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**Working Party on the
Accession of Yemen**

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Additional Questions and Replies

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TABLE OF CONTENTS

II.	ECONOMIC POLICIES.....	1
-	Monetary and Fiscal Policy.....	1
-	Foreign Exchange and Payments	2
-	Investment Regime.....	3
-	State Ownership and Privatization	7
-	Pricing Policies	11
-	Competition Policy	12
IV.	POLICIES AFFECTING TRADE IN GOODS	13
-	Trading Rights	13
A.	IMPORT REGULATIONS.....	15
-	Ordinary customs duties	15
-	Other duties and charges.....	16
-	Fees and charges for services rendered.....	16
-	Application of internal taxation to imports	19
-	Quantitative import restrictions, including prohibitions, quotas, and licensing systems	20
-	Customs valuation.....	22
-	Rules of origin	24
-	Other customs formalities	24
-	Anti-dumping, countervailing duties and safeguard regimes	25
B.	EXPORT REGULATIONS	25
-	Export subsidies	25
C.	INTERNAL POLICIES AFFECTING FOREIGN TRADE IN GOODS	26
-	Industrial policy, including subsidies	26
-	Technical barriers to trade, standards and certification.....	27
-	Sanitary and phytosanitary measures.....	29
-	Trade-related investment measures	31
-	State-trading entities.....	31
-	Free zones, special economic areas.....	32
V.	TRADE-RELATED INTELLECTUAL PROPERTY REGIME.....	33
-	Participation in international intellectual property agreements	33
-	Copyright and related rights.....	33
-	Trademarks, including services marks	35
-	Geographical indications, including appellations of origin.....	35

-	ENFORCEMENT	36
VII.	TRANSPARENCY	36
ANNEX 1	38
ANNEX 2	39

II. ECONOMIC POLICIES

- Monetary and Fiscal Policy

Question 1

Factual Summary, Paragraphs 9-11 and Table 1: We would appreciate an update on monetary and fiscal policies for the period 2001-2005, including statistics on GDP, the money supply, revenue, and expenditures. We would like to see some discussion of the budget deficit (or surplus), and the measures the government is taking to manage any fiscal imbalance that may exist.

Answer:

Yemen is working on developing its monetary policy and monetary system towards maintaining stable exchange rates and low level of price increases.

Broad Money supply (M2) growth fell from 20 per cent in 2003 to 15 per cent in 2004 and to 14.4 per cent in 2005. In 2006, it rose to 28.8 per cent. Net foreign assets of the banking system had an expansionary role on M2 amounting to 38.5 per cent in 2006. But net domestic assets had the opposite effect for it made M2 shrink by 9.7 per cent in the same year.

Confidence in the national currency is strengthening as reflected by the gradual reduction in dollarization (amount of dollars held by public) from 52.5 per cent in 2001 to 49.5 per cent in 2005 and to 48.4 per cent in 2006. The US dollar rose by less than 2 per cent against the Yemeni Rial (YRLS) during 2006.

Table 1: Monetary developments (2001-2006)

(Changes in per cent)

Percentage change unless otherwise stated	Years					
	2001	2002	2003	2004	2005	2006
Broad money supply	14.4	15.0	20.0	18.0	18.7	28.8
Money outside banks	11.0	10.8	12.3	12.5	8.0	24.8
Rial demand deposits	20.8	17.7	17.2	-4.0	39.4	30.5
Rial quasi-money	5.0	33.5	29.0	44.4	18.7	34.7
Net forging assets of the banking system	13.8	15.0	15.8	28.7	33.7	31.8
Private sector credit	21.3	33.5	26.3	14.3	25.8	16.7
Rials	18.8	38.0	14.4	18.5	23.3	12.0
Foreign currencies	24.4	28.3	43.3	8.8	29.4	22.4
Private sector credit as % of GDP	6.9	7.2	6.3	5.8	5.7	8.6
Dollarization (FC deposits as % of total deposits)	49.5	46.4	51.2	51.5	52.5	48.4
Money outside banks as % of GDP	31.5	32.5	33.7	36.0	37.8	30.5
Money outside banks as % of Rial deposits	91	90	104	116	128	85
Official gross reserves as % of Rial M2	173	168	175	178	168	167
Inflation (%)	19.8	10.0	13.6	4.3	22.4	16.5

Percentage change unless otherwise stated	Years					
	2001	2002	2003	2004	2005	2006
Deposit interest rate	13.0	13.0	13.0	13.0	13.0	13.0
Minimum lending rate	15.0	15.0	15.0	15.0	15.0	15.0
Maximum lending rate	20.0	20.0	20.0	20.0	20.0	20.0
Fiscal balance as % of GDP (cash basis)*	-1.8	-2.2	-4.6	1.1	2.0	0.8

Source: Yemen Statistical Annual Book 2005.

*Source: IMF

As for the fiscal policy, Yemen is working on reducing the budget deficit. The period of 2001-2005 witnessed a deficit in the budget except for 2001 where there was a surplus, as indicated in the following table (Table 2).

The Government endeavours to minimize the deficit by reducing the current expenditure and continuing the financial and administrative reform program.

Table 2: Budget Survey for 2001-2005

Item	(in million Rials)				
	2001	2002	2003	2004	2005*
Total Revenues (Including aid and grants)	553,084	567,672	672,293	820,564	1,121,288
Total Revenues (Excluding aid and grants)	546,763	559,971	663,958	801,883	1,107,989
Total Expenditures and (net-loans)	506,761	576,792	762,766	875,623	1,158,907
Deficit/Surplus (overall)	46,323	-9,120	-90,473	-55,059	50,918
Deficit/Surplus (net)	39,712	-14,285	-88,818	-51,396	-37,859

*Estimate

Source: Yemen Statistical Annual Book 2005.

As for GDP, it increased from YRLS 253 billion in 2001 to YRLS 295 billion in 2005 with a growth rate of 3.9 per cent (2001) and 4.4 per cent (2005). Most of GDP growth is attributed to the increase in the growth rates of non-oil sectors as explained in the table below (Table 3).

Table 3: GDP at Producers Prices by Economic Activity for 2000 - 2005
(at Constant Prices (1990=100) and in Million YRLS) and
GDP Growth Rate at Constant Prices (per cent)

Item	2001	2002	2003	2004	2005
GDP at Market Prices	252,835	283,032	272,624	262,798	295,469
Growth Rate	3.86%	3.82%	3.74%	3.94%	4.39%
Non-Oil GDP	212,142	244,974	232,565	221,881	257,711
Growth Rate	4.54%	5.34%	4.82%	4.59%	5.20%
Oil Refining	879	910	905	892	937
Growth Rate	2.33%	0.55%	1.46%	1.48%	2.97%

Yemen Statistical Annual Book 2005.

- Foreign Exchange and Payments

Question 2

Factual Summary, Paragraph 15: We would appreciate an update on Yemen's foreign exchange and payments section for the period 2001-2005, including statistics.

Answer:

The current account surplus increased notably from YRLS 41.5 billion in 2004 to YRLS 122.5 billion in 2005 mainly due to the high increase of international oil prices. The capital account has shown a deficit of YRLS 48 billion but this was offset by the big surplus of the current account.

The overall balance of payments position achieved a surplus of YRLS 113.7 billion. Imports increased by 22 per cent in 2005 compared to only 8 per cent in 2004. For more information on imports and exports, please refer to the Foreign Trade Statistics (which will shortly be available through document WT/ACC/YEM/18/Add.2).

The following table shows the development of balance of payment during the period 2001-2005.

Table 4: Balance of Payments 2001-2005

Items	In Million Yemeni Rials				
	Years				
	2001	2002	2003	2004	2005*
I -Current account	112,028.2	77,870.7	32,172.0	41,541.0	122,511.3
1- Trade Balance	128,140.7	105,584.2	67,254.1	151,115.1	326,987.6
2- Services balance	-114,425.0	-119,495.1	-99,798.7	-127,443.5	-164,487.5
3- Income balance	-116,514.7	-143,702.2	-188,362.2	-248,867.2	-309,135.4
4- Current transfers balance	214,827.2	235,483.8	253,078.8	266,736.6	269,146.6
II. Capital and financial account	16,949.8	-2,627.8	25,739.1	47,212.4	-47,801.9
1- Financial account balance	16,949.8	-2,627.8	25,739.1	47,212.4	-47,801.9
1.1- Direct investment	23,279.6	17,854.4	1,076.5	26,599.4	-57,372.8
1.2- Other investment	-6,329.8	-20,482.2	24,662.5	20,612.9	9,570.9
III- Errors and Omissions	-18,717.5	30,315.4	3,513.7	9,651.6	38,987.7
Overall balance	110,260.5	105,558.4	61,424.9	98,405.0	113,697.0
Financing	-110,260.5	-105,558.4	-61,424.9	-98,405.0	-113,697.0
A-Net Reserves(increase= -)	-118,710.4	-105,558.9	-65,231.3	-114,325.1	-148,622.2
B- Debt Relief and arrears	8,449.8	0.5	3,806.4	15,920.2	34,925.2

* Estimate

Yemen Statistical Annual Book 2005

- **Investment Regime**

Question 3

Does Yemen's law allow a foreign investor to purchase an existing firm from its Yemeni owner(s)?

Answer:

Yes, Yemen's law allows a foreign investor to purchase an existing firm in the areas where foreign investment is allowed.

Question 4

Does Yemen have a stock market?

Answer:

Currently, Yemen does not have a stock market.

Question 5

Document WT/ACC/YEM/10: The response to Question 19 states the following: "The investor submits an application of the requested exemptions and all proofs of the project's eligibility according to the law within 90 days from the beginning of the production or practicing activities."

Please identify the documents that would serve as "proofs of the projects eligibility."

Answer:

Documents of Project eligibility comprise:

- Project registration certificate;
- Proof of commercial registration of the project; and
- Proof of production commencement in the project.

Question 6

Document WT/ACC/YEM/10, Question 19: What happens if the General Investment Authority does not issue the tax exemption certificate within 60 days?

Answer:

In the unlikely case of a delay in issuing the tax exemption certificate, the investment will not be effected negatively and without any prejudice to the investor.

Question 7

Factual Summary, Paragraph 24: Does Yemen intend to become a party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards?

Answer:

Yemen has not considered joining the Convention on the Recognition and Enforcement of Foreign Arbitral Awards yet.

Question 8

We note that foreign equity is limited to 45 per cent for commercial banks, to 49 per cent for retail and wholesale activities and to 25 per cent for insurance companies. Is Yemen foreseeing any timetable for allowing 100 per cent foreign equity in these sectors?

Answer:

Yemen does not have a foreseen timetable for allowing 100 per cent foreign equity in such sectors.

Question 9

Could Yemen submit the 2002 Mines and Quarries Law No. 24 to the Working Party?

Answer:

The 2002 Mines and Quarries Law No. 24 can be obtained through document WT/ACC/YEM/18/Add.1.

Question 10

Paragraph 21 and Question 23 of document WT/ACC/YEM/10: We would be happy if Yemen could explain what is the difference in investment incentives granted on the basis of percentage of shares held by Yemeni nationals in joint stock companies (how does this operate, what percentage of Yemeni ownership is required and what incentives are received compared with low Yemeni ownership)?

Answer:

The Yemeni investment law accords investment projects of which at least 25 per cent of the equity is owned by Yemenis, an extra two-year tax exemption. In order to benefit from such incentives, projects have to present proof of the local shareholding.

Question 11

Question 24 of document WT/ACC/YEM/10: Yemen explains that there is no exclusive list of sectors/products prohibited under the Shari'a. We would urge Yemen to be a bit more specific on this point, since "everything that contradicts public morals and Islamic values" is a very wide criteria, which may lead to arbitrary discrimination.

Answer:

It is impractical to provide an exclusive list of sectors/products prohibited under Sharia'a. A revised list of prohibited goods is being submitted to the Working Party (please see document WT/ACC/YEM/17/Rev.1). Yemen confirms that the measures to be taken in accordance with Shari'a principles are going to be implemented in a non-discriminatory manner.

Question 12

Question 25 of document WT/ACC/YEM/10: Yemen explains that there is no exclusive list of industries considered to harm the environment or health. We would urge Yemen to be a bit more specific on this point, as investors would need to have a minimum legal certainty on this matter.

Answer:

Currently, a list of industries harmful to the environment is being prepared and will be available to the public upon completion.

Question 13

Paragraph 17 of the Factual Summary: In Yemen's view are measures for "Production Sharing Agreements" or "Special Agreements" consistent with the provisions of the WTO Agreement on Trade-Related Investment Measures?

Answer:

Measures for "production sharing agreements" or "special agreements" are not in contradiction with the provisions of the TRIMs Agreement, as they do not fall under any of the TRIMs provisions.

Question 14

Paragraph 18 of the Factual Summary: In reference to Yemeni Investment Law, which "guarantees that investment projects would not be nationalized and that investments would not be confiscated by any decision other than judicial order", could Yemen please specify if foreign investors would be entitled to the same compensation as offered to domestic investors in issues concerning indirect or direct expropriation?

Answer:

According to Article 5 of Law No. 22/2002, foreign capital shall be on par with Yemeni capital without discrimination with respect to commitments, rights, rules, procedures set forth in this law and the decrees and regulations enacted in the execution thereof. Accordingly, foreign investors will be entitled to the same compensation with respect to direct or indirect expropriation.

Question 15

Paragraph 18 of the Factual Summary: Yemeni Investment Law contains language relating to "the freedom of investors to manage their projects", could Yemen please outline its regulations on the entry of personnel and senior officials employed by the investor?

Answer:

The investment Law No. 22 of 2002 states that "projects may recruit non-Yemenis in accordance with the requirements stated in their list of requirements and are entitled to obtain work permits for their personnel for a three-year period renewable upon a recommendation by the authority".

Question 16

Paragraph 19 of the Factual Summary: According to the Secretariat's Report, "Tax exemptions were accorded to investment projects for a period of 7 to 16 years, depending on the location of the investment project, the local component in fixed assets, and the percentage of shares held by Yemeni nationals in joint stock companies." Could Yemen provide additional information as to the type or amount of "local component in fixed assets" required? In Yemen's view, are these local component requirements consistent with the provisions of the WTO Agreement on Trade-Related Investment Measures?

Answer:

Investment projects are entitled to additional two years of tax exemption if the local component of their fixed assets is not less than 25 per cent of the total fixed assets of the project. According to the investment law, fixed assets mean "the machinery, instruments, equipment, supplies, and spare parts needed to establish, expand or rehabilitate a project including buses especially designed to transport tourists, vessels for maritime transport and fishing and furniture and furnishing for hotels and hospital whether imported or locally manufactured or produced". Yemen is convinced that this measure does not fall under the TRIMs Agreement. However in case of any other interpretation, Yemen avails itself of the transitional arrangements provided for LDCs in the said agreement as well as the Hong Kong Ministerial Declaration.

Question 17

Paragraph 22 of the Factual Summary: Could Yemen provide a list of all international and bilateral investment treaties to which Yemen is a signatory?

Answer:

A list of international and bilateral investment treaties can be found in Annex 1.

- **State Ownership and Privatization**

Question 18

Factual Summary, Paragraph 26: Please identify the owner(s) of the holding company, Yemen General Corporation of Oil and Gas.

Answer:

The owner of the Yemen General Corporation of Oil and Gas is the Ministry of Oil and Natural Resources.

Question 19

Factual Summary, Paragraph 26: What commercial entities have the right to import oil, gas, petrochemical, and refined petroleum products?

Answer:

Importation of oil, gas and refined petroleum oil is confined to the General Corporation of Oil and Gas, while the importation of petrochemicals is handled by the private sector.

Question 20

Factual Summary, Paragraph 27; Table 3, page 51: Please describe corporate governance requirements for the commercial entities listed in Table 3. Please describe the kinds of commercial decisions that corporate governance rules require the board of directors to make. How do Boards of Directors of state owned enterprises make decisions? Are written minutes kept of board meetings? Are they available to shareholders? Are they available to the public? Do State-Owned Enterprises issue an annual report to the public? Please list in Table 3 the Board Chairmen for each State-owned or controlled enterprise.

Answer:

The Boards of Directors of government commercial entities listed in Table 3 are responsible for the following:

- Setting the necessary policy for conducting the work and endorsing the administrative and financial regulations in line with the needed requirements, available resources, and the enforced provisions of law;
- Setting the policy and the objectives of the institution, approving the investment plans and different activities in such a way that achieves its purpose and monitoring provisions in light of the general policy of the country;

- Deciding on contracts of the entity with others in the area of investment, loans and credit facilitation;
- Approving studies, reporting recommendations and proposing the special draft decisions of the issues that require decisions from the Minister or the Prime Minister;
- Approving the annual financial plan of the entity and working to achieve the resource estimates and spending in the planned budget in such a way that guarantees the growth of resources and decrease of spending;
- Setting the financial policy of the entity to arrange for the development of resources to finance current and investment operations from local and foreign currency;
- Ratifying the regulation of the entity and presenting it to the Minister for approval and issuance;
- Approving the general budget of the entity, fiscal accounts and the results of the annual inventory of the entity;
- Proposing the amendment of the capital of the entity; and
- Appointing branch managers of the entity based on the proposal of the general manager and the approval of the Minister in such a way that does not contravene with enforceable laws and regulations.

Decisions in those entities are made by voting in which majority is the prevailing mechanism for decision making. Minutes of meetings and annual reports are made available to the shareholders.

The following table (Table 5) lists names of chairmen of boards of directors for state-owned or controlled establishments referred to in Table 3 of JOB(05)/172/Rev.1.

Table 5: List of Chairmen of Boards of Directors for State-Owned or Control Establishments

Company	Chairman of the Board of Directors
Public Telecommunication Corporation	Kamal Aljabri
Public Corporation for Water and Sanitation	Ibrahim Al Mahdi
Public Corporation for Electricity	Dr. Mustafa Bahrn
Public Corporation for Cement Manufacturing and Marketing	Amin Al Shaibani
Public Corporation for Clothing and Textile	Mohamed Hajeb
Yemeni Company for Insurance and Reinsurance	Ahmed Ali Haddash
TeleYemen	Kamal Aljabri
Marib Poultry Company	Dr. Hassn Alfwsail
Yemen Airways	Abdul Khaliq Al Qadi
Yemeni Bank for Construction and Development	Abdullah Salem Al Jefri
Yemeni-Libyan Holding Company	Abdullah Mohammed Eshhaq
Kuwaiti Yemeni Real Estate Development Company	Khalid Al Obaidi,
National Tobacco and Matches Company	Tawfeeq Al Ahmer
Saba'a Insurance Company	Mohamed Mustafa
Marib Insurance Company	Ali Hashim
Arab Insurance Company	Adel Albanna

Question 21

Factual Summary, paragraphs 26 and 27: Does Yemeni law subject state-owned and state-controlled enterprises to international accounting standards? Does Yemeni law require an independent audit of State-owned and state-controlled enterprises' accounts?

Answer:

Yes, state-owned and state-controlled enterprises are subject to international accounting standards. Moreover, Yemeni law requires an independent audit of state-owned and state-controlled enterprises accounts.

Question 22

Document WT/ACC/YEM/10, Question 13: Please provide further details on the tendering procedures followed by state-owned and state-controlled enterprises. We note that paragraph 125 of the Factual Summary states that "as a general rule, wholly State-owned enterprises also used public tendering to purchase goods and services." Are the purchases of state-owned and state-controlled enterprises subject to Law No. 3/1997 "On Government Bids, Tenders and Warehouses?" Is there a specific value above which state-owned and state-controlled enterprise must follow tendering procedures? How do State-Owned and State-Controlled Enterprises make purchases for operational purposes (office supplies, for instance)?

Answer:

In principle, government bodies both at the central and local level are subject to the provisions of Law No. 3/1997 which did not exclude from the enforcement of its provisions any but units of the public sector with productive nature and units of the mixed sector as the law allowed for these two types of establishment, for considerations required by the commercial nature of their activities, to have certain procedures according to their laws. As for the procedural part of tendering, the law has provided for technical and administrative committees to be formed for this purpose in bodies controlled by its provisions; whether the issue concerns the preparatory procedures of the tender like specifications, terms for tendering, list of items, samples and documents needed therefore, or the tender post-announcement procedures in terms of receiving, tabulating, analyzing and deciding on the offers from the participants. Only in this regards, the law obliged all the bodies subject to its provisions to fairly and equally treat all competitors and, at the same time, it guarantees the bidders/contractors/suppliers the right to appeal to the chairman of the body when mistreated or harmed or to resort to court.

With regards to biddings related to the purchases for operational purposes (such as office equipment), the executive regulation of Law No. 3/1997 stipulates the following:

- Less than YRLS 30,000 by direct order;
- More than YRLS 30,000 up to YRLS 200,000 by direct tendering involving at least two bidders;
- More than YRLS 200,000 up to YRLS 1 million by limited tendering, i.e. the competing bidders enlisted should not be less than three; and
- More than YRLS 1 million by public tendering in which competition is open to all qualified bidders through announcements by means of appropriate media.

Question 23

Document WT/ACC/YEM/10, Question 14: Are state-owned and state-controlled enterprises subject to the provisions governing bankruptcy in Articles 570-823 of Commercial Law No. 32 of 1991?

Answer:

Yes state-owned and state controlled enterprises are subject to the provisions governing bankruptcy in Articles 570-823 of the Commercial Law No. 32 of 1991.

Question 24

Factual Summary, paragraph 28: Are any of the firms listed in Table 4 bankrupt as defined in Articles 570-823 of Commercial Law No. 32 of 1991?

Answer:

There are no bankrupt companies among the companies listed in table 4.

Question 25

Factual Summary, paragraph 30: Please explain what is meant by the following sentence: "All privatizations involving a transfer of ownership were subject to the Council of Ministers' approval."

Answer:

The intended meaning of the sentence is that all privatizations involving partial or full transfer of ownership are subject to approval of the Cabinet.

Question 26

Factual Summary, paragraph 32: In the following sentence, "The representative of Yemen said that the TPO published announcements on privatization in widely-circulated newspapers to ensure transparency in the privatization process," what newspapers does Yemen consider to be "widely-circulated?" Does Yemen use other media to publicize its tenders? If so, what are they?

Answer:

The newspapers considered to be widely circulated are "Alhowrah" newspaper and "14th of October" newspaper which are published daily. The privatization law also allows the publication process to include all mass media including the Internet.

Question 27

Paragraph 26 of the Factual Summary and Question 5 of document WT/ACC/YEM/10: On the basis of the information given on the Holding Company "The Yemen General Company for Oil and Gas, we consider this company as a State Trading Enterprise in the meaning of Article XVII GATT. We would request Yemen to notify this company to WTO in accordance to Article XVII GATT upon accession.

Answer:

Yemen will notify the Yemen General Corporation for Oil and Gas as a state trading enterprise upon accession.

Question 28

Paragraph 26 of the Factual Summary and Question 15 of document WT/ACC/YEM/10: Yemen explains that monopolies exist in the areas of fixed telecommunications and international telecommunication services, water and sewage services and electricity production and distribution. Has Yemen any plans to abolish the current monopolies in the future and allow other companies to enter in these sectors?

Answer:

Yemen does not have any plans for breaking the current monopolies above mentioned. Nevertheless, in order to ensure universal access to essential services, Yemen is gradually allowing private sector participation in some areas of these sectors.

Question 29

Is the Public Corporation of Electricity also importing and/or exporting electricity?

Answer:

The Public Corporation of Electricity does not import or export electricity.

- **Pricing Policies****Question 30**

WT/ACC/YEM/10, Question 3: Under what legal authority do "...some Government agencies determine the prices of some goods and services which they provide ...?" How do government agencies determine which prices to control? What criteria do they use to set the prices?

Answer:

The legal authority, under which the prices of some goods and services produced/provided by government agencies are determined, is the decree that established each respective agency including their rights to set the prices of goods/services they produce/provide. Price control is applied to public goods and essential services produced/provided by those entities such as electricity, water, sewage. The criteria used to set such prices are based on costs and market factors taking in consideration the social factors and affordability to consumers.

Question 31

Paragraph 34 of the Factual Summary: Could Yemen give information as regards the annual production of petroleum products, and how much of this is sold to domestic market and how much exported?

Answer:

The production of oil is as follows:

Table 6: Production of oil in million barrels

2002	2003	2004	2005	2006
159.92	157.27	147.5	146.09	133.33

As shown in the table above, the production of oil is declining.

With regards to the local consumption of petroleum products, it was 4,996,737 tons in 2006.

The exports of oil in 2006 amounted to 63,599,248 barrels.

Question 32

What are the export prices of petroleum products?

Answer:

The average price of crude oil exports in 2006 amounted to US\$62.933/ barrel.

- Competition Policy

Question 33

Factual Summary, paragraph 35; WT/ACC/YEM/10, Question 33: While we appreciate that Yemen has a new draft law on monopoly and anti-competitive behaviour before the National Assembly, we reiterate our request for a description of the elements of Law No. 19/1999 that provide authority for the government to intervene against monopoly or anti-competitive behaviour. We would also appreciate a review of the procedures outlined in the law through which a company or individual may file a complaint with the government of anti-competitive behaviour in a market or sector. Please include a description of how the government would adjudicate the complaint.

In the interest of transparency, we would appreciate the opportunity to review Yemen's draft law on monopoly and anti-competitive behaviour. When does Yemen anticipate enacting the new law?

Answer:

The main elements mentioned in Law No. 19/1999 is the provision indicating that dealing in different goods and services in the Yemeni market should be conducted within the framework of free trade and in such a way that does not cause any injuries to the interests of the users or create any commercial monopolies.

The government authority is represented in the interference against monopoly and any unfair practices through:

- The prohibition to establish contracts and agreements or cartels that aim at monopolizing the importation, production, distribution or sales of any goods or any parts thereof with the intention to hide them, restrict their circulation, limit their production or decide on their prices in such a way that prevents free competition;
- The prohibition to establish competing natural and legal commercial bodies via signing any agreements or setting any arrangements among themselves which would prevent or weaken competition; and
- The prevention of commercial enterprises from committing any acts whose purpose is to constrain the entry of new competing enterprises to the market, to hinder the expansion of existing enterprises, or to expel competing ones from the market.

The prevention of the economic concentration whenever it leads or may lead to restricting or weakening competition. However, the Law excluded the following activities from the scope of implementation of its provisions:

- Activities of the commercial enterprises which have link with the government (valid concession agreements), the activities of the state-monopolized enterprises, enterprises having licenses and concessions issued by the original producer to produce foreign products, and the activities of the commercial agencies;
- The provisional measures taken by the Cabinet to address exceptional emergency or *force majeure* cases in a certain sector; and
- The rights endorsed by protection of IPRs, trademarks, patents, and copy rights.

As concerning the part of question on procedures, through which individuals and companies can raise complaints to the government on uncompetitive practices and the way of judging them, it can be said that Law No. 19 stated the establishment of a special government authority, anti-monopoly and competition protection authority, whose objectives include most importantly revealing of monopoly cases, vertical integration, and horizontal concentration; hiding any product or material needed for the production of a product in the domestic market during its sales, display or pricing in any way that may lead to the restriction of free competition. The law authorized the mentioned authority to, in this regard, set the necessary policies and procedures needed for the protection and enhancement of competition.

In light of the abovementioned, the reported complaints on uncompetitive practices are one of the responsibilities and tasks of the mentioned authority which, after receiving the complaint, investigates the case and collect the supporting information including field visits to the commercial enterprises in question or request the relevant data and information. The authority after establishing the case, refers the complaint and its relevant documents through the Ministry of Industry and Trade to the concerned judicial bodies, i.e. general prosecutor, to investigate the case and file a claim against the violating enterprises in front of a competent court of law which in turn look into the case and take a decision according to the law.

As for the last part of the question on the draft alternative law for Law No. 19/1999 and the possibility to review by the Working Party and the expected issuance time, it can be said that the mentioned draft is currently under revision and once revision is complete and the draft is in its final version, we will provide a copy. As for its issuance time, we expect it to take place according to the legislative action plan during 2008.

IV. POLICIES AFFECTING TRADE IN GOODS

- Trading Rights

Question 34

Factual Summary, Paragraph 45: Does Yemen require a trading company to register as a commercial enterprise, register as an importer, and register as an exporter? Must it register in fact three times?

Answer:

Yemen does not require a trading company to register three times as a commercial enterprise, as an importer and as an exporter. It is only registered once to practice all trade activities it may wish according to the purposes of the company stated in the memorandum of association and articles of association.

Question 35

Factual Summary, Paragraphs 45 and 49: We appreciate Yemen's review of its fee structure for commercial registration. We look forward to Yemen's equalization of the fees it charges foreign and Yemeni applicants for commercial registration.

Answer:

Yemen is currently reviewing the commercial registration fees to ensure their consistency with the WTO requirements, upon accession.

Question 36

Factual Summary, Paragraph 48: We note that the registration fees for imports and exports for companies do not seem to reflect the costs of services rendered. In addition we note that the fee is the highest for the agency and branches of a foreign company, even if the conditions for the application are the same. We therefore urge welcome Yemen's commitment to review the fees to bring them in compliance with Article III and VIII GATT, to reflect the cost of services rendered and not to discriminate on the basis of nationality of the company in question.

Answer:

Please refer to the answer of Question 35.

Question 37

Factual Summary, Paragraph 46: Please advise whether a firm must obtain a ministerial decision to register as a commercial enterprise and to import. Please explain the reasoning for a ministerial decision to register every commercial firm in Yemen. Is it in fact true that every business operating in Yemen has been registered and its registration was approved by the minister? Does Yemen have any intention to streamline its commercial registration procedures to make them less burdensome to importers and investors? Does renewal of registration require ministerial approval also?

Answer:

The establishment of a joint-stock company needs a decree issued by the Prime Minister. After underwriting is completed, a ministerial decree will be issued to allow the company to commence practicing its activities.

The limited liability company and closed-stock company need to obtain a ministerial decree after the signing of the memorandum of association, articles of association, the depositing certificate of the company's capital in one of the commercial banks and registering the company in the commercial companies' register, according to Articles 66 and 245 of Companies Law No. 22 of 1997 and its amendments.

The joint liability company and limited partnership company do not need a ministerial decree for commercial registration.

After issuing the establishment decision, renewal of registration does not need a ministerial approval but is automatically done.

Question 38

Factual Summary, Paragraph 49: Article XI of the GATT 1994 conveys upon natural and legal person of any WTO Member the right to trade with any natural and legal person of any other WTO Member. Article III of the GATT 1994 ensures that rights accorded domestic firms are extended equally to foreign firms. Yemen's current practice of limiting importation and exportation rights to Yemeni natural and legal persons explicitly discriminates against natural and legal persons of other WTO Members. This limits competition in trade in goods, establishing a de facto quantitative restriction on trade. Yemen's current practice is therefore inconsistent with Articles III and XI of the GATT and must be amended.

Answer:

Yemen continues to believe that the current trading regime does not contradict Articles III and XI of GATT 1994. It does not represent any quantitative or other trading restrictions.

Question 39

We seek a commitment from Yemen that, from the date of accession, it will grant to any natural or legal person, domestic or foreign, the right to be the importer of record of any product allowed to be imported into Yemen. In addition, we will seek a commitment from Yemen to confirm that from the date of accession, full rights to trade would be granted in a non-discriminatory and non-discretionary way, and that any requirements for obtaining trading rights would be for customs and fiscal purposes only and would not constitute a barrier to trade.

Answer:

Please refer to the answer of Question 38.

Question 40

Paragraph 47 of the Factual Summary: We note that neither foreign nationals nor foreign companies can register as importer or exporter. Companies need to be established in Yemen or have an agent based in the country in order to be registered. We would urge Yemen to equalize the treatment of foreign and domestic nationals and companies as regards the rights to be registered as an importer and/or exporter.

Answer:

Please refer to the answer of Question 38.

A. IMPORT REGULATIONS

- Ordinary customs duties

Question 41

Paragraph 51 of the Factual Summary: It is noted that Article 24 of the 2002 Investment law indicates that with a view to protecting local production, the Customs tariff Committee should impose or increase customs duty on the imports of goods competing with local production that rely on local material on its production. As mentioned in our previous comments, this requirement is WTO incompatible and we urge Yemen to abolish it from its legislation.

Answer:

Yemen will abide by WTO agreements and its accession commitments.

- **Other duties and charges**

Question 42

Factual Summary, Paragraph 53: Are domestic goods charged the same fees to support the "Heritage and Cultural Development Fund," the "Illiteracy Eradication and Adult Learning Agency," and "to finance economic and social plans and projects" when they arrive at market? What services are being provided to the importer for the payment of these fees?

Answer:

Charges referred to in funds mentioned in Questions 42 and 43 do not represent fees for services rendered. They are charged to serve the development, financial, and social needs of Yemen being a least developed country. Most are charged on imported and domestic products.

Question 43

Factual Summary, Table 6: Yemen charges YRLS 100 for each customs declaration form. The proceeds are provided to the Handicapped Care and Rehabilitation Fund. For what service is the importer paying this fee? Are domestic firms charged fees subsequently provided to the Handicapped Care and Rehabilitation Fund?

Answer:

Please refer to the answer of Question 42.

Question 44

We urge Yemen to bind its other duties and charges within the meaning of Article II:1(b) at zero upon accession.

Answer:

Binding other duties and charges within the meaning of Article II.1(b) shall be dealt with in parallel with the negotiation of goods market access, taking into consideration Yemen's trade, financial, and development needs.

- **Fees and charges for services rendered**

Question 45

Factual Summary, Table 7; WT/ACC/YEM/11: We appreciate this information. When does Yemen intend to provide the Secretariat with definitive list of its Fees and Charges for Services Rendered?

Answer:

Please see document WT/ACC/YEM/11/Rev.1.

Question 46

Factual Summary, Table 7: For imports of "feedstuff inputs for animal health," Yemen charges a fee of 1 per cent *ad valorem* fee for quarantine services for drugs, vaccines, antiseptics, etc. used in animal feedstock. How do these fees relate to the cost of the quarantine services being provided?

Answer:

This fee is to cover the analysis of applications, inspection and examination procedures at ports, and the issuance of permits and relevant documents.

Question 47

Factual Summary, Table 7: Please explain how the 1 per cent *ad valorem* fee assessed on imports of dog and cat food for quarantine services relates to the cost of the service rendered?

Answer:

Please refer to the answer of Question 46.

Question 48

Factual Summary, Table 7: Please explain how the *ad valorem* fees for issuance of import licenses on plant consignments, explosives and fireworks, pesticides, and drugs and medical appliances relate to the costs of processing the import licence.

Answer:

Currently, fees for issuance of import permits are under revision, in order to reflect the approximate cost of services rendered.

However, the imposed fee for processing an import licence for a plant consignment is YRLS 2,000 not 0.002 as mentioned in Table 7 of the Factual Summary and as mentioned in Item 2 of Services Fees and Charges for imports in the document WT/ACC/YEM/11.

Question 49

Factual Summary, Table 7: With respect to the fee charged to issue assessment certificates for "goods subject to accredited standards," how does the cost of issuing such a certificate vary between US\$50 and US\$1,000 based on the value of the shipment?

Answer:

As for the difference of fees, this is due to the fact that issuing the assessment certificates requires examination, inspection, and conformity check which may differ from one shipment to another due to a number of factors including the nature and size of the consignment.

Question 50

Factual Summary, Table 7: To receive an import licence for publications and stationery or audio tapes and CDs, Yemen charges approximately US\$25. To receive an import licence for

cinema films and video films and cassettes, Yemen charges a fee of approximately US\$50. What is the difference in the cost to process an import licence between the two categories?

Answer:

Please refer to the answer of Question 48. However, charging reduced fees for import licenses for books and printed materials is to serve public policy objectives, e.g. education.

Question 51

Factual Summary, Paragraphs 61 and 62: The fees identified above do not appear to have any relation to the cost of service being provided. How does Yemen intend to adjust its fee structure to into conformity with Article VIII of the GATT?

Answer:

Fees for services rendered are under revision.

Question 52

We will seek a commitment that Yemen adjusts the fees it charges imported goods to approximate the cost of services rendered by accession.

Answer:

Yemen is in the process of revising import permit fees and other fees and charges for services rendered so as to bring them to the approximate cost to ensure, from the date of accession, their conformity with the WTO agreements, in particular Article VIII of the GATT 1994.

Question 53

Paragraph 60 of the Factual Summary and Table 7: We thank Yemen for submitting information on its fees and charges. However, we note that many of these fees are either *ad valorem* or charged per/ton or in a similar manner that does not reflect the cost of services provided. We would therefore urge Yemen to revise its fees and charges to bring them in compliance with Article VIII GATT.

Answer:

Please refer to the answer of Question 52.

Question 54

Paragraph 61: It is noted that Article 25 of the 2002 Investment law indicates that the fees and duty charged on imported goods that are comparable to locally-produced goods will be set higher than for other goods. This requirement is WTO incompatible and we urge Yemen to abolish it from its legislation.

Answer:

Yemen confirms that fees and charges on imported goods will not be higher than those imposed on locally produced goods, upon accession.

Question 55

Paragraph 93 and Table 13: We thank Yemen for submitting list of charges and fees applicable to exports (Table 13). We note that many of the fees are given as *ad valorem*, or per/amount, which indicates that they do not correspond to services rendered. We would urge Yemen to bring all its fees and charges in compliance with the WTO rules and Article VIII GATT.

Answer:

Please refer to the answer of Question 52.

- **Application of internal taxation to imports**

Question 56

Paragraph 63 and Table 8: We thank Yemen for the information provided on taxation of imported and domestic products. However, we note that in the Table 8 it is indicated that only certain imported goods are taxed by 25 per cent (Item IV of Table 8).

We would therefore urge Yemen to revise its internal taxation system to bring it in line with Articles I and III of GATT.

Answer:

Yemen would like to point out that Law No. 19 of 2001 and its amendments on General Sales Tax has replaced law No. 70 of 1991 on Production, Consumption and Services Tax, its amendments and all annexed tables which are included the tables 7 and 8 in the Factual Summary.

According to Law No. 19 of 2001 on General Sales Tax and its amendments, domestic and imported goods are taxed equally.

Goods and services (domestic and imported) are subject to a unified rate in line with Articles I and III of GATT 1994 which is 5 per cent as a general sales tax according to Article (4, A).

Benzene, solar, kerosene, mazot, and potan are subject to a 5 per cent as a general sales tax from the consumer price according to Article (4, B).

The following products are exempted from the general sales tax (wheat, wheat flour, rice, medicines, pure gold, personal luggage for passengers coming from abroad, circulated money bills and coins) according to Article (40).

The law includes annexed tables as follows:

- Table I regarding exempted services from general sales tax;
- Table II regarding goods and services subject to general sales tax by 0 per cent; and
- Table III regarding goods and services subject to tax by specific rates for each.

Question 57

Paragraph 64 of the Factual Summary: We would be interested to receive the copy of the Law No. 19/2001 on the General Sales Tax, as amended by Law No. 42/2005, which is to replace the current production, consumption and services tax.

Answer:

Law No. 19 of 2001 on General Sales Tax and its amendments can be obtained through document WT/ACC/YEM/18/Add.1.

- **Quantitative import restrictions, including prohibitions, quotas, and licensing systems**

Question 58

Factual Summary, Table 11; WT/ACC/YEM/17: We appreciate receiving this information. When will Yemen provide the Secretariat with its definitive list of prohibited imports?

We are analyzing the information in the tables and text of this section and will provide a separate paper on these issues in the near future.

Answer:

Please see document WT/ACC/YEM/17/Rev.1.

Question 59

Paragraph 66 of the Factual Summary: We welcome Yemen's commitment to review prohibition of imports of coffee and mango and seasonal restrictions on certain agricultural products to bring them in compliance with the WTO rules.

Answer:

Yemen appreciates WTO members' understanding on the issue related to the prohibitions of coffee and mango and seasonal restrictions on certain agricultural products. We would like to reaffirm the importance of maintaining special treatment to such products of high importance and sensitivity to Yemen's economy and producers, where many farmers' livelihoods are dependent on such products.

Question 60

We note that the list of prohibited imports is very long. In particular we would draw attention to some products included in the list, namely different alcohol beverages and products prepared or preserved by alcohol, used cars, buses, lorries and aircraft, publications, books, prints and movies, scrap, used vehicles and their spare parts and telegram and wireless phones. Are these products produced and sold domestically in Yemen?

Answer:

Please refer to the answer of Question 58, i.e. the revised list (please see document WT/ACC/YEM/17/Rev.1). Most products referred to in the question are not produced nor sold domestically.

Question 61

Paragraphs 69-70 and Question 75 of document WT/ACC/YEM/11: We note that only Yemeni nationals can be granted technical clearance for importation of medicines, medical equipment, books, newspapers, audiovisual and other artistic or literary works. We would ask Yemen to explain the reasons of this discriminatory treatment, and would urge Yemen to equalize the treatment of foreign and Yemeni nationals in accordance with Articles III and XI of GATT.

Answer:

Please refer to the answer to Question 38.

Question 62

Can foreigners get a technical clearance for importing fertilizers and pesticides?

Answer:

A technical clearance for importing fertilizers and pesticides is confined to Yemeni nationals.

Question 63

Could Yemen explain exhaustively the criteria required for issuance of technical clearance and their legal basis as regards the following products: seeds and fertilizers, pesticides, plants, explosives and fireworks, books, newspapers, audiovisual and artistic works and drugs and medical equipment. With the criteria we mean exhaustive list of all documents that need to be submitted to the issuing authority and other criteria relating to the qualifications and other requirements regarding the applicant/importer.

Answer:

Information on the procedures of import licensing related to literary works and artistic works, magazines and newspapers, Drugs and Medical Appliances, plants, seeds, pesticides, and fertilizers, explosives and fireworks respectively can be found in document WT/ACC/YEM/20.

Question 64

Paragraph 73: We thank Yemen for submitting list of duties, charges and fees (document WT/ACC/YEM/11). We note that many of the fees are given as *ad valorem*, or per/amount, which indicates that they do not correspond to services rendered. We would urge Yemen to bring all its fees and charges in compliance with the WTO rules and Article VIII GATT.

Answer:

Please refer to the answer of Question 52.

Question 65

Paragraph 74: We welcome Yemen's commitment to comply with the WTO Agreement on Import Licensing Procedures upon accession, and to operate any import licensing regime in compliance with the WTO Agreements.

Answer:

Yemen reiterates its commitment to be in line with the WTO Agreement on Import Licensing Procedures, upon accession. However, Yemen needs to enhance its capabilities to meet such commitment through technical assistance.

- **Customs valuation**

Question 66

Factual Summary, paragraphs 75-79; document WT/ACC/YEM/10, Question 1: The establishment of an efficient, transparent customs service based on the WTO Agreement is a major facilitator of trade and economic growth. It is a major benefit to the applicant's business community.

We are disappointed to learn that Yemen believes that it needs seven years to implement the Customs Valuation Agreement, especially when it has a draft customs law under consideration by the House of Representatives and a well-funded, professional technical assistance program available to it.

We support Yemen's eligibility to seek a transition period.

However, transition periods must be linked to technical assistance through an action plan that will become part of the accession protocol.

Technical assistance and the implementation targets are just two sides of the same coin. If the applicant doesn't use its technical assistance support to gain the capacity to implement WTO provisions, then what is its purpose?

On customs valuation, we have provided significant resources to train Yemeni customs officers to value imports according to the principles established in the WTO Customs Valuation Agreement.

The training program has been successful so far.

Unfortunately, despite the advances made by Yemeni customs officers, Yemen has declined to move the draft customs law in its House of Representatives.

The lack of progress on enactment of this law has become a problem, since we are finding it difficult to see much purpose in further training of customs officers in the near term to implement a draft law that may not be enacted for many years.

We are very concerned that this will set a precedent for implementation for the other Action Plans that Yemen has proposed to the Working Party and for the technical assistance requests that Yemen has made to support those action plans. If Yemen is unwilling to use the technical assistance provided to follow through in those areas where the assistance has produced tangible progress, then what is the purpose?

We hope Yemen recognizes the relationship between transitions and technical assistance and between technical assistance and implementation of the WTO Agreement, and recognizes the importance of moving the new customs law towards enactment by the House of Representatives.

As the draft law moves through Yemen's parliamentary process, we urge the Yemeni government to provide Members with opportunities to review the draft and to provide comments and suggestions.

Answer:

Yemen would like to reiterate its firm belief of the importance of reforming its Customs Law which would reflect positively on Yemen's economy in general and on foreign trade and WTO accession in particular. Yemen highly values the understanding of WTO members of the efforts that Yemen has made and is still making in this regard as an LDC, which needs the transitional period provided for LDC countries accompanied with the needed technical assistance, as such would accelerate and facilitate the implementation of commitments. Therefore, Yemen is committed to make the necessary reforms in its legislations, including the Customs Law, to ensure their conformity with WTO provisions.

Regarding legislation, Yemen is still in the process of revising the amendments to the Customs Law, taking into consideration the comments and views of stakeholders to ensure substantial improvements and to reflect on the positive impact on the national economy, while complying with all WTO requirements.

Regarding the implementation of the Customs Valuation Agreement, please find the respective implementation action plan including an indication of the technical assistance required in document WT/ACC/YEM/19. We would like to confirm that even after the issuance of the amendments to the law; full implementation will require a transition period through which the implementation is staged based on having qualified staff and the availability of automated programs that contribute in determining the value for customs purposes and risk analysis in such a way that facilitates smooth implementation. In addition, other related entities dealing with Customs should become fully aware of the concepts and methods included in the agreement.

Regarding the technical assistance provided in customs valuation, Yemen thanks the countries that provided such assistances which proved to be quite useful. Yemen appreciates the continuity and completion of this assistance and others provided or requested from members and other organizations as mentioned in the action plan which comes in light of increased number of points of entry and the continuous need for training and qualifying in more than one area and specialization like audit, inspection, audit and revision in points of entry and control departments at the Customs Authority premises. In addition to promoting awareness among stakeholders including the private sector, training the trainers, assessing the training programs, implementing the assisting automated programs.

Yemen has plans for programs and training courses that need funding within the framework of technical assistance. In particular, Yemen needs technical assistance in the area of value determination and risk analysis programs etc.

Question 67

We take note of the seven year transition period requested to comply fully with the Customs Valuation Agreement (CVA). We would draw the attention of Yemen to the fact that a transitional period should be requested according to Article 20 of the CVA if the date of implementation of the CVA is after the date of accession.

Answer:

While Yemen appreciates the understanding of the Working Party members for the transitional period requested for the implementation of the Customs Valuation Agreement, Yemen would like to confirm its need for seven years, as explained in the answer to Question 66.

Question 68

Paragraph 77 of the Factual Summary: We note the explanation of Yemen that it will complete the revision of its Customs Law by 2007, including its by-laws. We would be happy to have a copy of the draft legislation as soon as possible to be able to comment it. We would also be happy to know when approximately these laws are going to be adopted.

Answer:

Please refer to the answer of Question 66.

Question 69

We are looking forward to seeing the working programme in this area. Can Yemen indicate when this will be available to the Working Party?

Answer:

The action plan for the implementation of the CVA can be found in document WT/ACC/YEM/19.

- **Rules of origin**

Question 70

Paragraph 86: We welcome Yemen's commitment to comply with the WTO Agreement on Rules of Origin upon accession.

Answer:

Yemen confirms its commitment to comply with the WTO Agreement on Rules of Origin, upon accession.

- **Other customs formalities**

Question 71

Factual Summary, paragraphs 82 and 88: In paragraph 82, the Factual Summary stated that a certificate of origin is required for all goods imported into Yemen. In paragraph 88, the Factual Summary stated that "Each customs declaration in principle had to be accompanied by an invoice endorsed by the Chamber of Commerce or any other body accepted by the Customs Authority. This endorsement verified the origin of the imported good."

Please explain why Yemen requires duplicate documentation of the origin of an imported good for purposes of customs clearance.

Answer:

Yemen does not require duplicate documentation for proving the origin of an imported good; the commercial invoice is sufficient if it contains a clear reference to the place of origin, endorsed by the Chamber of Commerce. Otherwise a separate Certificate of Origin is required.

- **Anti-dumping, countervailing duties and safeguard regimes**

Question 72

Paragraph 91: We welcome Yemen's commitment to apply any AD, CVD and SG in full conformity with the relevant WTO provisions. We would be happy to receive the draft law on Safeguards as soon as available to be able to comment it. Could Yemen indicate when this would be available?

Answer:

A copy of the initial draft law on Safeguards and National Production Protection from Impact of Harmful International Trade Practices can be obtained through document WT/ACC/YEM/18/Add.1.

B. EXPORT REGULATIONS

- **Export subsidies**

Question 73

Please explain if the Supreme Council for Export Promotion (SCEP) provides any type of financial support to export oriented companies?

Answer:

Currently, the Supreme Council for Export Promotion does not provide any type of financial support to export oriented companies.

Question 74

Please submit a copy of Republican Decree No. 127/1997 for Members to review?

Answer:

A copy of the Republican Decree No. 127 of 1997 on the establishment of Yemeni Export Supreme Council can be obtained through document WT/ACC/YEM/18/Add.1.

Question 75

Paragraph 97 of the Factual Summary: Will the new draft Customs Law under preparation also continue to include the provisions on the duty draw back scheme? Will these provisions be changed in the new Customs law?

Answer:

The provisions on the duty drawback scheme will be included in the amendments to the Customs Law.

Question 76

Could Yemen explain in detail how its authorities verify which inputs are consumed in the exported products and how they control in practice that the drawback does not exceed the actual duties paid?

Answer:

After the submission of all documents by the applicant which specifies the quantity of imported raw materials throughout the year and the amount of the paid duties and fees, the inputs of the finished exported product are calculated in percentage including the percentage of imported materials by a technical committee that decides on the basis of field visits for verification as per the request of the applicant prior to manufacturing process. The report of this committee should indicate the quantities, weights, and types of those materials in details and should be supported by invoices and importation details. The report also shows the total quantity and the used quantity in production so that duty drawback only applies to imported foreign inputs. All this information and data is filled in a special form for duty drawback settlement.

C. INTERNAL POLICIES AFFECTING FOREIGN TRADE IN GOODS

- **Industrial policy, including subsidies**

Question 77

Please provide further details regarding Yemen's objectives to encourage and develop the industrial sector. Specifically, how does Yemen plan to "foster" the development of its industrial sector?

Answer:

Yemen endeavours to develop the industrial sector through adopting a number of strategies including:

- Establishing industrial zones and making them available for investment to be operated through different schemes including the BOT system;
- Encouraging the establishment of industrial projects inside and outside the free zones including SMEs;
- Providing and developing the necessary infrastructure needed for industry;
- Encouraging local and foreign investment; and
- Ensuring coherence between commercial, financial, monetary, industrial and other related policies.

Question 78

We note that Yemen is considering revising its legislation on investment and industrial activities; simplifying export procedures enhancing the investment climate; and promoting Yemen's SMEs and handicrafts. Please provide an updated copy of any revision to its legislation on the above-mentioned activities for Members to review.

Answer:

Currently, Yemen is still in the process of reviewing the legislations in the above mentioned activities. The Working Party will be informed on any new developments in that respect.

Question 79

Article 27:2 of the WTO SCM Agreement provides LDCs with a transitional period of eight years to eliminate their prohibited subsidies that are contingent on the use of domestic over imported goods in the manufacturing process.

We request that Yemen identify the subsidies contingent on the use of domestic over imported goods in the manufacturing process for which it is requesting a transition period and provide the Working Party with an Action Plan for the elimination of such subsidies within that period by a date certain, e.g., no later than 31 December 2015, consistent with the provisions of the SCM Agreement and the Declaration on LDC Accessions.

Answer:

Yemen will provide the Working Party with more detailed information pertaining to this question, as soon as such information is available.

Question 80

Paragraph 102 of the Factual Summary: As regards Industrial Zones, we welcome Yemen's statement that it intends to comply with WTO rules when establishing industrial zones. However, we note Yemen's statement that it intends to resort to local content requirements in its industrial zones. We would like to stress that LDCs are exempted from the prohibition of export subsidies under Article 27 ASCM (Annex VII), but not from the prohibition of local content subsidies. We therefore urge Yemen not to resort to local content subsidies in its industrial zones.

Answer:

Yemen affirms its need to avail itself of transitional periods in accordance with the SCM Agreement and the Hong Kong Ministerial Declaration.

Question 81

When establishing industrial zones, the Factual Summary states that the Yemeni government intended to "avail itself to local content and export performance requirements should such measures be considered conducive to Yemen's industrial development." Could Yemen please clarify what is meant by this phrase and whether if in Yemen's opinion these local content requirements are consistent with the provisions of the WTO Agreement on Trade-Related Investment Measures?

Answer:

Yemen believes that export performance and local content requirements play an important role in its development. Nevertheless, these requirements will be used in compliance with the TRIMs Agreement including special and preferential treatment provisions for LDCs, Doha and other relevant Ministerial Declarations as well as the Guidelines on the Accession of LDCs.

- **Technical barriers to trade, standards and certification**

Question 82

Factual Summary, Paragraph 104: This paragraph indicates that in addition to international standards, Yemen is "also guided by Gulf standards." The WTO TBT Agreement states that international standards, or the relevant part of them, shall be used as the basis for technical regulations, unless their use would be ineffective or inappropriate. Does Yemen use Gulf standards as the basis for technical regulations? If yes, for what products and under what rationale?

Answer:

Yemen is committed to use international standards or the relevant parts of them as a basis for its technical regulations. As far as the use of standards for the preparation of rules, guidelines, or characteristics for products or related processes and production methods is concerned, Yemen uses Gulf standards to the extent that these are in line with international standards.

Question 83

Factual Summary, Paragraph 105: The summary indicates that Yemen seeks a "transition period" to implement the TBT Agreement. In general, we do not support a transition period to implement the WTO Agreement on Technical Barriers to Trade for acceding countries. However, because Yemen is an LDC, we recognize that Yemen can seek transition periods. As we previously mentioned with respect to Customs Valuation, the relationship between technical assistance, actual implementation of the Agreement, and the transition period will have to be validated. For example, it is difficult to reconcile Yemen's request for a seven-year transition period when it has already indicated that the principles of the TBT Agreement are covered by existing legislation (paragraph 105), established mechanisms for inter-Ministerial coordination in the development of standards, technical regulations and conformity assessment procedures, and to publicize and receive comments on drafts (paragraph 106-7, and is in the process of establishing its enquiry point (paragraph 110). It would be helpful to know specifically which Laws Yemen believes need to be reviewed and adjusted in order to ensure compliance with the WTO TBT obligations. We also note Yemen's interest (stated in its Action Plan) in receiving technical assistance on training for the preparation of notifications and would encourage relevant officials to participate in the next TBT Committee meeting of officials responsible for information exchange. The development of additional technical regulations and conformity assessment procedures is not a condition of WTO compliance but such strengthening of Yemen's infrastructure should be viewed as an ongoing interest and target for additional assistance.

Answer:

Yemen is in the process of examining its legislative, administrative, and institutional structures with a view to ensuring full compliance with the TBT Agreement within the requested transitional period. This process which is also reflected in the TBT Action Plan turns out to be more arduous than previously envisaged. Yemen is in the process of identifying laws that may need revision. Against the background of its considerable deficiencies in this field, Yemen stresses the need for comprehensive technical assistance and welcomes the preparedness of Member countries to consider TA needed to enhance Yemen's capabilities in this regard.

Question 84

Factual Summary, Paragraph 109: According to this paragraph, certificates issued by accredited laboratories of the country of origin are required for imported products.

Please clarify which products are subject to this requirement.

Please explain the rationale for mandating certification for the specific products subject to this requirement.

What are the standards and/or technical regulations against which the product is assessed?

Are domestic manufacturers subject to the same requirement?

Answer:

The products requiring those certificates are listed in Annex 2.

The rationale for mandating certification for specific products is to ensure a positive assurance of conformity with technical regulations and standards, the prevention of deceptive practices, and the facilitation of trade.

The products will be evaluated according to Yemeni standards and technical regulations which are based on international standards.

Yes, domestic manufacturers are subject to the same requirements.

Question 85

We thank Yemen for submitting the action plan for implementation of the TBT Agreement and a document setting out the priorities and specific needs for TA in this field. We also take note of the timing foreseen for full compliance, by 2013.

Answer:

Yemen confirms its commitment to comply with the TBT Agreement by the end of a proposed transitional period. However, this would require providing the technical assistance needed as specified in document WT/ACC/YEM/16 titled "Priorities and Specific Needs for Technical Assistance in the Technical Barriers to Trade (TBT) Field".

- **Sanitary and phytosanitary measures**

Question 86

Factual Summary, Paragraph 111: Please provide the Secretariat with copies of Law No. 32/1999 "On Plant Quarantine"; Law No. 13/2004 "On Animal Wealth"; and Law No. 44/1999 "On Standardization, Metrology and Quality Control", particularly any drafts that may exist, to provide interested Members with an opportunity to review these measures.

Answer:

A copy of Law No. 38/1999 on (Plant Quarantine), Law No. 17/2004 on (Animal Wealth) and Law No. 44/1999 on (Specifications, standards and quality control) can be obtained through document WT/ACC/YEM/18/Add.1.

A new draft on Plant Quarantine is under preparation and will be submitted to the Working Party at a later stage.

Question 87

Factual Summary, Paragraph 111: Please provide further details on the process used by the government to amend existing or to enact new SPS measures, specifically related to the Law No. 32/1999 "On Plant Quarantine"; Law No. 13/2004 "On Animal Wealth"; and Law No. 44/1999 "On Standardization, Metrology and Quality Control" to provide the legislative basis for the protection of plant life and health; animal life and health; and food safety. Will the government provide the public, including non-Yemeni interested parties, with copies of the draft measures? Will the public have an opportunity to comment on the drafts? If so, how will

the government take public comments and suggested changes into account when revising the measures?

Answer:

The process used by the government to amend existing or enact new SPS or related measures can be exemplified through the case of the new draft law on SPS (Plant Quarantine), as follows: a new law on SPS (Plant Quarantine) has been drafted and is being discussed at the moment with interested parties to solicit their comments. The Plant Quarantine Department within the Ministry of Agriculture and Irrigation is receiving replies and comments on this draft. Consideration will be given to substantial remarks especially with a view to compliance with the SPS Agreement. The final version thus prepared will be submitted to the Cabinet for endorsement and then forwarded to the Parliament. In doing so, the government is fully prepared to take comments and suggestions into account when drafting, enacting, or revising the respective legislation. In addition, Yemen will publish new measures and make them available to interested parties, including non-Yemenis. However, to fully meet this and other transparency obligations, this requires the enhancement of Yemen's technical capacities, as specified in document WT/ACC/YEM/14, titled "Technical Assistance Requirements in the Area of Sanitary and Phytosanitary Measures".

Question 88

We thank Yemen for submitting the action plan and checklist for implementation of the SPS Agreement, as well as a document setting out the needs of TA in this area. We also note the timing foreseen for full compliance, by 2009.

Answer:

Yemen confirms its commitment to comply with the SPS Agreement by the end of a proposed transitional period. However, this would require providing the technical assistance needed as specified in document WT/ACC/YEM/14 titled "Technical Assistance Requirements in the Area of Sanitary and Phytosanitary Measures".

Question 89

In the Factual Summary, Paragraph 66, Yemen indicated it has seasonal restrictions for some agricultural products. Could Yemen possibly specify which products are subject to seasonal restrictions?

Answer:

Table 7: Products subject to Seasonal Import Restrictions

HS Code	Item
0701.90	Potato: other than seeds
0702.00	Tomatoes, fresh or chilled.
07.05	Lettuce... etc
08.05	Citrus fruit, fresh or dried.
0805.10	Oranges
0805.20	Mandarins etc
0805.50	Lemons etc
08.06	Grapes, fresh or dried.
08.07	Melons (including watermelons) and papaws (papayas), fresh.

Imports of apples are allowed throughout the whole year with an additional duty imposed during April-September.

- **Trade-related investment measures**

Question 90

Factual Summary, paragraphs 116-118; document WT/ACC/YEM/10, Questions 23 and 31: Both responses contain the following assertion: "the Decision of Ministers at the 6th WTO Ministerial Conference in Hong Kong allows LDCs to use local content measures." We do not dispute the assertion. However, it is clear that the Ministers intended that they were establishing a temporary exception to the TRIMS Agreement for LDCs. Quoting the decision, "LDCs shall be allowed to maintain on a temporary basis existing measures that deviate from their obligations under the TRIMs Agreement. LDCs will be allowed to maintain these existing measures until the end of a new transition period, lasting seven years."

In order to utilize such transitions to maintain its TRIMS, Yemen must identify them for notification.

Yemen also should indicate how long within the allowable period of seven years it believes it must maintain these measures.

We seek a commitment for the Working Party report to eliminate all measures inconsistent with the Agreement by a date certain, e.g., no later than 31 December 2014, consistent with the provisions of the TRIMs Agreement, the Declaration on LDC Accessions, and the Hong Kong Ministerial Declaration.

Answer:

Yemen will notify measures that fall under the TRIMs Agreement with a view to eliminate them by the end of the transitional period for LDCs.

- **State-trading entities**

Question 91

Text Suggestion: As the material here duplicates material in the State-Owned Enterprises and Privatization Section, we recommend combining the two sections for the sake of clarity.

Factual Summary, Paragraphs 119 and 120: The description of the activities and special privileges of the subsidiaries of the Yemen General Corporation for Oil and Gas in paragraph 120 contradict the statement in paragraph 119 that Yemen had no State-trading entity falling within the purview of Article XVII of the GATT 1994 and the Understanding on the Interpretation of Article XVII of the GATT 1994. Yemen should notify the Yemen General Corporation for Oil and Gas as soon as possible.

Answer:

Please refer to the answer of Question 27.

Question 92

Paragraph 120: How are imports of petrochemical products regulated in Yemen? Who can import petrochemicals?

Answer:

Imports of petrochemicals are open to the private sector.

Question 93

We note that on the basis of the information given on the Holding Company "The Yemen General Company for Oil and Gas, we consider this company as a State Trading Enterprise in the meaning of Article XVII GATT. We would request Yemen to notify this company to WTO in accordance to Article XVII GATT upon accession.

Answer:

Please refer to the answer of Question 27.

- **Free zones, special economic areas**

Question 94

Our comments on subsidies also apply to Free Zones. Yemen is urged not to resort to local contents subsidies in its Free Zones.

Answer:

Please refer to the answer of Question 80.

Question 95

Are all industries in every sector permitted to locate in Yemen's free zones and special economic areas?

Answer:

Permitted industries in the free zone are those permitted to be established in Yemen.

Question 96

Please explain what criteria must be met in order for a company to receive the tax exemptions given within the zones.

Answer:

Establishment in the Free Zone is the only criteria for receiving the tax exemptions.

Question 97

We would welcome a copy of Law No. 4/1993 "On Free Zones" to review.

Answer:

A copy of Law No. 4/1993 can be obtained through document WT/ACC/YEM/18/Add.1.

Question 98

Paragraphs 122 and 123 of the Factual Summary refer to "the Free Zones Law." Is there another law besides Law No. 4/1993 "On Free Zones?" If so, we would appreciate a copy to review.

Answer:

Law No. 4/1993 is the only law governing the free zones.

V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME

- **Participation in international intellectual property agreements**

Question 99

The WTO Factual Summary states in paragraph 141 that the representative of Yemen said he expected accession to the WIPO Copyright Treaty and WIPO Performances and Phonograms Treaty (the "WIPO Internet Treaties") to lead to "financial, institutional and administrative burdens exceeding Yemen's capabilities. However, Yemen would examine the feasibility of acceding to them."

Please provide an update on Yemen's examination of the feasibility of acceding to the WIPO Internet Treaties. Further, please explain what sort of financial, institutional and administrative burdens Yemen foresees in acceding to these treaties.

Answer:

Yemen has become a member to the Paris Convention on 15 November 2006. On 5 June 2007, the Parliament approved the accession to the Berne Convention. For the implementation of the TRIPS Action Plan, Yemen has already indicated the financial and technical assistance needed in document WT/ACC/YEM/8.

Yemen believes that its current priority is to seek compliance with the TRIPS obligations. Therefore, Yemen does not intend to accede to the WIPO Internet Treaties.

- **Copyright and related rights**

Question 100

Paragraph 147 of the Factual Summary states that "[f]ull compliance with the obligations under Article 12... of the TRIPS Agreement would be addressed in the new [copyright] Law." TRIPS Art. 12 establishes a term of protection of life plus 50 years (or 50 years from creation) for all copyrighted works, other than photographic works (and applied art). However, neither the WTO Factual Summary nor any of the other documents provided by the WTO specifically addresses Art. 39 of Yemen's 1994 copyright law, which provides for permanent copyright protection for rights held by scientific, literary or artistic bodies and institutions.

Please confirm that under Yemen's revised copyright law, Article 39 of Yemen's current copyright law will be amended to conform to the term of protection required under TRIPS Article 12/Berne Article 7.

Answer:

Yemen confirms that under its revised copyright law, Article 39 of Yemen's IPR law will be amended to conform to the term of protection indicated under TRIPS Article 12/Berne Article 7.

Question 101

TRIPS Article 14(2) provides for rights of producers of phonograms to authorize or prohibit the direct or indirect reproduction of their phonograms, and TRIPS Article 14(3) provides for the rights of broadcasting organizations to prohibit unauthorized fixation, reproduction of fixations, re-broadcasting by wireless means of broadcasts and communication to the public of TV broadcasts of the same. This issue is not addressed in any of the WTO documents provided or in Yemen's 1994 copyright law.

Please explain how Yemen intends to implement these obligations.

Answer:

Articles 14(2) and 14(3) of the TRIPS Agreement will be taken into consideration in the draft copyright law.

Question 102

In paragraph 148 of the Factual Summary, the representative of Yemen is reported to have stated that compliance with Article 9 of the TRIPS Agreement, which requires Members to comply with Articles 1-21 of the Berne Convention, would be addressed in the new Law. None of the WTO documents, however, specifically discusses Article 18 of the Berne Convention, which provides that works that have not yet fallen into the public domain in their country of origin or in the country where protection is claimed must be protected in a Member state, nor is this issue addressed in Yemen's 1994 copyright law.

Please explain how Yemen will implement the requirements of Article 18 of the Berne Convention, incorporated into the TRIPS Agreement through Article 9, in its revised copyright law.

Answer:

Article 18 of the Berne Convention, incorporated into the TRIPS Agreement through Article 9, will be taken into consideration in the draft copyright law.

Question 103

In paragraph 148 of the Factual Summary, the representative of Yemen is reported to have stated that compliance with Article 9 of the TRIPS Agreement would be addressed in Yemen's revised copyright law. Article 9(1) of TRIPS requires Members to comply with Articles 1 through 21 of the Berne Convention, excluding Article 6*bis* pertaining to moral rights. The representative further stated that Article 3.4 of Yemen's 1994 copyright law corresponded to Article 12 of the Berne Convention, which grants authors a right of adaptation, and that Article 16 of Yemen's law, which seems to permit unauthorized and uncompensated adaptations

of works for the purpose of making an independent new work, referred to quotations and not to adaptations of works. However, the English translation of Article 16 of Yemen's copyright law does not appear to refer to quotations, and Article 13 of Yemen's law, which lists authors' exclusive rights, does not include a full right of adaptation.

Please confirm that Article 16 of Yemen's current copyright law refers to quotations, and that Yemen's revised copyright law will grant authors a full right of adaptation as required by Article 12 of the Berne Convention (applicable through Article 9 of TRIPS).

Answer:

Yemen reconfirms that Article 16 of the current IP law refers to "quotations". Moreover, a full right of "adaptation" will be considered in line with Article 12 of the Berne convention, applicable through Article 9 of TRIPS.

- **Trademarks, including services marks**
- **Geographical indications, including appellations of origin**

Question 104

According to the legislative action plan (Document WT/ACC/YEM/9/Rev.1), we understand that the preparation and review of a draft Law on Trademarks and Geographical Indications has taken place. The law is expected to be in force in 2008.

Although the preparation and review has been completed, can amendments to the draft law still be made?

Answer:

The Yemeni competent authorities may propose amendments to the draft of any law as long as constitutional procedures for issuance are not finalized.

Question 105

The draft law does not provide that the principles of priority and exclusivity are preserved for trademarks and geographical indications. TRIPS Agreement Article 16.1 requires that owners of trademark rights established prior to a later applied for GI should be able assert the exclusivity of the prior trademark rights.

How will Yemen address the relationship between trademarks and geographical indication in which the rights of trademark owners are preserved against later in time and confusingly similar geographical indications consistent with Articles 16(1) and 24(5) of the TRIPS Agreement?

Answer:

The relationship between trademarks and geographical indication will be taken into consideration in the trademarks and geographical indications draft law in accordance with Articles 16(1) and 24(5) of the TRIPS Agreement.

- **ENFORCEMENT**

Question 106

Where does Yemen law provide the right holder the right to information of third parties involved in infringement? (TRIPS Article 57).

Answer:

The Yemeni legislation including its IPR law does not provide the right holder with the right to information about third parties involved in infringement.

Question 107

We thank Yemen for submitting the detailed action plan on TRIPS and note the transition periods requested, as well as Yemen's request for technical assistance in this area. We reserve our right to submit more detailed comments on this area at later stage.

Answer:

Taking into account Yemen's capabilities and the complexity of the TRIPS Agreement, Yemen avails itself of additional flexibility provided for LDCs including the extended transition periods, and urges WTO Members to provide the requested technical and financial assistance, as a prerequisite for the institutional, organizational and administrative areas including the related enforcement issues.

VII. TRANSPARENCY

Question 108

Factual Summary, Paragraph 196; WT/ACC/YEM/10, Questions 140 and 141: We appreciate the further description of the breadth of publication of the Official Gazette and Yemen's efforts to provide businesses with opportunities to comment on draft laws and regulations.

We would appreciate further details on the methods used by the government to provide the public with copies of draft laws and regulations.

Are draft laws and regulations made available to non-Yemeni businesses and other interested parties?

Does Yemen's law specifically require the government to give the public an opportunity to review draft laws and regulations? If so, does the law also require government to take public comments and suggested changes into account when revising draft legislation and regulations?

If Yemen does not have a law requiring government to seek public comment on draft laws and regulations, does Yemen intend to enact such legislation to implement its obligations under the WTO Agreements?

Answer:

The Yemeni Government involves the public in the process of drafting various laws by means of meetings, seminars and workshops prior to the submission of drafts to the cabinet and subsequently to the parliament.

There is no separate law that requires the government to give the public the opportunity to review draft laws and regulations. However, the government takes public comments and suggestions into account when revising or reviewing draft laws and regulations. Where provisions for transparency are required under specific WTO agreements, the Government will incorporate a requirement in the respective legislation.

ANNEX 1A List of International and Bilateral Investment Agreements of which Yemen is a Signatory to

No.	Country
1.	Egypt
2.	Jordan
3.	Syria
4.	Iran
5.	Morocco
6.	Malaysia
7.	China
8.	Djibouti
9.	Oman
10.	Ethiopia
11.	Lebanon
12.	Kuwait
13.	Belgium
14.	Tunisia
15.	Qatar
16.	Algeria
17.	Sudan
18.	Pakistan
19.	Turkey
20.	Indonesia
21.	Ukraine
22.	Bulgaria
23.	U.A.E.
24.	India
25.	Romania
26.	Russia
27.	Mongolia
28.	Croatia
29.	Austria
30.	Belarus
31.	South Africa
32.	Germany
33.	Hungary
34.	Italy
35.	Eritrea
36.	Mauritania
37.	People's Democratic Republic of Korea
38.	Sweden
39.	United Kingdom
40.	France
41.	Netherlands
42.	Agreement of the Islamic Corporation for Investment Guarantee and Export Credit
43.	Agreement of the International Centre for Settlement of Investment Dispute

ANNEX 2

List of Products Covered under International Conformity Certification Program (ICCP)

Group (1): Toys

No.	Item	HS Code
1.	Bicycles and wagons	9501
2.	Dolls	9502
3.	Entertainment toys including puzzles and assembly toys	9503
4.	Toys in the form of animals or creatures	9503.40 , 9503.41
5.	Other toys in the form of sets or groups	9503.70
6.	Toys with engine inside	9503.80

Group (2): Electrical and electronic products

No.	Item	HS Code
1.	Cables and electrical wires	8544, 8544.10, 8544.20
2.	All types of conductors	8544.49.20, 8544.50, 8544.51, 544.51.10, 8544.40, 8544.41, 8544.41.20
3.	Circuit breakers	8536, 8536.20
4.	Electrical transformers	8504.21, 8504.22, 8504.31, 8504.32, 8504.33, 850.34
5.	Receiving devices (television, radio and antenna)	8528.00, 8528.11, 8528.12, 8528.13, 8527.00, 8527.10, 8527.12, 8527.13, 8527.19, 8527.20, 8527.21, 8527.29, 8529.10, 8529.10.10
6.	Household microwave ovens	8516.50
7.	Household freezers	8418.40
8.	Household vacuum cleaners and water suction appliances	8509.10
9.	Lift and elevator systems	8428.10.10, 8431.31
10.	Personal computers	8471.41
11.	Telephones, wireless phones and mobiles	8517.10, 8517.11, 8517.19, 8517.50, 8525.20.10
12.	Fax and telex machines	8517.21, 8517.22
13.	Photocopying machines - Videos	9009.11, 9009.12, 9009.21, 9009.22, 900.30
14.	TV Display sets (video)	
15.	Household clothes drying machines	8451.21
16.	Air conditioners	8415.10
17.	Electrical ovens including cooking surfaces, kettles, grills and toasters	8516.60, 8516.71, 8516.72

Group (3): Vehicles

No.	Item	HS Code
1.	Passenger automobiles, trucks and buses (new)	8701, 8702, 8703, 8704, 8705
2.	Passenger automobiles, trucks and buses (used)	8701, 8702, 8703, 8704, 8705
3.	New tyres for passenger automobiles, trucks and buses	4011.10, 4011.20

Group (4): Safety personal devices

No.	Item	HS Code
1.	Safety head helmets	6506.10
2.	Rubber and plastic safety shoes	6402, 6401
3.	Eye protectors	9004
4.	Ears protectors	6506.10
5.	Nose and month masks	6506.10
6.	Safety gloves	6216

Group (5): Foodstuffs with its all types

Group	HS Code
Group (6): Steel Bars for the Re-enforcement of Concrete	7208,7209,7210,7211,7212, 7213, 7214,7215
Group (7): Portable Steel Cylinders for Liquefied Petroleum Gases (LPG)	7311
Group (8): Timber	4407,4408,4409,4410,4411, 4412,4418,4420,4421,