Republic of Uzbekistan and consulting firms assist in selection of the supplier of the agreements, on the prices;
- importer's deferred debts on payments to the state budget;
- purchase by the state entities of morally and physically outdated, economically ineffective equipment and technologies (on the basis of the conclusions of the State Committee on Science and Technology, Uzgosstandart and the Ministry of Nature Protection of the Republic of Uzbekistan);
- import of environmentally harmful technologies (patents, licenses, know-how), equipment and other goods (on the basis of the conclusions of the State Committee on Nature Protection, Uzgosstandart and Ministry of Health of the Republic of Uzbekistan);
- negative conclusion of the Ministry of Health of the Republic of Uzbekistan on export and import of pharmaceuticals and concern "Uzfarmprom" on import of medicinal vegetable raw materials and raw materials of a biological origin used in pharmaceutical production.

The unreasonable refusal in registration can be appealed against in the judicial order.

All information on the amendments and supplements in the legislation in this field and other information concerning the participants of the foreign economic activities (i.e. conjuncture on the international markets and etc.) are regularly published in the specialized publications dedicated to the foreign economic activities.

(b) Characteristics of national tariff

Question 37.

The Presidential Decree No. UP-1871 of 10 October 1997 introduced new rates of import customs duties on 1 November 1997.

Have there been any subsequent changes in the tariff? If so, please give the legal citation, list them, and supply the text of the law that effected the change.

Answer:

Resolution of the Cabinet of Ministers of the Republic of Uzbekistan №80 dated 24 February 1998 On Measures of Tariff Regulation of Imports established new import tariff rates. Specifically, for those types of products (works and services), which are not mentioned in the Appendix №1 of this Resolution, the tariff rate has been set at the level of 3 per cent of their customs value.

The Decree of the President of the Republic of Uzbekistan № UP-2160 dated 25 December 1998, On Additional Measures for Adjustment of the Inflow and Outflow of Certain Types of Consumer Goods abolished 1 January 1999 the customs tariffs for importation of the following 15 product groups:

1. Livestock, poultry; 2. Meat and meat products; 3. Fish and fish products; 4. Milk and dairy products; 5. Tea stock, tea; 6. Cereals: wheat, rye, barley, oat, rice, maize, buckwheat; 7. Flour, groats; 8. Fat, vegetable oil and animal fat, prepared nutritional fat; 9. Finished products from meat, fish and Crustacea; 10. Sugar; 11. Infant nutrition; 12. Provitamins and vitamins, hormones, natural and synthesized antibiotics; 13. Pharmaceutical products (on approval of the Main Department for quality control of medicines and medical equipment of the Ministry of Health; 14. Household soap; 15. Raw leather and leather.

Resolution of the Cabinet of Ministers of the Republic of Uzbekistan №380 dated 7 August 1999, On Measures for Improvement of Operation of Gasoline Stations and of Supply with Motor Gasoline has established on 5 August 1999 new customs tariff rates for oil products.

Question 38.

Please provide a copy of Presidential Decree No. UP-1871 of 10 October 1997.

Answer:

Available under document WT/ACC/UZB/4/Add.1 (Ref. No. 2).

Question 39.

Are the import duties established by Decree No. UP-1871 listed in Annex 10?

The list in Annex 10 is not comprehensive. Please provide a complete list of applied rates at the 6 digit level. Please also indicate where ad valorem, specific rates or combined rates are applied

Answer:

Tariff rates for import of products, stated in the Appendix 10, have been established by the Resolution of the Cabinet of Ministers №80 dated 24 February 1998 (document WT/ACC/UZB/4/Add.1 refers).

In that Resolution the specification of goods is used on the four-digit level of HS. This covers all goods belonging to that product group. Six or nine-digits level specifications are used only in those cases when an exception or exclusion is made.

In the Resolution of the Cabinet of Ministers №80 dated 24 February 1998:

- ad valorem rate is calculated as a percentage based on the customs value of a product, (the most common method);
- specific rate is calculated as a certain set rate per unit of a product (net rates not used);
- combined rates that involve combination of ad valorem and specific rates, are used for example in charging customs duties for tobacco products or automobiles. In this case in addition to the ad valorem rate of customs tariff also specific rate is stipulated for the purposes of greater clarity.

Question 40.

Presidential Decree No. UP-1871 of 10 October 1997 introduced a 3 per cent minimum rate of customs duties for all imported goods, (work and services), starting 1 November 1997, except for the goods listed in Annex I to the Resolution of the Cabinet of Ministers of 24 February 1998 No 80 "On Measures of Tariff Regulations."

Please confirm if Uzbekistan levies a 3 per cent minimum import tariff on all goods except those listed in Annex 1 of Resolution No. 80? Please supply this list and a second list of any additional exemptions.

Answer:

Please see the information stated above.

Question 41.

Does the 3 per cent charge apply to imported services as well or any other imports?

Answer:

Yes, it does.

Question 42.

The Law "On the Customs Tariff", passed by Oliy Majlis on 29 August 1997, in force since 1 January 1998, allows combined tariffs.

Are these currently being applied to any products? If so, please list them, by HS item number.

Answer:

Resolution of the Cabinet of Ministers of the Republic of Uzbekistan №80 dated 24 February 1998 refers (available under document WT/ACC/UZB/4/Add.1 – Ref. No. 1).

Question 43.

While not *per se* inconsistent with WTO rules, such tariffs are less transparent than other forms of duty, and we would encourage Uzbekistan to apply either specific or ad valorem tariffs.

Answer:

In accordance with the Law On Customs Tariff, the following types of customs tariffs are used in the Republic of Uzbekistan:

- ad valorem, calculated as a percentage of customs value of the products;
- specific, calculated as a certain set rate of duty per unit of the products;
- combined, including ad valorem and specific types of customs tariff rates.

Question 44.

Did Uzbekistan convert to using HS 96 for its tariff schedule on 1 January 2000, as planned?

Answer:

At present time, Uzbekistan is using Harmonized System of 1992. In 1998 Uzbekistan has joined the Convention on Harmonized System. Currently, a complex of measures for using in Uzbekistan of the Harmonized System of 1996 are being carried.

Question 45.

Is Uzbekistan using HS 96 for their tariff schedule?

Answer:

Please see the information given above.

Question 46.

Please provide an electronic version of Uzbekistan's tariff schedule at the 6-digit level.

Answer:

In the Resolution of the Cabinet of Ministers №80 dated 24 February 1998, the tariff rates are specified on the four-digit level of the HS. This covers all of the products existing in that product group. In case of any clarification and exceptions from the rule, the six-digit or nine-digit product specifications are used.

Question 47.

Please provide a copy of the Law “On the Customs Tariff”, passed by Oliy Majlis on 29 August 1997.

Answer:

Available under document WT/ACC/UZB/4/Add.1 (Ref. No. 3).

Question 48.

Please provide a copy of the Law “On the Customs Tariff”, passed by Oliy Majlis on 29 August 1997 and any subsequent legislation amending or replacing this law.

Answer:

A copy of the Law with the amendments and supplements introduced by the Law of the Republic of Uzbekistan On Amendments and Supplements into Some Legislative Documents dated 29 August 1998, is available under document WT/ACC/UZB/4/Add.1 (Ref. No. 3).

(c) Tariff quotas, tariff exemptions

Question 49.

Please list all tariffs, charges, surcharges, taxes and fees, of whatever kind, that are applied to imported goods and indicate which ones are also applied to domestic goods.

Can Uzbekistan confirm that the only charges assessed on imports by the government of Uzbekistan are the following: customs tariff, VAT tax, excise tax, and customs fee?

Answer:

We hereby confirm the above statement. Meanwhile, VAT and excise tax also levied on the local goods as well.

Question 50.

Uzbekistan levies a fee of .15 per cent of the invoice value of imported goods to fund Export/Import Operations.

While this is a relatively small charge, it is inconsistent with Article VIII of the GATT, which requires that such fees approximate the cost of services rendered, and the GATT/WTO has determined that ad valorem fees do not meet the terms of Article VIII.

Confirm that Uzbekistan assesses a customs fee of .15 per cent ad valorem on the invoice price of export/import activities.

How does Uzbekistan intend to bring this fee into line with the provisions of the WTO, in particular Article VIII of the GATT?

Answer:

It is true that in Uzbekistan during the customs processing of export-import transactions fee of 0.2 per cent from the customs value of the products is collected as an administrative charges. This charge has been established by the Resolution of the Cabinet of Ministers №204 dated 30 May 1999, for the purposes of implementing the Customs Code.

At the same time, it is necessary to note that the rate of fees incurred and collections for insurance of certificate is adequate to cover the expenses of examinations of relevant documents and the cost of given blanks of certificates.

Question 51.

The Customs Code enacted by the Oliy Majlis on 29 August 1997 states that customs fees are applied for: (i) customs formalities; (ii) customs services; and (iii) issuance of the customs certificate.

Are these charges identical to those already provided for by the State Tax Committee Order No. 218 "On Rates of Fees for Customs Procedures and Services and for the Issue of Certificates" of 31 December 1994. If not, please describe the differences.

Answer:

Please see the information given above.

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

Question 52.

When will the prohibitions on the transport of ethyl alcohol be lifted? What measures are being taken to resolve disputes that have arisen as a result of this decree? What is the status of all disputed shipments (Note: We are informed that at least two disputed shipments of ethyl alcohol, shipped and received before the prohibition was in place, are still waiting disposition. End note)

Answer:

In accordance with the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan №213 dated 15 May 1998, it is prohibited to import and to transit the ethyl spirit into the customs territory of the Republic of Uzbekistan. This measure is aimed at protection of the rights of consumers and the health of the citizens of Uzbekistan. This measure was adopted in response to the fact of inflow of low-grade spirit into the Republic, which caused adverse impact on the health and lives of the citizens of Uzbekistan. Currently, prevailing circumstances do not yet justify the removal of this measure.

Question 53.

The response to Question 22 of WT/ACC/UZB/3 reports an import and transit prohibition on ethyl alcohol. Additionally, the Government of Uzbekistan reports there is no equivalent prohibition on production and/or sale of domestically produced ethyl alcohol. This prohibition of imports of ethyl alcohol appears to be inconsistent with WTO Article III-National Treatment.

Answer:

We would like to state that although the importation and transit of the ethyl spirit into the customs territory of the Republic of Uzbekistan is prohibited, the market of the country is open for the alcoholic drinks.

The production of spirit and alcoholic drinks by the Uzbek producers is also kept under the strict control of the state organs. The production activities are carried out only upon the special licence and under the strict control of the standardization and certification bodies.

Question 54.

What is the HS code and description of the prohibited product(s)?

Answer:

The HS code of the ethyl spirit, the importation and transit of which is prohibited on the customs territory of the Republic of Uzbekistan, is 2207.

Question 55.

How and when does Uzbekistan intend to remove the prohibitions on the transport of ethyl alcohol and bring its trade regime in this area into line with WTO provisions?

Answer:

Please see the information given above.

Question 56.

**What measures are being taken to resolve disputes that have arisen as a result of this decree?
What is the status of disputed shipments?**

Answer:

Please see the information given above.

Question 57.

Are there any other prohibitions on imports? If so, please list them by HS tariff code and indicate how they are justified under WTO provisions and how they will be eliminated or revised if no justification is available.

Answer:

The list of goods, the importation of which is prohibited, is given in the Decree of the President of the Republic of Uzbekistan №UP-1871 dated 10 October 1997 (Appendix 5). The list includes those printed materials, manuscripts, cliches, drawings, photographs, films, negatives, cinema, video, audio

products, photographic and sound records, aimed at disrupting the state and social order, the territorial integrity, political independence and state sovereignty, propagating war, terrorism, violence, national exclusiveness and religious hatred, racism and its varieties (Zionism, anti-Semitism, fascism), as well as materials of pornographic content.

As one can see, this list is drawn up in accordance with practice of International Law, and does not reflect any economic factors, and corresponds to the provisions of the WTO agreements.

(f) Import licensing procedures

Question 58.

Annex No. 1 to the Presidential Decree No. UP-1871 of 10 October 1997 sets forth a list of specific goods, the importation of which must be licensed by the MFER.

Are rules governing import licensing neutral or are there preference schemes for imports from certain countries?

Answer:

The rules regulating the licensing of imports are neutral and equal for all exporting countries.

Question 59.

What documents are necessary to submit to the Ministry of Foreign Economic Relations in order for an import licence to be issued?

Answer:

In accordance with the Regulation №422 dated 8 April 1998, On the Procedure of Licensing of Exportation and Importation of Specific Goods on the Territory of the Republic of Uzbekistan, in order to obtain importation licence of the Ministry of Foreign Economic Relations of the Republic of Uzbekistan, the following of documents should be submitted:

- Filled application form of the importer;
- Assignment of the Cabinet of Ministers of the Republic of Uzbekistan;
- Contract, signed by the buyer and the seller;
- Certificate of origin of the product.

Question 60.

Are applications for import licenses regularly denied for minor documentation errors?

Answer:

Only in case of some errors in the documents submitted, they are returned for revising and after wards importation licence is issued in the established order.

Question 61.

Can any person, firm or institution, which fulfills the legal requirements for importing equally eligible to apply and be considered for a license? Are the legal requirements neutrally applied to all persons, firms, and institutions?

Is any person, firm or institution, which fulfills the legal requirements for importing equally eligible to apply and be considered for a license?

Answer:

Any entity that fully complies with the legal requirements has equal rights for obtaining the licence.

(g) Other border measures

Question 62.

There is reference in this section to registration of "passports of import operations." Is this the same registration referred to in subheading IV: 1 (a) as an "import contract registration?"

Answer:

Passport of the import transaction has been introduced by the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan №95 dated 13 March 1996, which for the purposes of statistical accounting of the external trade transactions is drawn by the enterprises and organizations for each concluded import contract. The passport shall be signed by the importing business entity, the bank of the importer servicing the transaction and the customs authorities.

Question 63.

Is the registration of such documents required prior to placing an order, prior to arrival of the goods or when the goods have arrived at customs control?

Answer:

For the purposes of drawing up the passport of the importation deal there are no requirements for advance ordering, delivery of goods or their passing through the customs control. The parties independently in concluding the importation contracts determine the terms of delivery of goods.

Question 64.

Does Uzbekistan require that the commercial forms and invoices necessary for importation of goods be "authenticated" or otherwise certified officially by its consulates or other representatives in the exporting country? If so, please indicate the fees charged and justify this under WTO provisions?

Answer:

In cases when in accordance with the legislation of the Republic of Uzbekistan or signed by it international treaties, Uzbekistan grants benefits or privileges to the goods coming from the certain countries, it is necessary to present evidence regarding of the country of origin of the coming goods.

In cases stipulated by the legislation of the Republic of Uzbekistan the certificate of quality is issued as a rule for food products.

(h) Customs valuation

Question 65.

WT/ACC/UZB./2 states that Uzbekistan considers that its treatment of customs value is in line with WTO/GATT valuation principles and procedures. We have reviewed Uzbekistan's

description of its customs valuation regime in WT/ACC/UZB./2; the "The Law of the Republic of Uzbekistan 'On the Customs Tariff" dated August 29, 1997; and the Customs Code which became effective on 1 January 1998 and have these questions and comments:

Article 18 of the Law "On Customs Tariff" sets forth the use of Transaction Value. The text we have does not contain an accurate definition of this term, however, i.e. the price actually paid or payable for the goods when sold for exportation to the country or importation. Article 18 states "price actually paid or price which is subject to payment for goods which are imported to the customs territory of the Republic at the moment of their crossing the Customs Border of the Republic of Uzbekistan....". Can Uzbekistan clarify this point?

Answer:

The term "Transaction Value" implies the following:

- customs value is calculated only for the goods being imported;
- since the payment for the goods can be made depending on the terms of the contract either before or after shipment, the term in the Law implies the "the price that has been actually paid" (in case of repayment) or "the price payable" (in case of payment after shipment) receipt or sales of goods;
- the term "at the moment of crossing the customs border" implies that the value of the goods should not be dependent on the place of its customs processing. In other words, the value of the goods should comprise all costs related to its purchase, transportation and insurance to the point of crossing of the customs border of the Republic of Uzbekistan.

Question 66.

Article 1(a)(ii) and (iii); Article 1.2: Article 8.1(b)(i) through (iv); and Article 8.4 of the WTO Valuation Agreement do not appear to be implemented in Uzbekistan law.

Answer:

Those provisions of the WTO Agreement on Customs Valuation, which are not included into the "Guidance on customs value of goods imported into the territory of the Republic of Uzbekistan" was registered in the Ministry of Justice on 13 January 1998, under №390 (a copy of the Guidance is available under document WT/ACC/UZB/4/Add.1 – Ref. No. 4.

Other questions related to the provisions of the Law of the Republic of Uzbekistan On Customs Tariff are reflected in the above mentioned Guidance, which ensure the conformity of the above said articles with the WTO Agreement on Customs Valuation. (Please refer to Guidance in case of absence of answers to other questions related to the Customs Valuation Agreement).

Question 67.

Article 1.2 of the WTO Valuation Agreement As noted in point 1 of Annex 4 of WT/ACC/UBZ/2, Uzbekistan's customs valuation law and regulations do not implement Article 1.2 of the Agreement, i.e. the provisions concerning related party transactions. Uzbekistan states that provisions and procedures will be recommended later to assure implementation of Article 1.2 of the WTO Valuation Agreement. As presently written, however, Uzbekistan's law requires the importer to prove that the relationship between related parties did not influence the price. This is inconsistent with Article 1.2 of the WTO Valuation Agreement.

Answer:

Provisions of the legislation of Uzbekistan requiring importers to present convincing evidence about the fact that the interrelationships between parties did not influence the price of the transaction are intended for implementing the provisions of Article 1.2 of the WTO Agreement on Customs Valuation.

Question 68.

Article 4 of the WTO Valuation Agreement. Article 17 of the Law "On Customs Tariff" provides that "the method of deducting and computing costs may be used in any sequence." This is inconsistent with the Article 4 of the WTO Valuation Agreement which provides that "at the request of the importer" the order of Deductive and Computed Value shall be reversed.

Answer:

In accordance with Article 13 of the Law of the Republic of Uzbekistan On Customs Tariff, it is the duty of the importer or its representative to declare to the customs authorities the value of the goods. In this regard, the provisions of Article 17 related to the sequential order of methods of calculating customs value of goods, concern the importer. In our opinion, this provision conforms to Article 4 of the WTO Agreement on Customs Valuation.

Question 69.

Article 5 of the WTO Valuation Agreement. Deductive Value is set forth in Article 21 of the Law "On Customs Tariff." Uzbekistan fails to provide for the use of deductive value to the imported goods. Additionally, there is no provision for the use of deductive value based on the unit price at which the imported goods or identical or similar imported goods are so sold in the greatest aggregate quantity, at or about the time of the importation of the goods being valued. With regard to the deductions to be made, Uzbekistan does not provide for the deduction of commission or additions usually made for profit and general expenses. As written Uzbekistan would deduct both commissions and profit and general expenses.

Answer:

Please refer to the Guidance №390 dated 13 January 1998 available under document WT/ACC/UZB/4/Add.1 (Ref. No. 4).

Question 70.

Article 6 of the WTO Valuation Agreement. Computed Value is set forth in Article 22 of the Law "On Customs Tariff." Uzbekistan has failed to implement Article 6.2 of the WTO Valuation Agreement. Additionally, it appears, based on the English translation, that Uzbekistan has improperly implemented Article 6.1(b) and (c). It appears that Uzbekistan has separately provided for the addition of profits and general expenses. However, pursuant to the Interpretative Note to Article 6, profit and general expenses are to taken together as a whole. To be consistent with Article 6 of the WTO Valuation Agreement, Article 22 should be reworked to provide for profit and general expenses in one category and the Article 8.2 transportation and insurance costs in another category.

Answer:

Please refer to the Guidance №390 dated 13 January 1998 available under document WT/ACC/UZB/4/Add.1 (Ref. No. 4).

Question 71.

Article 7 of the WTO Valuation Agreement. Question 5(a) of Annex 4 of the MFT, Uzbekistan states that its Article 23 of the Law "On Customs Tariff" closely follows the language of Article 7 of the WTO Valuation Agreement. We disagree with this position. The translation of Article 23 states that the value of goods under this provision will be determined on the basis of price information that is available at the customs authority. This is not consistent with Article 7 of the WTO Valuation Agreement, which provides that goods will be valued "using reasonable means consistent with the principles and general provisions of this Agreement and of Article VII of the General Agreement and on the basis of data available in the country of importation." Additionally, as noted by Uzbekistan in Question 5(a) and (c) of Annex 4 of the MFT, it has failed to implement Article 7.2(d) prohibited method of appraisal. Additionally, Uzbekistan has added an additional prohibited method of appraisal, "not authentically confirmed values of goods."

Answer:

Please refer to the Guidance №390 dated 13 January 1998 available under document WT/ACC/UZB/4/Add.1 (Ref. No. 4).

Question 72.

Article 9 of the WTO Valuation Agreement. In Question 7 of Annex 4 of the MFT, Uzbekistan states that foreign exchange rates are published one a week. However, Uzbekistan does not state which election it has chosen, i.e. time of exportation or time of importation. Pursuant to Article 9.2 of the WTO Valuation Agreement, Uzbekistan must elect one of these time in which currency conversion will take place.

Answer:

Transaction of buy and sell of the foreign currency on the off-the-counter market of the Republic of Uzbekistan are carried out either at the rate set by the Central Bank on the day of buy-sell transaction, or at the free market rate established on the basis of the supply and demand of the foreign currency depending on the type of buy-sell transaction of the foreign currency.

Question 73.

Article 10 of the WTO Valuation Agreement. In Question 8 of Annex 4 of the MFT, Uzbekistan states that confidentiality is guaranteed and may not be disclosed to third persons, including to the state authorities without special permit of the applicant. We require a reference to Uzbekistan's law or regulations to verify that Uzbekistan's confidentiality obligations are implemented as set forth in Article 10 of the WTO Valuation Agreement.

Answer:

Provisions of ensuring confidentiality of the submitted information are stipulated in Article 6 of the Law of the Republic of Uzbekistan On State Customs Services, which cover not only the information regarding the customs value, but also other types of information received by the customs authorities.

Question 74.

Article 11 of the WTO Valuation Agreement. Article 13 of the "On Customs Tariff" law provides that an applicant has the right to "appeal against decisions of customs authorities with regard to customs valuation according to procedures established by the legislation." Annex 4 of

the MFT further states that "normally an appeal is filed first within the administrative body, and upon completion of the administrative procedures, further appeal can be made to a judicial body." The statement in Annex 4 appears to implement Article 11 of the WTO Valuation Agreement. However, we require Uzbekistan's legislation concerning right of appeal to verify that the applicant has a right of appeal without penalty to a judicial authority and that the applicant is given written notice of the decision on appeal as set forth in Article 11.2 and 11.3 of the WTO Valuation Agreement.

Answer:

The legislation of the Republic of Uzbekistan provides the possibility to appeal to the law courts claiming the protection of infringed rights and the compensation for the losses incurred as a result of the illegal actions of the state bodies. In case of such an appeal the claimant shall pay the following state duties.

- natural persons claiming the infringement of the rights of natural persons as a result of the illegal actions by the state bodies or state officials pay the duty quintuple of the amount of the existing minimal monthly salary in volume of fivefold (this duty is paid by the party found guilty based on the court's decision)
- legal persons:
 - From the claims involving property duties are paid in form of a percentage of the value of the claim (maximum charge – 3 per cent from the total amount of claim not exceeding the amount of 1 million Soums; minimum charge – 1 per cent from the total amount of the claim the total value of which is over 10 million Soums);
 - From the claims not involving property – tenfold of the amount of existing minimal monthly salary.

Upon results of investigation court announces its grounded decision, which is passed to the parties involved in the case as well as to other interested parties.

Question 75.

Article 14 of the WTO Valuation Agreement. The Republic of Uzbekistan has not indicated how it will incorporate the Interpretative Notes set forth in Annex I of the WTO Valuation Agreement in its customs valuation regime. We note that in Annex 4 of the MFT, Uzbekistan acknowledges that the "Interpretative Notes are not included in the current legislation. The State Customs Committee knows the issue... . The issue of whether or not to include the Interpretative Notes will be taken into consideration in future deliberations on this question." Article 14 of the WTO Valuation Agreement stipulates that the Interpretative Notes to the Agreement form an integral part of the Agreement and the Articles are to be read in connection with the Interpretative Notes. Thus, the text of the Interpretative Notes must form part of the implementing legislation.

Additionally, Uzbekistan states that Regulation No. 390 contains provision for customs evaluation and includes interpretative notes. We do not have a copy of Regulation No. 390. If this regulation is relevant to customs valuation, we require a copy for review and comment on its consistency with the WTO Valuation Agreement.

Answer:

Please refer to the Guidance №390 dated 13 January 1998 available under document WT/ACC/UZB/4/Add.1 (Ref. No. 4).

Question 76.

The Republic of Uzbekistan notes that it has not implemented the Committee on customs Valuation Decision 4.1 concerning the "Valuation of Carrier Media Bearing Software for Data Processing Equipment" or the "Decision on the Treatment of Interest Charges in the Customs Value of Imported Goods." Question 14, Annex 4 of the MFT. Uzbekistan states that the State Customs Committee is familiar with these Decisions and will take them into consideration in future deliberations on the matter. We encourage Uzbekistan to implement both of these Decisions.

Answer:

Please refer to the Guidance №390 dated 13 January 1998 available under document WT/ACC/UZB/4/Add.1 (Ref. No. 4).

Question 77.

Additionally, we note that in §111.2 in the MFT Uzbekistan states that "Export and import prices are controlled in such a way as to ensure that the goods were not exported below or imported above world prices." We would appreciate clarification of this statement as it applies to the customs valuation of imported goods into Uzbekistan. This language could be interpreted such that Uzbekistan would use minimum pricing in valuing imported goods. Minimum prices or arbitrary and fictitious pricing is specifically prohibited by Article 7 of the WTO Valuation Agreement. We note and as stated above Uzbekistan has implemented Article 7 of the WTO Valuation Agreement in its Article 23.

Answer:

In accordance with the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan №137 dated 31 March 1998, the registration of export contracts for goods listed in Appendix №1 of the Decree, is carried out by taking into consideration the conjuncture on the international markets, as well as, the supply and demand status on the regional markets. Based on this Resolution of the Cabinet of Ministers of the Republic of Uzbekistan the Regulation №421 and 424 have been developed, which govern the registration procedure of export and import contracts in the Ministry of foreign economic relations. Section II stipulates, that one of the key requirements is the conformity of the contract prices to the average prices on the international markets and its conjuncture.

Registration of contract does not directly affect the customs valuation. It makes only indirect influence on the customs valuation. Besides, it should be noted that not all contracts are subject to registration.

See also the Decree of the Cabinet of Ministers №137 dated 31 March 1998 available under document WT/ACC/UZB/4/Add.1 (Ref. No. 5).

(i) Other customs formalities

Question 78.

Does Uzbekistan require authentication of import documents by consular or other authorities in the country of export, and if so what are the charges for this requirement?

Answer:

Customs authorities carry out the verification of the authenticity of the import documents through consulates and other organs only in cases, when the documents submitted to the customs authorities are inconsistent with the existing requirements and when customs authorities doubt the authenticity of the documents.

(j) Pre-shipment inspection

Question 79.

The Cabinet of Ministers of the Republic of Uzbekistan adopted the Resolution No. 534 " On Measures for an Independent Expertise of Contracts and Pre-shipment Inspection of Imported Goods" of 3 December 1997, which provides for contracting private firms to assess compliance with quality, quantity, and level of prices of imported goods through pre-shipment inspection in order to ensure the importation of quality consumer goods, foodstuffs, machinery, equipment and technologies. Firms providing standards inspection will be registered with Uzgosstandard (State Standards Committee).

Please detail how PSI firms are selected. What kinds of customs and other services are these entities expected to perform? Is use of a PSI firm by exporters to Uzbekistan mandatory in order to sell into the market?

Answer:

Accreditation of the consultancy (inspection) firms involves the following major stages:

- Submission and expertise of the documents related to operations of the firm;
- Establishment of the Commission for auditing the company;
- Verification of the authenticity of the documents submitted by the company;
- Analysis of the results of the audit/verification and taking relevant decision, drawing up the licensing agreement, registration and insurance of the accreditation certificate to the applicant.

Proceeding to every subsequent step is carried out only if the results of the previous step never been positive.

Consultancy Company that wishes to be accredited shall submit the application to the State Standards Organization. The following documents should be attached to the application:

- Information on experts, involved in pre-shipment inspection;
- Information on the accredited bodies of certification and test laboratories, with which the company intends to work on certification of the imports;
- Information on available of documents, which are necessary for pre-shipment inspection of the quality of goods.

After receiving the documents, Uzgosstandart studies the status of the company, existing rules and norms used in pre-shipment inspection, evaluates their consistence with the generally accepted international rules and legislative acts of the Republic of Uzbekistan in the area of quality (certification) and quantity control of products.

In case the company is found eligible for the accreditation based on the results of the examination, applicant is issued the expert's statement mentioning the eligibility of the company for accreditation. In case of inconsistency of the submitted documents with the requirements, they are returned to the applicant together with the remarks.

The applicant-company can resubmit the documents to Uzgosstandart after revising the inconsistencies found.

In case of positive results from the examination of documents, Uzgosstandart establishes a Commission, which within 15 days period verifies the actual consistence of the company with the submitted documents and its capacities to fulfill the referred functions. During the process of verification the Commission audits the conforming of actual state of the company with submitted documents and evaluates its capability to fulfill the stated functions. Upon result of the verification process, an act is drawn in the optional form, which states the eligibility of the company for pre-shipment inspection. The statement is signed by the members of the Commission and given to the head of the company. In case of positive results from the examination, State Standards Organization takes a decision on accreditation of the company and on its base concludes licensing agreement with the company, files, registers and issues the certificate of accreditation of a given form. The period of validity of the accreditation certificate is 3 years from the date of registration.

During the entire period of validity of the certificate of accreditation, Uzgosstandart inspects the functioning of the accredited company with regards to its performance in the area of pre-shipment inspection of products (goods) in accordance with the plan (but not less than once a year).

In case of breaching the accreditation requirements, Uzgosstandart takes a decision on termination or abolishment of the validity of the certificate of accreditation. In this case, the company is notified within the period of not more than 10 days after such decision is taken.

The company is entitled within 15 days to protest in an established procedure against decisions related to the issue of accreditation and abolishment.

6 months prior to the expiration of the period of validity of the certificate of accreditation, the company submits an application to Uzgosstandart in the order stated in Article 3. The extension of the period of validity of the accreditation certificate depends on the results of the previous inspections and may include:

- accreditation in accordance with the requirements of above-mentioned document;
- the extension of the validity term of the accreditation certificate without procedure of reaccreditation.

In the course of audit (technical inspection) of the company, experts of Uzgosstandart base their actions on the current legislation of the Republic of Uzbekistan, as well as on the provisions of the Guidance for auditors, prescribed by the International federation of inspection agencies with aim at auditing the inspection companies.

Question 80.

We are informed that only one firm (i.e. ITS) is currently licensed to perform PSI services. Why is this the case and what measures is Uzbekistan taking to broaden the number of firms?

Answer:

At present time there are two inspection firms accredited by Uzgosstandart:

- Intertec Testing Services (United Kingdom);
- Control Union International (Bremen, Germany).
- The agreement has been signed with the SGS company (France).

Currently negotiations are being held with a number of other inspection companies.

Question 81.

Are all goods for importation, except those valued at US\$50,000 or less and goods licensed by MFER, affected by this Resolution? If not, what goods must have pre-shipment inspection? Is there differentiation in pre-shipment inspection requirements based on the source of goods?

Answer:

Currently, the Customs Bodies require mandatory pre-shipment inspection only for alcoholic and tobacco goods irrespective the country of origin and/or export.

Also, it should be mentioned, may chose between the MFER or consulting companies for pre-shipment inspection. In case of receiving a statement from consulting company of quality, quantity and price, MFER shall register contracts on the basis of mentioned statement two working days without prior arrangement.

Question 82.

How are fees and charges for these services levied? Is there appeal to Uzbek legal institutions on customs matters handled by the PSI service?

Answer:

The rates of changes for services of pre-shipment inspection are not regulated by the State and determined by supplier and receiver of the services on mutual agreement.

Taking into account the agreed character of relationships between an applicant and consulting company, all disputes arising between them are solved in general order established by the legislation for settlement of disputes between entities.

In case if applicants believe that problems are related to ungrounded requirements of customs bodies, then, as mentioned above, the Civil Code and other normative acts of the Republic of Uzbekistan provide an opportunity for natural and legal persons to appeal against illegal actions of authorities, bodies of state power and management to courts. The damages of a citizen or legal person resulted from such actions are also subject to reimbursement.

Question 83.

Please provide a copy of Resolution No. 534 "On Measures for an Independent Expertise of Contracts and Pre-shipment Inspection of Imported Goods" of 3 December 1997.

Answer:

Available under document WT/ACC/UZB/4/Add.1 (Ref. No. 6).

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

Question 84.

Value Added Tax (VAT). The Tax Code of the Republic of Uzbekistan established a 20 per cent rate of VAT for the goods (work, services) imported to the Republic of Uzbekistan. For four types of foodstuffs (flour, bread, meat and milk) the rate of VAT is 10 per cent. VAT on imported goods is paid before or during the customs procedures. The Article 71 of the Tax Code describes the list of VAT exemptions.

Please indicate the taxable base for the application of the VAT to imports and to domestic goods. Is the VAT calculated on the invoice value of the good or the value plus the duty? At what point of sale is the VAT applied to domestic goods?

Answer:

Currently, in accordance with the Tax Code of the Republic of Uzbekistan single 20 per cent rate of VAT is incurred on domestic as well as imported goods.

Besides, internal tax legislation foresees the VAT mechanism based on the principle of destination for export of goods at zero rates, and for import at the current rate.

The list of exemptions, that covers rate of VAT in export and import of goods, has not been set for the VAT.

The order of taxing of the VAT, which is based on the principle of destination, is also used in supply of goods (works, services) into the Republic of Uzbekistan from the countries of CIS, i.e. the VAT on imports from the countries of CIS at the current rate and zero rate on export to the countries of CIS in freely convertible currency.

In accordance with Article 70 of the Tax Code, the rate of the VAT on imported goods includes customs value, identified in accordance with customs legislation, as well as the rate of excise tax and import customs levies, that are subject to pay during the importation of goods.

Question 85.

Are VAT levels for imports the same as those applied to domestic goods? Please identify any instances where a lower VAT rate is applied to domestic goods than to imports and list the rates applied.

Answer:

The levels of the VAT are the same to import as well as domestic goods.

Question 86.

Are there any exemptions from the VAT other than that for imports of certain technology goods?

Answer:

In accordance with the Tax Code of the Republic of Uzbekistan and item 4.1 of the Guidance on order of applying VAT relating to goods, works, services imported into the territory of the Republic of Uzbekistan and registered in the Ministry of Justice on 6 November 1998 №520, following exemptions from the VAT are foreseen:

1. commodities intended for the official use by foreign diplomatic institutions and those conferred the same status;
2. commodities, including those used for personal use, including those of initial acquisition, by diplomatic personnel of both permanent offices and those conferred the same status, as well as by those living with them, who are not residents of the Republic of Uzbekistan;
3. commodities considered to be items of initial acquisition, imported to Uzbekistan by the administrative and technical staff of both foreign diplomatic representations and those conferred the same status, including their family members residing with them, provided they are not citizens

- of the Republic of Uzbekistan or those without permanent residence in the Republic of Uzbekistan;
4. commodities imported to the Republic of Uzbekistan in the form of humanitarian aid complaint with the procedure specified by the Cabinet of Ministers of the Republic of Uzbekistan;
 5. commodities imported to the Republic by natural entities within the established duty-free quotas;
 6. property supplied to the Republic to give help to aid or victims of natural disasters, armed conflicts and accidents;
 7. the following technological equipment imported into the territory of the Republic of Uzbekistan:
 - needed to equip priority facilities included in the 1998 investment Programme (Annex 1);
 - needed to implement investment projects funded from foreign credit resources under the government guarantees;
 - used by newly build enterprises or renovated specialized in on the production of consumer goods;
 - imported to the Republic by foreign investors as their share to the charter capital of enterprises with foreign investment;
 - technological equipment and a wide-range of pipes for the Republic's oil and gas industry (Annex 2);
 - technological equipment imported to the Republic in accordance with established order of approved projects to create new production facilities as well as to ensure modernization and technical re-equipment of operation enterprises, provided by the relevant certifying document issued by the authorized bank;
 8. legal entities employing disabled who account for 50 per cent of the total workforce, with the exception of these involved in commercial, mediator, supply and sale preparation activities. When determining the eligibility for the above-mentioned preference, the enterprise's total workforce should include all the employees being the staff members, as well as those working under the contract agreement or other civil and legal agreements;
 9. equipment (including devices, materials and systems, as well as information and equipment), which is supplied in the framework of the following programmes and agreements:
 - scientific, technological and innovation programmes and projects implemented in the Republic of Uzbekistan under grant-aids of international and foreign organizations and foundations;
 - international agreements on scientific and technological cooperation on the basis of relevant conclusion of the State Committee on Science and Technology of the Republic of Uzbekistan on conformity with equipment supplied to the goals and objectives of the grant-aids (funds) allocated;
 - In cases where equipment (including devices, materials, information and office equipment) bought or supplied from the abroad is alienated, all due payments and taxes are made according to the established procedure.
 10. raw material and half-finished articles imported to the Republic of Uzbekistan by the enterprises with foreign investments involved in production of footwear for children, to be used in own production.
 11. equipment, goods (works or services) imported to the Republic of Uzbekistan at through allocations of settlement under orders of budget organizations.
 12. imported medicines and articles for medicine purpose.
 13. insurance and re-insurance transactions, including related services carried out by mediators and insurance agents.
 14. accommodation and transfer of loans.
 15. transactions concerning to money deposits, current accounts, payments, transfers, cheque and other securities.
 16. transactions associated with the circulation of foreign currency and money considered to be at tender for all debts except for those used for numismatic purposes.
 17. transactions related to the circulation of securities, except for those associated with their issuance and custody.

18. activities which are subject to official tolls and carried out by specially authorized bodies.
19. services on keeping children in pre-school establishments, nursing of the sick and the aged.
20. ritual services rendered by funeral parlours and cemeteries.
21. patent duties, registration fees and licence payments payable for the acquisition of rights to use objects of intellectual property.
22. products of enterprises specialized in the production of prosthetic and orthopedic appliances and inventories for disabled, as well as relevant services rendered to disabled and product of medical and production work-shops operating under clinics.
23. the sale of agricultural products of one's own production.
24. the sale of post stamps (except for collectable ones), as well as labeled postcards and envelopes.
25. services of organizations on payment of pensions and social benefits rendered.
26. services of urban passenger transport (except for taxis and fixed-route taxis), as well as services of suburban passenger-trains and road transport for general use (except for taxis and fixed-route taxis).
27. housing, communal and operational services rendered to the population.
28. services in the public education associated with education process, as well as tuition fees charged in higher educational institutions and vocational training schools.
29. the sales turnover of precious metals sold to authorized state body in charge of custody.
30. services associated with certain rites and ceremonies rendered by religious establishments and associations.
31. services rendered by clinics, health resorts, sanitary establishments, tourist and excursion offices, and sports centers as the main line of their activity; as well we children's camps.
32. the cost of privatized state property.
33. hydrometereological and aero logical works.
34. geological and topographic works.
35. earnings from the accomplished volume of works related to the maintenance and repair of high-ways for general use.
36. products and services rendered by publishing houses, editorial offices, printing plants, the Tele-radio broadcasting Company and the National Information Agency of the Republic of Uzbekistan as the main line of their activity.
37. stenographical services.
38. environmental expertise services rendered by the authorized state establishments.
39. services associated with scientific and technological treatment, restoration, binding and use of archives, as well as services aimed at improving document proceeding.
40. services associated with the teaching of the official language, and record-keeping in the official language.
41. building materials produced in the Republic and sold to individual constructors.
42. completed volumes of constructing and contracting rebuilding and renovating entities involved in private housing construction.
43. completed volumes of housing construction works fulfilled under contract for the construction of houses for physical and legal entities signed with Uzzhilsberbank.
44. services associated with transportation, loading, unloading and re-loading of commodities exported from the Republic, as well as commodities transited through the Republic of Uzbekistan.
45. services of subdivisions of security within bodies of internal affairs.
46. non-state owned preschool educational instructions for three years from the date of the registration provided that released funds are used to strengthen material and technical base, to purchase equipment, inventory, didactic material, children's toys and books;
47. equipment, goods (work and services) imported by legal persons including nonresidents to the Republic of Uzbekistan at the through budget allocations under orders of budget organizations;

Question 87.

Is there a rebate on the VAT for either domestically produced goods that are exported, or imported goods processed and re-exported? If so, how does the system operate?

Answer:

There is no a rebate on the VAT for either domestically produced goods that are exported, or imported goods processed and re-exported.

Question 88.

Is the VAT rebated or zero rated for exports?

Answer:

The zero rates are used in export of goods in foreign currencies, including the countries of the CIS, if otherwise is not foreseen in bilateral interstate agreements.

Question 89.

Is the VAT applied to imports from the CIS? To imports from CIS countries with FTAs with Uzbekistan? To Armenia and Turkmenistan? To Kyrgyz Republic, Georgia, and Moldova?

Answer:

The VAT is applied in relation to products originating from all above-mentioned countries.

Question 90.

What are Uzbekistan's plans to switch to the destination principle of VAT application?

Answer:

Uzbekistan has already switched to the destination principle of VAT application since the Tax and Customs Codes were brought in force in 1998.

Question 91.

Please provide a copy of Article 71 of the Tax Code to the WP for review and any other relevant laws on the application of the VAT.

Answer:

Article 71. Exemption from value-added tax.

The following commodities, works, services and transactions are exempt from VAT:

1. insurance and re-insurance transactions, including related services carried out by mediators and insurance agents;
2. accommodation and transfer of loans;
3. transactions concerning to money deposits, current accounts, payments, transfers, cheque and other securities;
4. transactions associated with the circulation of foreign currency and money considered to be at tender for all debts except for those used for numismatic purposes;

5. transactions related to the circulation of securities, except for those associated with their issuance and custody;
6. activities which are subject to official tolls and carried out by specially authorized bodies;
7. services on keeping children in pre-school establishments, nursing of the sick and the aged;
8. ritual services rendered by funeral parlours and cemeteries;
9. patent duties, registration fees and licence payments payable for the acquisition of rights to use objects of intellectual property;
10. products of enterprises specialized in the production of prosthetic and orthopedic appliances and inventories for disabled, as well as relevant services rendered to disabled and product of medical and production work-shops operating under clinics;
11. commodities imported by physical entities under certain tax-free quotas specified by the customs law;
12. the sale of agricultural products of one's own production;
13. the sale of post stamps (except for collectable ones), as well as labeled postcards and envelopes;
14. services of organizations on payment of pensions and social benefits rendered;
15. scientific research and innovation works under state contracts carried out in scientific and technical programmes of the State Committee for Science and Technics of the Republic of Uzbekistan;
16. services of urban passenger transport (except for taxis and fixed-route taxis), as well as services of suburban passenger-trains and road transport for general use (except for taxis and fixed-route taxis);
17. housing, communal and operational services rendered to the population;
18. services in the public education associated with education process, as well as tuition fees charged in higher educational institutions and vocational training schools;
19. the sales turnover of precious metals sold to authorized state body in charge of custody;
20. services associated with certain rites and ceremonies rendered by religious establishments and associations;
21. services rendered by clinics, health resorts, sanitary establishments, tourist and excursion offices, and sports centers as the main line of their activity; as well we children's camps;
22. the cost of privatized state property;
23. hydrometereological and aero logical works;
24. geological and topographic works;
25. earnings from the accomplished volume of works related to the maintenance and repair of high-ways for general use;
26. products and services rendered by publishing houses, editorial offices, printing plants, the Tele-radio broadcasting Company and the National Information Agency of the Republic of Uzbekistan as the main line of their activity;
27. stenographical services;
28. environmental expertise services rendered by the authorized state establishments;
29. services associated with scientific and technological treatment, restoration, binding and use of archives, as well as services aimed at improving document proceeding;
30. services associated with the teaching of the official language, and record-keeping in the official language;
31. building materials produced in the Republic and sold to individual constructors;
32. completed volumes of constructing and contracting rebuilding and renovating entities involved in private housing construction;
33. completed volumes of housing construction works fulfilled under contract for the construction of houses for physical and legal entities signed with Uzzhilsberbank;
34. services associated with transportation, loading, unloading and re-loading of commodities exported from the Republic, as well as commodities transited through the Republic of Uzbekistan (transit freightage);
35. legal entities employing invalids who account for not less than 50 per cent of the total workforce, with the exception of legal entities involved in commercial, intermediary, sale and purchase and procurement activities; (As amended according to the Law No. 729-I dated 25 December 1998.)

36. property imported to the Republic with the purpose of providing assistance to victims of natural disasters, armed conflicts and accidents, as well as commodities imported in the form of humanitarian aid.
37. Point 37 has lost its validity according to the Law No. 729-I dated 25 December 1998.
38. equipment, materials (work and services) imported by the legal entities including non-residents of the Republic of Uzbekistan at the expense of loans and grants provided by the international and foreign governmental financial and economical organizations on contracts (agreements) concluded by the Republic of Uzbekistan. (Introduced by the Law No. 621-I of 1 May 1998.);
39. subdivisions of security service operated at agencies of Internal Affairs. (Introduced by the Law No. 729-I dated 25 December 1998);
40. private preschool educational establishments for three years from the date of the registration provided that released funds are used to strengthen material and technical base, to purchase equipment, inventory, didactic material, children's toys and books;
41. equipment, goods (work and services) imported to the Republic of Uzbekistan at the expense of financial appropriations under orders of budget organizations.

Excise Tax

Question 92.

Could Uzbekistan please clarify whether the levels of excise taxes applied to imported goods are the same as those applied to domestic goods? Is there discrimination among foreign suppliers, e.g., do imports from CIS receive the same rate as that applied to imports from other countries? If not, when and how will they be harmonized?

Answer:

There is different mechanism of excise taxation and list of excised goods in export, import and sale on the territory of the Republic of Uzbekistan.

In export of goods (compound home appliances, automobiles of the Joint Venture of UzDeawoo, alcohol and non-alcohol drinks, cigarettes, building materials and other goods as to be re-exported), rates of excise tax are set at 50 per cent from customs value of goods, and automobiles of UzDeawoo in Euro for 1 cm³. Meanwhile, the excise tax is not applied to goods exported in foreign currency by producer-enterprises and their official dealers.

In importation of goods the list-excised goods is much broader and rates are set both from 10 per cent to 100 per cent from customs value of goods and in Euro as well.

There is entirely different list (and on some positions this list matches imported excised goods) of excised goods produced in the Republic of Uzbekistan, that are taxed at 5 per cent to 80 per cent to the cost of goods on selling prices with account of excise tax.

The excise tax is applied to imported goods irrespective the country of origin or dispatching goods. The only exclusion is the rate of excise tax of 5 per cent for new cars produced in and exported from the Russian Federation.

Question 93.

Please list all excise taxes currently in effect, by HS number, by country and for similar domestic goods.

Answer:

The list of excised goods in importation in 2000 was approved of by the Resolution of the Cabinet of Ministers №554 dated 31 December 1999, On Forecasting Key Macroeconomic Indexes and the State Budget for 2000 (available under document WT/ACC/UZB/4/Add.1 – Ref. No. 7) and the Resolution of the Cabinet of Ministers №333 dated 25 July 2000, On Additional Measures for Adjustment of Import of Certain Kinds of Commodities to the Territory of the Republic of Uzbekistan (available under document WT/ACC/UZB/4/Add.1 – Ref. No. 8). The excise tax is imposed on excised goods irrespective of the country of origin (extract from first and a copy of second acts available under document WT/ACC/UZB/4/Add.1).

Question 94.

Is the valuation used for application of excise taxes the transaction value, the invoice value, or some other value? Please clarify and provide any relevant legislation pertaining to this question.

Answer:

In accordance with Article 106 of the Customs Code, the basis of excise tax is customs value of goods.

Question 95.

Please provide a copy of Article 82 of the Tax Code to the WP for review and any other relevant laws on the application of excise taxes.

Answer:

Article 82. The Cabinet of Ministers of the Republic of Uzbekistan approves of the list of excise goods and rates of excise tax.

(l) Rules of origin

Question 96.

Please provide information on how Uzbekistan currently applies, or is prepared to implement, Article 2(h) and Paragraph 3(d) of Annex II of the WTO Agreement on Rules of Origin. Please provide legal citations.

Answer:

Currently, Rules on determining the country of origin is applied in the republic. The Rules are registered by the Ministry of Justice № 787 dated 30 July 1999, which foresees requirements of WTO Agreement on Rules of Origin including provisions of Article 2(h) and Para 3(d) of Annex II to be taken into account.

At the same time, in accordance with Article 28 of the Law of the Republic of Uzbekistan On the Customs Tariff, origin of the goods from given country is confirmed by the certificate of origin of goods.

In importation of goods to the customs territory of the Republic of Uzbekistan the certificate of origin of the goods has to be presented:

- for the goods, originated from the countries to which Uzbekistan grants customs preferences;

- for the goods that are subject to import quantitative restrictions (quotas) or other measures of regulation for foreign trade activity;
- in cases, when information on origin of the goods is absent in the documents represented for customs clearances or the custom body has ground to doubt on truthfulness of the submitted information on origin of the declared goods;
- if it is stipulated by the legislation and international agreements of the Republic of Uzbekistan.

Question 97.

Please provide a copy of the draft legislation referred to in the response to Question 28 of WT/ACC/UZB/3 concerning Uzbekistan's rules of origin, and the "Rules on determination of the country of goods' origin" which were developed by the Ministry for Foreign Economic Relations referred to in the response to Question 29.

Answer:

Please refer to document WT/ACC/UZB/4/Add.1 (No. 9 refers).

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

Question 98.

Please update the Working Party on Uzbekistan's to develop legislation in these areas, in particular as to when a draft of the law on "Countervailing Duties" would be available for examination by the Working Party?

Answer:

Currently, the Government is considering a Draft Law. Dates of passing of the indicated Law will be provided additionally.

- (o) **Safeguard regime**

Question 99.

What commodities are subject to safeguard measures at the present time?

Please describe in detail how Uzbekistan's safeguard measures implemented and how these procedures are consistent with WTO provisions, including the Safeguard Agreement?

Please provide in translation a copy of the current law and regulations.

Answer:

In accordance with Articles 3, 8, 9, 10 of the Law On the Customs Tariff, Uzbekistan applies safeguard measures, specific measures, and antidumping and countervailing duties.

The special duties are used as safeguard measures, if similar or directly competitive goods are imported in the customs territory in quantities and in conditions, which may damage the producers of the Republic of Uzbekistan, and also as a replying measure for discriminating and other actions of other states, infringing interests of the Republic of Uzbekistan.

Anti-dumping duties are applied in cases of:

- importing similar goods to the customs territory at the price lower than their real value in the Republic of Uzbekistan, if such import may damage the producers of the Republic of Uzbekistan or hinders to organize or expand production of these goods in the Republic of Uzbekistan;
- exporting of goods from the customs territory at the price lower than their real value in the Republic of Uzbekistan at the moment of exportation, if such import damages producers of the Republic of Uzbekistan or hinders to create a normal competition among the producers of the Republic of Uzbekistan.

Countervailing duties are applied in cases of:

- importing of goods to the customs territory of the Republic of Uzbekistan, in the process of production or exporting of which subsidies have been used directly or indirectly, if such import damages producers of the Republic of Uzbekistan or hinders to organize or expand production of these goods in the Republic of Uzbekistan;
- exporting of goods from the customs territory, in the process of production or exporting of which subsidies have been used directly or indirectly, if such import damages interests the Republic of Uzbekistan.

In accordance with Article 11, the Cabinet of Ministers of the Republic of Uzbekistan on individual basis sets rates of specific duties and their rate has to be correlated with the rate of dumping costs, subsidies and defined damage.

To execute the Agreements of the WTO on safeguard measures, anti-dumping and countervailing duties, currently relevant drafts of legislation have been developed and submitted to the Government for consideration.

2. Export Regulation

Question 100.

Could Uzbekistan provide more information on the "insurance of export credits" by Uzbekinvest. Specifically, what commodities are eligible for this program?

Answer:

The national insurance company Uzbekinvest established in 1994 to develop the system of insurance of foreign and national investments was reorganized to National Company for Export-Import Insurance in February 1997 in accordance with the Decree of the President dated 18 February 1997, and the Resolution of the Cabinet of Ministers №113 dated 28 February 1997, in order to ensure reliable protection of interests of national exporters and investors on the international market of technologies, goods and services, to promote to foreign markets.

The insurance cover is given to the residents-exporters of the Republic of Uzbekistan and commercial banks-residents of the Republic of Uzbekistan only for transactions related to exportation (including leasing) of goods originating from Uzbekistan.

The insurance of export credits, carried out in accordance with the international norms of export insurance, covers political and commercial risks.

Uzbekinvest carries out the insurance of export credits by the scheme of "Credit for Buyer" as well as "Credit of a Supplier".

The insurance is given to those credits, which are provided by commercial banks-residents of the Republic of Uzbekistan and (or) by exporters to foreign partners for purchasing of products with the

country of origin – Uzbekistan on the terms and dates conforming with the international practice of export crediting, in particular:

- payment by foreign partner (buyer) in advance at the amount of not less than 15 per cent from the value of the contract, if credit is provided for a period of more than one year;
- observance of a maximum period of credit use (exception for grace period) up to 5 years and, for certain goods, up to 12 years;
- redemption of main debt on credit after the fulfilment of export contract by step-by-step payments not rare than every six months simultaneously with the payment of interest rates unpaid amount of the credit.

Coverage of the risks is carried out in Soums or in any other freely convertible currency. The compensation in case of damage is carried out by an insurance organization in the currency by which the premium has been paid. The guaranty for the obligations of export insurance of Uzbekinvest is the Ministry of Finance of the Republic of Uzbekistan.

Presently, Uzbekinvest has developed and is offering the following types of insurance policies:

- Complex insurance of export contracts, in relation to single export contracts, as well as in relation to annual export portfolio of an exporter;
- Insurance against non-fulfilment of a foreign bank (guarantor) of obligations on letter of credit (guaranty);
- Insurance against cancellation of export contracts in pre-shipment period both by private and state buyer (coverage is provided for political risks only);
- Insurance of export credits (“Credit to Buyer”);
- Insurance against confiscation, expropriation and nationalization;
- Insurance of leasing operations.

Uzbekinvest is a full member of the sector of export-credit agencies for Central and Eastern Europe of International Union of Credit and Investment Insurants (Berne Union), and in its insurance activity, Uzbekinvest observes the provisions of Consensus of Organization for Economic Cooperation and Development (OECD).

Question 101.

Uzbekistan states that Presidential Decree No. UP-1871 of 10 October 1997 provides "in cases where the share of exported goods is 30 per cent or more of total sales, the rate of the profit tax is half the existing one."

This statement appears to be in conflict with the terms of the Subsidies Code. How does Uzbekistan intend to proceed to bring this practice into line with WTO requirements.

Answer:

An alike-developed country, Uzbekistan is just developing its industrial base, which can compete with foreign producers.

In these conditions the application of tariff methods of regulation of mentioned processes is a reasonable method of regulation of economy that has been used and being used by all states.

Question 102.

Does Uzbekistan provide any other programs that condition the receipt of incentives or benefits for any firm on whether it exports or uses local materials in the production process? If so, please describe these programs.

Answer:

The Republic of Uzbekistan applies a wide system of stimulation of enterprises, which meet certain requirements. The main criterion is import-substitution, export-orientation of production, and participation of foreign capital.

Question 103.

Per the response to Question 58, please provide more details about the provisions and special tax exemptions allowed for export oriented enterprises under this program. Please include, if possible, information concerning: the purpose and goal of the programs, what type of funding is provided and by whom, who or what firms or sectors is eligible to receive funding, the terms of financing, the dollar amount of the funding, and the expiration dates of the programs. Please be specific.

Answer:

Mentioned in Question 58 State Program on Developing Export Potentials had been developed to implement the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan dated 28 February 1997, №116 (item 7) and was approved of by the Resolution №110 dated 12 March 1998.

The Program does not contain any specific tax privileges, however item 8 (Measures for economic stimulation on development of export potentials) of the Program includes a number of measures providing for stimulation of tax privileges for export-oriented enterprises including:

- lowering tax rates for small manufacturing enterprises;
- developing complex of measures for lowering indirect taxation of export services and bringing in conformity with on provisions of the World Trade Organization the issues for regulating export services.

Basic provisions covered by the Program are listed below:

1. Current situation and prerequisites for developing export potentials;
2. Assessment of resource base of export potentials;
3. The Program for Developing Export Potentials for Industrial Sectors;
4. The Program for Developing Export Potentials for Agro-industrial complex;
5. The Program for Developing Export Potentials for services;
6. The Program for Developing Export Potentials in the sphere of intellectual property;
7. The Program for Developing Export Potentials in the sphere of small and private business;
8. Measures of economic stimulation for developing export potentials;
9. Basic parameters and stages of realization of the Program.

Goals and Objectives of the Program

The basic goal of the Program is to provide the conditions for steady growth of exports and improvement of its structure on the base of maximal use of available recourse and production potentials and its further development. Achievement of the aim foresees the necessity of transition

from passive to active export strategy, targeted formation of new industrial and geographical structure of export, enlarging a nomenclature and increasing competition of export products, applying progressive forms of international trade-economic cooperation.

The objective of enlarging export potentials, deepening the process of reorientation of enterprises to production of competitive export products, obtaining strong position on the world market is defined as one of fundamental priorities of the program of reforms carried out in Uzbekistan. Taking into account all complex of factors determining the condition and perspectives of export potentials development in Uzbekistan, the main objective of the Program is to form a complex of economic, organization, at legal and other conditions and prerequisite for export development, and to increase of its effectiveness. The important prerequisite for increasing the production of export-oriented products should be maximal realization of available export potentials.

Forming effective instruments for providing state financial, tax, informative-consultative, marketing, diplomatic and other kinds of assistance for exporters foresees the resolution of a number of following tasks:

- conduct systematic works on research and analysis of export potentials of the country;
- permanent monitoring and analyzing export activity of entities of the republic;
- ensure operation of the instruments for financing the state support to the exporters;
- create an effective system of foreign trade information and informative-consultative services including their regional and foreign representatives.

Question 104.

The response to Question 5 of WT/ACC/UZB/3 stated that, with regards to financing for expandable automobile exports, export subsidies were not intended. A question remains, however, whether export subsidies, or special financing terms, will in fact be extended to the automobile-exporting sector as a result of this program or others.

Answer:

Under the realization of indicated program in the sphere of enlarging of automobile export, it is expected to continue the work on creating joint ventures on producing spare parts for "UzDaewooAuto" Joint Venture.

Question 105.

Please clarify what types of programs will be enacted to help the automobile sector increase its exports, and whether any funding will be provided by the government. In addition, please give more detail about the following decrees, including any financing terms or special programs, which they may authorize.

**The Decree of the Cabinet of Ministers of the Republic of Uzbekistan 118, 26 March 1996;
The Decree of the Cabinet of Ministers of the Republic of Uzbekistan 304, 3 September 1996;
The Decree of the Cabinet of Ministers of the Republic of Uzbekistan 302, 17 June 1997, etc.**

Answer:

With the purpose to develop the automobile industry in Uzbekistan, the Government of the Republic of Uzbekistan adopted a number of resolutions for increasing the sales of the products of "UzDaewooAuto" Joint Venture to export through development of distribution system, opening service centers etc.

3. Internal policies affecting foreign trade in goods

(a) Industrial policy, including subsidy policies

Question 106.

Concerning the response to Question 3 of WT/ACC/UZB/3, please explain in more detail what types of state incentives were provided to “Uzmyasomolprom” enterprises (i.e. grants, loans, tax concessions, support for technology or environmental improvements etc.). When does Uzbekistan expect that the state support for these operations of these enterprises will be terminated?

Answer:

To support the industry, the Government of the republic, on the base of the tender conducted in 1995 among German firms-producers, signed the contracts with four companies to supply the equipment for technological re-equipment of the enterprises of dairy industry, and for this purpose the German Bank KfW under the state guaranty has provided long-term credit in volume of 11 million DM.

In 1998 also under the state guaranty the French Bank “Societe General” provided the credit in volume of 1.08 million US\$ for purchasing 6 technologic lines for producing hard cheeses of the firm “Aktini”.

All this allowed assimilating the production of new kinds of dairy products and increasing the volume of production.

Question 107.

The response to Question 4 of WT/ACC/UZB/3 stated that exports of juice, drinks, and cakes were expected in 1999 from the “Uzmyasomolprom” (Uzbek meat and milk production). How do these products qualify for incentives under the programs for the meat and milk production industries?

Answer:

The Program of Development of Export Potentials of the Association “Uzmyasomolprom” enterprises foresees and carries out the export of juices, soft drinks and cakes produced by joint ventures.

Question 108.

Per the response to Question 8 of WT/ACC/UZB/3, please provide more details about certain sectors’ eligibility as exempt from paying property taxes, including who (or what sectors) is exempt, and the expected duration of this program.

Answer:

According to the Tax Legislation, the property tax is not imposed on the property of legal persons:

- of noncommercial organizations, with the exception of the property used for business activity;
- used for needs of public education and cultural institutions;
- of housing-municipal and other urban properties of civil designation;
- on basic type of activity in the sphere of production, selection and storage of agricultural and cattle-breeding products;
- of growing, fishing and processing fish;

- of manufacturing enterprises with the share of foreign capital in the charter fund not less than US\$500,000;
- of newly created enterprises conducting tourism activity in the cities of Samarqand, Bukhoro, Khiva and Toshkent since the date of creation and gaining the first profit but for the period not exceeding three years since the time of registration. In the cases of liquidation of such legal entities before the end of one year after indicated grace period, the sum of the tax is imposed at the rate for whole period of their activity;
- of enterprises where staff-employment consists of not less than 50 per cent disabled except for those involved in trade, mediation, supply, sales and preparatory activities;
- of newly created enterprises during two years since the date of registration;

The aforesaid tax concessions do not cover enterprises created on the base of production capacities and main funds of liquidated (reorganized) enterprises, their branch offices and structural departments as well as legal bodies created under these enterprises if they use the equipment rented from those enterprises;

for three years period since the time of registration for non-governmental preschool educational institutions if the released funds are spent by them to strengthening material-technical base, purchasing the equipment, inventory, deductive materials, child toys and literature.

Local authorities can provide additional concessions to taxpayers whose property is on their territory.

Last decisions of the Government also provide for additional concessions for enterprises-producers exporting their products on freely convertible currency.

Question 109.

Concerning the response to Question 13 of WT/ACC/UZB/3, please explain with regard to the following programs: the purpose and goal of the program; what type of funding is provided and by whom; who or what sector is eligible to receive funding, and the criteria applied; the terms of financing, the dollar amount of the funding, and the expiration dates of the programs.

The Decree of the Cabinet of Ministers of the Republic of Uzbekistan 171, 29 March 1994 “On State Programme for deepening of processes for state liberalisation and privatisation in the Republic of Uzbekistan”.

The Decree of the Cabinet of Ministers of the Republic of Uzbekistan 344, 28 August 1995 “On State Programme for support of development of small and private businesses in the Republic of Uzbekistan”.

The Decree of the Cabinet of Ministers of the Republic of Uzbekistan 344, 28 August 1995 “On National programme for reconstruction and development of communication network in the Republic of Uzbekistan”.

The Decree of the Cabinet of Ministers of the Republic of Uzbekistan 110, 12 March 1998 “On State Programme for development of export potential of the Republic of Uzbekistan”.

Answer:

Copies of these normative acts are available through document WT/ACC/UZB/4/Add.1 (Nos. 10, 11, 12 and 13 refer).

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

Question 110.

Our review of the documentation indicates that Uzbekistan currently does not have in place a well-defined and transparent set of procedures to ensure that both local and foreign businesses can understand and comply with applicable standards, technical regulations, certification requirements, and conformity assessment procedures.

Please fill out the attached checklist, citing specific Uzbek legal provisions that correspond to specific provisions of the WTO TBT Agreement.

Answer:

Taking into account that currently new legislative acts are being developed in this sphere, this checklist will be submitted later.

Question 111.

Please fill out the checklist contained in WT/ACC/8 on implementation of the WTO Agreement on technical barriers to trade, citing specific Uzbek legal provisions that correspond to specific provisions of the WTO TBT Agreement.

Answer:

The Laws of the Republic of Uzbekistan: On Certification of Products and Services, On Protection of Rights of Consumers, On Quality and Safety of Food Products, On Metrology, On Standardization.

Question 112.

Please describe Uzbekistan's program of application of quality and safety certification standards to imports.

Answer:

Certification of products in the Republic of Uzbekistan is carried out in accordance with mentioned above laws, the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan №409 dated 12 August 1994 and fundamental documents of the National System of certification of the Republic of Uzbekistan irrespective whether such products are imported, exported or produced on the territory of the Republic of Uzbekistan. At the same time certification of imported goods is carried out within safety indications, which are contained in the normative documents acting on the territory of the republic.

Question 113.

What certificates are required to pass the Uzbekistan border?

Answer:

To import goods to the customs territory of Uzbekistan depending on a kind of product following documents may be required;

1. Certificate of conformity issued by accredited National Agency on Certification of the Republic of Uzbekistan, agencies on certification;
2. Certificate of origin;
3. Certificate of quality;
4. Ecological Certificate (for CIS countries) or Certificate on ISO 14000;

There is approved by the Cabinet of Ministers of the Republic of Uzbekistan “Nomenclature of products and services subject to obligatory certification”. It identifies whether import goods are subject to certification or not.

The National body of the Republic of Uzbekistan on Certification is “Uzgosstandart” (UzStateStandart). The system of ecologic certification is registered and functioning at Goskompiroda (State Committee of Nature Protection) of the Republic of Uzbekistan within the National System of certification.

From the view of ecologic certification it is necessary to test and certify every each part of environmentally harmful product.

In some cases, companies are required to submit confidential information. In these cases representatives of certification bodies shall issue the guaranteed on non-divulgence of confidential information.

Question 114.

Is there a specific list of products and equipment subject to certification? What are the coordinating bodies for certification in Uzbekistan? What laboratories are providing certification services, both in Uzbekistan and abroad?

Answer:

The Resolution of the Cabinet of Ministers of the Republic of Uzbekistan №409 dated 12 August 1994 has established the List of products subject to mandatory certification in Uzbekistan. According to the Law of the Republic of Uzbekistan On Certification of Products and Services coordinating agency in the sphere of certification is “Uzgosstandart” identified as the National Agency on certification. Certification tests are carried out in accredited test laboratories.

Question 115.

Are there efforts on going to simplify and make this process more transparent?

Answer:

The documents of the National system on certification are reviewed periodically taking into account requirements of international standards; single rules on certification of specific products are developed as well.

Question 116.

Does Uzbekistan have, published and available for traders, (a) a list of accredited laboratories; (b) the provisions and procedures of the certification scheme that clearly states both procedures and costs; (c) the rules on the testing and sampling of imported goods that details the amount of sample to be taken, and a predicted time frame to receive results?

Answer:

The source for facilitating acquaintance with the rules and procedures of certification is the documents of the National System on Certification. These documents are available in "Uzgosstandart" or in the "Standards" bookstore.

Accredited agencies on certification and test laboratories have been registered in the State registers of "Uzgosstandart"; the information on them is available in "Uzgosstandart".

Question 117.

Is there "type acceptance" of any kind currently in place? If not, what are Uzbekistan's plans to create such facilities? What are Uzbekistan's procedures for assessing the equivalence of the certification procedures of other countries, or of internationally recognized institutions?

Answer:

The order on certification of specific product is determined by the "Order on certification" established in the system of certification of homogeneous products.

Question 118.

How often must products be re-certified? Must a product be re-certified even if nothing about the product has changed?

Answer:

A period of validity of the certificate on conformity is defined on the basis of the best before date indicated on the "package", however, according to the rules of certification; the inspection control is carried out during the period of operation of the certificate. The frequency of the inspection control is indicated in the certificate.

Question 119.

How are trade secrets and proprietary information handled? Are companies forced to turn over such information in order to receive a certificate?

Answer:

According to the rules of the National System of Certification and procedural documents, agencies on certification guarantee to ensure confidentiality of the information given by a provider of information.

Question 120.

What are the language requirements for technical documents submitted to UzGost? Are both Russian and Uzbek accepted? Will an Uzbek-language only requirement be imposed in 2002? We have heard that some importers are being asked to submit documents in Uzbek. Is this true?

Answer:

According to Article 14 of the Law On State Language persons residing on the territory of the Republic of Uzbekistan have a right to accommodate to state organizations and institutions, public associations with applications, proposals, complaints on state and other languages.

Question 121.

Does UzGost charge a fee for this Russian-Uzbek translation if done in-house?

Answer:

“Uzgosstandart” does not officially translate documents from one language to another one.

Question 122.

Concerning Uzbekistan's standards, what portion of Uzbekistan's standards are mandatory, and what is being done to assess whether they should be made voluntary?

Answer:

Mandatory indications are stipulated in the new and reviewed normative acts and standards of Uzbekistan, others are considered as voluntary with regard to requirements of WTO Agreement on Technical Barriers in Trade.

Question 123.

Do the standards vary depending upon country of origin?

Answer:

“Uzgosstandart” accounts national certificates of conformity and marks of conformity and those of other states recognized by “Uzgosstandart”.

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

Question 124.

Based on the Law "On the State Sanitary Control" of 3 July 1992, the Ministry of Health undertakes hygienic certification and expertise of many imported consumer goods (food, raw materials, medicines, chemicals and minerals). These goods are listed in Annex 5. The aforementioned goods should meet medical and biological standards No. 0065-96. In case of non-compliance with these standards, the goods are prohibited for importation to the Republic of Uzbekistan and use therein.

Please fill out the attached checklist, citing specific Uzbek legal provisions that correspond to specific provisions of the WTO SPS Agreement.

Answer:

The list of specific legal provisions of Uzbekistan that correspond to WTO Agreement on SPS contains following documents:

- The Laws On State Sanitary Control dated 3 July 1992 and On Quality and Safety Food Products dated 30 August 1997;
- Regulation On Order on Certification of Products and Services dated 19 July 1999.

Question 125.

Please fill out the checklist contained in WT/ACC/8 concerning compliance with the WTO Agreement on Sanitary and Phytosanitary (SPS) Measures, citing specific Uzbek legal provisions that correspond to specific provisions of the WTO SPS Agreement.

Answer:

Taking into account that presently new legislative acts are being developed in this sphere, this checklist will be provided later.

Question 126.

Please provide copies in translation of the Law on State Sanitary Control (3 July 1992) and the Law on Quality and Safety of the Food Items (30 August 1997). These were not appended, as indicated in the response to Question 36 in WT/ACC/UZB/3.

Answer:

Copies of indicated documents are available through WT/ACC/UZB/4/Add.1 (Nos. 14 and 15 refer).

Question 127.

Has Uzbekistan established an enquiry point with respect to SPS measures?

Answer:

The requirements for sanitary norms and rules on parameters safety of food products have been established.

The Law of the Republic of Uzbekistan On Quarantine of Plants dated 31 August 1995, Rules for Protection of the Territories of the Republic of Uzbekistan from Quarantine Vermins, Plants and Weeds dated 5 December 1997, provide a number of legislative provisions on rules of import of seeds, plants and products of vegetable origin in the Republic of Uzbekistan import of which is eligible only if import quarantine permission is issued by Republican Main State Inspection on Quarantine of Plants under the Ministry of Agricultural and Water Resources of the republic of Uzbekistan.

Question 128.

Does Uzbekistan recognize international sanitary and phytosanitary standards?

Answer:

The Republic of Uzbekistan recognizes standards according to requirements of the legislation of the Republic of Uzbekistan.

Uzbekistan observes WTO requirements on sanitary and phytosanitary control (SPS). Phytosanitary certificate, issued for quarantine products imported to the Republic of Uzbekistan, is document confirming the lack of quarantine objects in such quarantine products.

Question 129.

Is Uzbekistan a member of the Codex Alimentarius Commission (CODEX)? Does Uzbekistan adopt Codex Standards for maximum residue levels (MRLs) for pesticides in food products?

Answer:

The Republic of Uzbekistan is currently not a member of the Codex Alimentarius Commission.

Question 130.

Is Uzbekistan a member of the International Plant Protection Convention (IPPC)? Does Uzbekistan accept Phytosanitary Certificates issued by Members of IPPC as certification for phytosanitary status of plants and plant products?

Answer:

The Republic of Uzbekistan is currently not a member of the International Plant Protection Convention (IPPC).

Question 131.

Is Uzbekistan a member of the Office Internationale des Epizootie (OIE)?

Answer:

The Republic of Uzbekistan is a member of the Office Internationale des Epizootie since 12 October 1992.

Question 132.

Uzbekistan should develop a proposed strategy for implementing the WTO Agreements on Technical Barriers to Trade and on Sanitary and Phytosanitary Measures that includes implementation of the substantive, procedural, and institutional requirements of these agreements, e.g., enquiry points, publication for prior comment, elimination of mandatory standards, conformity assessment procedures, etc. and provide information to the Working Party on a timetable for completion of implementation.

Answer:

Please refer to the information given above.

(e) State-trading practices

Question 133.

Uzbekistan indicates in WT/ACC/UZB/2 that it has largely dismantled state trading enterprises, but that foreign trade in cotton, grain, ferrous and non-ferrous metals, oil, natural gas, and coal is still state traded.

Does Uzbekistan plan to allow private trade in any of these remaining state traded goods? Is there a timetable for such action?

Answer:

Taking into account that oil and gas industries are strategic, the Government of the Republic of Uzbekistan adopted the Resolution On Establishment of the Activity of the National Holding Company "Uzbekneftegaz" (Uzoilgas). On the basis of this Resolution, the National Holding Company "Uzbekneftegaz" and 8 large joint-stock enterprises have been created.

39 per cent of Charter Fund of 8 joint-stock enterprises is subject to free sales on stock exchange including sales to foreign investors. Presently measures are being carried out for attracting investment banks for selection of financial counselor on privatization of the company of "Uzgeoneftegazdobicha" and "Uztransgaz".

The Resolution of the Government of the Republic of Uzbekistan On Measures on Stimulation of Attraction of Foreign Capital Within Privatization of State Property provides for privatization of "Farghona Oil Processing Plant". 40 per cent of plant's shares are subject to sales to a foreign investor.

Year by year controlling rate of the government on trading with these products is lowering. In 2001 it is planned to put on a free sales all agricultural products.

Besides, the process of obtaining these goods requires large investments that can be provided only by large state companies and agencies. These companies and agencies, financing producers of agricultural products, naturally become owners of these goods according to futures contracts. Concerning the export of energy resources, we inform that according to investment programs in mining areas, investors which invest funds in to such mining, can be come owners of indicated resources and export them independently according to agreements.

Question 134.

Please outline how the procuring entities adhere to WTO rules regarding MFN treatment, national treatment, administration of price controls, and the application of quotas and licenses.

Answer:

With the purpose of further liberalization of foreign economic activity, improvement of regulation of export-import transactions, the Decree of the President of the Republic of Uzbekistan №UP-1871 dated 10 October 1997 was adopted in accordance with that 3 per cent minimal rate of customs duty was introduced for all nomenclature imported goods (works and services). The Resolution of the Cabinet of Ministers of the Republic of Uzbekistan №80 dated 24 February 1998 On Measures of Tariff Regulation has introduced import customs duty rating from 5 per cent to 30 per cent (exception for automobile) on the nomenclature of commodities included in 65 commodity groups of Commodity Nomenclature of Foreign Economic Activity.

Due to existing tariff regime the weighted average rate of import duties for all denominations of import is 4.8 per cent.

In accordance with the Resolution of the Cabinet of Ministers №137 dated 31 March 1998 On Additional Measures for Liberalization of Foreign Trade Activity in Uzbekistan, above-mentioned rates of duties are duties of the most favored treatment. The tariff rates are doubled for those countries to which MFT is not applied.

The Republic of Uzbekistan provides MFT for 38 countries in accordance with international treaties of Uzbekistan.

Question 135.

Uzbekistan notes that the state joint-stock company, "Uzdonmakhsulot," controls most of the flour milling in the country. To what extent are other milling enterprises allowed to operate? Can these import grain?

Answer:

The Government of the republic carries out purchasing grains for state resources with the purpose to optimal-guaranteed supply of flour, bakery and macaroni products for the population, and creation of necessary state reserves.

Purchasing grains for above-mentioned purposes is implemented by enterprises of the State Joint-Stock Company "Uzhlebproduct" (Uz-bread-product) through concluding contracts with grain crop producers.

State Joint-Stock Company "Uzhlebproduct" does not control productive activity of structural enterprises since the state share in charter fund of milling enterprises is about 25 per cent.

Coming from production capacities and an assortment of produced goods, enterprises of this system, in the line with other entities, have a right for independent procurement through importing food and forage grain and other products which are required for them to produce flour, bread-bun, baking, macaroni products and fodders in accordance with financial opportunities of these enterprises and available customer market for finished products.

Question 136.

WT/ACC/UZB/2 states that Uzbekistan procures basic foodstuffs for "state needs" on the basis of competitive tendering. Such procurement is conducted by means of direct contracts with the domestic goods producers or by the purchase of goods at fairs or bidding arranged the Republic Joint-Stock Association for Wholesale and Commodity Exchange, "Uzulgurjibirjasavdo." The contracts may be signed in such a case, upon receiving a consent (regarding prices) of the Ministry of Finance or of its local bodies.

What products are involved in these purchases? What are the "state needs" for which these purchases are made? Are they for government consumption or for further distribution to the population?

Answer:

Staple food products purchased for state needs are meat and meat products, animal fat, tea, sugar, vegetable oil, flour, cereals, dry milk, infant nutrition, potatoes. The term of "state needs" means that purchases of food products, carried out fully or partly at the expense of state funds and are intended for ensuring needs of state supply institutions, special consumers and for stocking in "Uzstatereserve". The state supply institutions are children's homes, infant's homes, children preschool institutes, daily schools, boarding schools, high and secondary special vocational institutions financed from the budget. Among are also hospitals, sanatoriums, prophylactic and therapeutic-prophylactic institutions and others.

Question 137.

What is the fee to receive tender documents for an organization wishing to bid? What other fees are charged?

Answer:

The "Uzbektenderconsulting" Agency has tariffs for tender documentation established by the Republican Commission on Coordination of Tenders. Tariffs are set in percentages depending on amount of purchases.

Question 138.

How are purchases for state needs distributed?

Answer:

In accordance with the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan №397 dated 14 August 1997, purchases of staple food products for state needs (for state supply institutions and state reserve) are implemented as a rule on the basis of competition.

Besides, according to last decisions of the Government of the republic, alternative programs on optimization of this matter have been developed.

Question 139.

How are imports factored into these purchases? Does Uzbekistan maintain separate tendering procedures for domestic goods/services versus imported goods/services? Please explain the tender procedures established by the Council of Ministers for import procurements.

Answer:

According to above-mentioned Resolution, import purchases are carried out on the basis of tender in that part which is not provided by the resources of domestic producers implying step-by-step reduction of importing food products for state needs.

Question 140.

Are there any other firms or government agencies engaged in "purchases for state needs" other than "Uzbektenderconsulting".

Answer:

"Uzbektenderconsulting" Agency has been established on the basis of the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan №397 dated 14 August 1997 and №454 dated 26 September 1997 solely to establish and conduct tenders for supply of staple food products for state needs. After conducting the tender and announcing its results, the winner of the tender concludes contracts with authorized custom bodies. At the same time, current legislation of the Republic of Uzbekistan also allows to conduct institutional tenders for supply different products for own needs.

Question 141.

Do the tender processes and bidding procedures of the Republic of Uzbekistan adhere to national treatment and nondiscriminatory principles?

Answer:

Current rules of conducting tenders for supply of food products for state needs have been established to ensure economic efficiency of procurements, enlarge of numbers of suppliers, create an equality among them irrespective of the property form and state ownership, provide the open procedures for procurement of products, and develop competition between suppliers.

Question 142.

Does Uzbekistan maintain any domestic preference schemes for producers of procured goods/services? If so, please explain the goods/services involved and the details of the domestic preference.

Answer:

Please refer to the information given above.

Question 143.

In which types of "mass media" are tenders published?

Answer:

Depending on forms of conducted tenders, they can be open or closed (limited to a certain number of participants). Information on open tenders is brought to the notice of companies through publication of announcements in following "mass media" of the Republic of Uzbekistan: "Narodnoe Slovo", "Halq Suzi", "Pravda Vostoka" and "Business partner of Uzbekistan" newspapers.

The information on closed tenders is not published in mass media outlets. The participation in such tenders is carried out upon official proposals of the Commission.

Question 144.

Is twenty days the standard length of time for tenders to be received? If so, are there any exceptions to this rule?

Answer:

In accordance with Point 6.1 of the Resolution of the Cabinet of Ministers №454 dated 26 September 1997, available under document WT/ACC/UZB/4/Add.1 (Ref. No. 2), "Uzbektenderconsulting" Agency informs bidders about tender during the period not less than 30 days till the commencement of tender. The Republican Commission on Coordination of Tenders defines dates on consideration of tender offers since the time of opening envelopes.

Question 145.

Please explain the process of pre-qualification carried out by the Agency for Tenders.

Answer:

According to point 8.2 to the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan №454 dated 26 September 1997, available under document WT/ACC/UZB/4/Add.1 (Ref. No. 4), the process of pre-qualification of bidders is carried out by the "Uzbektenderconsulting" Agency in accordance with the Order on Preparation and Conducting Closed Tenders, and is approved of by the Republican Commission on Tenders. To participate in the pre-qualification process, applicants should submit:

- the letter to the name of the Minister of Foreign Economic Relations with short description of a company history, directions of activity, proposed products (works, services), financial information, and experience of work in Uzbekistan or CIS;
- recommendation of servicing bank;

- certified extract on registration of a firm in relevant state bodies of the country of registration;
- recommendations from famous foreign partners or not less than 3 letters of recommendation issued by entities of Uzbekistan.

Companies are not eligible for tender if they:

- are in the process of reorganization, liquidation or bankruptcy;
- did not submit on time necessary documents for pre-qualification process including banking guaranties on implementing financial obligations;
- do not meet requirements of the Commission on financial, production or commercial indicators.

Question 146.

What are the criteria for judging tenders? Are there different criteria for domestic versus foreign producers?

Answer:

The basic principles for conducting tenders are creation of equal competitive conditions for participants of tenders, publicity, objective appraisal and unity of requirements. Appraisal of tender proposals and definition of winner of tender is carried out on the basis of criteria indicated in tender documentation. Additional technical, organizational and commercial advantages of submitted tender propose as well as the reputation of participant of the tender also can be taken into account.

Question 147.

Are there any licensing requirements for foreign producers wishing to bid on Uzbekistan procurements? If so, please give detail as to the licensing procedures and the types of licenses involved.

Answer:

Presently there are no licensing requirements for foreign producers wishing to bid for supply of food products into the Republic of Uzbekistan.

Question 148.

Please provide a copy of any of the relevant legislation, which purchases for state needs or any government purchases for commercial distribution or as inputs in the manufacturing process of goods sold commercially.

Answer:

A copy of the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan On Improving the System of Staple Food Products for State Needs №397 dated 14 August 1997, is available under document WT/ACC/UZB/4/Add.1 (Ref. No. 16).

Question 149.

Uzbekistan states that flour, sugar and vegetable oil are still subject to a rationing system.

If this is still so, please list the products subject to these requirements by HS number. Please provide details on the scope and operation of the rationing system. Does Uzbekistan foresee elimination of these controls in the future?

Are the rationed products produced and/or traded by state-owned or state-trading enterprises?

Answer:

There is no restriction on domestic trade with mentioned goods, though the Government, taking into account their position in the commodity category of the primary necessity, pays much attention to their permanent presence in the assortment of trade enterprises.

The Government welcomes the establishment of production of such products by any entities irrespective of their forms of property.

Besides, there is prohibition for export of such products because of the insufficiency of their domestic production.

In the course of realization of above-mentioned programs of economic development, this matter is going to be solved soon and general policy for stimulation of export will be extended to those products, which are temporarily prohibited for export.

Question 150.

The response to Question 43 of WT/ACC/UZB/3 states, “foreign trade companies are selling cotton fibre in international markets exclusively pursuing the commercial interests”. We seek further description of the role of foreign trade companies in marketing Uzbekistan’s cotton internationally.

How is the cotton procured for export?

Can other firms purchase Uzbek cotton in competition with the foreign trade companies? If so, what requirements must they meet? In recent years, what portion of Uzbek cotton foreign trade companies and what portion by other entities have exported?

Is an export licence required to export cotton? If so, who can obtain such licenses and how are they distributed? Where is information on how to meet any licensing requirements available?

How are export prices for the cotton determined?

Answer:

Foreign trade companies of the Ministry of Foreign Economic Relations (MFER) carry out export of cotton fiber through centralized supplies basically.

Application of such scheme is mainly preconditioned by insufficient experience of producers in export transactions: conducting such transactions discontinues the production cycle. And this scheme is aimed to provide qualified services for a local producer (timely transportation, storage etc.).

One more important factor is retaining steady prices for these goods on the world market with a view that Uzbekistan is the second largest exporter of cotton in the world.

In accordance with international practice, price parameters are defined coming from quotation of such product on commodity and raw material markets.

Export of cotton fiber is not licensed but export contracts are registered in MFER with aims indicated above.

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

Question 151.

Does the Republic of Uzbekistan plan on joining the WTO Government Procurement Agreement upon accession to the WTO?

Answer:

The Republic of Uzbekistan plans to join the WTO Government Procurement Agreement upon accession to the WTO.

Question 152.

Please provide a copy of any and all relevant legislation, which addresses government procurement practices in Uzbekistan.

Answer:

Presently, in the sphere of government procurement of the Republic of Uzbekistan, the Government adopted:

The Resolution of the Cabinet of Ministers of the Republic of Uzbekistan №397 dated 14 August 1997, On Improving the System of Purchases of Staple Food Products for State Needs is available under document WT/ACC/UZB/4/Add.1 (Ref. No. 16);

The Resolution of the Cabinet of Ministers of the Republic of Uzbekistan №454 dated 26 September 1997, On Establishing of Supplies of Foodstuffs for State Needs on the Basis of Competition is available under document WT/ACC/UZB/4/Add.1 (Ref. No. 17).

The Government is also considering a Draft Law on Government Procurement.

4. Policies affecting foreign trade in agricultural products

Question 153.

We encourage Uzbekistan to consult the WTO Secretariat technical memo (WT/ACC/4) regarding preparation of information and tables on domestic support and export subsidies.

We would appreciate additional information concerning Uzbekistan's domestic agricultural policies, including a description, budgetary expenditure and any revenue foregone involved in each measure.

Does Uzbekistan have any near term plans to bring producer prices for cotton growers closer to world market prices for cotton? If so, when and how close?

When producers receive low prices in local currency and the government sells the cotton on the world market for dollars at higher prices, is this not an implicit export tax at the expense of your cotton producers, adding further pressure on already low wages in the cotton-growing sector?

Answer:

Foreign trade companies of Uzbekistan with state share not only export cotton fiber but also take a direct part in financing a producer. This is an important integral part of successful sowing, harvesting and other activities for production of agricultural products.

In such situation, basic problems facing the producers are solved.

The contracts with producers for purchasing indicated types of products are concluded long before beginning of growing of these products. Preparing agencies carry out preliminary payment of agricultural enterprises' expenses connected with preparation works, sowing, harvesting, watering and others.

Taking into consideration the said conditions, a price on indicated products on centralized purchases is defined. This is in conformity with world practice on conclusion of futures contracts.

(b) Exports

Question 154.

What are Uzbekistan's plans to eliminate the export ban on grain?

Answer:

At present time, the matter on eligibility of grain export on the basis of permission is under discussion.

Question 155.

Have any other export bans on exports been enacted?

Answer:

The list of goods prohibited to export from the territory of the Republic of Uzbekistan is supplemented by following categories: leather-processing, fur raw material, scrap and waste of non-ferrous metals, silkworm cocoons, waste of silk.

(e) Internal policies

Question 156.

We encourage Uzbekistan to consult the WTO Secretariat technical memo (WT/ACC/4) regarding preparation of information and tables on domestic support and export subsidies.

We would appreciate additional information concerning Uzbekistan's domestic agricultural policies, including description, budgetary expenditure and any revenue foregone involved in each measure.

Answer:

One of main aims of policy of the Government in agricultural sector is to ensure stability and growth of supplies of agricultural products to local market. In accordance with government policy, diversification of agricultural production is being carried out. However, the Government does not foresee to provide direct financial support to agrarian sector. The policy of reforms in agrarian sector

is aimed at elimination of payments to enterprises of this sector and farmers within direct state financial support in nearest future.

Question 157.

Does Uzbekistan have any near term plans to bring producer prices for cotton growers closer to world market prices for cotton? If so, when and how close?

When producers receive low prices in local currency and the government sells the cotton on the world market for dollars at higher prices, is this not an implicit export tax at the expense of your cotton producers, adding further pressure on already low wages in the cotton-growing sector?

Answer:

Foreign trade companies of Uzbekistan with state share not only export cotton fiber but also take a direct part in financing a producer. This is an important integral part of successful implementation of sowing, harvesting and other activities for production of agricultural products.

In such situation, basic problems facing the producers are being solved.

The contracts with producers for purchasing indicated types of products are concluded long before beginning of growing these products. Preparing agencies carry out preliminary payment of agricultural enterprises' expenses connected with preparation works, sowing, harvesting, watering and others.

Taking into consideration the said conditions, a price on indicated products on centralized purchases is defined. This is in conformity with world practice on conclusion of futures contracts.

Question 158.

The response to Question 59 of WT/ACC/UZB/3 states that the Decree of the President of the Republic of Uzbekistan YP-1978 dated 18 March 1998 approved the Programme of economic reforms in agriculture for the period 1998-2000.

Please describe the nature of the reforms and what types of funding will be provided under the framework of direct state financial support.

Please describe the program's overall purpose and goal, what type of funding is provided and by whom, who or what sector is eligible to receive funding, the terms of financing, the dollar amount of the funding, and the expiration dates of the programs.

Please explain if it is intended that these programs will be phased out, and if so, the timeframe for doing so. Will other programs replace the current ones in the framework? Are there plans to extend the direct state financial support past the year 2000?

Answer:

The key importance in the "Program on deepening economic reforms in agriculture" is given to systematic changes, primarily reforms in relationships of property ensuring revival with a farmer of the feeling of an owner of the land, means of production and results of his work.

Launching a new system of organization of agricultural production foresees review of the system of organization, principles and instruments of activity of agricultural enterprises.

Question 159.

The response to Question 60 of WT/ACC/UZB/3 talks about programmes of economic reforms intended for, inter alia, the development of agricultural sector and the diversification of agricultural enterprises.

Please explain in more detail what types of government support is given to encourage diversification. Is this support available to everyone (including individuals as well as companies) within the agricultural sector? Is there a legal mandate for diversification, and, if so, could you please provide the legislation authorizing the support for diversification?

Answer:

State support of reforms in agriculture is expressed in creation of relevant conditions in the republic for activity of business entities in agricultural sector with full pledge.

This includes, in particular, application of measures of tariff regulation, stimulation of creation of relevant infrastructure, and other similar measures.

V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME

1. General

(a) Intellectual property policy

Question 160.

While WT/ACC/UBZ/2 makes it clear that Uzbekistan has made progress in establishing protection of intellectual property rights in its trade and economic regime, we believe that more should be done to bring Uzbekistan's IPR regime into line with its bilateral obligations and to meet the requirements of WTO accession.

We seek Uzbekistan's full implementation of the TRIPs Agreement on the date of its accession to WTO without recourse to a transition period.

Please provide copies of current laws, decrees, and regulations regarding IPR protection. Will Uzbekistan make available any draft legislation on this issue?

Answer:

It should be mentioned that the Government of the Republic of Uzbekistan tackles consistent policy on conducting measures aimed at ensuring the protection of intellectual property. In particular, since the period of 1993 in the republic more than 50 laws, decrees, legislative acts and provisions has been adopted which reflect the issues on protection of intellectual property rights. Among them are Civil Code/adopted in 1996, Laws On Trademarks and Service Marks/1993, On Inventions, Utility Models and Industrial Designs/1994, On Legal Protection of Computer Programs and Databases/1995, On Copyright and Neighbouring Rights/1996, On Breeding Achievements/1996 (available under document WT/ACC/UZB/4/Add.1 - Ref Nos. 18, 19, 20, 21, 22 and 23 refer) and others.

Since may 1993 the Republic of Uzbekistan is a member of the World Intellectual Property Organization ((WIPO); in 1993 the republic joined "Paris Convention on Protection of Industrial Property", "Agreement on Patent Cooperation", Madrid Agreement on International Registration of Marks", in 1998 it signed the "Treaty on Laws on Trademarks".

From 15 to 18 October 2000, the US delegation headed by the Director of the Trade Representative for Central Europe and Asia Ms. K.Kuhlman visited the Republic of Uzbekistan. The main goal of the visit was consideration of issues related to realization of provisions of Article 8 to "Agreement on Trade Relations between the Republic of Uzbekistan and the US" signed in 1993, on observance of intellectual property rights in Uzbekistan and the process of joining international conventions, in particular, "Bern Convention for the Protection of Literary and Artistic Works" (Paris Act, 1971) and "Geneva Phonograms Convention (1971).

It was noted that the membership in the aforementioned international conventions is being implemented in the context of accession of Uzbekistan to the WTO, and realization of provisions of the "Partnership and Cooperation Agreement between the Republic of Uzbekistan and European Community" and Resolutions of the Cabinet of Ministers of the Republic of Uzbekistan №296 dated 10 June 1999 and №415 dated 3 September 1999. This process is to be completed by 2004.

In the process of negotiations it was mentioned that in general Uzbekistan has implemented provisions of Article 8 of the "Agreement on Trade Relations between the Republic of Uzbekistan and the US" and brought its legislation to conformity with the requirements of international treaties. As a result of joint analysis of current legislation of the republic, parties recognized it sufficient and efficient to protect the interests and rights of foreign producers.

(b) Responsible agencies for policy formulation and implementation

Question 161.

Please describe the structure of the Agency for Copyright under the Cabinet of Ministers and the State Patent Agency of the State Committee for Science and Technology, referred to in subsection 1(b), and their functions in detail.

Answer:

Two governmental organizations are responsible for developing policy and ensuring protection of intellectual property rights.

State Agency on Protection of Copyright under the Cabinet of Ministers provides protection of copyright and neighboring rights. State Patent Department under the State Committee on Science and Technology of the Republic of Uzbekistan provides protection of rights on patent, rights on inventions, utility models and layout designs, trademarks, geographical indications, breeding achievements, computer programs and databases.

1. State Patent Department

State Patent Department under the State Committee on Science and Technology of the Republic of Uzbekistan performs industrial process of consideration of applying materials for the objects of intellectual property (inventions, utility models, layout designs, trademarks, computer programs and databases) with the purpose of providing them with legal protection and publication of patent information realized by the State Patent Department.

State Patent Department as a production facility is the system of consistent-parallel structure. The elements of this structure are divisions, agencies, other industrial subdivisions and relations among them as well as relations with external environment and besides, these relations of the system are established through information flows – flows of materials and documents.

Divisions perform technological processes of accepting and reviewing of applied materials, State expertise, State registration, publication, legal procedures like establishing of protective ability of

applied facilities, tackling directions and others. The divisions also carry out operations on drawing up documents, passing through the divisions of applied materials transferring them to other divisions etc.

2. Agency on Copyright

The Uzbek Republican Copyright Agency was established on the basis of the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan №38 dated 30 January 1992. Copyright Agency conducts its activity according to its Charter, approved of by above-mentioned Resolution, is the state institution, and tackles single state policy in the sphere of copyright of the Republic of Uzbekistan.

The structure of the Uzbek Republican Copyright Agency:

1. Chairman;
2. Deputy Chairman;
3. Legal Adviser;
4. Inspector;
5. Division on Registration of Authors;
6. Financial Division;
7. Authorized Divisions in every region of the Republic of Uzbekistan (18 employers).

Besides, the State Antimonopoly Committee is responsible for developing and submitting for consideration of the law, prohibiting unfair competition including unauthorized use of trademarks, packages, closed and confidential commercial information and preventing access to the market goods and services of new entities as well.

Question 162.

Please describe, in detail, the process for establishing policy regarding intellectual property and for preparing legislation, indicating how agencies work with the Agency for Copyright and the State Patent Agency in developing policy and legislation or in approving it before it is submitted to the legislature.

Answer:

State Patent Department in the course of developing draft legislative acts follows international norms, the Constitution and the laws of the Republic of Uzbekistan which are harmonized with International Treaties and Agreements in the sphere of protection of intellectual property. During the preparation, draft laws are agreed on with relevant ministries and institutions, remarks and suggestion of which are taken into account. Draft laws are submitted for consideration to the Cabinet of Ministers of the Republic of Uzbekistan. After approval of a draft law is adopted on the session of Supreme Legislative Body of the Republic of Uzbekistan Oliy Majlis (Parliament).

Question 163.

Please describe in detail the manner in which the Anti-Monopoly Organization interacts with other agencies or ministries in carrying out its responsibilities.

Answer:

State Antimonopoly Committee is independent in its activity on other bodies, its decisions can be appealed against the court. State Antimonopoly Committee is responsible for fulfillment and control of observance of legislation in the sphere of protection of consumers' rights.

In accordance with the Decree of the President of the Republic of Uzbekistan №UP-2676 dated 2 August 2000, State Antimonopoly Committee has been reorganized to the independent structure – State Committee on De-monopolization and Development of Competition.

Question 164.

Please describe in detail the authority and the functions of the Anti-monopoly Organization including its authority to investigate allegations of infringement of intellectual property rights and how that authority is exercised. Provide examples of specific cases wherever possible.

Please provide details about the Organization itself such as the number of employees and their individual functions, the number and nature of the cases they have dealt with to date, their funding, and their publications, if any.

Answer:

In accordance with current legislation, State Committee on De-monopolization and Development of Competition is responsible for developing and ensuring competitive environment through detection of enterprises, which can be classified as enterprises dominating on the market of certain goods.

The number of employees of the organization is 414 persons each of them have personal functional responsibilities.

Dominating enterprises, which have market share of certain goods at 65 or more per cent, are automatically considered as monopolies and fall under regulative authorities of the State Committee on De-monopolization and Development of Competition.

Also, those enterprises are considered as dominating, which have the share on the market from 35 to 65 per cent. These enterprises can be considered as monopolies if investigation carried out by the State Committee on De-monopolization and Development of Competition shows the sufficient reasons to consider them as monopolies.

During the investigations, the State Committee on De-monopolization and Developments of Competition takes into account following factors: stability of the market share of an enterprise; relative volume of share belonging to its competitor; level of legibility of to the market for potentially new competitors; other criteria characterizing relevant market. As a result of such delimitation of dominating enterprises, the State Committee on De-monopolization and Development of Competition aspires to reduce a list of monopolies and monopoly goods in the transition period.

The State Committee on De-monopolization and Development of Competition is also responsible for audit, evaluation and authorization for merger of enterprises that could lead to creation of dominating enterprises.

The antimonopoly Law of the Republic of Uzbekistan On Competition and Restriction of Monopoly Activity on Commodity Market dated 27 December 1996 particularly indicates that control on natural monopolies in certain sectors of economy can be provided for by other legislative acts.

Certain sectors are: (i) mining of oil, gas condensate, natural gas and coal; (ii) transportation of oil, oil products and gas through pipelines; (iii) production and transportation of electrical and thermal energy; (iv) railway transportation; (v) services of ports and airports; (vi) services of electricity and post communication within the of reach everyone; (vii) services of water-pipe and sewerage facilities.

In this regard, on 25 April, 1997 Oliy Majlis adopted the new Law On Natural Monopolies regulating the activity of natural monopolies in the above mentioned certain sectors.

In accordance with the Law On Natural Monopolies, the Cabinet of Ministers and the State Committee on De-monopolization and Development of Competition of the Republic of Uzbekistan carry out state regulation of the activity of natural monopolies.

The State Committee on De-monopolization and Development of Competition considers applications on infringements of intellectual property rights. For example, in October 1998 Antimonopoly Committee revived a complaint from the representatives of Procter and Gamble company about wholesale and retail trading of false shampoos "Head and Shoulders" and "Pantene" in the province of Andijon, Bukhoro, Farghona and the city of Toshkent the fact which was the infringement of Article 8 of the Antimonopoly Legislation and Article 7 of the Law On Protection of Consumers Rights with the respect of unfair competition, misleading the consumers, consumers with providing unreliable information on goods to and distortion of consumer qualities of goods.

Joint audits of territorial departments of the Committee with tax bodies and responsible persons of Procter and Gamble company detected 26 cases of wholesale and retail trading of false shampoos "Head and Shoulders" in the provinces of Andijon, Bukhoro, Farghona and the city of Toshkent. According to results of audits it was confiscated false goods and goods without the certificate of quality at the amount of 128,2 thousand Soums. Besides 3 private businessmen in the province of Andijon were fined at the amount of 8,5 thousand Soums for infringing rules of trading according to Article 178 of the Administrative Code.

The production of mineral water in plastic bottles sized 1,5 liter with the use of the title of «Borjomi» was detected in the city of Toshkent. This mineral water was being produced by the company "Barno-Trading ltd". The composition of this water did not correspond to the water produced in Georgia. "Barno-Trading ltd" producing the mineral water only used the title of "Borjomi".

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

Question 165.

This section lists the multilateral conventions and agreements regarding intellectual property to which the Republic of Uzbekistan belongs and indicates those to which the Government of the Republic of Uzbekistan is considering adhering. The Berne Convention for the Protection of Literary and Artistic Works and the Geneva Phonograms Convention are absent.

Please indicate when Uzbekistan intends to accede to these Conventions?

Answer:

It should be mentioned that the Government of the Republic of Uzbekistan is tackling consistent policy on implementing measures aimed at ensure the protection of intellectual property. In particular, since the period of 1993, in the republic was adopted more than 50 laws, decrees, legislative acts and provisions which reflect the issues on protection of intellectual property rights. Among them Civil Code (adopted in 1996), Laws On Trademarks and Service Marks (1993), On Inventions, Utility Models and Industrial Designs (1994), On Legal Protection of Computer Programs and Databases (1995), On Copyright and Neighbouring Rights (1996), On Breeding Achievements (1996) and others.

Since may 1993, the Republic of Uzbekistan is a member of the World Intellectual Property Organization ((WIPO); in 1993 the republic joined Paris Convention on Protection of Industrial Property, Agreement on Patent Cooperation, Madrid Agreement on International Registration of Marks, in 1998 the Treaty on Laws on Trademarks.

Joining international conventions in the sphere of copyrights in particular, the Bern Convention for the Protection of Literary and Artistic Works (Paris Act, 1971) and Geneva Phonograms Convention (1971) is implemented in the context of accession of Uzbekistan to the WTO, and realization of provisions of the Partnership and Cooperation Agreement between the Republic of Uzbekistan and the European Union” and Resolutions of the Cabinet of Ministers of the Republic of Uzbekistan №296 dated 10 June 1999 and №415 dated 3 September 1999. This process is going to be completed by 2004.

In this regard the Government of the republic adopted a number of normative acts, which approved the Complex Program of focal organizational measures of the Government of the Republic of Uzbekistan on implementation of the mentioned agreements for the period from 1999 to 2004. This program includes the intention of Uzbekistan to sign above-mentioned international-legal acts, and also provides for adoption of a number of legislative acts in the sphere of intellectual property and introducing amendments into current acts.

Within implementing above-mentioned government regulations, relevant ministries of Uzbekistan are considering draft laws on introducing supplements and amendments into criminal, administrative, civil, tax, customs and other legislations of the republic with respect to protection of intellectual property rights.

(d) Application of national and m.f.n. treatment to foreign nationals

Question 166.

This section indicates that foreign persons, foreign entities and stateless persons are charged higher dues and fees for intellectual property rights than nationals of the Republic of Uzbekistan or of other CIS countries. This is inconsistent with the Article 3 of the TRIPs Agreement, which requires that nationals of other WTO Members be treated no less favorably than a country's own nationals, and Article 4, which requires that nationals of WTO Members be treated no less favorably than the nationals of the most favored nation.

What plans does the Republic of Uzbekistan have or what plans are being made to provide for uniform dues and fees for nationals of all WTO Members?

Answer:

Differences of patent duty, in table V-1 of Document WT/ACC/UZB/2 were set by the Republic of Uzbekistan in accordance with applied practice of the World Intellectual Property Organization, the European Patent Body and other international and national bodies, establishing privileges for applicants, the level of income of which is US\$3,000 per year and lower.

Due to absence of clear direction on the coverage of the mentioned privileges for applicants of all member-states of the Paris Convention On the Protection of Industrial Property, these differences do not fully correspond with national measures, indicated in Article 2 of the Paris Convention. The Republic of Uzbekistan is considering reduction of such differences between the regimes and is planning to introduce relevant amendments.

Question 167.

Although there seems to be specific national treatment provisions in the Uzbek laws on trademarks, layout designs and computer programs and databases, no citation is given to any national treatment provision in your copyright law.

Please cite and quote the provisions in Uzbek law that provide for national treatment for copyright and indicate any exceptions to national treatment in a copyright context.

Answer:

General policy of the Republic of Uzbekistan is to provide foreign citizens, persons who do not have citizenship and foreign legal persons on the territory of the republic with the same rights, which the citizens of Uzbekistan enjoy.

There are special provisions concerning the national treatment in the Civil Code (Article 7), in the Laws of On Inventions, Utility Models and Industrial Designs (Article 42), On Trademarks and Service Marks (Article 33), On Breeding Achievements (Article 2) and On Legal Protection of Computer Programs and Databases (Article 9.).

There are no exclusions from national regime in the context of protection of copyright and neighboring rights.

In accordance with Article 1063 of the Civil Code in order to protect works on the territory of the Republic of Uzbekistan, a person recognized as an author of the work is identified according to the laws of the state where the work has been protected for the first time, and Article 4 of the Law of the Republic of Uzbekistan On Copyright and Neighboring Rights indicates that copyright cover works published or being in any objective form on the territory of the Republic of Uzbekistan irrespective of the citizenship of authors and their right successors...”.

In accordance with the Law On Foreign Investments in the line with financial and material resources, intellectual property rights are also considered as foreign investments (Article 3). Royalty, licence and other commissions and payments reinvested by foreign investors in the objects of commercial and other types of activity are also recognized as foreign investments.

In accordance with the Law On Guaranties and Measures for Protection of the Rights of Foreign Investors, foreign investments and other assets of foreign investments are not subject to nationalization and requisition (Article 5), use and transfer of means are guaranteed (Articles 6 and 7), and repayment of foreign investments due to termination of the investment activity is also guaranteed (Article 8).

Question 168.

The same section of the Foreign Trade Memorandum states that the Law "On Foreign Investments" recognizes intellectual property rights as investments for purposes of the law.

Please describe in detail the practical consequences of recognizing intellectual property rights as investments, particular in relation to taxation, regulation, transfer, etc.

Answer:

In accordance with the Law On Foreign Investments, adopted in 1998, which specify the legal basis and measures of attraction and rational use of foreign financial, material and intellectual resources, up-to-date technologies as well as management skills on the territory of the Republic of Uzbekistan, all kinds of material and nonmaterial resources and rights, including the rights for intellectual property are recognized as foreign investments (Article 3). Royalty, licence and other commissions and payments reinvested by foreign investors in the objects of commercial and other types of activity are also considered as foreign investments.

Alongside with other forms of foreign investment, foreign investors are entitled to invest the rights into intellectual property, including copyrights, inventions, utility models, industrial designs, trademarks, firm names and know-how, as well as good will (Article 5). In accordance with Article 9, the state guarantees and protects all rights and interests of investors in investment activity. Foreign investors are entitled to take independent decisions on patenting of inventions, utility models and industrial designs abroad and in the Republic of Uzbekistan, received as the result of investment on the territory of the Republic of Uzbekistan. Legal protection and use of objects of intellectual property of enterprises created with the participation of foreign investments is implemented in accordance with national legislation (Article 12).

In accordance with the Law On Guaranties and Measures for Protection of the Rights of Foreign Investors foreign investments and other actives of foreign investments are not subject to nationalization and requisition (Article 5), use and transfer of means are guarantied (Articles 6 and 7), and repayment of foreign investments with due to termination of the investment activity is also guarantied (Article 8).

The aforementioned provisions are also fixed in the international agreements of the Republic of Uzbekistan concluded with 38 countries of the world in the field of encouragement and protection of investments.

- 2. Substantive standards of protection, including procedures for the acquisition and maintenance of intellectual property rights**
 - (a) Copyright and related rights, including rights of performers, producers of phonograms and broadcasting organizations**

Question 169.

Uzbekistan states in section 2 of the chapter on intellectual property rights protection that 40 Articles of the Civil Code (Articles 1041-1081) provide protection for copyright and neighboring rights and that the law "On Copyright and Neighboring Rights" establishes the standards of protection, the acquisition procedures and the maintenance procedures for copyright and neighboring rights. It would appear that provisions in the Civil Code and the law overlap in many instances.

Please describe the steps that are being taken to eliminate duplication so that copyright and neighboring rights holders, judges, policy makers and the public need look only to one source to determine what rights exist, how they are acquired and maintained, what constitutes infringement of those rights, etc.

Answer:

Section on unfair competition of the Law On Competition and Restriction of the Activity of Monopoly in Trademarks, prohibits illegal use of objects of intellectual property. The State Committee on De-monopolization and Development of Competition is executive body for this legislation (Article 17 of the Law).

In accordance with Article 149 of the Criminal Code, the infringement of copyrights and patent rights is related to crimes against the constitutional rights and freedoms of citizens. Illegal use of copyright, compulsion for coauthors with in intellectual property, spreading information without agreement of an author before official registration or publication is fined by deprivation of rights, correctional works or arrest.

Other sanctions related to the crime can be applied in cases of malicious infringements of rights on intellectual property objects. These are the cases of repeated and continuous infringement of rights on intellectual property objects when economic sanctions were fully exhausted. In these cases, a victim is authorized to prosecute a lawbreaker by the law. Besides, infringements of rules on information are punished by relevant sanctions including fines, correctional works and/or custody of up to three years (Article 174 of the Criminal Code).

Besides, there are criminal sanctions against collection of confidential scientific and technological, production and economic information and any other information without agreement of holder of such information. The following sanctions are applicable to: fines, correctional works, custody of up to three years (Article 191 of the Criminal Code).

Question 170.

Please explain in more detail what specific rights copyright holders have under Uzbek law and how they are exercised. Also, please explain in greater detail the rights of performers and producers of phonograms, including how those rights correspond to the obligations in TRIPs Article 14.

Answer:

Section IV of the Civil Code (Articles 1031-1111) (adopted on 29 August 1996 and effected on 1 March 1997) contains basic norms of protection of intellectual property rights.

Article 1031 of the Civil Code defines “intellectual property” in accordance with Article 2 (viii) of the Convention establishing the World Intellectual Property Organization.

Articles 1031-1040 define common civil norms on origin and transition of rights, concessions, dates of validity and methods for protection of exclusive rights on intellectual property. According to these articles exclusive rights arise as a result of creation of works of science, literature, art, inventions and other results of intellectual property.

The protection of intellectual property objects is implemented in accordance with Article 11 of the Civil Code through recognizing rights of an owner, status quo, self-protection of rights carried out by the owner himself, compensation of damages and/or termination or alteration of rights of a law breaker.

Articles 1041-1081 in general define the regime of copyright and neighboring rights in the Republic of Uzbekistan. Article 1042 contains results of intellectual activity as types of objects of copyright and neighboring rights: literature, music, audio-video works, works of painting, sculpture, architecture, computer programs, and other works.

Articles 1046 and 1052 recognize an exclusive right of a citizen for objective results of intellectual activity and produced works and services.

Articles 1082-1090 define rights for industrial property (inventions, utility models, industrial designs). In accordance with these articles rights for objects of industrial property are protected by issuance of patents. The patent holder or his/her successor has a right to use inventions, utility models or industrial designs.

Articles 1091-1094 define rights for new sorts of plants and new species of animals (the right of selector).

Articles 1095-1097 provide for legal protection of closed commercial information and know-how. The right for protection of closed information from illegal use arises irrespective of implementation of any formalities with the respect to this information. Any person illegally disseminating closed information shall compensate actual losses to the holder of closed information.

Articles 1098-1101 provide for rules for protection of brand names. Articles 1102-1107 define legal protection for trademarks and service marks. Articles 1108-1111 establish rules of protection for names of origin of goods. These articles of the Civil Code contain common civil principles of rights for individualization of participants of civil turnover, trading, goods, works and services. Provisions of these articles will develop further in special laws (at present, the Law On Trademarks and Service Marks has been adopted and effected).

Above-mentioned provisions of the Civil Code reflect general policy tackled in the Republic of Uzbekistan in the field of intellectual property.

The Law On Competition and Restriction of Monopolistic Activity also provide for protection of intellectual property rights. Article 8 of this law prohibits "unfair competition" in particular, illegal use of trademarks or other special marks/labels of goods, an-authorized copying of forms, brand names and external design of goods.

Copyright (the right to be recognized the author of the result of intellectual activity) is a private non-property right and may belong only to the person who has created results of intellectual activity by his/her creative works.

The copyright is not alienable and transferable.

If the object of any kind of property was created by joint creative work of two or more persons they are considered co-authors. With the respect to certain objects of intellectual property, the law may limit to a certain number of persons recognized co-authors of the works in general.

A performer has a right to:

- indicate his/her name during performance on copies records;
- perform during broadcasting or reproduction (playback) of the;
- protect a performance from distortion;
- perform or authorize to perform.
- The right to use performance includes a right for authorization for:
 - broadcasting of a performance on the air or CCTV;
 - recording of a performance with the technical means;
 - broadcasting and public reproduction (playback) of performance's recording;
 - duplication and distribution of copies of performance's records.

Performers enjoy their rights with the observance of rights of authors of performed works.

The creator of audio, video, audio-video records of performance and his/her successor has an exclusive right for these records (a right of a person creating record of a performance).

Other persons may use such record only upon authorization of a creator of this records or his/her successor.

A creator of a record of performance or his/her successor is authorized to carry out or authorize:

- public reproduction of a record;

- alteration or other remake of records, distribution of records' copies (sales, rental, etc.) including export abroad;
- import records' copies.

If property rights for a copy of record of performance do not belong to its creator, an exclusive right to use a record, including commercial rental, is kept by the person creating this record.

Holders of rights for performance's record enjoy their rights taking into account the rights of authors of works and rights of performers.

The broadcasting organization enjoys its rights taking into account the rights of authors of works and rights of performers and in some cases – holders of rights for record of performance and other broadcasting organizations.

Rights of organization of CCTV are established applicably to rights of broadcasting organization.

It should also be noted, that if international treaties of the Republic of Uzbekistan provide for other rules than those indicated in the legislation of the Republic of Uzbekistan on copyright and neighboring rights, the rules of international treaties shall apply (Article 3 of the Law of the Republic of Uzbekistan On Copyright and Neighboring Rights).

Question 171.

Please describe any exceptions to a copyright holder's exclusive rights exist under Uzbek law, citing to the authority and quoting it.

Answer:

There are not any exceptions to a copyright holder's exclusive rights in the legislation of the Republic of Uzbekistan.

Question 172.

Article 18 of the Berne Convention, incorporated by reference into Article 9 of the TRIPs Agreement requires that copyright protection be applied to all works, which at the moment Berne (or by inference, the TRIPs Agreement) becomes effective, have not fallen into the public domain in the country of origin through the expiry of the term of protection. However, Article 39 of the Uzbek Law on Copyright and Neighboring Rights ("Uzbek Copyright Law") provides that "works that have never enjoyed protection on the territory of the Republic of Uzbekistan shall be regarded as being in the public domain". This Article directly contradicts this TRIPs obligation.

How does Uzbekistan plan to amend its law to ensure protection for pre-existing works and when will the amendment be made?

Answer:

The analyses of a major part of current legislation of the Republic of Uzbekistan demonstrate, that it is sufficient and efficient to protect interests and rights of foreign producers.

In accordance with Article 4 of the Law of the Republic of Uzbekistan On Copyright and Neighboring Rights, copyrights covers:

- “works published or being in any objective form on the territory of the Republic of Uzbekistan irrespective of citizenship of authors and their successors”.

The Article 1041 of the Civil Code of the Republic of Uzbekistan stipulates “no registration of works or any other formalities required for copyright”.

At the same time, Article 1063 of the Civil Code of the Republic of Uzbekistan provides “in order to protect works on the territory of the Republic of Uzbekistan, a person recognized the author of works is defined according to laws of the state where works have been protected first”.

Question 173.

TRIPs Article 14.4 provides that members must grant producers of phonograms the right to authorize or to prohibit the commercial rental of copies of their phonograms.

How does Uzbekistan plan to provide this right and provide copies of any proposed amendments to the copyright law?

Answer:

Please refer to the information given above.

(b) Trademarks, including service marks

Question 174.

This section explains that, under the Civil Code, Articles 81, 97, 169 and 187, paragraph 1, trademark rights can be acquired in Uzbekistan through use in commerce for five years.

How is "use" defined, e.g., would advertising alone that reaches Uzbekistan be sufficient to acquire rights?

Answer:

The use of trademarks is considered, the use on products for which the trademark is registered and/or on the package by the holder of trademark or person authorized on the basis of licensing agreement, as well as use in advertisement, signboard, publishing materials, official blanks and other documentation, related to turnover of the goods. The use may also be recognized when trademarks and indications of the place of origin of goods are applied on exhibitions, fairs in the Republic of Uzbekistan.

The advertisement of the trademark in Uzbekistan does not allow acquisition of the right of use of trademark on the territory of the Republic of Uzbekistan.

Question 175.

If a party in Uzbekistan uses a well-known mark in the local market for a period sufficient to acquire rights under the Civil Code, is it possible for the legitimate owner of the well-known mark to bring legal action to prevent further use of its mark when it learns of the use in Uzbekistan? Please explain the process and cite the legal authority.

Answer:

Legal protection of trademark is given on the basis of its state registration and issuance of the certificate of registration of the trademark.

Legal holder of the trademark may bring legal action to prevent further use of its trademark if any party uses his/her trademark on the territory of the Republic of Uzbekistan.

Question 176.

Please describe in detail, citing the appropriate legal authority, the manner in which well-known marks can be protected against unauthorized use in Uzbekistan even when those well-known marks are not registered.

Answer:

In the Republic of Uzbekistan the responsibility for protection of intellectual property rights is distributed among the following state bodies:

- the State Agency on Protection of Copyright under the Cabinet of Ministers of the Republic of Uzbekistan provides protection for copyright and neighboring rights;
- the State Patent Department under the State Committee of the Republic of Uzbekistan on Science and Technology provides protection of rights for inventions, utility models, layout designs, trademarks, computer programs and databases;
- the State Committee on De-monopolization and Development of Competition under the Ministry of Finance being in a position of antimonopoly body tackles state policy on promotion for developing competition on commodity markets, restriction and suppression of monopolistic activity and unfair competition of entities, and carries out state control of observance of anti-monopolistic legislation and the legislation in the field of protection of consumers' rights;
- the State Customs Committee being a home affairs body according to current legislation takes a part in developing and tackling customs policy and ensures observance of customs legislation, provides measures for protection of rights and interests of legal and natural persons, stops illegal transit of articles of art, historical and archeological property of the nations of Uzbekistan and foreign countries, objects of intellectual property, species of animals and plants which are threat of disappearing through the customs border of the Republic of Uzbekistan. The Customs Committee also implements other functions regarding to its main tasks;
- the Right-Protection entities.

The infrastructure of national patent system includes all its basic branches – State Patent Department of the State Committee of the Republic of Uzbekistan on Science and Technology, Appeal Council, Republican Patent Library, State Fund of Intellectual Property, Institute of Patent Attorneys, Network of Regional Innovation Centers for Providing Services in the sphere of protection and use of intellectual products.

In particular, providing protection of well-known marks from illegal use in Uzbekistan is reflected in Chapter VII of new version of the Law On Trademarks and Marks of Services.

Article 34 “Dispute Settlement in Court” indicates that “Courts in accordance with their competence settle the following disputes: infringement of exclusive rights on trademarks and illegal use of indications of the place of goods’ origin...”

Article 1107 of the Civil Code and Article 35 of the Law On Trademarks and Marks of Services provide the responsibility for illegal use of a trademark. Additionally, Article 177 of the

Administrative Code of the Republic of Uzbekistan provides for the penalty for infringements of rights, and mechanism of consideration of such infringements is described in the comments.

(c) Geographical indications, including appellations of origin

Question 177.

This section indicates that a law is being developed on geographical indications and appellations of origin. Article 9 of Uzbekistan's law "On Trademarks and Service Marks" already provides protection for collective marks for which an applicant must specify the products, their common qualitative or other characteristics, the conditions governing the use of the mark, the means for supervising the use, the parties authorized to use the mark, and the purpose of the registration.

Please explain why it is thought necessary to create separate legislation to protect geographical indications rather than protecting them in accordance with the existing trademark legislation as collective marks, thereby avoiding the expense and additional procedures required to establish a separate system for geographical indications.

Answer:

The importance of the development of the new version of the Law On Trademarks and Service Marks and Appellations of Origin is caused by the provisions of the Civil Code, current demands and tendencies in the area of protection of objects of intellectual property.

Presently, the object of indications of the place of origin of goods is protected by the norms of Articles 1108-1111 of the Civil Code of the Republic of Uzbekistan. Particularly, Sections V and VII of Article 1108 accordingly define that registration of indications of origin of goods' is carried out by the patent department, and "the order and terms of the registration, issuance of the certificate, recognition invalid and termination of validity of registration and the certificate are defined by the law". Thus, necessity of development and adoption of the normative act of the direct effect on protection of indications of the origin of goods is defined by the Civil Code of the Republic of Uzbekistan.

Besides, it should be noted that Uzbekistan possesses of goods with the special features depending on combination of places of their origin and national traditions. That is, features of these goods are exclusively or mainly defined by typical natural resources for given geographical object and/or by human factors. In this regard a draft of new version of the Law of the Republic of Uzbekistan On Trademarks, Marks of Services and Indication of the Place of Origin of Goods is prepared including articles concerning indications of places of originating of goods.

(d) Industrial designs

Question 178.

This section states that, under the law "On Inventions, Utility Models and Industrial Designs, computer programs and integrated circuit layout designs are unpatentable subject matter. Article 27.1 of the TRIPs Agreement requires that inventions in all fields of technology, whether products or processes, that are new, involve an inventive step and are industrially applicable must be patentable. No exceptions are provided for computer programs or integrated circuit layout designs.

Please describe any plans for bringing Uzbekistan's patent legislation into conformity with the obligations of Article 27.1 of the TRIPs Agreement.

Answer:

Article 5 of the Law of the Republic of Uzbekistan On Inventions, Utility Models and Industrial Designs does not mention protection of the invention of integrated circuit layout and computer programs. Integrated circuit layout and computer programs are protected in accordance with the Law of Uzbekistan On Legal Protection of Computer Programs.

However, constructive decisions in computer technologies (functioning and integrated circuits), created with regard to the new programs are protected by preliminary patents and/or by patents for inventions or patents for utility models, and artistic-constructive decisions which identify the outer look of the model are protected by preliminary patent or patent of industrial utility.

Currently, the Law On Legal Protection of Layout Design of Integrated Circuits has been developed and is under consideration of the Parliament.

(g) Layout designs of integrated circuits

Question 179.

Please provide information of the status of the draft law "On Layout Designs of Integrated Circuits" which the text of this section indicates has been submitted to the Oliy Majlis for consideration.

Answer:

The Draft Law On Legal Protection of Layout Design of Integrated Circuits developed in accordance with Part VI of TRIPs, is completed and under consideration of the Oliy Majlis.

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

Question 180.

Uzbekistan states that undisclosed information is provided protection under Articles 1095-1097 of the Civil Code of Uzbekistan and that damages are available in the event someone discloses such information without authorization.

Are injunctions available to prevent disclosure, as required by the TRIPs Agreement? If not, please describe the plans of the Government of Uzbekistan to comply with the requirements of Part III of the TRIPs Agreement as it applies to undisclosed information.

Answer:

The Law of the Republic of Uzbekistan On Informatisation provides for injunctions to prevent disclosure, which have the rights to prevent the spread of information.

Question 181.

Uzbekistan defines a commercial secret as information that has actual or potential value because of its confidentiality, that there no legal way to access the information, and that the owner has taken reasonable measures to protect the secrecy. The second criteria appears to be more strict than Article 39.2 establishes, i.e. that the body of information or the precise configuration and assembly of its components is not generally known among or readily accessible to persons within circles that normally deal with the kind of information in question.

Please explain how the standard referred to in subsection (h) conforms with the standard established in Article 39.2.

Answer:

The Provision of Article 98 of the Civil Code of the Republic of Uzbekistan fully corresponds with provisions of Part 2 of Article 39 of TRIPs Agreement.

Question 182.

Article 39.3 of the TRIPs Agreement requires that information on the safety and efficacy of pharmaceutical and agricultural chemical products that must be submitted to obtain marketing approval for those products must be protected from disclosure and from unfair commercial use.

Please explain how Uzbekistan provides this protection and cite to the relevant sections of law.

Answer:

Uzbekistan provides protection of information on the safety and efficacy of pharmaceutical and agricultural chemical products and protection of the information from disclosure and from unfair commercial use on the basis of above-mentioned Article 98 of the Civil Code and Law of Uzbekistan On Informatization.

(i) Any other categories of intellectual property

Question 183.

This section refers to a draft law "On the Protection of Intellectual Property" that will protect scientific and technical achievements, reports on scientific and research, experimental and engineering works, and similar objects. It is not clear what this law would do and why it is needed given the other forms of intellectual property available.

Please describe in detail what this law does and why it is needed. What is its status?

Answer:

The Republic of Uzbekistan carries out a complex of measures aimed at implementation of generally accepted norms of international law to the national legislation. While the Laws On Inventions, Utility Models and Industrial Designs, On Legal Protection of Computer Programs and Database, On Breeding Achievements, On Trademarks and Service Marks provide for the protection of intellectual property, Uzbekistan is undertaking necessary measures for improvement of the legislation in this field. Consideration of the matter on preparation of the draft Law On Protection of Intellectual Property by relevant institutions of the republic is an example for this. The matter of adoption of this law is in the process of discussion.

3. Measures to control abuse of intellectual property rights

Question 184.

The second paragraph under section 3 states that compulsory licenses may be granted if a patent or industrial design is not "worked" within three years of the grant of the rights.

Please confirm that importation of the product, or the product produced by a patented process, would satisfy the working requirement under Uzbekistan's law.

If that is not the case, please describe plans for amending the law to ensure that it complies with Article 27.1 of the TRIPs Agreement that prohibits discrimination in the enjoyment of rights under" a patent based on where a product was made.

Answer:

The Section 2 of Article 29 of the Law On Inventions, Utility Models and Industrial Designs, confirm of imported goods or goods produced through patenting satisfy current requirements of the legislation of the Republic of Uzbekistan.

4. Enforcement

(a) Civil judicial procedures and remedies

Question 185.

In WT/ACC/UZB/2 Uzbekistan discusses civil judicial procedures and remedies. Although available remedies for copyright infringements on computer programs and databases appear to include injunctions and seizure of infringing goods, it does not appear that remedies for other types of copyrighted works include these measures Moreover, there do not seem to be provisions for ex parte searches or destruction of infringing goods in any cases.

Is this the case? If so, does Uzbekistan intend to amend their laws to include these remedies for all copyrights?

Answer:

The Law On Copyrights and Neighboring Rights provide for measures applied in cases of infringements of the Agreement on Copyrights (Article 43). Measures for infringements of copyrights consist in compensation for damages and the lost benefits, or at victim's discretion, illegally gained profit resulted from illegal use of objects of intellectual property can be returned to a victim (Article 46).

The law also for provides general responsibility for infringements of the agreement on use of neighboring rights and infringements of neighboring rights (Article 61). Thus, general responsibility includes compensation of damages and lost the benefits.

Current measures applied to cases of infringements of rights for trademarks and marks of services include: compensation, return of illegally gained profits, court decisions on prohibiting of further illegally use of marks, court publications for restoration of reputation of victims, elimination of marks from goods of a law breaker and their packages and other measures taken by the discretion of the court (Articles 29 and 30 of the Law On Trademarks and Marks of Services).

For suppressing infringements, the holder of trademarks is authorized to appeal to relevant state bodies of prosecutor according to the Law On Prosecutors (Articles 23-29). In case of detecting the cases of infringements, the holder of trademarks is authorized to appeal to courts and prosecute a lawbreaker according to Article 10 of the Civil Code.

In accordance with Section IV of the Civil Code, persons who have rights to use indications of places of origin of goods, and organizations on protection of rights of consumers have powers to require the persons illegally using indications or marks, similar with it to the degree of mixing, to terminate this use eliminate indications from goods and their package, blanks and other documents, and/or if such requirements can not be implemented, these goods and their packages with indications have to be destroyed (Article 1111 of Section IV of the Civil Code).

Measures against illegal use of inventions, utility models and industrial designs include compensation, court prohibitions against further illegal use, and publication of court decisions aimed at restoration of reputation of victims and other measures taken by the discretion of the court (Article 13 of the Law On Inventions, Utility Models and Industrial Designs).

Enjoying rights with the regard to inventions, utility models and industrial designs can be made through appeals to relevant bodies of prosecutors according to Articles 23-29 of the Law On Prosecutors. The holder of rights for industrial designs or inventions can appeal to relevant courts according to Article 10 of the Civil Code.

In cases of infringing rights with the regard to new species of plants and animals, applied measures comprise compensation, court prohibitions against further illegal use, and publication of court decisions aimed at restoration of reputation of victims and other measures taken by the discretion of the court (Article 43 of the Law On Breeding Achievements, Articles 10 and 14 of the Civil Code). Enjoying rights for selective achievements and new species of plants and animals can be provided through appeal to relevant bodies of prosecutors according to Articles 23-29 of the Law On Prosecutors.

In cases of infringements of copyrights with the regard to computer programs and databases, applied measures comprise formal recognition of the holder of copyrights by the law breaker, restoring the situation that was before infringements, court orders on suspending of infringements, compensation of lost benefits, direct and indirect losses, return of illegally gained profits, other losses and arrest of copies of computer programs and databases infringing copyrights (Article 14 of the Law On Legal Protection of Computer Programs and Databases). It is possible to compensate moral damages (Article 1021 of the Civil Code). Courts on the basis of procedures indicated in the Civil Procedural Code provide enjoying rights and applying measures.

Measures against illegal use of confidential information comprise compensation of losses by persons who illegally use closed information or divulge such information infringing terms of a relevant contract (Chapter 64 of the Civil Code).

Article 149 of the Criminal Code of the Republic of Uzbekistan (adopted on 22 September 1994 and effected on 1 April 1995) provides for responsibility for infringements of copyrights. For example, misappropriation of authorship, compulsion to co-authorship on the objects of intellectual property as well as divulging of information on these objects before their official registration or publication without consent of an author – are fined from 25 to 70 minimal salaries or by deprivation of certain rights of up to five years, or correctional works up to three years, or custody of up to six months.

Question 186.

This section also states that a trademark, patent, industrial design, or selection achievement owner may turn to the "appropriate government prosecutorial authorities in accordance with Articles 23-29 of the law "On Procuracy" for relief from trademark infringement, and after infringement has been established the trademark owner may file a suit under Article 10 of the Civil Code.

Please explain in detail how this two-step process would fulfill the obligations contained in Part III, Sections 1 and 2 of the TRIPs Agreement.

Answer:

Article 10 of the Civil Code of the Republic of Uzbekistan states:

“Protection of civil rights is carried out in accordance with subdivision cases established by procedural legislation or agreement, court, administrative court or arbitration tribunal (further court).

The protection of civil rights in administrative order is carried out only in cases provided for by the law. The decisions, adopted by administrative order can be appealed against to court”.

This statement does not contradict Sections 1 and 2 of Part III of TRIPs Agreements, as well as Article 7 of the Civil Code, which states, “If international treaties or agreements set other rules than civil legislation, the rules of the international treaties or agreements will apply”. Besides, point 1 of Article 1 of Part 1 of the Agreement on TRIPs states that “Members can freely determine appropriate measures to fulfill this Agreement within own legal systems and practice”.

Question 187.

This section indicates that, under Chapter 64 of the Civil Code, remedies available for misuse of undisclosed information include indemnification (damages). There is no indication injunctions are available under the law of Uzbekistan to stop the misuse of undisclosed information or prevent it from occurring.

Please explain whether injunctions are available under the law of Uzbekistan in relation to undisclosed information and, if not, describe any plans for amending the law to provide the remedies required under the TRIPs Agreement.

Answer:

In accordance with the Law of the Republic of Uzbekistan On Inventions, Utility Models and Industrial Designs (Article 19, Section 9), the Civil Code and the Civil Procedural Code, all illegal use of confidential information is adequately protected as well as courts.

(b) Provisional measures

Question 188.

WT/ACC/UZB/2 states, "Provisional measures are currently being developed."

Please provide detailed information on the status of the provisional measures currently being developed, describe those measures in detail, and outline the timetable for their implementation.

Answer:

Dates of submitting will be provided additionally.

(d) Any special border measures

Question 189.

Please describe in detail the authority of the Customs officials to prohibit importation of goods violating intellectual property rights and indicate how right holders can obtain relief through the exercise of that authority.

Answer:

The State Customs Committee being a right-protection authority according to current legislation, takes a part in developing customs policy and, ensures observance of customs legislation, provides

measures for protection of rights and interests of legal and natural persons, stops illegal transition of articles of art, historical and archeological property of the nations of Uzbekistan and foreign countries, objects of intellectual property, species of animals and plants which are under the threat of disappearing through the customs border of the Republic of Uzbekistan. The Customs Committee also implements other functions with regard to its main tasks.

In accordance with Article 9 (Prohibition of import and export of goods and transports), Chapter 1, Section 3 of the Customs Code of the Republic of Uzbekistan: "Import and export of certain goods and transports can be prohibited in order to provide the national security protection, property rights including intellectual property objects..."

Question 190.

Please describe how the State Customs Committee exercises this authority. Please indicate how the provisions of Article 9 of the Customs Code fulfill each of the obligations of the TRIPs Agreement regarding border enforcement.

Answer:

With the purpose of mandatory implementation of legislation of the republic, State Customs Committee issues relevant internal instructions and orders, which regulate in detail the activities of employee on the spot.

Question 191.

Please provide details regarding of any cases in which Customs officials of the Republic of Uzbekistan have taken action to prevent importation or exportation of goods that infringe intellectual property rights.

Answer:

Please refer to the information given above.

(e) Criminal procedures

Question 192.

WT/ACC/UZB/2 states that there are no specific criminal remedies and procedures for the enforcement of intellectual property rights.

What plans exist to provide criminal penalties in accordance with the requirements of Article 61 of the TRIPs Agreement?

Answer:

Please refer to the information given above.

VI. TRADE-RELATED SERVICES REGIME

1. General

Question 193.

Has Uzbekistan begun work on WT/ACC/5, Information to be provided on Policy Measures Affecting Trade in Services? If not, when will this information be available?

Answer:

Currently, relevant ministries and institutions of the Republic of Uzbekistan are conducting the work on compiling WT/ACC/5 document.

2. Policies Affecting Trade in Services

Question 194.

Uzbekistan states that its legislation "provides for classifying" several sectors as natural monopolies. Given the evolving nature of trade in services and growing participation of foreign service suppliers in helping fund the development of foreign economies and infrastructures, we would appreciate a read out of Uzbekistan's plans for allowing foreign participation or greater foreign participation in those sectors currently classified as natural monopolies, including energy, transportation, telecommunications and environmental services.

Answer:

The Law of the Republic of Uzbekistan On Natural Monopolies (new version) does not provide for any restrictions on property forms of subjects of natural monopolies and restrictions in the sphere of foreign investments.

Currently, a number of joint ventures has been created and are being planned to create with different foreign investors in these sphere. It is expected to continue the practice of establishment joint ventures. Environmental services are not classified as natural monopolies.

3. Market Access and National Treatment

Question 195.

What does "other services may be offered through a legal entity organized in Uzbekistan or by individual entrepreneur" mean? Would this allow a foreign service supplier to choose type of entity to be established, e.g., subsidiary, joint-venture, branch or representative office?

Answer:

"Others" are the services which are not mentioned in given case and which can be provided in accordance with the legislation.

The Legislation of the Republic provides foreign residents with wide opportunities for registration of different types of entities.

Question 196.

Please clarify what sort of legal entities may be established to supply insurance services?

Answer:

In accordance with the Law of the Republic of Uzbekistan On Insurance, foreign insurance organizations are authorized to carry out insurance activity on the territory of the Republic of Uzbekistan only after their registration as a legal entity of the Republic of Uzbekistan and obtaining the licence within the order, established by the Law On Insurance. Foreign legal and natural persons are authorized to create insurance entities in the Republic of Uzbekistan, which are established on their share or full participation.

Currently, foreign insurance organizations on the territory of Uzbekistan are not restricted in choosing any form of legal entity for providing insurance services on the territory of the Republic of Uzbekistan.

Question 197.

Does Uzbekistan allow temporary entry and movement of natural persons to supply services (in particular, intra-corporate transferees) and for services salespersons?

Does Uzbekistan apply any restrictions relating to the supply of services through Mode 2 - " in the territory of one member to the service consumer of any other member"?

Answer:

The Republic of Uzbekistan in general does not restrict between the legal status of business subjects: legal and natural persons. There is just a certain difference in state registration and taxation.

4. Most-Favored Nation Treatment

Question 198.

Please provide information on any preferential treatment Uzbekistan provides Foreign Service suppliers, for example, under bilateral or regional agreements on investment or trade in services.

Answer:

International agreements of the Republic of Uzbekistan on trade-economic cooperation, mutual encouragement and protection of investments provide MFN, and preferential treatment for goods (works, services), investments and activities to support such investments coming from countries-counter-agents related to such agreements.

- **Description of the market and the mechanism for regulating the most prominent services sectors**

Question 199.

Please compare the information provided in this section and above in section 2. regarding regulation and licensing of certain service sectors with the requirements of the GATS, including Article III on transparency and Article VI on domestic regulation.

Uzbekistan states in WT/ACC/UZB/2 that, with limited exceptions, the same regulatory procedures exist for domestic and Foreign Service suppliers. However, Article VI contains other requirements as well.

Please provide information on how Uzbekistan is complying or will make changes to ensure that its regulatory regime fully complies with GATS requirements.

Answer:

Legislation of the Republic of Uzbekistan in general satisfy all mentioned requirements indicated in Agreement's articles including those related to publicity and access to normative acts and regulations, which are regularly published in the press and special outlets, and related to functioning of competent bodies and special procedures on indicated matter.

Question 200.

Please review the list of sectors subject to regulation. Uzbekistan has provided a fair amount of information on who is charged with licensing each activity. Please report to WTO members how the requirements for licensing are made available to service suppliers and how the licensing process works in practice.

Answer:

Requirements on licensing are reflected in normative acts published in the press and special outlets.

At present, Oliy Majlis has adopted the Law on licensing of certain types of activity, which is a fundamental act in this sphere.

Question 201.

Do any of the procedures for licensing contain quantitative restrictions on the number of service suppliers that may be licensed or the type of services legal entity (i.e. joint-venture requirement) that must be established in order to obtain a license? In such cases, the regulation actually would constitute a market access restriction and would have to be eliminated or negotiated for inclusion in the services schedule.

Answer:

No, it would not. At the same time, in accordance with the legislation, the Cabinet of Ministers of the Republic of Uzbekistan is authorized to prohibit certain licensed kinds of activity carried out by natural persons who conduct commerce activity without establishing a legal entity (by individual businessmen) with the exception of cases provided for by the law.

Question 202.

Please clarify the meaning: Passenger and cargo transportation is not subject to licensing if such activities or transportation services are carried out on the basis of special normative acts of Uzbekistan?

Answer:

If the Legislation of the Republic of Uzbekistan provides for the list of transport works related to passenger and cargo transportation and which are not subject to licensing, in these cases legal and natural persons owning transports on the basis of property or other rights may transport without licenses.

- (a) **Legal services:**

Question 203.

Does Uzbekistan apply any restrictions on the ability of foreign lawyers in private practice to form partnerships with Uzbek lawyers or to hire Uzbek nationals as lawyers? Would this category include the right to provide foreign legal consultancy services regarding home and international law?

Answer:

In accordance with the legislation of the republic, lawyers may be the citizens of Uzbekistan. At the same time there are no restriction related to providing services by Uzbek lawyers to foreign persons. There are no restrictions on using foreign legal services by Uzbek residents as well.

(b) Telecommunications services:

Question 204.

The reference to 49 per cent foreign equity holdings would lead us to believe that the procedures for licensing in this sector may include some restrictions on form of enterprise or level of foreign equity share. Please clarify.

Answer:

Procedures on licensing of activities in the sphere of telecommunications of the Republic of Uzbekistan do not contain restrictions with the respect to a form of an enterprise or the level of foreign entity share.

Moreover, currently the share of foreign participation on the telecommunications market of the Republic of Uzbekistan is not limited.

- Other communications services:

Question 205.

Are express delivery services free to establish and operate in Uzbekistan? Through what forms of legal entity?

Answer:

Currently, the activity on providing express delivery services is not licensed.

The Ministry of Justice in the established order registers by local authorities and/or natural and legal persons, conducting business activity on the territory of the Republic of Uzbekistan. There are no restrictions on forms of legal entity.

(c) medical services and hospitals:

Question 206.

Are foreign service suppliers treated the same as domestic service suppliers regarding applications for licenses to own and operate hospitals and other healthcare facilities?

Answer:

The legislation provides for licensing of activity on providing of medical assistance but not the right to own and operate hospitals. Meanwhile the foreign service suppliers pass the same procedures as local ones to obtain these licenses.

- (d) **the description of the case-by-case basis for review of applications to supply educational services would not seem to be consistent with GATS obligations. We would appreciate further clarification from Uzbekistan.**

Answer:

In accordance with the Law On Education, there is a possibility to establish nongovernmental education system in the Republic of Uzbekistan. Establishing area of non-government educational institutions in the Republic needs organizational works. The Resolution of the Cabinet of Ministers №313 dated 24 June 1999, On Measures for Establishment and Development of the Network of Nongovernmental Child's Preschool Institutes is being realized in the republic. The matter on establishing child's nongovernmental schools is being considered.

- (e) **Banking and other Financial Services (excluding Insurance)**

Question 207.

In addition to the capital and foreign exchange controls described in the document, are there any measures of a horizontal nature (affecting all or many sectors) that limit market access or national treatment in the financial services sector, such as investment authorizations, reciprocity measures, or other discriminatory practices, including those involved in privatizing state enterprises? If so, please describe these measures.

What is the rationale for Uzbekistan's discriminatory regime governing capital requirements for banks? Does Uzbekistan plan to change this regime to accord with national treatment?

Answer:

Normative acts of the Central Bank, developed jointly with the World Bank experts, establish minimal charter capital in volume of US\$5 million for the newly created banks with participation of foreign capital and daughter companies of foreign banks; for other commercial banks without participation of foreign capital since 1 January 1999 – in sum equivalent to US\$2 million, and since 1 January 2000 - in sum equivalent to US\$2.5 million.

Established minimal volume of charter capital for banks with participation of foreign capital corresponds to the international banking practice.

On the other hand, taking into account the specific features of international bank transactions, banks with the participation of foreign capital as active participants of the process of international payments are required to have necessary amount of own foreign currency for launching their activity.

Also, establishing minimal volume of charter capital for newly created banks without participation of foreign capital, along with the minimum charter requirements to banks with participation of foreign capital, currently will serve as a serious restrictive factor in creation of banks with participation of national capital because of the majority of potential national investors do not have enough resources. It will result considerably on dropping number of created banks, and finally will reduce competition in the banking system of the republic in general.

With deepening economic process on transition to market conditions taking place in the republic, and coming of such a favorable time when national investors will be available to invest large sums in the banking system, the Central Bank will consider the matter on establishing single minimal volume of charter capital for all newly created banks.

Taking into consideration mentioned above, establishing discrepant minimal volume of charter funds, for the newly created banks with and without participation of foreign capital it is not appropriate to consider as discriminating regime. Besides this difference, there are no hindering measures.

Question 208.

Are there other measures that would deny national treatment to foreign financial institutions that seek to establish, expand, or acquire an existing financial institution, in Uzbekistan?

Please clarify whether foreign banks and other financial services providers (investment funds, securities firms) may establish and expand a commercial presence in Uzbekistan as a branch, an agency, a representative office, and as a wholly-owned subsidiary, either through de novo investment, or through acquisition of existing enterprises?

Answer:

Foreign banks, other institutes and foreign natural persons are authorized to participate in creating banks on the territory of the Republic of Uzbekistan including joint banks. Alongside with legal and natural persons-residents of the Republic of Uzbekistan they may also participate in charter capital of banks through acquisition of bank's shares.

Moreover, foreign banks are entitled to create their subdivisions and representative offices on the territory of the Republic of Uzbekistan.

Currently, almost all kinds of financial institutes existing in the world practice are functioning in the Republic of Uzbekistan. They are banks, credit institutes, insurance, leasing companies, investment funds, clearing centers, depositories, broker-dealer organizations and others.

Question 209.

Please describe in further detail the range of services that financial services providers are currently permitted to provide in Uzbekistan. In providing this information, please use the definition of banking and other financial services found in para. 5 (a) of the *Annex on Financial Services*, and the types of financial services providers (banks, securities firms, investment companies, etc.) that may provide them.

Answer:

In accordance with Article 4 of the Law of the Republic of Uzbekistan On Banks and Banking Activity the banks on the territory of the Republic of Uzbekistan, having obtained the licence issued by the Central Bank of the Republic of Uzbekistan for banking activity are authorized to conduct following types of banking transactions:

- opening and conducting accounts of natural and legal persons including banks-corresponds, payments on accounts;
- attracting deposits;
- providing on terms of repayment, payment and urgency of credits at the expense of own and attracted funds;
- managing of funds through a agreement with an owner or manager of funds;
- purchasing from and selling to natural and legal persons foreign currency in cash and by cheque;
- encashment of funds, bills, payment and estimate documents;
- providing guaranties for third persons providing for implementation of obligations;
- obtaining a right of demand on implementing obligations from third persons;

- issuance, purchase, sale, account and custody of securities, managing securities through an agreement with a client;
- conducting other transactions with securities;
- providing bank consultations and informative services;
- providing for leasing to natural and legal persons special premises or safe boxes for custody of documents and other values;
- financial leasing;
- other transactions in accordance with international banking especially provided for by the licence.

Banks are not authorized to pursue production, trade and insurance activity.

Question 210.

What services are commercial banks permitted to provide?

Answer:

Commercial banks of the Republic of Uzbekistan provide following banking services:

1. Accepting deposits from population (urgent, to be called for, saving) and other payable funds (i.e. accepting means for housing and consumer services and state duties and taxes paid by population);
2. Lending loans of all kinds (short-, mid- and long-terms) including consumer credits (provided to population for purchasing consumer goods), loans (provided on the base of collective provision), factoring (factoring – re-concession by entities (suppliers) to a bank of right of accepting payment on preliminarily accepted base by payers, but unpaid payment requirement for supplied goods, implemented works or provided services on the terms of commercial credit and financing commercial transactions);
3. Financial leasing – a certain type of renting relationship when one party (leasing supplier) on the base of demand of the other party (leasing recipient) acquisition from the third party (seller) a property (objects of leasing) with the purpose of providing this property for ownership and use to leasing recipient.
4. All kinds of services on payments and monetary transfers including crediting, payment and debit cards, travelers cheque and banking bills;
5. Guaranties and bonds (banks, other credit institutes and insurance companies as well are authorized to provide guarantees and undertake obligations);
6. Trading at own expense and at the expense of clients on and outside currency exchange or another way ((banks are authorized to purchase or sell currency resources on currency exchange at own expense and through the order of their clients as well);
7. Instruments of monetary market (including cheque, transferring bills, deposit certificates). All commercial banks, according their Charter and directions indicated in the license, enjoy the right for transactions with the instruments of monetary market;
8. Foreign currency (commercial banks may operate an opening currency payments, purchase, sales conduct other transactions on exchange market with foreign currency according to issued licence of the Central Bank of the Republic of Uzbekistan);
9. Industrial products including but not limited to futures and options;
10. Instruments related to currency exchange rates and interest rates including swap and forward transactions;
11. Transferred securities (according to current legislation, commercial banks are authorized to operate with transferred (bills etc.) securities);
12. Other circulating instruments and financial assets;
13. Participation in issuance of all kinds of securities including guaranties and accommodation as an agent (state or private) and providing services related to these issuances;
14. Broker transactions on monetary market;

15. Managing assets such as cash or securities, all kinds of managing collective investments, managing pension funds, trusting, services on custody and trust services. Commercial banks are authorized to provide services on custody and conduct trust transactions according to an agreement with a principal;
16. Services on payments and clearing services on financial assets including securities, derived products and other circulating instruments;
17. Providing and transferring financial information and processing financial data and relevant software by suppliers of other financial services;
18. Consultative, mediation and other auxiliary financial services on all kinds of activity listed in items 5-15 including inquiry and analytic materials on credit matters, researches and recommendations on issues of purchase, reorganization and strategies of corporations (All commercial banks, consulting firms and other organizations provide a set of necessary financial services).

Question 211.

Please describe what "investment funds" are, services they may provide, and what criteria are used to licence them.

Answer:

According to the Regulation On Investment Funds, the Investment fund is a legal body issuing and accepting shares, making other transactions with securities and taking participation on rights of the shareholder in development and increase of effectiveness of the activity of enterprises, shares of which are hold by the investment fund. Indicated transactions are an exceptional kind of activity of the investment fund. In accordance with the charter of a fund (fund of open type) investment funds are authorized to securities with the obligation of their redeeming, i.e. investment funds can issue provide security holders of such funds the right to acquire monetary sums or other property in exchange to securities, or funds (fund of closed type) are authorized to issue securities without obligations of redeeming securities the issuer.

Banks and insurance companies, with activity regulated by the Legislation of the Republic of Uzbekistan, cannot be investments funds. The investment fund considered established after its state registration and obtaining the licence for activity as an investment fund. State registration of investment funds is carried out in the order established by the Legislation of the Republic of Uzbekistan for joint stock companies. Licensing of the investment funds is carried out in the order established by the Cabinet of Ministers after providing relevant documents to the Center on Coordination and Control on functioning of security market.

Question 212.

Are there any measures that would limit foreign-owned financial services provider established in your country from competing on terms and conditions no less favorable than domestic firms? (This would include the opportunity to participate in any self-regulatory bodies, securities or futures markets, clearing agencies, or other organizations or associations)?

Answer:

The legislation of the Republic of Uzbekistan provides for a number of concessions and preferences for foreign investors that are not provided for local investors. In particular, Article 3 of the Law of the Republic of Uzbekistan On Guaranties and Measures for Protection of Rights of Foreign Investors indicates that: "In cases when following legislation of the Republic of Uzbekistan deteriorates conditions of investment, foreign investors apply the legislation which was in force on the date of investments for ten years beginning since the time of investment. Foreign investor is authorized at its

disposal to apply that provision of new legislation, which makes better conditions of its investment. Article 5 of the same Law provides that foreign investments and other assets of the foreign investors of the republic of Uzbekistan are not subject to nationalization". Moreover, the Law of the Republic of Uzbekistan On Guaranties and Measures for Protection of Rights of Foreign Investors stipulates "The Government guaranties and protects the rights of foreign investors enjoyed in the investment activity on the territory of the Republic of Uzbekistan".

Question 213.

Please describe any laws, regulation, or practices which limit, in any way:

the ability of a non-resident financial service provider to provide cross-border into the territory of your country advisory and other auxiliary financial services, the provision and transfer of financial information, and financial data processing (as defined in para. 5 of the Annex.)

whether residents of your country may purchase financial services in the territory of another party?

Answer:

In general there are no restrictions on use of services supplied by foreign financial institutes. Besides, in case opening accounts by the residents of Uzbekistan, who are temporarily on the territory of another country, the Central Bank authorization is not required.

(f) transport services:

Question 214.

Please provide more details on the application and licensing process for cargo transportation and domestic and international freight forwarding services.

Answer:

To obtain the licence for cargo transport the carrier, owning transports on the right of the property or other objects rights, presents following documents:

1. Application of established form;
2. List of available movable transport for each type of licensed transportation;
3. An authorized copy of certification on registration of an enterprise (organization) and certification on including of companies in the State register of enterprises and organizations from the State Department of Statistics;
4. Notary authorized copy of the Charter of enterprise (organization). The Charter should contain the indication on licensed transport activity;
5. Banking requisites;
6. Notary authorized copy of the Foundation Contract;
7. The information on available technical service and maintenance of movable transport centers;
8. Guarantee Letter signed by the Chief and Chief accountant on slovenly of the enterprise (organization).

- International Passenger and Cargo Transportation
 - (Additionally to above-mentioned items)
9. Authorized copy of certification confirming professional fitness of the Chief of enterprise (organization) to this kind of activity.

After receiving above listed documents, the working Group of the Commission of the Cabinet of Ministers on Licensing in the Sphere of Transport considers materials on Sub-commission and afterwards this transfers the documents to the Commission of the Cabinet of Ministers which makes resolution on issuing the licence.

According to adopted resolution Uzbek Agency of Automobile and River Transport issues the Licence for certain activity after an applicant has paid governmental duties and fees.

(g) insurance services:

Question 215.

Which entity or entities has responsibility for reviewing and approving applications for licenses to supply insurance services? Are the state insurance companies also involved in the review and licensing of private providers of insurance services? What requirements exist to obtain a license? Do the requirements differ based on the type or types of insurance to be provided? Is it possible for foreign suppliers of insurance services to choose type of legal entity, that is, as representative office, subsidiary, joint venture or as a branch?

Answer:

In accordance with the Law of the Republic of Uzbekistan On Insurance, issuance of the licenses for of insurance activity is implemented by the State Inspection on Insurance Monitoring of the Republic of Uzbekistan – the Body of state regulation of the activity of insurance organizations. State Inspection also conducts mandatory registration of insurance organizations carrying out the activity on the territory of the Republic of Uzbekistan. The State Inspection on Insurance Monitoring shall issue the licence during 30 days since the date of receiving all necessary documents. In particular notes of a bank or another credit institute on available charter fund of the established amount, rules in the case of a specific insurance, payment or grounding for insurance tariffs.

The State insurance organizations do not participate in considering and licensing private insurance companies.

In future, it is planned to adopt a new Law of the Republic of Uzbekistan On Insurance, activity on the territory of the Republic of Uzbekistan which will specific requirements to insurance organizations depending on conducted types of insurance transactions in particular, when insurance organizations are established and the licenses are issued, the requirements to the volume of the charter capital are varied.

The new draft law provides a section with respond the order regulating the licensing process by the State Inspection on Insurance Monitoring.

Foreign insurance organizations providing services on the territory of the Republic of Uzbekistan are free to choose among forms of legal body as a joint venture, branch office or subsidiary for conducting its activity.

Question 216.

Could Uzbekistan provide similar information (5. market structure and/or regulatory regime if applicable) for the following sectors: professional services (accounting and auditing services; taxation services; architectural and engineering services); construction and related engineering services; distribution services; audio-visual services; environmental services; and tourism services?

Also, related to information provided earlier in the document, please clarify how Uzbekistan defines "trade services" and the market structure and/or regulatory regime for this sector.

Answer:

As mentioned above, currently, relevant ministries and institutions of the republic have begun the work on compiling WT/ACC5 document (the schedule of concessions and commitments on services). At the same time, this information is reflected in the Memorandum on Foreign Trade of the Republic of Uzbekistan.

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

1. Bilateral or plurilateral agreements relating to foreign trade in goods and trade in services

Question 217.

Does Uzbekistan plan on adhering to the provisions of the Civil Aircraft Agreement?

Answer:

Pending.

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

Question 218.

Imported goods originating from the countries, which signed the Agreements about Free Trade Areas, are not subject to import customs duties. The said countries are entered in the list registered by the Ministry of Justice on April 8, 1998, No 429. This regime is applied to the trade with all CIS countries except Armenia and Turkmenistan.

What is the tariff regime applied to Armenia and Turkmenistan?

Answer:

There is no signed Agreement on Free Trade Area between the Republic of Uzbekistan and Armenia; therefore Uzbekistan applies to Armenia the same regime as to the third countries.

With Turkmenistan the Agreement on Basic Directions of Long-term trade-economic cooperation is signed. It provides the application of the regime on free trade in bilateral relationship (Ref. No. 24 of document WT/ACC/UZB/4/Add.1 refers).

Question 219.

What portion of trade with the other CIS is duty free? What are the major sectors excluded from the FTAs? What plans exist to complete the FTA system in the CIS?

Answer:

The Protocol on introducing amendments and supplements to the Agreement on creating free trade areas was signed on 2 April 2000.

This Protocol can give new impact to development of economic relations among Free Trade Areas member-states.
