

WORLD TRADE ORGANIZATION

RESTRICTED

WT/ACC/YEM/6
19 July 2005

(05-3222)

**Working Party on the
Accession of Yemen**

Original: English

ACCESSION OF YEMEN

Additional Questions and Replies

The following submission, dated 12 July 2005, is being circulated at the request of the Delegation of the Republic of Yemen.

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE	1
2.	Economic Policies.....	1
(a)	Main directions of the ongoing economic policies.....	1
(c)	Foreign Exchange and payments system	3
(d)	Foreign and domestic investment policies	4
III.	FRAMEWORK FOR MAKING AND ENFORCING POLICIES AFFECTING FOREIGN TRADE IN GOODS AND TRADE IN SERVICES	7
1.	Powers of executive, legislative, and judicial branches of government.....	7
IV.	POLICIES AFFECTING TRADE IN GOODS	7
1.	Import Regulation.....	7
(a)	Registration requirements for engaging in importing.....	7
(b)	Characteristics of national tariff	9
(c)	Tariff quotas, tariff exemptions.....	9
(d)	Other duties and charges.....	9
(e)	Quantitative import restrictions.....	10
(f)	Import licensing procedures	10
(h)	Customs valuation.....	13
(k)	Application of internal taxes on imports.....	13
(l)	Rules of origin	13
(m,n,o)	Anti-dumping regime, Countervailing duty, Safeguard regime	15
2.	Export Regulation.....	17
(f)	Export financing, subsidy and promotion policies.....	17
(g)	Export performance requirements.....	17
(h)	Import duty drawback schemes	18
3.	Internal policies affecting foreign trade in goods.....	18
(a)	Industrial policy, including subsidy policies.....	18
(b)	Technical regulations and standards	19
(c)	Sanitary and phytosanitary measures.....	23
(e)	State-trading practices.....	25
(f)	Free zones	28
(m)	Regulation of trade in transit.....	29
4.	Policies affecting foreign trade in agricultural products.....	29

V.	TRADE-RELATED INTELLECTUAL PROPERTY REGIME.....	31
1.	General.....	31
2.	Substantive standards of protection, including procedures for the acquisition and maintenance of intellectual property rights	32
(a)	Copyrights and related rights	32
(b)	Trademarks, including service marks.....	32
(c)	Geographical indications.....	33
(e)	Patents.....	34
4.	Enforcement	35
VI.	TRADE-RELATED SERVICES REGIME	36

I. INTRODUCTION

Question 1

Thank you for your answer to Question 1, WT/ACC/YEM/4. Does Yemen intend to request transition periods or other S&D provisions as part of its accession process? If so, in which areas?

Answer:

Yemen, as an LDC, seeks to benefit from all S&D provisions stipulated in the WTO agreements, including those related to transitional periods, technical and financial assistance and capacity building.

II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE

2. Economic Policies

(a) Main directions of the ongoing economic policies

- Privatization

Question 2

As regards Question 4 in document WT/ACC/YEM/4, could Yemen identify in Annex 1A the companies in which it has more than 50 per cent ownership and briefly describe the activities of these companies. Could Yemen also indicate any plans or timeframes for future privatizations?

Answer:

Enterprises in which the Government has more than 50 per cent ownership were listed in Annex 1A document WT/ACC/YEM/4 plus Yemen Airways. Please note that, the government has less than 50 per cent equity in National Tobacco and Matches Company, Marib Insurance Company, Saba Insurance Company and Arab Insurance Company. Please also note that the Emulsion and Paints Company has been privatized.

As far as timeframes for privatization are concerned, please refer to Annex 1B in WT/ACC/YEM/4 and answer to Question 7 in this document. Please note that privatization is conducted within the framework of the government's integrated economic reform programme, national poverty reduction strategy and economic needs.

Question 3

Yemen's answer to Question 3, WT/ACC/YEM/4 states that the Supreme Committee for Privatization approves "studies and proposals concerned with the application of the privatization approach and its implementation means." What kind of studies and proposals are approved? What role do they have in the privatization process? What are the criteria for approval?

Answer:

Studies referred to in document WT/ACC/YEM/4 are related to evaluation and privatization methods pertaining to enterprises under consideration. Such studies assist in decision making. Please note that

there is a draft amendment to the Privatization Law No. 45 of 1999 limited to tasks and functions of the Supreme Committee for Privatization.

Question 4

Yemen's response to Question 3, WT/ACC/YEM/4 states that the Supreme Committee for Privatization approves "the executive programs and documents and contracts formats, including the transfer or retention of ownership of strategic shares in accordance with the privatization procedures, and submit them to the Cabinet for approval." Please describe the executive programs, documents, and contracts formats the committee approves. What are "strategic shares" and what mechanisms are used for their transfer? What are the privatization procedures? Are all privatizations subject to Cabinet approval?

Answer:

Please refer to answer No. 3.

The privatization procedures mentioned in answer No. 3 in WT/ACC/YEM/4, meant to refer the privatization "methods" which are specified in Article 5 of the Privatization Law No. 45 of 1999, i.e. to:

- offer shares for public subscription where such a procedure is given a priority so as to achieve the objectives of this law;
- offer the opportunity to employees to participate through possessing all or part of the shares of the privatized unit;
- partnership contracts in capital and operation;
- contracts of management and lease;
- to sell state-owned assets components;
- to sell state-owned shares or stocks in the mixed sector as long as it does not contravene laws in force or lead to monopoly; and
- to return wholly state-owned economic units to their previous legitimate owners prior to the issuance of nationalization decisions.

All privatization processes that involve ownership transfer are subject to Council of Ministers' approval as it is mandated to oversee ownership transfer.

Question 5

Thank you for the description of the Technical Privatization Office's (TPO) responsibilities in the answer to Question 3, WT/ACC/YEM/4. How does the TPO ensure the transparency of the privatization process? What publications does the TPO employ to inform prospective investors of an opportunity to participate in the privatization of a particular economic unit?

Answer:

In order to ensure transparency, the Technical Privatization Office (TPO) publishes privatization announcements more than once in widely-circulated newspaper(s) to ensure the widest possible access to this information. TPO also provides potential investors with leaflets containing all necessary particulars and information related to the unit under privatization. It also gives the opportunity to potential investors to pay a field visit to the economic unit in order to inspect its assets physically as well as to enable them to offer appropriate bids. Such opportunities are equally available for both local and foreign investors.

Question 6

What are the usual methods the Supreme Council has adopted to privatize state enterprises?

Answer:

Please refer to answer No. 4.

Question 7

We appreciate Yemen's provision of Annexes 1A and 1B to the WT/ACC/YEM/4. For Annex 1B, please provide the dates of completion for privatizations, expected dates of completion for privatizations that are in progress, and target dates for state enterprises that are being studied for potential privatization.

Answer:

The following update represents the status of some enterprises under privatization process as conveyed earlier in Annex 2B:

No.	Name and location of Enterprise	Privatization Status
Industrial sector		
1.	General Corporation for salt, Aden	Evaluated
2.	Biscuits and Candy Factory, Aden	Privatized, ownership transferred to private sector
3.	Automatic Bakery, Aden	Privatized, ownership transferred to private sector
4.	Dairy Factory, Aden	Liquidated
5.	Textile and Spinning Factory, Aden	Privatization approved though leasing
6.	National Company for Aluminum Manufacturing, Aden	Evaluation decision issued for privatization
7.	Al Thawra Metal Products, Aden	Privatized, ownership transferred to private sector
8.	Yemen Salt and Gypsum Mining and Marketing Co., Hodeidah	Privatized, ownership transferred to its employees
Agricultural Sector		
1.	General Company for Potato Seed Production, Dhammar	Evaluation study approved, privatization in progress
2.	General Company for Vegetable Seed Production, Sayeon	Privatized, ownership transferred to private sector
3.	Agricultural Machinery Rental Station, Sayoun	Privatized, ownership transferred to its employees
4.	General Corporation for Digging Wells, Aden	Liquidated
Fishery Sector		
1.	Port of Nashton, Mahrah	Privatization approved through leasing

Please note that there is no specific timeframe for the completion of the process of privatization.

(c) Foreign Exchange and payments system

Question 8

As regards Question 8 in document WT/ACC/YEM/4, could Yemen describe the rights and obligations of residents to engage in foreign direct investment; acquiring or selling securities from or to abroad; granting or receiving financial loans to or from abroad; and engaging in deposit accounts abroad.

Answer:

Yemeni nationals/residents can engage in capital operations abroad such as foreign direct investment, acquiring or selling securities from or to abroad, granting or receiving financial loans to or from abroad and engaging in deposit accounts abroad.

Question 9

In WT/ACC/YEM/4 indicates that "Residents in Yemen may engage in different capital operations abroad." What kinds of capital operations abroad may Yemeni citizens engage in?

Answer:

Please refer to answer No. 8.

(d) Foreign and domestic investment policies**Question 10**

As regards WT/ACC/YEM/3, could Yemen precise in more detail what investment projects there are and what guarantees and benefits are accorded to investment projects?

It is noted that Yemen grants tariff and tax exemptions for investment projects. Could Yemen describe in more detail the contents of these tariff and tax exemptions.

Answer:

Investment projects registered by General Investment Authority since the establishment of the authority in 1992 until 2004 are summarized as the follows:

No.	Sector	No. of Enterprises
1	Industrial	2,532
2	Agricultural	503
3	Fishery	138
4	Services	1,186
5	Tourism	679
6	Total	5,038

As for the benefits and guarantees given to investment projects, they can be summarised according to the Investment Law No. 22 of 2002 as follows:

Guarantees:

- Non-nationalization and non-confiscation of projects except through judicial judgment.
- Equality between Yemeni and non-Yemeni investors in all rights and obligations.
- Ability of non-Yemeni nationals to wholly own the investment project including real estate of the project.
- The possibility of insuring the investment project against non-commercial risks with any international institution, which Yemen is a member of, such as:
 - i) Multilateral Investment Guarantee Agency (MIGA);
 - ii) International Agency for Investment Guarantee;
 - iii) Islamic Corporation for Investment Insurance and Export Credit;

- Freedom for investors in managing their projects.
- The right to export without limitation, project's products.
- Freedom of investors to transfer their money in foreign currencies to and from Yemen and to re-export capital invested, whether in kind or in cash, during capital liquidation or alienation.
- Non- cancellation of registration of an investment project, which has been issued lawfully, the confiscation of any right or withdrawal of a given exemption for the project without a judicial verdict.
- Full right of choosing one of the following methods for disputes settlement, which arise between the investor and Government when applying the law provisions:
 - i) Unified Investment Agreement for Arab Capitals in Arab countries.
 - ii) International Agreement for Settlement of Investment Dispute that arises between countries and the nationals of other countries.
 - iii) Any international or bilateral agreement to which Yemen is a member.
 - iv) Rules and procedures of commercial arbitration pertaining to the International Law Committee of the United Nations.
 - v) Rules and procedures of arbitration in the Republic of Yemen.

Facilities:

- The General Investment Authority acts as a one-stop shop.
- Provision of data requested by investors.
- Simplified procedures to start, expand and develop investment projects and registration in specific periods of time according to the law and its by-law.
- Simplified procedures for the establishment of investment companies and opening their branches.
- Simplified procedures to bring in foreign expertise not available locally into the country.

Custom Duties Exemptions:

- Exempting the fixed assets required to establish, expand, or develop investment projects from tax and custom duties.
- Exempting the production of livestock, agricultural and fish production from tax and customs and exempting the production inputs of other projects by 50 per cent from all customs duties.

Tax Exemptions:

- According to Investment Law No. 22 of 2002, investment projects are accorded tax exemption for a period of 7-16 years depending on; the area in which the project is established, percentage of the local component in fixed assets and percentage of the shares held by Yemeni nationals in joint stock companies.
- If projects encounter losses during exemption period, exemption shall be carried over during the year (s) of the loss provided that it shall not exceed three consecutive years starting from the year that follows the exemption years.
- Exemption from property tax and from the fees of documenting the projects establishment contracts as well as the contracts related to the project until finishing its execution.
- Exemption from income tax on profits distributed by projects.
- Exemption from all kinds of fees and taxes imposed on exports.
- Exemption from due tax on export profits after the exemption period of the project.
- When projects are expanded, they are also given same tax exemptions for the same periods as a proportion of the added capital.

Question 11

Please provide a list of investments that the Republic of Yemen would ban because they would be considered contrary to Shari'a Law.

Answer:

Investments in the following areas, inter alia, would be considered contrary to Shari'a:

- Gambling casinos and night clubs;
- Swine and its products; and
- Alcoholic beverages.

Question 12

Is the term "Special Agreements" code for a Production Sharing Agreement that covers a hydrocarbon exploration concession? Is each Hydrocarbon Production Sharing Agreement enacted into law by the House of Representatives?

Answer:

The term "Special Agreements" is code for Production Sharing Agreement that covers the hydrocarbon exploration concession. After an agreement is approved by the Council of Ministers, it is submitted to the House of Representatives for ratification, and is enacted into a law.

Question 13

The Investment Law of 2002 does not apply to investments in "exploration and extraction of oil, gas, and minerals that are governed by special agreements; weapons industry and explosive materials; industries that harm the environment and health; banks and exchange bureaus; financial trade; and importing, retailing, and wholesaling." What law(s) govern investments in such industries? How does Yemen define "industries that harm the environment and health?" Since telecommunications is not specifically exempted from the Investment Law of 2002, does it apply to investments in that sector? If not, what law does apply to investments in the telecommunications sector? Does the investment law cover investments in the insurance business?

Answer:

1. Investment in the areas mentioned in the Question is subject to the following:
 - Exploration and extraction of oil and gas; governed by "special agreements" signed between the Government, represented by the Ministry of Oil and Minerals, and companies of oil and gas (Please refer to answer No. 12). Exploration and extraction of minerals, are subject to the Mines and Quarries Law No. 24 of 2002.
 - Weapons and explosive materials industry: subject to the State's defence policy.
 - Industries that harm the environment and public health: Environment Protection Law No. 26 of 1995.
 - Banks, exchange bureaus and financial trade: Banks Law No. 38 of 1998; Islamic Banks Law No. 21 of 1996; and Law No.19 of 1995 on Financial Exchange; Central Bank Law No. 14 of 2000; and the Amendments to the Financial Exchange Law No. 15 of 1996.

- Retailing and wholesaling: Commercial Law No. 32 of 1991 and its amendments by Law No. 6 of 1998.
- 2. Industries that harm the environment are those covered under Environment Protection Law provisions, decisions and regulations issued thereunder, and international agreements.
- 3. Telecommunications sector in Yemen is governed by Wired and Wireless Telecommunications Law No. 38 of 1991 and its amendments. However, current mobile services projects benefit from the incentives provided in the Investment Law.
- 4. Investment in the insurance business is governed by Law No. 37 of 1992 on the Supervision and Monitoring of Insurance Companies and Agents and its amendments by Law No. 9 of 1997. The insurance business is not covered under the Investment Law.

Question 14

The Investment Law of 2002 appears to have provisions that allow the Government to raise tariffs administratively to protect specific domestic producers. Is this understanding correct? If so, what is the process the Government must follow to raise tariffs? Does Yemen's constitution require the House of Representatives to vote in favour of tariff increases?

Answer:

The General Investment Authority may propose a tariff increase to the Customs Tariff Committee. Then, the Committee considers such a proposal and submits it to the Cabinet. If approved, it is submitted to the House of Representatives for ratification and is enacted into a law. It should be noted; however such mechanism has never been used.

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

1. Powers of executive, legislative, and judicial branches of government

Question 15

Are the terms of international agreements ratified by the House of Representatives and signed by the President automatically incorporated into domestic law?

Answer:

Provisions of international agreements that are ratified by the House of Representatives and signed by the President are considered part of the domestic law.

IV. POLICIES AFFECTING TRADE IN GOODS

1. Import Regulation

(a) Registration requirements for engaging in importing

Question 16

In its answer to Question 22 in document WT/ACC/YEM/4, Yemen explains that in order to import or export, one must be established in Yemen or have an agent. Could Yemen clarify

whether this is a condition across the board or whether this requirement concerns only certain sectors?

If the requirement concerns certain sectors only, could Yemen list these sectors and explain which purposes this requirement serves as regard each sector and why Yemen considers such a system is needed?

If the requirement applies across the board, could Yemen clarify which purposes this requirement serves and why Yemen considers such a system is needed?

Answer:

Yes, this condition is applicable across the board and applies to all exportation and importation.

The rationale is to encourage Yemeni individuals and enterprises to engage in economic activities and development. Limiting the importation process to nationals is a practice that is commonly used in many countries. Furthermore, we believe that such practice does not violate WTO provisions.

Question 17

As regards Yemen's answer to Question 24 in document WT/ACC/YEM/4, could Yemen explain on what basis are the fees fixed?

Answer:

The basis for the imposition of different fees is based on the legal form of the entity and different services rendered.

Question 18

WT/ACC/YEM/4 indicates that the term for business registration is five years after the appropriate fee is paid. Is re-registration automatic upon payment of the fee? If not, what else is required?

Answer:

Yes, re-registration is automatic upon payment of the respective fees.

Question 19

In Question 26 in WT/ACC/YEM/4, Yemen states that "a non-resident entity may not be registered as importer according to Yemeni law." The inference from this statement is that only Yemeni residents or foreign firms who are invested in Yemen have the right to import. The right to import goods without investing in a member country is a fundamental right under the WTO and is protected through provisions in GATT Article XI and Article III. Is Yemen aware that its laws in this respect do not conform to the trading rights provisions of Articles 3 and 11 of the GATT 1994? What does Yemen intend to do to bring its laws governing trading rights into conformity with WTO provisions?

Answer:

Foreign investors in Yemen have the right to import products exclusively, which are related to their activities. Thus, we believe that Yemeni regulations in this regard are not inconsistent with Articles III and XI of GATT 1994 (Please also refer to answer No. 16).

(b) Characteristics of national tariff

Question 20

Could Yemen clarify whether the Harmonised System 2002 is already implemented and if not, when it will be implemented?

Answer:

Existing customs classification is HS 1996. Yemen is preparing a draft amendment to the customs classification according to HS 2002, which would be implemented as soon as possible.

(c) Tariff quotas, tariff exemptions

Question 21

In response to Question 30 of WT/ACC/YEM/4, Yemen stated that it would comply with WTO provisions in the application of tariff quotas but that such quotas are not currently available in Yemen. Does Yemen have plans to introduce new tariff quotas in the future?

Answer:

Yemen currently does not apply tariff quotas, however, should that be applied to some sensitive products, it shall be in line with WTO agreements.

Question 22

In response to Question 31 of WT/ACC/YEM/4, does Yemen currently have a list of current agricultural projects where exemptions of customs duties are already provided or are currently being considered?

Answer:

Customs duties' exemptions are limited to some machinery, equipment, tools, materials and products imported by the Ministry of Agriculture and Irrigation for the specific use in infrastructure projects and rural development. The Ministry is, at present, implementing projects under agreements with international organizations such as World Bank, IFAD, FAO, etc.

(d) Other duties and charges

Question 23

Could Yemen clarify what is its position as regards removing ODCs upon accession?

Answer:

The treatment of ODCs will be dealt with during the accession process.

Question 24

We appreciate Yemen's commitment in both WT/ACC/YEM/3 and WT/ACC/YEM/4 to submit an annex which will list all "other duties and charges" levied on imports. Can Yemen provide an update on when the ODC annex will be submitted? Please explain the purpose of these ODCs and why they do not apply to domestic products.

Answer:

A preliminary list of ODCs will be submitted as soon as possible. The purpose of these ODCs will be clarified in said list.

(e) Quantitative import restrictions

Question 25

We appreciate Yemen's commitment in WT/ACC/YEM/3 to submit an annex which will list all prohibited imports. Can Yemen provide an update on when the prohibited imports list will be submitted?

Answer:

A preliminary list of prohibited imports into Yemen will be submitted as soon as possible.

(f) Import licensing procedures

Question 26

In document WT/ACC/YEM/3, page 17, Yemen explains that it has no import licences but if introduced in the future, it would comply with WTO requirements. For which purposes would Yemen consider to introduce import licences?

Answer:

Should there be a need for the use of import licensing regime; Yemen will abide by WTO agreements.

Question 27

- (a) In its answer to Question 41 in document WT/ACC/YEM/4, Yemen explains it uses technical clearance for certain products, including books, newspapers, audiovisual, and drugs and medical equipment. What purposes this system serves, in particular as regards books and medicines?**
- (b) As regards Yemen's answer to Question 41 it is noted that in the case of books and newspapers only Yemen nationals can submit a request. As regards drugs and medical equipment, could Yemen explain who can submit an application and is there a pre-registration?**
- (c) Could Yemen explain what the second and third tier in the reply concerning drugs and medical equipment mean?**

Answer:

- (a) The purpose of granting technical clearance:
- i) Books, newspapers, and audiovisual: to preserve public order, security, and to protect public morals.
 - ii) Medicine and medical equipment, to ensure:
 - The company producing drugs and medical equipment is registered with the Supreme Authority for Drugs and Medical Equipment (SADME), and adheres to Good Manufacturing Practices (GMP);
 - Drugs and medical equipment are registered and are in use in the country of origin; and
 - Efficacy and safety of drugs and medical equipment, and meeting quality requirements.
- (b) In order to be eligible for importing drugs and medical equipment into Yemen, importers need to meet the following conditions:
- i) registration in the Importers registrar at SADME;
 - ii) be an agent for a company for drugs and medical equipment;
 - iii) be a full time pharmacist practitioner;
 - iv) registration in the commercial registrar; and
 - v) Maintain a store for keeping drugs and medical equipment according to the terms of good storage practices.
- (c) It seems that a mistake has occurred in the presentation of the answer to Question 41 in WT/ACC/YEM/4; the answers in paragraphs (a) and (b), above clarify the situation.

Question 28

As regards answer to Question 42 in document WT/ACC/YEM/4, could Yemen explain in detail the criteria for issuance of technical clearance provided by the respective laws. Could Yemen also explain what is the margin of discretion granted for the authorities and what is its legal basis?

Answer:

Please refer to answer No. 27 above, and answer No. 41 in WT/ACC/YEM/4.

Animal consignments should be accompanied by:

- Veterinary Health certificate; and
- Certificate of origin.

Please note that in answer to Question 42 in document WT/ACC/YEM/4, technical clearances were considered as discretionary. However, after verification with the competent authorities, technical clearances are actually granted automatically and in accordance with conditions specified in answer to Question 41 in the said document, and answer to Question 27 in this document.

Question 29

Could Yemen describe in more detail the instruments Yemen uses in general to regulate/control imports and their justification?

Answer:

The instruments Yemen uses to regulate/control imports are:

- Prior technical permit from the competent authority, i.e. for products requiring technical clearance;
- Compliance with technical regulation standards and quality control requirements; and
- Imported agricultural and veterinary goods might be subject to health, agricultural and veterinary quarantine, at arrival ports.

The purpose for such procedures is to ensure protection of human, animal and plant life and health, national security, environment, quality of goods, and the prevention of commercial fraud.

Question 30

We appreciate Yemen's commitment to comply with the Agreement on Import Licensing Procedures, including notification requirements, upon accession and its fulsome response provided in Question 41 of WT/ACC/YEM/4 on the requirements for obtaining "technical clearance" for products listed in Annex 3. However, we are concerned that the fees charged for technical clearance are not in conformity with WTO requirements. Under the WTO Agreement on Import Licensing Procedures, all fees for licenses or permits to import products must be based on the cost of services rendered. Does Yemen have any plans to bring these fees into compliance with the WTO Agreement on Import Licensing Procedures?

Answer:

Upon accession, Yemen will ensure that fees collected on technical clearances are in compliance with the WTO Agreement on Import Licensing Procedures.

Question 31

The answer to Question 41 of WT/ACC/YEM/4 also states that only Yemeni nationals may apply for a technical clearance from the Ministry of Information or the Ministry of Culture and Tourism to import newspapers, publications, and artistic works such as movies, videos, cassettes, etc. Can a foreign individual or firm legally present in Yemen import such products for commercial sale in Yemen? Can a foreign individual legally residing in Yemen import such products for personal use? Can a foreign firm legally registered in Yemen import such products if they are inputs into its production process? If not, does Yemen intend to modify its laws to allow foreigners to import such products into Yemen as protected by Articles III and XI of the GATT 1994?

Answer:

A foreign individual legally residing in Yemen may import publications and artistic works for personal use after obtaining a technical clearance, but not for commercial purposes.

A foreign firm legally established in Yemen may import publications and artistic works for commercial sale after obtaining a technical clearance. However, the firm has to be licensed to import.

A foreign firm operating in Yemen is allowed to import publications and materials if they are inputs to its production operations.

Yemen considers such practices are in conformity with Articles III and XI of GATT 1994.

(h) Customs valuation

Question 32

Could Yemen provide the work programme for bringing the customs valuation system in full compliance with the WTO customs valuation agreement?

Answer:

The Work Programme, including transitional periods and technical assistance for bringing the customs valuation system in full compliance with the WTO Customs Valuation Agreement, will be submitted as soon as possible.

(k) Application of internal taxes on imports

Question 33

Could Yemen confirm that there is no discrimination between imports and exports? Could Yemen clarify whether there is a different application of taxation of imported products depending on their origin, e.g. stemming from bilateral trade agreements?

Answer:

There is no discrimination between imports and exports except that imports are subject to Production, Consumption, and Services taxes, while exports are exempted from such taxes. In the case of bilateral or regional trade agreements, imported goods from those countries are subject to the provisions of such agreements.

(l) Rules of origin

Question 34

Could Yemen provide the work programme for bringing the system of rules of origin in full compliance with the WTO agreement on origin?

Answer:

Yemen believes that it observes the general principals of the WTO agreement on Rules of Origin, and will apply MFN rules of origin that would result from the ongoing negotiations in WTO.

Question 35

With respect to Yemen's Customs Law No. 14 of 1990, Article 32 states that the origin of a good is the country of production. When a good is produced in more than one country, Article 34 requires that the origin be determined according to the degree of manufacturing and in accordance with the rules established by the resolution of the competent minister. We need more information regarding the requisite "degree of manufacturing" that would result in a change of origin, as well as information about resolutions issued by the competent minister.

Answer:

Minister of Finance Resolution No. 356 for the year 1990 considers the country of manufacturing as the country of origin when the degree of manufacturing the value of materials and labour inputs being not less than 40 per cent of the total cost of production.

Reference to the minister's authority to exempt certain items from the certificate of origin requirement is not discretionary.

Question 36

Article 33 states that a resolution of the "minister concerned" shall determine the conditions for establishing origin and the cases of exemption from establishing such origin. We need clarification as to how this article will be applied and under what circumstances will an exemption be granted.

Answer :

In addition to information provided in answers to Questions No. 34 and 35, please note that Yemen has no detailed rules of origin for non-preferential trade. However, a certificate of origin is required for all imported products.

The following items are exempted from the certificate of origin requirement:

- Personal postal packages;
- Advertising materials and samples of goods that do not carry commercial value;
- Personal luggage and other personal belongings that travellers may take with them for temporary stays, including tourists and alike, for their personal use and within limits permitted;
- Personal luggage, furniture, home appliances for Yemeni expatriates, within limits permitted;
- Books, newspapers, magazines, periodicals and catalogues;
- Waste of anchored, sunk, and wrecked ships in Yemeni territorial waters;
- Incoming presents, grants, donations and assistances to Yemen;
- Imports of embassies, commissions and foreign consulates for official use, on a reciprocity basis; and
- Imports of heads and members of diplomatic corps, consulates or foreigners working in Yemen for personal use and within the limit permitted, on a reciprocity basis.

Question 37

For goods transhipped through an intermediate country that enter into the commerce of that country, Article 34 allows the country of origin to be determined by the country of manufacture or the country of export, whichever is higher. The origin of a good should be based on where the article was produced. If we understand this correctly, the applicable tariff rates should not influence origin determinations.

Answer:

Your understanding is correct, i.e. applicable tariff rates do not influence origin determination; please also refer to answer No 35.

Question 38

Article 35(b) indicates that the League of Arab States may issue "clarifications" of customs tariffs. Please provide more information about these clarifications. May importers directly request clarifications from the League? Are these clarifications binding on all member states? Are the clarifications publicly available? What customs issues are addressed by these clarifications (e.g., classification, valuation, origin)?

Answer:

As Arabic is not an official language of the World Customs Organization, the clarification of the League of Arab States are unofficial translations of what is issued by this organization with respect to customs classification, in accordance with Harmonised System. Such translations are publicly available.

Question 39

Article 206 precludes judicial review of customs violations. However, the customs authority may grant an exception to an importer that would allow an appeal. Under the WTO Valuation Code and U.S. free trade agreements, importers must have the right to an administrative and judicial appeal of customs decisions.

Answer:

Customs Law avails importers of the right to administrative and judicial appeal of any decision relevance to them.

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

Question 40

Could Yemen indicate the state of the preparatory work as regards the trade defence instruments legislation and when the trade defence instruments legislation is foreseen to be finalised?

Answer:

A draft law is currently under preparation, which takes into account compliance with the related WTO agreements. WTO secretariat will be consulted on the legislation.

Question 41

We seek an appropriate commitment in the Working Party report that Yemen will not apply safeguard, antidumping or countervailing measures without first notifying to the WTO legislation covering such measures consistent with WTO Agreements.

Answer:

Please refer to answer No. 40.

Question 42

In response to Question 57, Yemen stated that the provisions of Articles 12 and 13 of the Customs Law No. 14 (1990) have never been applied. However, Yemen did not provide an explanation, as requested, of some of the terms under which Yemen may impose "compensating duties" on imported goods.

- Explain how Yemen will determine "when a country of origin provides direct subsidies to exports"; and
- Explain how Yemen will determine "when a country reduces the prices of its products in a matter that leads to the depression of Yemen's domestic products."

Answer:

Please refer to answer No. 40.

Question 43

Additionally, in the Memorandum on the Foreign Trade Regime (WT/ACC/YEM/3) at page 18, Yemen stated that, pursuant to the Customs Law, it will "adopt appropriate measures needed when a country adopts harmful measures to the interests of the national economy."

- Explain what you mean by "appropriate measures" in that statement; and
- Explain what you regard as "harmful measures to the interests of the national economy."

Answer:

Please refer to answer No. 40.

Question 44

In response to Question 58, Yemen states that it considers enacting antidumping, countervailing and safeguard legislation upon accession.

- State whether draft versions of any such legislation currently exist;
- If any draft legislation currently exists, please circulate copies to the Working Party for review;
- If not, state when you anticipate any such draft legislation will be ready to circulate; and
- Additionally, explain whether, and to what extent, the anticipated legislation will follow closely the language of the relevant provisions of the ASCM.

Answer:

Please refer to answer No. 40.

2. Export Regulation

(f) Export financing, subsidy and promotion policies

Question 45

As regards Questions 62, 63 and 64 in document WT/ACC/YEM/4, could Yemen specify in more detail the products and sectors that could be affected by future plans.

Answer:

As stated previously in WT/ACC/YEM/4, Yemen currently has no specific plans in the area of export promotion. However Yemen, as an LDC, confirms that export promotion programmes, if introduced in the future, will be fully consistent with WTO provisions.

Question 46

In the Memorandum on the Foreign Trade Regime (WT/ACC/YEM/3) at page 19, Yemen stated that Republican Decree No. 127 of 1997 established the Supreme Council for Export Promotion (SCEP) to "study potential foreign markets, organize trade missions, organize trade fairs, and provide information to both domestic and foreign exporters."

- **Identify what specific studies, if any, are in progress or have been completed under the auspices of the SCEP.**
- **Explain what particular export markets, sectors or products have been identified by any such studies for any potential future export financing, subsidy and promotion policies.**

Answer:

The Supreme Council for Export Promotion has commissioned some studies on neighbouring markets, the result of which will be duly taken into consideration in shaping future Government export policies.

(g) Export performance requirements

Question 47

In response to Question 65 of WT/ACC/YEM/4, Yemen states that, as an LDC, any export subsidy schemes it may introduce in the future will be compatible with WTO rules.

Toward this end, state whether Yemen intends to have any recourse to Articles 27, 28, or 29 of the ASCM.

Answer:

Yemen, as an LDC, reserves the right to avail itself of ASCM provisions, particularly Article 27.

(h) Import duty drawback schemes

Question 48

As regards Question 66 in document WT/ACC/YEM/4, could Yemen explain in detail the way its import duty drawback scheme is operated, making the link to the relevant parts of Annex 2 of the Agreement on Subsidies and Countervailing Measures?

Answer:

Under the duty drawback scheme, duties are refunded to exporters on imported inputs which form part of the final exported products. Refunds do not exceed the actual amount paid.

Question 49

In response to Question 66 of WT/ACC/YEM/4, Yemen stated that its import duty drawback scheme is operated in a manner consistent with guidelines outlined in Annex 2 of the ASCM.

- **Explain how your authorities confirm which inputs are consumed in the production of the exported product and in what amounts; and**
- **Identify or describe the generally accepted accounting practices, if any, that your authorities will use to ensure that the drawback does not exceed the actual duties paid upon importation.**

Answer:

Please refer to answer No. 48.

3. Internal policies affecting foreign trade in goods

(a) Industrial policy, including subsidy policies

Question 50

In its reply to Question 69 in document WT/ACC/YEM/4, Yemen indicates that general objectives as regards encouragement and development of industrial sector have been identified. Could Yemen describe in more detail these objectives and what kind of measures are foreseen for their accomplishment?

Answer:

Yemen has identified some general objectives in respect to the notion of encouragement and development of the industrial sector.

Measures foreseen for the accomplishment of such objectives include:

- Revision of legislations pertaining to investment and industrial activities;
- Simplification of export procedures;
- Promotion of small industries and handicrafts; and
- Enhance investment climate.

Question 51

In response to Question 67 of WT/ACC/YEM/4, Yemen states that it will endeavour to comply with the WTO provisions when establishing industrial zones.

Explain whether Yemen intends to impose any local content or export performance requirements on products manufactured or assembled in such industrial zones.

Answer:

Yemen intends to avail itself of both measures, as needed within the context of Yemen's development.

Question 52

In response to Question 68 of WT/ACC/YEM/4, Yemen states that its industrial policy has not been finalized yet, and that "more studies and technical assistance are needed in this respect."

- **Identify or describe any studies currently in progress or completed in pursuit of an industrial policy;**
- **Identify or describe any technical assistance already received or anticipated in pursuit of an industrial policy; and**
- **In reference to the above, identify the industries or sectors that are subject to study or technical assistance.**

Answer:

Industrial activities in Yemen are considered in their infancy phase. Studies are related to the preparation of an initial strategy aiming at the development of manufacturing sector and technology transfer. Yemen looks forward to receiving technical assistance in the areas of the infrastructure of, inter alia, manufacturing, mining and exploration industries, as well as traditional and handicraft industries. The objective of such technical assistance is to enhance the respective activities' value, broaden their scope, and improve the overall performance and export competitiveness with a view to achieving the MDGs.

(b) Technical regulations and standards

Question 53

Could Yemen indicate when will its action plan for implementation of the TBT Agreement be finalised?

Answer:

An Action Plan for the implementation of TBT Agreement, including timetables, transitional periods and necessary technical assistance, will be submitted as soon as possible.

Question 54

We appreciate the information provided by Yemen in its response to our previous Questions, its submission of the TBT checklist (WT/ACC/YEM/5) and provision of its Law No. 44 on Standardization, Metrology and Quality Control Organization.

Yemen has cited its Law No. 44 as the basis for ensuring fulfilment of such WTO TBT obligations as non-discrimination and transparency of standards and regulations, yet the law itself does not include detailed information. Are there additional decrees which would provide further details on existing procedures for developing standards and regulations (e.g., any procedures to ensure publication of notices of proposals and final regulations and standards; opportunities for public comment and consideration of comments received, guidance on timing of entry into force of regulations and mandatory standards after adoption, etc.) (We note that Article 33 of the Standardization Law indicates "The concerned ministries and authorities shall issue the resolutions required for the execution and implementation of this law"). We would appreciate any additional information to establish credibility of the claims Yemen has made about transparency and non-discrimination.

Answer:

The following legislation explains in detail the articles of Law No. 44 of 1999 as follows:

- Minister of Industry and Trade's- Chairman of Board of Directors - Decree No. 21 of 2003 on Organizational matters pertaining to YSMO and its Branches in Governorates;
- By-law on Conformity Certificate Issuance for Standards No. 3/2001;
- By-law of Quality Mark Adoption of National Products No. 11/2001;
- By-law of the Regulation of Rules and Procedures Pertaining to the Processes of Inspection and Testing for Goods and Domestic and Imported Products No. 13/2001;
- By-law on Quality Mark Granting System No. 14/2001;
- By-law on Regulation of Standards Preparation Procedures No. 22/2001; and
- By-law on Evaluation of Goods and Enterprises Conformity for Accredited Standards No. 2/2003.

This decree and by-laws above provide clear information on the procedures on the preparation, adoption and application of standards, technical regulations, and conformity assessment procedures, including procedures to ensure publication of notices of proposals and final regulations and standards, opportunities for public comment and consideration of comments received, and their approval, etc.

YSMO has been identified as a focal point on TBT matters, in order to provide information related to standards, technical regulations, and conformity assessment procedures, responses to all enquiries, circulate notifications, as well as to provide documents and information on technical regulations and conformity assessment in Yemen. YSMO also publishes newsletters and holds seminars for awareness purposes.

YSMO abides by the principles of non-discrimination and National Treatment:

- Technical regulations are applied to both local and imported products;
- Yemeni and regional standards are applied to local and imported products;
- Conformity assessment procedures for local and imported products are applied on the basis when conducting inspections; and methods of testing are not different; and
- Inspection and testing fees are the same for both local and imported products, i.e. without discrimination pursuant to the Ministerial Decision No. 11 of 2004 on the regulation of fees of inspections costs for YSMO's laboratories.

Article 33 aims to coordinate relevant agencies' work in respect to the implementation of the law, based on their respective areas of competences.

Pursuant to Yemen's constitution, international agreements, such as WTO Agreement, when enacted as laws, are considered and treated as domestic laws. Hence, Yemeni legislation shall fully comply with

the principles of transparency and non-discrimination. However, technical assistance is required to ensure compliance with the TBT Agreement in accordance with the Action Plan for its full implementation.

Question 55

Law No. 44 indicates that YSMQCO "recognizes" laboratories. Are there published criteria by which the competency of laboratories is judged? Do government regulations oblige the use of recognized laboratories, or is this voluntary? Is it possible for laboratories based in other countries to qualify for recognition? Are certificates from bodies other than YSMQCO recognized by Yemeni authorities? If so, on what basis?

Answer:

YSMO is currently preparing an integrated system that regulates the recognition process of laboratories. YSMO will recognize standards, evidence, recommendations, and guidelines issued by international organizations, including the international standard of ISO/ IEC17025 (general requirements of the competence of standardization, testing, and inspection laboratories).

YSMO will deal with recognized laboratories when an operational system is adopted.

Yes, laboratories based in other countries are eligible for recognition if they are technically competent and meet required conditions, i.e. within international practices of laboratories recognition system.

Certificates issued by bodies other than YSMO are not recognized by Yemeni authorities.

Question 56

It is our understanding that Yemen does not currently publish proposals. If our understanding is correct, could Yemen describe its plans for ensuring notice is published of the availability of draft standards and technical regulations, and their final adoption? In addition, how will Yemen ensure that its regulatory authorities understand the WTO obligation to evaluate and consider comments received on proposals before adopting them as final?

Answer:

Yemen is in the process of establishing an enquiry point and preparing an Action Plan for the implementation of the TBT Agreement, including provisions related to public notice for draft standards and technical regulations.

Question 57

We would appreciate any additional information on mechanisms Yemen has in place, or plans to put in place, to ensure coordination between agencies/ministries on the development and use of standards, technical regulations and conformity assessment procedures. Information on which agencies are represented on YSMO's Board of Directors would be useful as well as any general guidance regulatory authorities may have on how and when technical regulations and mandatory conformity assessment procedures should be developed. We understand that YSMO's Board of Directors can initiate the development of a technical regulation –what is the process for doing so? Is there any required documentation, evidence of a problem, cost-benefit and/or regulatory impact analysis, etc.?

Answer:

YSMO ensures cooperation and coordination with agencies/ministries on the development and use of standards, technical regulations and conformity assessment.

YSMO's Board of Directors is composed, pursuant to the Decision No. 52 of 2000 on YSMO's Establishment and the Cabinet's Decision No. 272, of Ministry of: Industry and Trade, Finance, Information, Agriculture, Civil Works, Higher Education; as well as representatives of: YSMO, Supreme Authority for Medicine, Federation of Chambers of Commerce and Industry, and the General Authority for Environment Protection.

The by-law regulating the procedures of preparing Yemeni standards has specified the process of how and when the technical regulations should be prepared. The specification department, when preparing specification proposals, ensures the following:

- Preparation of Yemeni standards and specifications are carried out through the formation of specialized national committees that divided into main committees and sub-committees and technical committees for the specification formulation. These committees prepare the initial draft standards;
- Proposals for draft standards are distributed once to the competent authorities (governmental, private sector, civil society organizations, universities, scientific centres, etc) accompanied with the voting form;
- Substantial comments' providers are invited to the meetings of the technical committee to discuss the comments;
- Submission of the initial draft after finalization based on what has been agreed on, to the concerned main committee, including a detailed report on the results of their meeting;
- The main committee studies the draft and if it agrees on it, the same shall send it to a Follow-up Department within the authority to complete the procedures of finalizing the draft; and
- The competent department shall prepare the draft in its final form and submit it to the board of directors.

Question 58

How does YSMO assess the quality of locally produced goods in order to issue them the compliance certificate needed for export? What are the standards YSMO applies in the process?

Answer:

In order to issue the compliance certificate, YSMO applies the following:

- Take a sample from the consignment to be examined and tested according to the applicable standards. A report shall then be prepared on the result of the test;
- Study results of tests and examinations, compare that to the related standards, and prepare a report in that respect;
- Grant the certificate in case sample conforms to the standards related thereto; and
- Notify the exporter enterprise in writing in case inconformity reasons.

YSMO generally applies international standards.

(c) Sanitary and phytosanitary measures

Question 59

We appreciate Yemen's completion of the SPS checklist. We look forward to seeing a revised checklist that incorporates more details, including timelines and mechanisms for incorporating SPS Agreement requirements into Yemen's trade and SPS regime. Such an augmented checklist could serve as a useful step towards development of an action plan, or, if sufficiently robust, serve as the action plan itself.

Answer:

A revised checklist and/or Action Plan on the implementation of SPS measures, including timetables, transitional periods and technical assistance for full implementation will be submitted as soon as possible.

Question 60

The SPS Agreement requires prior publication for public comments of draft legislation, technical regulations, or standards. Yemen should establish a notification authority as soon as possible to perform this function.

Answer:

Yemen will endeavour to implement the SPS Agreement in accordance with the Action Plan, including the establishment of appropriate notification authority. To this end, Yemen is looking forward to receiving technical assistance.

Question 61

What specific technical assistance does Yemen consider necessary to complete its implementation of the SPS Agreement?

Answer:

A preliminary list of technical assistance that Yemen considers necessary to complete its implementation of the SPS Agreement will be submitted as soon as possible.

Question 62

By accession, will Yemen begin to notify summaries of proposed measures (when published) to the WTO and assure that any interested parties can contact the enquiry point for referral to information for a specific measure?

Answer:

Yemen will start notifying WTO of summaries of proposed measures through the inquiry point according to the Action Plan including needed technical assistance to implement the SPS Agreement.

Question 63

Please explain how Yemen will change, if necessary, appropriate domestic laws and regulations to ensure that measures are applied only to the extent necessary to protect human, animal, or plant health.

Answer:

To ensure the application of SPS measures to the extent necessary only to protect human, animal and plant health, Yemen will revise its legislation related to the Agreement as would be reflected in the SPS Action Plan.

Question 64

Will Yemen amend legislation to state specifically that regulations governing animals and plant health and food safety shall be based on scientific evidence? When will this be accomplished?

Answer:

Please refer to answer No. 63.

Question 65

Are Yemen's current SPS measures based on standards set by the WTO recognized standard setting bodies? Will new SPS measures come from these standard-setting organizations?

Answer:

Yemen applies standards set by the WTO recognized standard setting bodies which Yemen is a member of, namely Codex Alimentarius, IPPC and OIE. In case new SPS measures are developed, international standards will be taken into account.

Question 66

Does Yemen currently have a process of determining equivalence? If not, can Yemen please explain how it plans to determine equivalence and when that process will commence?

Answer:

Currently, there is no specific process to identify the concept of equivalency. Yemen wishes to adapt a process to determine equivalence once it receives the technical assistance needed to fully to implementation SPS Agreement.

Question 67

How does Yemen currently implement policies related to food safety and plant and animal health? Does Yemen perform its own independent risk assessments? If not, does Yemen plan to introduce any legislation or introduce regulations that food safety and animal and plant health regulations are based on risk assessments? If so, when?

Answer:

Yemen currently applies policies related to food safety and plant and animal health through its membership in the relevant international standards setting bodies: Codex Alimentarius, IPPC and OIE.

Yemen seeks to develop its risk assessment capacity through the appropriate technical assistance, within the framework of the Action Plan on the implementation of SPS Agreement.

Question 68

Does Yemen plan to introduce any legislation so that food safety and animal and plant health regulations take into account regional characteristics?

Answer:

Currently, Yemen has no plan to introduce legislation related to regional characteristics on food safety and animal and plant health. However, Yemen will consider that when the need arises.

Question 69

Which regulatory agencies in Yemen have or will have appropriate control, inspection, and approval procedures?

Answer:

The key regulatory agencies in Yemen that have or will have appropriate control, inspection and approval procedures are Ministry of Agriculture and Irrigation, Ministry of Public Health and Population in areas related to human health, and Ministry of Civil Works in the area of control and regulation over the circulation of food stuff in the country.

(e) **State-trading practices**

Question 70

Could Yemen list the companies in which the Government has at least 50 per cent of their capital and explain what are their activities?

Answer

Please refer to answer No. 2.

Also, please note that the following companies are Government owned:

- Yemen General Company of Oil & Gas;
- Yemen Oil Company;
- Aden Refinery Company; and
- Yemen Refinery Company.

Question 71

In its reply to Question 81 in document WT/ACC/YEM/4, Yemen explains that the Government organizes and oversees the domestic trade of locally produced petroleum products to determine the quantity of crude oil and its derivatives for local consumption.

Could Yemen explain whether there are any price ceilings for petroleum or gas intended for local consumption?

Answer:

The Government took a number of measures that led to the liberalization of the prices of a number of refined oil products such as fuel oil and turbine fuel. This process has led to increased prices of gasoline, diesel, kerosene and LPG within the framework of price reform with a view to reflect international refined products' prices.

Question 72

Could Yemen indicate what is the price difference between locally produced and exported petroleum products?

Answer:

Refineries in Yemen sell oil refined products in line with international price, when exporting to international markets.

Currently Government accounts for the difference, if any, between the local sale price and international price of gasoline, diesel, and local kerosene, taking into account the living conditions of the population. Other petroleum products are sold at international market prices.

Government is currently reviewing its policy on that matter for further liberalization.

Question 73

Following up on Yemen's response to Question 81 of WT/ACC/YEM/4:

- (a) What Government institutions organize and oversee the domestic trade of locally produced petroleum products?**
- (b) How does that institution(s) determine the quantity of crude oil and its derivatives required for local consumption?**
- (c) What mechanisms does the institution(s) use to distribute refined crude oil products to retailers?**
- (d) What refined products are available in the market?**
- (e) What are their prices?**
- (f) How are prices determined?**

Answer:

- (a) Government institutions that organize and oversee the domestic trade of locally produced petroleum products are:
 - Ministry of Finance;
 - General Yemeni Corporation for Oil and Gas;

- Yemen Oil Company;
 - Aden Refinery Company; and
 - Yemen Refining Company.
- (b) Yemen Oil Company, forecasts the need of the market on annual basis based on actual consumption of the previous year and allowing for a growth average of (5-10) per cent according to the type of oil derivatives. After agreeing on those estimations with the institutions mentioned above, they are sent to the Aden Refinery Company which provides the market with the needed oil refined products, whether refined in the company- or imported from the international market to cover local demand. Quantities satisfying those needs are specified according to the extraction percentage per barrel used in the refinery.
- (c) Yemen Oil Company buys oil products from Aden Refinery and Marib Refinery and sells them to state-owned petrol stations in Aden & Hadramout, the private sector stations spread all over Yemeni governorates and big customers like electricity and cement factories.
- (d) Refined products available in the market are:
- Benzene;
 - Kerosene;
 - Diesel; and
 - Mazout.

Quantities of diesel and mazout are imported from the international market to cover the local shortage.

- (e) Products without price ceilings:
- Mazout: sold at international prices.
 - Turbine (aircraft fuel): sold at international prices.,

Products sold, often, with less than international prices:

- Gasoline: 35 riyals per litre.
- Diesel: 17 Riyals per litre.
- Kerosene: 16 Riyals per litre.
- LPG: 205 Riyals per cylinder.

Please note that those prices are applicable to all sectors of the economy.

Currently the government is reviewing its policy on petroleum products, including taking further liberalization steps.

- (f) For local determination of prices, please refer to answer No. 72.

Question 74

Annex 1B of WT/ACC/YEM/4 lists Aden Refinery Company as a State Owned Enterprise. Annex 6 of WT/ACC/YEM/3 states that "there is no state trading practices in Yemen" Is Aden Refinery Company the only supplier of refined petroleum products to the domestic market? To what domestic institutions or businesses does the Aden Refinery Company sell refined products? Does Aden Refinery Company export its products?

Answer:

Please refer to the answer to Question 73.

Local market is supplied from Aden Refinery i.e. up to (90 per cent) of the total consumption from both refined products, or other additional imported materials, in addition to refined products from Marib refinery which are estimated around (10 per cent) of the total consumption.

The two refineries operate according to ordinary commercial practices.

There are plans to establish two privately owned refineries.

Aden Refinery exports petroleum products such as Kerosene, Naphtha and Mazout.

Question 75

Is the Public Electricity Corporation the only supplier of electricity in Yemen? What is its price tariff?

Answer:

The Public Electricity Corporation is the only supplier of electricity in Yemen.

Electricity Tariff

Segment	Tariff R/ KWH
Household (Urban)	
0-200	4
201- 350	7
351- 700	10
More than 700	17
Household (Rural)	
0- 100	7
More than 100	17
Commercial	17
Water Corporation and Industrial	15
Government	18

(f) Free zones

Question 76

In response to Question 83 of WT/ACC/YEM/4, Yemen summarized the incentives and privileges provided under Law No. 4/1993 on Free Zones, including the Aden Free Zone.

- **Explain whether Yemen imposes any local content or export performance requirements on products manufactured or assembled in the Aden Free Zone or other free zones; and**
- **Identify the particular products manufactured or assembled in the Aden Free Zone or other free zones that are subject to any local content or export performance requirements.**

Answer:

Privileges and incentives mentioned in the Free Zone Law No. 4 of 1993 are available in the Free Zone of Aden for licensed investment projects without prior conditions concerning the local content or export performance requirements of manufactured or assembled products in the Free Zone of Aden.

All projects operating in the free zone areas enjoy the same benefits and incentives provided by the Free Zone law.

(m) Regulation of trade in transit

Question 77

Could Yemen provide more precise explications on transit than those given in document WT/ACC/YEM/3, e.g. how the various elements of Article V GATT are taken into account?

Answer:

We believe that transit trade as prescribed in Customs Law No. 14 of 1990 is consistent with Article V of GATT 1994.

4. Policies affecting foreign trade in agricultural products

Question 78

Yemen states it will abide by the rights and obligations of LDCs within the framework of the Agriculture Agreement upon accession. To which "rights and obligations" specifically is Yemen referring?

Answer:

The reference to the rights and obligations is meant to indicate Yemen's adherence to full implementation of the Agreement on Agriculture, including S&D provisions provided for LDCs on market access, domestic support, and export subsidies.

Question 79

As Yemen currently has no export subsidies, we expect that Yemen would not enact any. Such an action would run counter to the trend within the WTO, where the elimination of export subsidies is already under negotiation. Is Yemen considering the enactment of agricultural export subsidies upon accession?

Answer:

Please refer to the answer to Question 78. Please note that agricultural exports in Yemen are currently limited. Current and future policies seek to enhance the export of agricultural products from Yemen. In this context, Yemen reserves the right to take measures which are in compliance with the Agreement on Agriculture.

Question 80

Yemen indicated in the answer to Question 92 of WT/ACC/YEM/4 that it discourages the export of charcoal as well as some rare birds and animals. Please provide a list of these

products. Please also describe the reason Yemen "discourages" their export and the measures used to achieve this purpose.

Answer:

Yemen discourages the export of charcoal, some rare birds, including funa and flora, and animals, and exhaustible materials for reasons related to the conservation of environment. Furthermore, Yemen is a signatory to the CITES Agreement concerning the prohibition of trade in endangered plant or animal species.

Item	Reasons of Export Ban	Measures Taken to achieve the purpose
Charcoal	Protecting the flora from desertification and conservation of the environment	Charcoal is not licensed to exit across customs entry points
Rare Birds & Animals	Protecting from Extinction	Rare birds and animals are not licensed to exit across customs entry points

Question 81

In response to Question 94 of WT/ACC/YEM/4, Yemen has stated that it provides certain government support for agricultural activities. Please provide more specific information about these programs in the supporting table format outlined in WT/ACC/4.

Answer:

More details on domestic support of agricultural activities will be provided in document WT/ACC/4.

Question 82

Specifically, how does Yemen "encourage agricultural production to achieve higher levels of food supplies" and what types of programs "enhance rural development and poverty alleviation"? How does Yemen "develop and promote agricultural exports" or "finance the infrastructure needed for marketing agricultural products"?

Answer:

Yemen encourages agricultural production through rural development projects, and agricultural agencies that are in charge of providing services to farmers, guidance and awareness by training them on using modern agricultural techniques, as well as the provision of water projects such as the construction of small dams and tanks for areas that suffer drought with the aim of rain harvesting, and the establishment of mini-village plant nurseries as examples for the development of agricultural production in rural areas. Yemen also implements a number of research, guidance, and credit programmes aiming at developing and improving agricultural production and completing institutional infrastructure for production and marketing through encouraging the private sector and small farmers to increase their investment in different areas of agricultural, plant, and animal production. For further information please refer to WT/ACC/4.

Question 83

In response to Question 93 of WT/ACC/YEM/4, Yemen has stated that loans issued by the Agricultural Credit Bank are "subject" to market interest rates. Does this mean that loans are issued only at market rates. Are interest subsidies or any types of subsidies provided for such loans?

Answer:

Loans by the Cooperative and Agricultural Credit Bank are generally issued on the basis of prevailing market interest rates. However, when loans are provided at less than market rates, i.e. in case of purchasing agricultural machinery, equipment, and inputs, the difference is covered through a special fund. Please refer to answer No. 78.

V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME

1. General

Question 84

We are pleased to note that Yemen will review and update its Law on Intellectual Property to comply fully with the provisions of the TRIPS Agreement. However, we would like to know what is the timeframe envisaged for said review.

Answer:

An Action Plan for the implementation of the TRIPS Agreement is currently under preparation including transitional periods and technical assistance needed.

Question 85

Following up on Question 102 of WT/ACC/YEM/4, Would Yemen consider acceding to the Berne and Paris Conventions as soon as possible? We note that accession to these conventions and incorporation of their provisions into Yemeni law would bring Yemen closer to TRIPS compliance and could accelerate Yemen's WTO accession pace.

Answer:

Recognizing the importance of joining these two conventions, the Government has initially agreed on 29 November 2004 to accede to the Berne Convention. Yemen is currently considering the possibility of joining the Paris Convention. However, Yemen needs technical assistance to implement these conventions in the context of the TRIPS Action Plan.

Question 86

Following up on Question 120 of WT/ACC/YEM/4, how does Yemen intend to fully meet the obligations of TRIPS Article 3 regarding National Treatment?

Answer:

Yemen would like to draw attention to the fact that Question 120 in doc WT/ACC/YEM/4 is not relevant to national treatment. Nevertheless, Yemen will bring its IPR law in line with Article 3 on national treatment.

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

(a) Copyrights and related rights

Question 87

Yemen's copyright law is not yet TRIPS compliant. According to WT/ACC/YEM/4, Yemen indicates that it will bring its copyright law into compliance with the TRIPS agreement (see responses to Questions 106, 107, 108). Please let us know when the Government of Yemen intends to update its law to provide for a TRIPS compliance copyright regime, pursuant to these responses.

Answer:

The Government is in the process of updating its copyright law in order to comply with the TRIPS Agreement, as would be indicated in the IPR Action Plan.

(b) Trademarks, including service marks

Question 88

Following up on Question 112 of WT/ACC/YEM/4, how does the Ministry of Industry and Trade determine what trademarks might "contradict public order or morality" and thus be ineligible for protection?

Answer:

The Ministry of Industry and Trade identifies trademarks that might contradict public order or morality and thus be ineligible for protection if they involve promoting prohibited products or services, inter alia:

- Wine, spirits and narcotics;
- Pork products;
- Pig raising and selling its meat to the public;
- Alcoholic drinks services;
- Night clubs and gambling casinos; or
- A trademark that contains pornographic material, names or statements violating culture, or public order.

Question 89

With respect to Question 114 of WT/ACC/YEM/4, will Yemen's proposed new IPR law specify factors to determine if a mark is a so-called "known mark?"

Answer:

Yemen will include factors to determine if a mark is so called "known mark" in the new IPR legislation in line with the TRIPS Agreement.

(c) Geographical indications

Question 90

It is our understanding that Yemen does not currently have intellectual property laws that provide for the protection of geographical indications, pursuant to TRIPS Articles 22-24. To better understand Yemen's trademark regime and to complete the assessment of its trademark laws, we request copies of amendments, implementing regulations, and/or directives concerning trademarks and geographical indications, in particular Decision No. 353 of 1995 on implementation of trademarks regulations.

Answer:

Decision No. 353 of 1995 regarding Trademarks Regulation will be submitted to the Secretariat.

Question 91

In response to previous questions posed to Yemen by the Working Party (Document WT/ACC/YEM/3) in 2000 regarding geographical indications, Yemen indicated that it would provide protection of geographical indications within the "framework of revising the Law on Intellectual Property Rights." We are interested to know if there have been any recent developments in legislation that would address the protection of geographical indications. If there have not been any developments, what is the timeframe for new legislation addressing geographical indications to be enacted?

Answer:

There are no recent developments regarding the legislation for protecting geographical indications. Yemen is currently developing an IPR Action Plan to implement the TRIPS Agreement including protection of Geographical Indications. The Action Plan would reflect the timeframe for legislative revision, transitional periods and technical assistance.

Question 92

Because there are no provisions in Law No. 19 (1994) concerning geographical indications, the following questions remain:

- (a) In what way does Yemen provide the legal means for interested parties to prevent the use of misleading geographical indications as required under Article 22 of the TRIPS Agreement? Through a trademark system, through unfair competition laws, through a sui generis system, through an administrative labeling system, or a combination of such systems? In what way does Yemen provide the legal means for interested parties to prevent misleading use of geographical indications, which constitutes an act of unfair competition within the meaning of Article 10bis of the Paris Convention?**
- (b) How does Yemen provide the legal means for interested parties to prevent the use of false geographical indications used on wines and spirits, as required under Article 23 of the TRIPS Agreement?**

- (c) **What procedures are in place in Yemen for the interested parties or owners of third-country geographical indications to prevent the use of foreign geographical indications?**
- (d) **In what way does Yemen preserve the legal rights of trademark owners, consistent with Articles 16(1) and 24(5) of the TRIPS Agreement? It is unclear whether trademarks in Yemen would be protected from confusingly similar and later in time geographical indications.**

Answer:

- (a) Yemen currently provides the legal means for interested parties to prevent misleading use of geographical indications through the trademark system.
- (b) Wines and spirits are not registered in Yemen.
- (c) Please refer to answer No. 91.
- (d) Yemen IPR law ensures legal protection for the owner of a registered trademark from confusing it with similar trademarks. Therefore, a trademark similar to those already registered or deposited is not accepted to be registered. A trademark that misleads the public regarding the source of the product or service is not accepted either. Moreover, the law prohibits others from using a trademark without prior consent from its owner.

(e) **Patents**

Question 93

Yemen is a party to the WIPO Convention, but has not joined the Paris Convention, PCT, or UPOV. In order to provide feedback in Yemen's WTO accession process, we have reviewed the patent, data protection, and design laws of Yemen. The 1994 patent law appears inconsistent with TRIPS in various respects. Questions on Yemen's industrial design law were also raised as a part of the accession process. Yemen has indicated in WT/ACC/YEM/4 that it will take our comments into consideration in writing and revising laws.

With respect to Yemen's answer to Question 125 of WT/ACC/YEM/4, what are the criteria for excluding a patent on the grounds of public order or morality?

Answer:

The same general principle invoked for the non-granting of trademark protection is applied for the ineligibility of patent protection on grounds of violation of public order and morality.

Question 94

Following up on Question 126 of WT/ACC/YEM/4, how does Yemen's IPR law define "secret inventions?"

Answer:

Yemen IPR law does not define "secret inventions".

Question 95

Does Yemen regard its patent and design laws, e.g., particularly Articles 64, 105, and 120 of Law No. 19 (1994), as being in conformity with TRIPS Article 3 relating to national treatment? Please explain.

Answer:

Yemen will bring its law in compliance with Article 3 on national treatment.

Question 96

We are very pleased to note that in WT/ACC/YEM/4 Yemen indicates that many of our questions raised regarding Yemeni patent, design, plant variety, and undisclosed information laws will be resolved in Yemen's process of writing and revising its IPR legislation. When will any new and revised laws be drafted and enacted?

Answer:

Please refer to answer No. 84.

Question 97

In addition, Yemen would be obligated under TRIPS to make patents available for inventions. Our understanding is that Yemen does not currently have any mechanism or office in place for the grant or registration of patents, and that patent regulations are in the process of being written. In order to facilitate the process of putting a patent granting system in place in Yemen, please provide us with any new draft patent regulations setting such a system in place.

Answer:

Please refer to answer No. 84.

Question 98

Do you have any revised or newly drafted laws or legislation pertaining to undisclosed information?

Answer:

Yemen has no revised or newly draft laws on undisclosed information.

4. Enforcement

Question 99

We are unable to determine whether Yemen's enforcement regime is compliant with the TRIPS Agreement. In order to conduct an analysis, we will need copies of its enforcement laws.

Please provide us with official translations of the following: Crimes and Penalties Law; and Procedures and Civil Enforcement Law.

Answer:

Summaries of the Crimes and Penalties Law No. 12 of 1994 and Procedures and Civil Enforcement Law No. 40 of 2002 will be submitted to Secretariat.

VI. TRADE-RELATED SERVICES REGIME

Question 100

As mentioned in WT/ACC/YEM/3, the provision of international telecommunication services was made through one company, which we understand was a joint venture between the General Corporation for Cable and Wireless Telecommunications "public sector" and the British Company Cable and Wireless Ltd., and which was to end in 2003. We understand, however, that as of 1 January 2004, the international telecommunications service is run by the Yemeni Government. Does this mean the international telecommunications service was not opened to competition after the end of the previous joint venture? If so, does the Yemeni Government plan to allow competition for international telecommunications service?

Answer:

Yes, the international telecommunication service was not opened to competition after the end of the previous joint venture. And, Yemen is not considering opening the international telecommunication service market to competition. At this stage, the objectives of the Ministry of Telecommunications and Information Technology for international services are as follows:

- Complete, develop, and update the infrastructure of TeleYemen telecommunications network;
- Re-organize TeleYemen and to upgrade the qualifications of its staff with a view to improving and raising the efficiency of performance and providing the service according to the international standards; and
- Raise the economic value of TeleYemen.

In order to achieve these objectives, a five-year management contract was concluded with France Telecom.

Question 101

With reference to Yemen's answers to Questions 153-4 of WT/ACC/YEM/4 we would ask Yemen to complete the table required by WT/ACC/5 before submitting their initial offer.

Answer:

Yemen will submit its initial offer on services as soon as possible.

Question 102

With reference to Yemen's answer to Question 164 of WT/ACC/YEM/4, we request further information on why the international telecoms service has reverted to being wholly operated by the Government on expiry of the joint-venture monopoly (rather than by the further involvement of the private sector).

Answer:

Please refer to answer No. 100.

Question 103

According to WT/ACC/YEM/3 and bearing in mind that Law No. 31 of 1999 on Regulation of Lawyers stipulates that lawyers need to be, *inter alia*, Yemeni nationals, is there any possibility for foreigners to provide legal services. In other words, do all legal services need to be supplied by lawyers or are some of these services open to non-lawyers?

Answer:

In principle, all legal services need to be provided by lawyers.

- (a) Article 59 of the Law No. 31 of 1999 on regulation of lawyers' Profession states that services related to the submission of claims to, or pleading before, a court of law are limited to Yemeni lawyers and may not be provided by foreign lawyers unless the following conditions are met:
- They practise these activities through a licensed Yemeni lawyer's office.
 - They obtain permission for pleading from the Minister of Justice.
 - They do not plead in more than two cases a year.
 - Reciprocity is required.
- (b) Legal consultancy services that do not involve pleading in Yemeni courts can be provided by foreign legal service providers provided they operate on a joint venture basis, or through a Yemeni licensed office.

Question 104

Does the licence procedure for foreign auditing companies' branches or foreign natural persons, mentioned in WT/ACC/YEM/3 apply the same conditions as the procedure for Yemeni auditors, i.e. based on the recommendation made by the Chartered Accountants Certification Committee? If yes, what factors are taken into account by the Chartered Accountants Certification Committee? Can the Ministry go against the recommendation made by the Chartered Accountants Certification Committee?

Answer:

Pursuant to the Law on the Regulation of the Accounting Profession, Yemeni accounting and auditing companies are granted licenses to practice if the following conditions are met:

- The company has to be general partnership;
- All partners should have a profession's practise licenses;
- The head office of the partnership has to be in Yemen;
- The chartered accountant should not be a partner in more than one auditing partnership; and
- The chartered accountant should not practise the profession outside the partnership in a private manner or for others.

Branches of foreign auditing companies or non-Yemeni natural persons are granted license to practise the profession in Yemen, provided they meet the following additional conditions:

- They practise in partnership with Yemeni chartered accountants;
- The name of the partnership must include the name of at least one Yemeni partner;

- The partnership contract must be written in Arabic and documented by the competent authority in the presence of the partners;
- All partners have to be natural persons registered in the working chartered accountants tables;
- Foreign partner must be licensed to practice the profession in their original countries;
- One of the managers must be one a Yemeni partner;
- They present a certified copy of their license to practice the profession in their original country along with the company's contract and articles of association;
- The percentage of Yemeni technical staff working in the company should not be less than two thirds of the total number of technical staff; and
- The proportion of the number of the working team of assistants to the licensed chartered accountants should not exceed 4:1.

Furthermore, the Ministry does not have the right to decide against the recommendations set by the Chartered Accountants Certification Committee.

Question 105

Could Yemen clarify whether Law No. 21 on Islamic Banks limits foreign shareholding in all banks to 20 per cent (or does this restriction apply only to Islamic banks)?

Answer:

Article 6 of Law No. 21 of 1996 regarding Islamic Banks states, that the shareholding of non-Yemeni individuals, agencies, institutions, companies or banks in the capital of any Islamic bank established as per this law may take place provided it does not exceed 20 per cent of the stated capital.

This restriction, however, does not apply to commercial banks.

Question 106

Could Yemen provide further information on the privatization process in Maritime transport? What restrictions (if any) remain on foreign firms participating in this sector?

Answer:

Privatization process in maritime transport sector is conducted within the policy framework and law governing the privatization process. Please refer to answers No. 2 and 5. Currently, the only entity in maritime transport which is in the process of being privatized is the Ship Dock Yards Company.

Question 107

Could Yemen provide information on its policy towards tourism and its role in the economy?

Answer:

Yemen's tourism policy aims at:

1. Preserving the resources and the elements of natural and cultural tourism and benefiting from them in creating a sustainable developed tourism industry.
2. Achieving sustainable benefits from tourism for the national economy and the society through:
 - (a) Increasing foreign exchange;

- (b) Creating new job opportunities; and
 - (c) Developing societies and local areas.
3. Expansion and diversification of the tourist activities and the capacity of tourist's services through developing tourist areas and sites.
 4. Developing and improving the quality of tourism services.
 5. Training and preparation to improve the efficiency of services and the performance of the tourism sector.
 6. Strengthening forward and backward linkages with other economic sectors

The role of tourism in the Yemeni economy can be summarized:

1. In the past 5 years (2000-2004) Yemen received an average number of 135,000 tourists per year.
2. The average yearly income from tourism during this period was US\$105 million. This correlates to:
 - 2 per cent of the country's GDP for the same period; and
 - 23 per cent of the value of non-oil exports in the balance of payments.
3. More than 40,000 people are employed in the tourism sector.

Question 108

Could Yemen inform us about its policy and legislation concerning retail services?

Answer:

According to provisions of the Commercial Law No. 32 of 1991, the right to provide retail services is limited to Yemeni nationals or Yemeni legal entities in which the share of foreign equity does not exceed 49 per cent.

Question 109

Could Yemen tell us about its policy and legislation concerning management consulting and related services?

Answer:

Management consulting services are subject to the provisions of the Commercial Law No. 32 of 1991 and the Law on Regulating Foreign Houses and Companies Representation No. 23 of 1997. According to these laws, foreign management consulting companies are eligible to set up branches in Yemen. However, foreign equity in local consulting companies should not exceed 49 per cent.

Question 110

In what sectors does Yemen already allow 100 per cent foreign ownership of businesses?

We understand that a recent amendment to Yemeni investment law requires that ownership for certain industries be reserved exclusively for Yemeni nationals. Which industries are affected by the amendment?

Answer:

The projects in which Yemen allows 100 per cent foreign ownership of businesses are those established in accordance with the Investment Law.

We are not aware of any amendment to the Investment Law that requires the ownership for certain industries to be reserved exclusively for Yemeni nationals.

Question 111

The 2002 Investment Law does not cover some industries. Which industries are considered "industries that harm the environment?" What is the scope of the reservation for "financial trade, importing, wholesale and retail trade?"

Answer:

Please refer to answer No. 13.

Question 112

In its answer to Question 157 of WT/ACC/YEM/4, Yemen states that Work Permit fees are YR 12,000 plus a YR 5,000 vocational training assessment. What is the basis for the fee?

Answer:

According to Labor Law No. 5 of 1995 and the ensuing Cabinet decision, an amount of YR 12,000 has to be paid as work permit fees which is to cover the administrative fees and another YR 5,000 which goes to the vocational training fund for the sake of training staff in the private sector. It should be noted that the fees are in fact nominal and, in the case of the work permit fee, currently do not cover the actual administrative costs. YR 12,000 at current exchange rates corresponds roughly to US\$ 63, while YR 5,000 corresponds roughly to US\$ 26.

Question 113

Following up on Question 158 of WT/ACC/YEM/4, which Yemeni law or laws governs the conditions for the participation/involvement of foreigners in various professions?

Which Yemeni laws regulate the criteria (level of education, years of experience, etc.) for licensure in various professions? Are the same criteria applied to Yemeni and foreign professionals? Do the organizations responsible for professional licensing publish a list of criteria? If so, where can that material be found? Please describe the procedures (documents, fees, length of processing time) for obtaining the necessary licenses and approvals to provide professional services.

Answer:

Laws such as the Lawyers' Profession Law, the Medical Professions and Assisting Medical Professions Law, Auditing Accounts Law, etc. determine standards and conditions for the participation and involvement of foreigners in the respective professions. The same criteria for obtaining professional licenses are applied to Yemeni and foreign professionals. The criteria for professional licensing are contained in the respective laws and/or by-laws and as such are published in the official Gazette.

The procedures (documentation, fees, and processing time) for obtaining the necessary licenses and approvals differ with type of profession. By way of example: Foreign involvement in the accounting and auditing profession is subject to the conditions outlined in question (104) above. The fees are YR 10,000 for registration and YR 25,000 for obtaining the license while the length of processing time is up to three weeks.

Question 114

Thank you for the answer to Question 164 in WT/ACC/YEM/4. Now that the Government is in full control, does Yemen intend to open the international telecommunications service market to competition? Does Yemen intend to include telecommunications commitments in its services offer? Has Yemen explored implementing the "Reference Paper" on telecommunications services?

Are there any foreign equity limitations in telecommunications?

Currently, TeleYemen, and the Public Telecommunication Corporation, provide local Internet services. Does Yemen allow purchase of goods by the internet? Does Yemen plan to expand the number of ISPs?

- **Are there any restrictions on foreign satellite providers to Yemen?**
- **Are there any government restrictions on technology for mobile telecommunications services?**
- **What is the status of your telecommunications regulator?**

Answer:

For Yemen's policy regarding international telecommunications services, please refer to the answer to Question 100.

For possible future commitments by Yemen in this sector, please refer to Yemen's initial offer on services. Please note that thus far, Yemen has not considered implementing the Reference Paper on telecommunications services.

Foreign participation in the telecoms sector:

- National telecommunications services (PSTN) are an exclusive service undertaken by the Public Telecommunications Corporation.
- International telecommunications services are an exclusive service undertaken by the Yemen International Telecommunications Company (TeleYemen).
- Mobile telecommunications services are open for foreign participation.
- International mobile personal telecommunications services via satellites (GMPCS) are open for foreign participation.

Internet services:

- Pursuant to the provisions of the Cabinet Decision No. 4 of 2001, licenses are granted for internet service providers to establish, operate, and run internet services in Yemen on competitive basis provided that they rent the national and international transmission links from the Public Telecommunications Corporation.

There is no specific legislation on electronic commerce. As a consequence, there are currently no specific legal restrictions on the purchase of goods via the internet.

Satellite services:

International telecommunications services via satellites are an exclusive service of the Yemen International Telecommunications Company (Tele Yemen):

- National telecommunications services via satellites are an exclusive service to the Public Telecommunications Corporation;
- The Ministry of Telecommunications and Information Technology grants licenses for the availability of private telecommunications services via satellites for some organizations such as embassies and oil exploration companies;
- The Ministry of Telecommunications and Information Technology allows the use of dishes only for receiving signals (via satellites) for the internet service; and
- The Yemeni Government allows the use of dishes for receiving signals only (via satellites) for radio and TV programs.

The systems for mobile telecommunications, no general restrictions currently apply. At present there are three companies operating two systems for mobile telecommunications in Yemen, namely GSM and CDMA.

The Ministry of Telecommunications and Information Technology is responsible for policy and regulating affairs for the telecommunications sector.

Question 115

Thank you for your answer to Question 161 in WT/ACC/YEM/4. We are wondering if Yemen has given further thought on the question of to what extent Yemen intends to allow foreign legal consultants to provide legal services, including advice on domestic and foreign law?

Answer:

Please refer to Yemen's initial offer on services.

Question 116

Thank you for your answer to Question 162 in WT/ACC/YEM/4 regarding the process through which a foreign bank applies for CBY authorization to provide banking services in Yemen.

- (a) **Please advise how Yemeni law defines the terms "branch" and "office." How do those definitions conform to the financial services definitions found in the GATS?**
- (b) **What is the "designated capital" that must be transferred to open the office or branch? Is this amount fixed in law, or negotiated?**
- (c) **Who determines the "suitability of the office premises for rendering banking services to the public?" What are the criteria for such determination?**
- (d) **Are foreign owned-banks treated the same as domestic ones? Is there any scope of business limitations on foreign banks in either traditional or Islamic banking?**
- (e) **Are there foreign equity limitations for Islamic banking? If so, what is the rationale?**
- (f) **Can a foreign institution acquire a local bank already established in Yemen? Are there limits established on foreign shareholding in a Yemeni institution?**

Answer:

- (a) A foreign branch undertakes traditional banking businesses such as accepting deposits, loans, money transfer, issuing guarantees, and the like; an office, on the contrary, does not

enjoy such advantages. Yemen thinks that the use of these terms in Yemeni law and practices is in not contradictory to GATS.

- (b) The designated capital that must be transferred to open a branch is not less than six billion Yemeni Riyals (YR 6,000,000,000), which at current rates corresponds to around US\$ 30,000,000. The same requirement applies to local banks and this amount is fixed.
- (c) Pursuant to the by-law of the Banks Law , the Central Bank of Yemen determines the suitability of the office or branch premises according to the following criteria:
 - i) Headquarters must be located on a main street within a city;
 - ii) Headquarters has to have a fully protected room to safe keep national, foreign money and documents; and
 - iii) Headquarters must be properly equipped for banking services.
- (d) Foreign owned-banks are equally treated with local banks. There is no limitation on the scope of business operations on foreign banks either in traditional or Islamic banking.
- (e) The limitation on foreign equity for Islamic banking is represented in the ownership of non-Yemeni individuals, agencies, establishments, companies or banks by a percentage not exceeding 20 per cent of the stated capital of the bank. The rationale is to encourage Yemeni nationals to participate in banking practice and ownership.
- (f) Foreign institutions can acquire a local bank already established in Yemen with equity limit of 10 per cent, as per the Law No. 38 of the year 1998 on banks which does not allow one natural or juridical person to own more than 10 per cent of any bank's capital.

Question 117

Thank you for your answer to Question 163 in WT/ACC/YEM/4 regarding the offshore purchase of insurance by Yemeni nationals. Please clarify what is meant by the sentence "Yemeni Law No. 37/1992 on Supervision and Monitoring of Insurance Companies and Brokers allows the purchasing of insurance offshore with the prior approval of the Minister of Industry and Trade for a maximum of 50 percent of the value of each transaction."

Can you confirm that foreign owned insurance and re-insurance companies can invest in Yemen with up to 25 per cent equity in the insurance company?

Do state owned insurance companies receive any benefit from government ownership, such as exemption from taxes, compulsory cessions, or monopoly over certain product lines?

Answer:

Yemeni nationals are allowed to purchase insurance offshore with the approval of the Minister of Industry and Trade, when local insurance companies are not able to provide the required coverage, for a maximum of 50 per cent of the total coverage.

According to the Law No. 37 of 1992 and its amendments by Law No. 9 of 1997, foreign equity participation in insurance and re-insurance companies is limited to 25 per cent.

State owned insurance companies do not receive any benefits through government ownership, nor they hold monopolies over certain product lines.