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Accession of Tajikistan**

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I. INTRODUCTION

1. The Government of the Republic of Tajikistan applied for accession to the World Trade Organization (WTO) in May 2001. At its meeting on 18 July 2001, the General Council established a Working Party to examine the application of the Government of the Republic of Tajikistan to accede to the World Trade Organization under Article XII of the Marrakesh Agreement establishing the WTO. The terms of reference and the membership of the Working Party are reproduced in document WT/ACC/TJK/2/Rev.[7].

2. The Working Party met on 18 March 2004, 26 April 2005, 6 October 2006 and under the Chairmanship of H.E Mr. Clyde Kull (Estonia).

DOCUMENTATION PROVIDED

3. The Working Party had before it, to serve as a basis for its discussions, a Memorandum on the Foreign Trade Regime of Tajikistan (WT/ACC/TJK/3), the questions submitted by Members on the foreign trade regime of Tajikistan, together with the replies thereto, and other information provided by the authorities of Tajikistan (WT/ACC/TJK/4 to 6, WT/ACC/TJK/7 and Revisions 1, 2 and 3, WT/ACC/TJK/8, WT/ACC/TJK/9, WT/ACC/TJK/10 and Revision 1, WT/ACC/TJK/11 to 16 [...]), including the legislative texts and other documentation listed in Annex I.

INTRODUCTORY STATEMENTS

4. The representative of Tajikistan said that his Government was committed to Tajikistan's integration into the multilateral trading system and its accession to the WTO. The basic principles and rules of the WTO had broad support in Tajikistan. In this regard, Tajikistan had taken steps to reform its economic and foreign trade regime. However, as a transition economy at a low level of economic development, Tajikistan sought recognition and the status of a developing country in the WTO. He welcomed the technical and financial assistance received from Members and multilateral agencies in support of Tajikistan's accession to the WTO. Further assistance was requested.

5. Members welcomed Tajikistan's application to accede to the WTO. The recent domestic reforms in Tajikistan complemented its WTO accession process. Members appreciated the work already undertaken to achieve compliance with WTO rules and principles, though some Members noted that further work was still needed. Members highlighted the technical assistance that they had provided and pledged to continue their technical and financial support for the accession of Tajikistan.

6. The Working Party reviewed the economic policies and foreign trade regime of Tajikistan and the possible terms of a draft Protocol of Accession to the WTO. The views expressed by Members on the various aspects of Tajikistan's foreign trade regime, and on the terms and conditions of Tajikistan's accession to the WTO, are summarized below in paragraphs 7 to [..].

II. ECONOMIC POLICIES

- Monetary and Fiscal Policy

7. The representative of Tajikistan said that the legal basis for the development of Tajikistan's monetary system had been established over the period 1991-1998 through the promulgation of several laws, regulations and normative acts, such as the Laws "On the National Bank of the Republic of Tajikistan" (1996); "On Banks and Bank activities" (1993, 1995, 1998); "On Securities and Stock Exchanges" (1992); and the "Order of the Issue of Permits for Opening Accounts in Foreign Currency by Residents in Banks Outside Tajikistan" (1997). The monetary and credit policy had been further refined and developed by the Decree "On the Principal Guidelines of Credit-monetary and Foreign Exchange Policies of the Republic of Tajikistan" (2000). These guidelines advocated market economy principles and transparency.

8. For the period 2002-2005, the objectives of monetary and credit policy in Tajikistan included reducing inflation; creating conditions to stimulate GDP growth of 5 per cent per annum; stability of the national currency (Somoni); strengthening the banking system; further development of the credit, foreign exchange and securities market; building up foreign exchange reserves; and improving the domestic payments and settlement mechanism.

9. The monetary system was regulated by the National Bank of Tajikistan (NBT). The National Bank regulated monetary circulation through credit controls, sterilization of sales and purchases of foreign exchange, variations in its gold and foreign exchange reserves, transactions with the treasury, and the issue and sale of treasury bills.

10. The banking sector in Tajikistan comprised of 13 banks, one branch or affiliate of a foreign bank and three credit unions. To protect the interests of creditors and depositors and to provide stability in the functioning of the banking system, the "General rules of regulation of bank activity", enacted in 1995, and put into force in 1996, set out the obligatory standards that regulated bank activities in Tajikistan.

11. Reforms in the banking sector had focused on expanding the range and quality of banking services; improving the operation of the credit, securities and foreign exchange markets; creation of

non-banking financial institutions for the provision of financial services; banking services and support for the private sector; the creation of a national payments system; accelerating settlement of accounts through electronic means; and building confidence in the banking sector through the enforcement of legislation protecting the rights of the banks' customers.

12. Fiscal policy in Tajikistan was geared towards the stabilization of the economy and the Government's budget and its finances. The Law "On the Fundamentals of Budgetary Structure and Budgetary Process" of 1997, together with the State budget adopted annually provided the basis for the formulation and execution of fiscal policy in Tajikistan.

13. The Taxation Code of 12 November 1998 had sought to simplify tax collection mechanisms, remove a number of inefficient or irrational taxes and other obligatory payments, and to build an integrated tax system. The Taxation Code enumerated five types of taxes, namely - value-added tax, excise tax, profits tax, income tax and sales tax on certain goods. The sales tax on cotton and aluminium had been introduced to increase Government revenues. Further tax reforms had been undertaken with the Tax Code of 3 December 2004, which had entered into force on 1 January 2005.

14. On the expenditure side, the State budget for 2001 had amounted to 379.7 million Somoni or about 15.1 per cent of GDP. He noted that Tajikistan's budgetary classification of revenues and expenses had met international standards since 2000, and was in accordance with the Statistics of State finance designed by the International Monetary Fund (IMF). A budget deficit of 1 per cent of GDP had been foreseen in 2002. This deficit was to be covered through the privatization of State property, credits from the World Bank and the Asian Development Bank, sale of securities and the issue of long-term bonds by the Government of Tajikistan.

- **Foreign Exchange and Payments**

15. The representative of Tajikistan said that the foreign exchange policy was a component of Tajikistan's monetary and credit policy. The policy was geared towards providing stability to the national currency, liberalizing foreign exchange operations and further developing the foreign exchange market. The National Bank of Tajikistan was responsible for development of policy and the regulation and organization of all foreign exchange transactions.

16. Tajikistan had been among the last of the constituents of the Commonwealth of Independent States to introduce its own national currency, as it had depended on the currency and the monetary and credit policy of the Russian Federation. An interim national currency - the "rubl" - had been introduced in May 1995. The "rubl" had been replaced by the "Somoni" which became the national

currency in October 2000. The official exchange rate was 3.8659 Somoni per US dollar on 1 April 2009.

17. He added that Tajikistan had been a Member of the IMF since 27 April 1993 and had accepted the obligations of Article VIII of the IMF Articles of Agreement on 9 December 2004. Tajikistan's foreign exchange and payments regime had been reviewed by the IMF. He stated that the regime had been found to be in full compliance with IMF's Article VIII obligations, with no restrictions on payments and transfers for current account transactions.

18. The Law "On Regulation of Foreign Exchange and Foreign Exchange Control" of 1995 governed the rights of residents and non-residents holding foreign exchange in Tajikistan. According to Article 5 of this Law, residents that were legal entities and physical persons involved in business activities could only open accounts in foreign banks with the prior permission of the NBT. The procedures and decision criteria for issuing the permission were set out in the NBT Instruction "On Procedure of Issue of Permissions for Opening Accounts in Foreign Currency in Banks Outside the Republic of Tajikistan by Residents" of 16 September 1997. Decisions were based on whether the applicant was able to make payments through his/her bank account in Tajikistan; or through the accounts of Tajik banks in foreign banks; or if opening an account in a foreign bank was a requirement in the terms of a contract, agreement, treaty, etc.

19. A Member noted that the required permissions to open an account in a foreign bank could be a restraint on trade, and requested further information regarding the rationale for this restriction and any plans to eliminate or ease this procedure. In response, the representative of Tajikistan said that his Government was drafting a new Law "On Foreign Exchange Regulation and Foreign Exchange Control". The new law would cancel the permit for the opening of accounts with foreign banks and replace it with a notification procedure.

20. Residents had the right to buy and sell foreign exchange in the domestic market. The purchase and sale of foreign exchange in Tajikistan took place through authorized banks and their exchange offices. Instruction No. 142 of 11 October 2005, replacing Decree No. 106 of 11 March 2000, established procedural requirements for cross-border transfer of foreign exchange in cash. Non-cash transfers were not subject to any procedural requirements nor were there any quantitative limits on the amount of foreign currency that could be imported into or withdrawn from Tajikistan. As per Instruction No. 142, any person carrying foreign currency exceeding the equivalent of US\$3,000 in cash across the border had to declare it to customs in writing. Non-residents carrying more than US\$3,000, and Tajik residents over US\$10,000, were required to obtain permission issued by the NBT, commercial banks or non-banking financial institutions. In lieu of such permission,

non-residents exporting or withdrawing foreign currency could present a customs declaration verifying the amount of cash previously brought into Tajikistan. Permission was the document confirming that the foreign currency in cash had been obtained legally, i.e. from a bank or exchange office. He added that the procedural requirements for the cross-border transfer of foreign exchange in cash had been implemented to prevent money laundering and were, in his opinion, not restricting current account transactions.

21. In accordance with a Joint Instruction of the National Bank and the Customs Committee entitled the "Regulation on the Procedures to Implement Currency Control on Exchange Earnings in the Republic of Tajikistan Coming from the Export of Merchandise" of 14 August 1996, all exporters were obliged to transfer or repatriate all foreign exchange earnings from exports of goods and services into their own foreign currency accounts held in serving banks located in Tajikistan. Once the earnings had been transferred, the exporters were guaranteed exemption from any additional payments and charges and were not subject to the compulsory sale of this foreign exchange in the domestic market. Exporters could use these earnings at their own discretion, including for the purchase of imports without restrictions. The purpose of this requirement was to ensure foreign exchange inflows to assist Tajikistan in meeting balance-of-payments and import-cover needs, and to allow the Government to fulfil any foreign debt obligations.

22. As stipulated in Presidential Decree No. 424 "On Liberalization of Currency and Export Operations and Measures to Ensure the Complete Return of Currency Proceeds" of 24 February 1996, full advance payment was required for the export of certain merchandise goods listed in Table 1. These products - the principal export items of Tajikistan - accounted for about two thirds of all State exports. The full prepayment requirement was administered by the National Bank of Tajikistan and commercial banks. Banks in Tajikistan issued a confirmation that the full pre-payment of an export contract had been received and, on the basis of this confirmation, customs bodies released goods for export. The mandatory pre-payment requirement sought to ensure the return of foreign currency proceeds from these exports and was imposed to prevent deceptive practices and capital flight in light of the unstable balance-of-payments situation and recurrent current account deficits in Tajikistan.

Table 1: Export Products with 100 per cent Mandatory Pre-payment Requirement

Code GN FEA	Product
0409	Natural honey
2401	Fermented tobacco
3301 21	Geranium oil
3102-3105	Chemical fertilizers
4104-4115	Hides and leather
5201 - 5212	Cotton fibre and products thereof

Code GN FEA	Product
2616, 7101, 7112,	Ore, concentrates and scrap of precious metals, precious natural stones and their Articles
7204, 7503, 7602, 78002, 7902, 8002	Scrap of ferrous and non-ferrous metals
7601 - 7616	Aluminium and its products

23. He added that Decree No. 424 of 24 February 1996, as amended by Presidential Decree No. 1249 of 13 July 1999, set a limited time of 120 days to transfer hard currency proceeds from the exports of goods not listed in Decree No. 424 back into Tajikistan. Implementation of this currency regulation envisaged a "Passport of a transaction" drawn up by the exporter in an authorized bank. Serving as currency control agents, the authorized banks charged 0.01 per cent of the contract value based on which a passport of a transaction was drawn up. The procedures to fill out a passport of a transaction were determined in accordance with the Regulation "On the Procedure to Implement Hard Currency Control on Exchange Earnings in Tajikistan coming from the Export of Merchandise" approved by the NBT and the Ministry of Public Revenues and Charges in August 1996. As set out in the above-mentioned Regulation, a passport of a transaction was the basic document containing data on the transaction and was drawn up by an exporter. The exporter submitted this document to the bank and to the customs body clearing the commodity. The bank and the customs body exchanged information on the passport. Once the export earnings had been transferred to the exporter's account in Tajikistan, the currency regulations were met, and the passport of a transaction expired.

24. Some Members considered the mandatory pre-payment of exports; the transaction passport requirements for exporters; and the obligation to repatriate export earnings to foreign currency accounts in Tajikistan to be measures restricting current account transactions. They encouraged Tajikistan to liberalize these measures and eliminate them by the date of accession.

25. The representative of Tajikistan replied that the export transaction passport requirements had been eliminated in 2007 (NBT Board Decision No. 37 of 26 January 2007), and that the mandatory pre-payment requirement had been liberalized in 1997 through Presidential Decree No. 823 "On Amendment to Some Decrees of the President of the Republic of Tajikistan on Marketing of Cotton Products" allowing settlements by any means agreed to by the buyer and seller, including letters of credit. The mandatory repatriation of export proceeds would be eliminated by the end of 2009.

26. As for capital account transactions, he said that Regulation No. 51 "On the Procedures of Carrying Currency Transactions Related to Capital Movement" of 16 September 1997 governed the usage of foreign exchange for capital account transactions. Regarding settlement of foreign debt, he said that the Department of Foreign Debts in the Ministry of Finance had been created in the second

quarter of 1997 to settle payments and debt instruments. This Department dealt with the restructuring and servicing of foreign debt in Tajikistan.

27. Asked about the circumstances, including the judicial and appeal process, under which a foreign account could be frozen in Tajikistan, he replied that in conformity with Regulation No. 120 "On the Procedure of Opening and Managing Foreign Exchange Account", a foreign account could only be seized on the basis of a court decision or a resolution by an investigative agency to this effect. The period for which these funds were seized could not exceed the period set for processing the case. Decisions to seize or freeze assets could be appealed through the courts.

- **Investment Regime**

28. The representative of Tajikistan said that Law No. 260 "On Investments" of 12 May 2007 provided the legal framework for all investments in Tajikistan. The Foreign Investment Law, promulgated in 1992, had been eliminated with the introduction of the new Law.

29. The 2007 Investment Law guaranteed foreign and domestic investors equal rights without discrimination. No requirements or conditions were imposed on foreign investment that would not equally be imposed on domestic investment. He noted that the Law did not impose restrictions in any particular sector or area. However, certain activities were subject to licensing pursuant to Law No. 37 "On Licensing of Separate Types of Activity" of 17 May 2004, as amended, and Regulation No. 172 "On the Peculiarities of Licensing Certain Types of Activities" of 3 April 2007.

30. Asked to describe the process for commencing foreign investments in Tajikistan, he said that a foreign investor could establish a legal entity in accordance with the same legislation applicable to domestic investors, i.e. the Law "On Limited Liability Companies", the Law "On Joint Stock Companies", the Law "On State Registration of Legal Entities", and the Civil Code. The registration procedures did not differ for foreign investors, except for a requirement to translate foreign documents to the Tajik language and the payment of State duty.

31. He noted that Tajikistan had sought to improve the investment climate and legislative framework for foreign capital. The 2007 Investment Law had lifted a requirement on foreign enterprises to employ at least seventy per cent of their work force locally. A "preliminary expert examination" of all large-scale construction and reconstruction projects with foreign participation had also been abolished. Furthermore, a "scientific expert examination" to verify the economic appropriateness and technological novelty of all newly established enterprises would be reassessed

with the revision of Resolution No. 136 of 4 April 1996. In practice, these examinations had been discontinued since 1998.

32. Investment incentives, in the form of tax and custom duty exemptions, were granted pursuant to Resolution No. 591 of 30 November 2007, the Customs Code (Article 345), the Tax Code (Articles 145 and 211), and Article 19 of the Investment Law. Domestic and foreign investors were eligible for benefits on equal terms. Profit tax for all newly established enterprises was waived for a period of two to five years. The length of the tax waiver depended on the volume of investment. His Government offered VAT and custom duty exemptions to import technology and manufacturing equipment and spare parts to develop or to upgrade existing production or to replenish the statutory funds of the entity. The VAT and custom duty exemptions accorded to investors were not contingent on export performance or local content requirements.

33. Legal protection was granted to foreign investors to safeguard tax relief and other benefits from any future changes to the legislation. In this regard, VAT and custom duty exemptions had been granted for capital goods used directly in the production of goods, works and services by foreign enterprises. Foreign investment in priority areas had also benefited from additional tax relief and other benefits. In his view, the benefits accorded pursuant to the Foreign Investment Law were not WTO inconsistent and thus no attempt had been made to "grandfather" these benefits.

34. Asked about the restrictions in land use and the constitutional ban on private property, the representative of Tajikistan said that as stipulated in Article 13 of the Constitution, the State was the exclusive owner of land in Tajikistan and it guaranteed the efficient use of the land in the interests of the people. Private ownership of land was prohibited for both citizens of Tajikistan and foreign nationals. His Government did not have any plans to change this provision of the Constitution. On land use, in conformity with Article 10 of the Land Code, land users could be legal or physical persons, who could be primary or secondary land users. Primary land users could have land plots for an unlimited, short term, or inherited life use. Secondary land users were legal entities or physical persons renting land from primary users. No restrictions precluded foreigners from becoming secondary land users. In addition, Article 105 of the Land Code specified that if international agreements ratified by Tajikistan determined rules other than those stipulated by the Land Code of Tajikistan, then the rules of the international agreements would apply.

35. The representative of Tajikistan added that foreign natural persons and legal entities could obtain primary land use rights without time limit by forming a joint venture with a domestic partner. Otherwise, primary land use rights were limited to 50 years for foreigners according to Article 25 of the Land Code, and foreign natural or legal persons could not be land users with lifetime inheritance

rights, nor be land users in specially protected areas. Primary land users could lease the land on 20-year terms to domestic or foreign users alike.

36. By 2008, foreign direct investment in Tajikistan had totalled US\$770.6 million. Most of this investment had come through investors from the Russian Federation (26 per cent), Kazakhstan (24 per cent), China (9.5 per cent), Cyprus (8.7 per cent), Azerbaijan (5.5 per cent), the United States (4 per cent), the United Kingdom (3.4 per cent), the Netherlands (3 per cent), India (1.2 per cent), and Switzerland (1 per cent).

- **State Ownership and Privatization**

37. The representative of Tajikistan said that his country had embarked upon fundamental social and economic reforms and a transition to a market-oriented economy since independence. Privatization of State and municipal (communal) property had been an important objective of the medium-term economic strategy of his Government. Over 10,000 assets had been privatized between 1991 and 2007, including 419 enterprises under the aegis of the Strategic Privatization Plan for 2003-2007. Information on the privatization of State assets is provided in Table 2.

38. In accordance with the Law "On privatization of State Property" of 16 May 1997, citizens of Tajikistan and foreign legal or physical persons could participate in the privatization of State assets on equal terms. Auctions and tenders had been organized for the sale of State assets. Large companies - i.e. major companies in the energy, construction, telecommunication and transportation sectors with more than 100 employees, had been privatized by tender. In connection with the tender, the buyer would typically be expected to fulfil certain terms, notably to invest in fixed assets to expand output; to increase the number of employees; and to introduce international accounting standards in the enterprise. The buyer should meet these terms within a period of two years. Once the commitments had been met, the winner of the tender would receive an act on the fulfilment of the agreed terms, and the asset would pass into ownership of the buyer. The State Committee on Investments and State Property Management monitored the compliance with the commitments. Apart from this monitoring, his Government retained no control and had no role in the operations, decision-making and management of privatized companies. Privatized entities operated under the same rules and regulations as companies that had been privately-owned since their inception.

39. The representative of Tajikistan said that all State-owned enterprises in the mining and chemicals sectors had been privatized. The Government did not retain any management control of the privatized mining and chemical enterprises, and they did not enjoy any special privileges. As noted

above, for the enterprises sold by tender, ownership was transferred once the terms of the contract had been fully met.

40. Regarding privatization in agriculture, 91 per cent of all State-owned agricultural enterprises had been privatized, covering all types of agricultural activity. Only enterprises belonging to the Academy of Sciences involved in scientific and experimental production, State seeds and pedigree farms or agencies, select hybrid centers, centers and stations for testing new products, nurseries for garden plants and experimental animals, veterinary and plant protection services had not been subject to privatization. In response to a specific question, he said that "Rural Technical Supply", a company still in State ownership, leased tractors, machinery and equipment to farmers who could not afford to purchase the equipment themselves.

41. Enterprises that had yet to be privatized are listed in Table 3. As of 1 April 2009, 14 large or medium enterprises had not been sold. Individual privatization plans were drawn up for the sale of natural monopolies and major companies. Foreign participation in the privatization of such companies was still to be determined.

42. He noted that the State retained a significant stake in the energy sector. The enterprise "Barki Tojik" was wholly State-owned and produced electricity and provided energy transmission services. An individual restructuring plan for "Barki Tojik" was being considered by the Government but a privatization schedule for the company had yet to be drawn up.

43. Asked about enterprises not subject to privatization, he said that strategic entities were the exclusive property of the State and would not be privatized (Government Resolution No. 388 of 28 August 1997). Such entities included the education system; health facilities; national property and historical sites; administrative buildings; facilities of the armed forces, security agencies, border troops, customs, tax and other law-enforcement bodies; defence entities; activity therapy centres; correctional labour institutions; geology and geodesy services etc.

44. A Member sought confirmation from Tajikistan that all State-owned banks, or banks in which the State continued to hold an equity stake, operated on a commercial basis. In view of the special characteristics of Tajikistan's economy, the Members noted that State-owned enterprises (including banks) providing financial contributions would be considered Government actors within the scope of Article 1.1(a) of the WTO Agreement on Subsidies and Countervailing Measures and, for the purposes of applying Articles 1.2 and 2 of the Agreement, subsidies provided to State-owned enterprises (including State trading entities) would be viewed as specific if, *inter alia*, State-owned

enterprises were the predominant recipients, or received disproportionately large amounts, of such subsidies.

45. In reply, the representative of Tajikistan said that all State-owned banks and banks with State equity operated on a commercial basis, and that the banks did not provide any subsidies on behalf of the Government.

- **Pricing Policies**

46. The representative of Tajikistan said that his Government had adopted Decree No. 310 "On Approval of the Regulation on Forming and Application of Free Prices and Tariffs" of 4 May 1995. Pursuant to this Decree, all prices had been liberalized, except for goods or services provided by enterprises classified as natural monopolies. Tajikistan did not apply any minimum price requirements.

47. In accordance with Article V of the Decree Law No. 526 "On Natural Monopolies" of 13 December 1997, the activities of natural monopolies were regulated through price controls. Prices, tariffs or mark-ups were fixed taking into account the costs of production of the goods, works or services; taxes and other payments; future investment needs and deductions for depreciation; forecasted profits; location of consumers relative to the production facilities; State subsidies and other measures of State support; and the quality of the goods, works or services produced by the natural monopolies and their ability to meet consumers' demands in Tajikistan.

48. The prices charged by natural monopolies were set by, or in consultation with, the State Anti-monopoly Agency (Department for Antimonopoly Policy and Development of Competition in the Ministry of Economic Development and Trade). The rates for electric and thermal energy were set by the Anti-monopoly Agency. Tariffs and fares for railways were determined within the framework of the CIS unified tariff policy. The Tajik railways approved the rates and tariffs for railway transportation only after agreement with the State Anti-monopoly Agency. A similar procedure for the approval of airfares had also been established. All works and services related to air transportation were included in the tariffs. He added that airports facilities, including terminal services, were factored into the cost of the air ticket and were not considered separately. The State Anti-monopoly Agency also approved the rates for the supply of natural gas to all categories of consumers in consultation with the State-owned enterprise Tajik Gas. Prices for energy, natural gas, air and rail transportation were levied and applied equally for both domestic and export delivery. The price regulations applied by natural monopolies in Tajikistan are elaborated in Table 4.

Table 4: Price Regulations

Natural Monopoly	Description	Type of Regulation	Responsible Authorities	Legislation
"Barki Tojik"	Electricity production and transmission services, thermal energy	Fixed tariff	Department for Antimonopoly Policy and Development of Competition, Ministry of Economic Development and Trade; Open Stock Company "Barki Tojik".	Resolution No. 155 of the Government of Tajikistan of 2 April 2002.
"Tojigaz"	Purchase, transportation and supply of natural gas via pipelines	Fixed tariff	Department for Antimonopoly Policy and Development of Competition, Ministry of Economic Development and Trade; SUE "Tojigaz".	Resolution No. 44/K of the State Antimonopoly Agency of 30 December 2005.
"Tajik Air" (formerly SUE "Tojikiston")	Air transportation services - passenger and freight, operation of transport terminals and airports	Fixed tariff	Department for Antimonopoly Policy and Development of Competition, Ministry of Economic Development and Trade; Tajik Air.	Resolution No. K/04 of the State Antimonopoly Agency of 31 January 2006.
"Rohi Ohan"	Rail transportation and transport terminal services	Fixed tariff	Department for Antimonopoly Policy and Development of Competition, Ministry of Economic Development and Trade; SUE "Rohi Ohan".	Note No. 4/201 of the State Antimonopoly Agency of 22 February 2006.
Stock Company "Tojiktelekom"	Telecom and communication services	Fixed tariff	Department for Antimonopoly Policy and Development of Competition, Ministry of Economic Development and Trade; Stock Company "Tojiktelecom".	Decision No. 33/R of the State Antimonopoly Agency of 28 September 2006.
"Pochtai Tojikiston"	Postal services	Fixed tariff	State Department "Pochtai Tojik".	

49. A Member noted that airports in Tajikistan were subdivisions of the State-owned national airline, and stressed that airport owners in Tajikistan should establish separate and non-discriminatory tariffs for services, in particular for ground handling. The price controls on air transportation services were also noted. In reply, the representative of Tajikistan said that only domestic flights were now

subject to price regulations. The ownership of airports had been transferred to regional authorities (Resolution No. 43 of 26 January 2007). He added that further liberalization of the aviation sector was underway with the restructuring of Tajik Air into six independent enterprises.

50. A Member requested a commitment from Tajikistan (i) to apply all price and profit controls in a WTO-consistent fashion, taking into account the interests of exporting WTO Members as provided for in Article III:9 of the GATT 1994 and in Article VIII of the General Agreement on Trade in Services; (ii) to confirm that price controls would not be used for purposes of affording protection to domestic providers of goods or services; and to publish all price controls, existing or future, in official publications. In response, the representative of Tajikistan said that decisions on price controls and regulations were published regularly in newspapers and periodicals. In his opinion, Tajikistan's current pricing policy was in full conformity with WTO requirements and price controls would not be used to protect domestic producers of goods or services.

- **Competition Policy**

51. The representative of Tajikistan said that the Law No. 147 "On Competition and Restriction of Monopoly Activity in Commodity Markets" of 10 November 2000 set out the basic legal framework to restrict and prevent monopolistic activity and unfair competition in the goods market. Additional legislation was being drafted by the State Anti-monopoly Agency (Department for Antimonopoly Policy and Development of Competition) to address existing shortcomings and to advance competition policies and competition in the markets for goods and services in Tajikistan.

52. The activities of natural monopolies were regulated by the Law "On Natural Monopolies" of 13 December 1997, Regulation No. 75 of 14 February 2001 and the internal normative acts of the State Anti-monopoly Agency (Procedure No. 81 "On the Regulation and Fixing of Prices (Tariffs) or their Mark-up Rates" of 24 December 2004, Provision No. 81 "On the Registry of Subjects of Natural Monopolies" of 24 December 2002 and Provision No. 76 "On Legal Investigation for Violations of the Law on Natural Monopolies" of November 2002).

53. Enterprises and activities classified as natural monopolies in Tajikistan were the Open Stock Company "Barki Tojik"; the State Unitary Enterprise (SUE) "Tojikgaz"; the SUE "Tajik Air"; the SUE "Rohi Ohan"; the Stock Company "Tojiktelekom"; the State Department "Pochtai Tojikiston"; and enterprises under the Ministry of Industry producing goods for military purposes. To protect consumers' rights, the regulation of natural monopolies was carried out through price regulation (Table 4) or, in cases where demand outstripped supply, by defining the consumers and the minimal level of services to be provided to them by the natural monopoly.

54. Asked to define "allowed" and "temporary" monopolies, he stated that existing legislation did not define these terms. Only "natural monopolies" had been defined in the Law "On Natural Monopolies" of December 1997.

III. FRAMEWORK FOR MAKING AND ENFORCING POLICIES

55. The representative of Tajikistan said that the Constitution of Tajikistan separated the executive, legislative and judicial powers of the State. The President of Tajikistan was the Head of the State and formed and headed the executive branch of the Government. The President was elected for terms of seven years. The Constitution had vested wide authority with the President. The President had the authority to set the broad direction of internal and external policies; represent Tajikistan domestically and abroad; establish and dissolve bodies of executive power; appoint and dismiss officials, including members of the Government, heads of administrative bodies, heads of local authorities and judges. Based on, and in pursuance of, the Constitution and constitutional laws, the President also had the authority to issue new decrees and cancel or suspend the implementation of acts issued by the Governmental authorities if they were not in conformity with the Constitution.

56. The Government, as appointed by the President, consisted of the Prime Minister, the first deputy minister and deputy ministers, ministers and chairpersons of State committees. The Government was vested with executive authority in Tajikistan and was responsible for administering the country by implementing the laws and decisions of the Majlisi Oli (Parliament) and the decrees or instructions of the President of Tajikistan. The President of Tajikistan outlined the principal guidelines of foreign and trade policy which was then implemented by the Government through Ministries and other agencies under the Government. The Ministry of Economy and Trade played a leading role in the development and implementation of economic and trade policies in Tajikistan. The Ministry was assisted in these functions by the Ministry of State Revenues and Duties, the National Bank and commercial banks.

57. Legislative authority in Tajikistan was exercised by the Majlisi Oli (Parliament). The Majlisi Oli consisted of two chambers - the Majlisi Milli (upper chamber) and the Majlisi Namoyandagon (lower chamber). The Majlisi Milli had 33 members, of which 25 members were elected through an indirect secret ballot by the deputies of oblasts, cities and districts; and the remaining eight members were appointed by the President. The Majlisi Namoyandagon consisted of 63 elected deputies. The term of office of representatives of the Majlis Oli was five years. The Majlisi Namoyandagon had the authority to approve programmes proposed by the Government; to ratify or reject Tajikistan's accession to international agreements; to set up referendums; to establish courts; and to approve the State symbols and awards. The right to initiate legislation was given to members of the Majlisi Milli,

deputies of the Majlisi Namoyandagon, the President of Tajikistan, the Government of Tajikistan, and on some issues to the Constitutional Court, the Supreme Court and the High Economic Court. Bills were examined in the relevant committees or commissions before being considered in the Majlisi Namoyandagon where the bills could be approved or rejected. The laws passed by the Majlisi Namoyandagon and approved by the Majlisi Milli were sent to the President for signature and publication within one week of their approval.

58. The Majlis of the Gorno-Badakhshan Autonomous Oblast (GBO) also had the right to initiate certain legislation and fix rates and exemptions of local taxes, duties and fees transferred to the local budget in line with Article 12 of the Constitutional Law "On Gorno-Badakhshan Autonomous Oblast". While the types and rates of local taxes were determined in accordance with the 2004 Tax Code, all other trade policy issues were determined by the Central Government. He clarified that on matters of legislation and enforcement of policies affecting trade and the protection of intellectual property rights, all promulgated laws, regulations, resolutions, Presidential decrees and international legal obligations accepted by Tajikistan, applied to the whole territory of the Republic of Tajikistan, including the GBO, if not stated otherwise in the legislation. There were no predetermined cases where laws and regulations were not applied in the GBO. He confirmed that pursuant to Article 16 of the Constitutional Law "On Gorno-Badakhshan Autonomous Oblast", in cases of conflict between the laws of Tajikistan and those of the GBO, the legislation of Tajikistan would have precedence.

59. In accordance with Article 84 of the Constitution, judicial power in Tajikistan was exercised by a system of courts which included the Constitutional Court; the Supreme Court; the High Economic Court; the Court of Military Justice; the Courts of the GBO, the oblasts and Dushanbe; town and district courts; and the Economic Courts of the GBO, the oblasts and Dushanbe. The Constitutional Court ruled on matters directly related to or defined by the Constitution and settled disputes between State bodies. Decisions of the Constitutional Court were final. The Supreme Court was the highest judicial body carrying out judicial reviews of the subordinate courts on civil, criminal, administrative and other cases. The High Economic Court was the highest judicial body for dispute settlement on economic and other cases under consideration by the Economic Courts. The High Economic Court also carried out judicial reviews of the subordinate Economic Courts.

60. In economic disputes, any person, including foreign physical and legal persons, had the right to redress violated or disputed rights and legal interests through the submission of a claim with supporting documents. Legal proceedings in Economic Courts were based on the principle of equality of all parties.

61. Asked to elaborate on the concept of "economic disputes", whether it would include disputes between a private entity and the State (or a State-owned entity), and whether it would include intellectual property disputes, the representative of Tajikistan said that Chapter 4 of the Code on Economic Court Proceedings of 2008 set out the jurisdiction of the Economic Courts and as economic disputes were defined by the parties to the dispute rather than by the subject matter, disputes related to intellectual property could, accordingly, be addressed either at the economic or the ordinary courts. Disputes in the Economic Courts of first instance were considered individually except for bankruptcy cases which were considered collectively. Cases were normally considered and cleared by the Economic Courts within two months of the claim. Decisions of an Economic Court of first instance could be appealed against provided the appeal was lodged within one month of the court's decision. Appeals were considered within one month of their receipt. The High Economic Court examined the legality of the decisions made by the Economic Court of first instance and the Appeal Courts. Decisions of all Economic Courts, having entered into force, could be reconsidered by the Plenum of the High Economic Court if there was an objection raised by the Chairperson of the High Economic Court or the General Prosecutor.

62. Actions of the State relating to the exercise of governmental authority could be challenged in the courts. Administrative procedures available to importers and exporters contesting the decisions of customs, tax and standards bodies in Tajikistan were regulated and governed by the Code "On Administrative Violations" and Chapter 7 (in particular Article 46) of the Customs Code of December 2004, Chapter 11 (in particular Article 101.1) of the Tax Code of December 2004, and Article 9 of the Law "On Certification of Goods and Services" of 1996. Asked to describe the appeal process for administrative procedures, he said that appeals against customs decisions, officials and actions - including failure to act - could be directed to the customs authorities, the prosecutor's office and/or to the courts. The total time for addressing complaints could not exceed two months.

63. The representative of Tajikistan confirmed that upon the conclusion of Tajikistan's accession negotiations, the relevant texts adopted by the WTO Membership would be signed by the President or a member of the Government. The accession package would then be subject to ratification by the Majlisi Oli before Tajikistan's Accession Protocol could enter into force. The WTO Agreements, once ratified by Tajikistan, would become part of the domestic legislation and WTO provisions would be enforceable in the Economic Courts. In cases of conflict, the provisions of international treaties or agreements would supersede domestic laws. The Economic Courts could also use foreign legislation in some cases. According to Article 11 of the Economic Procedural Code, the Economic Courts could apply the laws of other countries if this was referred to under Tajikistan's law or in any international agreements of Tajikistan. Furthermore, Article 12 of the Economic Procedural Code stated that if a

foreign law was applied, the Economic Court determined the law's content and norms, and its application in accordance with the foreign law's interpretation and application in the foreign country in question.

64. If not otherwise provided for in international agreements, disputes between foreign investors and the State were always referred to the courts in Tajikistan. In accordance with the 2007 Investment Law, foreign investors and domestic entities had the right to settle disputes through a court of arbitration if the terms of the agreement between the disputing parties allowed for this. The agreement could be either in the underlying investment contract, or the disputing parties could subsequently reach an agreement to refer a particular dispute to a court of arbitration. Investment disputes could also, to the extent possible, be resolved through negotiations between the parties or be referred to the Tajik courts or an international arbitration court. If agreed to with the other parties, foreign investors could specify in the contract or written agreement that arbitral proceedings be held under foreign jurisdiction. In such instances, the Economic Courts in Tajikistan would only perform certain procedural actions. For arbitration proceedings in Tajikistan, the court of arbitration would be created by the disputing parties and would consist of three judges. Decisions taken by the court of arbitration would be implemented voluntarily within the parameters and timeframe set forth in the arbitration decision. In case either of the parties failed to observe the court's decision, the High Economic Court could issue a receiving order that was mandatory. The Court of Arbitration was not a sitting court, but an ad hoc court, and to date, no Court of Arbitration had ever been established in Tajikistan.

65. He added that Tajikistan was planning to adopt the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. The recognition and execution of a foreign arbitration award could be denied - in part or in full - when it contradicted public policy or on grounds envisaged in an international act recognized by Tajikistan (Article 223 of the Code on Economic Court Proceedings).

IV. POLICIES AFFECTING TRADE IN GOODS

- Trading Rights

66. The representative of Tajikistan said that legal entities in any form provided for in Tajikistan's Civil Code - whether sole proprietorships, joint ventures, corporations and limited liability companies - could be established by both domestic and foreign nationals. The main regulations governing business entity formation were outlined in Chapter 4 (Articles 48-135) of the Civil Code.

The procedure for State registration of a legal entity was set out in Article 9 of Law No. 5 "On State Registration of Legal Entities" of 22 April 2003.

67. Legal entities were expected to approach the registration body and initiate their State registration within one month of incorporation. To register, businesses submitted an application with supporting documents in duplicate, i.e. the constituent documents and decisions on the establishment of the legal entity; the certified legal address and location of the business; documents on the authorized capital of the company (where stipulated by legislation); information on the founder(s); an extract from the single State register should the founder(s) be an existing legal entity; and a receipt or copy of the payment order for the State duty. Although registration was not automatic, the registration body would normally complete the process within ten days of receipt of the application. Company registration was not linked to any specific investment requirement beyond the minimum statutory fund of a Tajik company stipulated by law. The registration requirements for domestic and foreign investors were the same except that enterprises with foreign participation were required to translate their foreign documents into the State language of Tajikistan and paid a higher State duty for registration - 50 times the minimum wage versus 15 times the minimum wage for a domestic company (Article 4 of the Law "On State Duty"). The minimum monthly wage in August 2008 was 60 Somoni or US\$17.60.

68. Registration requirements for import and export operations had been eliminated with the entry into force of Law No. 3 of 24 February 2004, which had amended the Law "On Foreign Economic Activity" of 27 December 1993. Tajikistan had repealed the registration requirements, in particular the "certificate of participant" and the application for a certificate based on a "registration card", as part of the domestic reforms to accede to the WTO.

69. Pursuant to these reforms, any legal or natural person - domestic or foreign - registering for business in Tajikistan had the unrestricted right to be the importer or exporter of record and, in the case of an importer, had the unrestricted right to distribute the imports or to sell the imported goods to any legal or natural person with the right to distribute them. The importer of record was responsible for the payment of duties and securing any licenses needed for importation.

70. Some Members noted that the right to be the importer of record appeared to be contingent on commercial presence in Tajikistan. In response, the representative of Tajikistan reiterated that foreign individuals and legal entities wishing to import goods into Tajikistan would need to maintain and register their commercial presence in Tajikistan.

71. The representative of Tajikistan said that legal entities or natural persons resident in Tajikistan and engaged in import, export or any entrepreneurial activity needed an Identification Taxpayer Number (ITN) issued by the Ministry of State Revenues and Taxes. The ITN was issued for tax collection purposes only. Articles 45-46 of the Tax Code of 3 December 2004 set out the procedures to obtain an ITN. The ITN was issued against submission of the application form, a copy of the verified State registration certificate, and documents confirming the establishment of the legal entity, or passports (for natural persons). The procedures were the same for all legal entities or natural persons, domestic or foreign. He added that non-resident foreign exporters did not need an ITN as long as the importer in Tajikistan had an ITN.

72. Regarding customs brokers, he said that specialists on customs clearance had to be registered and listed in the Register of Customs Brokers. The registration criteria, requirements and process were outlined in Chapter 15 (Articles 140-141) of the Customs Code. Individuals with the necessary competence certificate and qualifications were included in the register for free. Legal entities had to submit a written application, with supporting documents, to the relevant customs authority for registration in the Register. Applications were processed within 15 days, and successful applicants were issued a certificate of registration.

73. The representative of Tajikistan noted that about forty five activities (Table 5 (a)) were subject to licensing pursuant to Law No. 37 "On Licensing of Separate Types of Activity" of 17 May 2004 and Regulation No. 172 "On the Peculiarities of Licensing Certain Types of Activities" of 3 April 2007 (replacing Regulation No. 337 of 1 September 2005). As the activities were defined broadly, and mostly related to the production of goods and services, the licence would also entitle the holder to engage in importing or exporting, if relevant, as no distinction was made between production, distribution or commerce. The procedures and the authorities responsible for the issue of the licenses varied according to the activity. The fees for processing and issuing activity licenses, including those on imports and exports, were set out in Regulation No. 172. Imported products subject to activity licensing are listed in Table 5(b).

74. In addition to Law No. 37 and Regulation No. 172, trade in pharmaceuticals and medical goods were governed by Resolution No. 204 "On the Rules of Import and Export of Medicines, Medical Products, Narcotics, Psychotropic Substances and Precursors Applicable in Medicine" of 2 April 2009. An activity licence for pharmaceuticals issued by the Ministry of Health was required to allow the holder to engage in importation and exportation of medicines and medical products. Only legal persons could be issued the licence. The manufacturer and the medical product needed to be registered in Tajikistan to obtain the activity licence. The procedures were the same for domestic and

foreign enterprises. A list of the documents required to obtain registration of medical products was provided in document WT/ACC/TJK/15 Annex IV. Pharmaceuticals were assessed on the basis of their effectiveness, safety and quality. The licence for pharmaceutical activities required the State registration of the legal entity, the ITN, the recruitment and training of the necessary experts, the facilities and equipment to engage in medical activities, and the supporting documents specified in Regulation No. 172. The time and supporting documents required to register medical products varied with the type of product and could take two to six months from the date of application. The product registration was valid for five year periods and could be extended. Any quantity of the product could be imported once the registration procedures had been completed and the activity licence had been issued. Pharmaceuticals and medical equipment could also be imported without registration in emergency situations. He added that the licensing procedures for the importation and exportation of biologically active substances were the same as that for medicines. Importation of chemical agents and biological preparations had to be accompanied by a "certificate of conformity" issued by the producer. Manufacturers and suppliers of these products had to guarantee output through submission of normative and technical documents to the Commission of Chemical Security.

75. Trade and circulation of precious metals and stones were regulated by Resolution No. 215 "On Procedures of Purchase and Sale, Export and Import of Precious Metals, Precious Stones and Raw Stock, Goods Containing Precious and Nonferrous Metals" of 6 May 2006 and Resolution No. 172. Activity licenses delivered by the Ministry of Energy and Industry were required for recuperating, processing and the sale of scrap and waste of ferrous and non-ferrous metals; refining precious metals; and recuperating precious stones. The Ministry of Finance issued the licenses for the purchase and wholesale and retail trade of jewellery and other goods made of precious metals and stones and related scrap.

A. IMPORT REGULATION

- Ordinary customs duties

76. The representative of Tajikistan said that the Customs Code of 3 December 2004, entering into force on 1 January 2005, had replaced Law No. 744 "On Customs Tariff" of 14 May 1999 as the legal basis for the formulation and application of custom duties. In accordance with Regulation No. 44 of 5 February 2003, the tariff nomenclature used by Tajikistan was the eleven digit Euro Asian Economic Community (EAEC) Commodity Nomenclature of Foreign Economic Activities. The EAEC classification was based on, and conformed with, the Harmonized System (HS) 2002 description and coding of commodities. He stated that Tajikistan did not intend to discriminate

among "like" products in its bound rates even though Tajikistan's nomenclature contained tariff line descriptions based on geographical names.

77. Tajikistan applied import duties on a most favoured nation (MFN) basis at rates determined by the Majlisi Oli. The practice of levying import duties at twice the MFN rate when the country of origin of the imported commodity was not identified, or for commodities imported from countries with whom trade and political relations did not provide for the application of MFN duties, had been discontinued pursuant to Resolution No. 450 "On Customs Tariff" of 25 October 2003.

78. Tajikistan applied *ad valorem*, specific and compound duties. *Ad valorem* import duties were currently applied in tariff bands of 0, 2.5, 5, 10 and 15 per cent. These rates, set out in Resolution No. 450, had superseded and replaced a unified tariff of 5 per cent applied provisionally as per Decree No. 187 of 30 April 2002. Non *ad valorem* duties applied by Tajikistan were set out in Annex I of Resolution No. 450. He added that Tajikistan was modernizing its customs services and in this regard, a website was being set up by the Ministry of Public Revenues and Charges. The website would post relevant information on the existing customs and tariff policies of Tajikistan.

79. Seasonal duties could be applied for the regulation of imports and exports. In accordance with Article 343 of the Customs Code, seasonal duties could be applied in lieu of, and by suspending, the application of the existing customs duties. Seasonal duties could not be levied for more than six months in a year. Tajikistan had no plans to apply seasonal duties to industrial goods. Agricultural products on which seasonal duties could be applied would be indicated in Tajikistan's tariff offers and the application period would be notified in advance. He stated that Tajikistan had so far not resorted to the use of any seasonal duties.

[Tajikistan's submitted its initial goods offer submitted in February 2004. The latest revised offer of March 2009 is available for consultation (see notice in document WT/ACC/SPEC/TJK/1/Rev.3). The Customs Tariff of October 2003 is available for reference (see notice in document WT/ACC/TJK/3/Add.1).]

- **Other duties and charges**

80. The representative of Tajikistan said that Tajikistan did not levy any other duties or charges within the meaning of Article II.1(b) of the GATT 1994.

- **Tariff rate quotas, tariff exemptions**

81. The representative of Tajikistan said that Article 345 of the Customs Code exempted from custom duties (i) domestic or foreign currency and securities, except for numismatic purposes; (ii) precious metals (gold, silver, platinum, palladium, rhodium, iridium, ruthenium and osmium) imported by the National Bank of Tajikistan and these precious metals and precious stones (processed or rough diamonds, sapphires, emeralds, rubies, alexandrite, pearls and spenels) imported by an authorized State financial body on behalf of the State depository of values; (iii) goods as humanitarian aid transferred free of charge to State agencies of Tajikistan; (iv) medicines, agricultural equipment and components, as identified and listed by the Government; (v) goods for target projects, approved by the Government of Tajikistan, and funded by grants, credits or loans from individuals, foreign States or governments, or international organizations; (vi) goods for the construction of objects of special importance for the social and economic development of Tajikistan. The list of goods was determined by the client and general contractor, and approved by a special Resolution of the Government and involved no discrimination against imports or goods produced domestically by foreign-owned firms; and (vii) manufacturing or technological equipment and essential components, used directly in the production of goods, works and services by newly established, refitted or renovated enterprises in accordance with procedures of the Government of Tajikistan. Goods subject to excise tax were not covered by this exception. Personal property imported into Tajikistan by foreign employees was also not exempt from duties. He added that custom duties would be collected, as applicable, in case of the liquation of an enterprise, or the non-usage or sale of the equipment by the enterprise within four years of import.

82. On tariff quotas, he said that the 2004 Customs Code had revoked provisions in the Law No. 744 "On Customs Tariff" envisaging the use of tariff quotas. Tariff quotas had never been applied in practice in the regulation of foreign trade in Tajikistan.

83. The representative of Tajikistan confirmed that any changes in the application of tariff quotas and tariff exemptions would be undertaken in a transparent and consultative manner. The Ministry of Public Revenues and Charges was responsible for implementing customs policies, and would inform and consult with interested parties on these issues. The Ministry had established an Advisory Committee for Participants of Foreign Economic Activities for this purpose.

- **Fees and charges for services rendered**

84. The representative of Tajikistan said that Article 348.2 of the Customs Code stipulated that "customs fees shall be limited to the cost of the services provided and should not provide an indirect

protection for domestic products or taxation of imports for fiscal purposes". Article 347 of the Code enumerated customs fees in the form of (i) fees for customs clearance; (ii) fees for customs escort; (iii) fees for the storage of goods in customs warehouses according to the requirements outlined in Chapter 25 (Articles 215-233) of the Code; and (iv) fees for the issue of a qualification or competence certificate for specialists on customs clearance. Customs brokers were required to follow a one month course and pass a qualification exam to obtain a certificate of competence delivered pursuant to Article 147 of the Customs Code. In response to a specific question, he added that the customs escort fee was applied in certain high-risk cases or for failure to provide financial guarantees. The escort requirement was being phased out and no longer applied to goods transported by vehicles with TIR carnets or goods transported by railway.

85. The representative of Tajikistan said that an *ad valorem* fee of 0.15 per cent of the customs value for the customs clearance of goods and vehicles, established pursuant to the 1995 Customs Code, had been replaced by a customs clearance charge levied in accordance with Resolution No. 472 "On Approval of the Rates of Customs Fees for Rendering Customs Services" of 2 December 2005. The fees and charges effective as of 1 January 2006 are enumerated in Table 6. He noted that State duties, applied at rates set out in Article 4 of the Law "On State Duty" of 28 February 2004, were charged for legal actions or for the issue of documents by authorized bodies. State duties were levied for claims and court applications, notary services, State registration of marriages and divorces, documents pertaining to citizenship, legal actions by the Ministry of Justice etc. These duties were not specifically levied on customs documents, applications for import or export licenses, or for any other import or export related activity.

Table 6: Customs Fees

No.	Type of Service	Fee US\$
1.	The customs fees for customs clearance of goods and transport means, the customs cost of which amounts to: - up to US\$5,001 - from US\$5,001 up to US\$10,001 - from US\$10,001 up to US\$50,001 - from US\$50,001 up to US\$100,001 - from US\$100,001 up to US\$500,001 - from US\$500,001 up to US\$1000,001 - from US\$1000,001 and up	10 20 70 150 400 800 900
2.	Fees for customs escort of goods and transport means (for 10 km)	3
3.	Fees for storage of goods in customs warehouses: - transport means, for a unit per day - goods, for 1 kg per day	1 0.01
4.	Customs fees for issue of a qualification certificate of a customs clearance specialist	50

86. Some Members noted that Tajikistan had abolished the 0.15 per cent *ad valorem* customs clearance fee and replaced it with a new fee structure that was nevertheless based on the value of the item cleared and not on the administrative cost of customs clearance. Tajikistan was asked to justify the new fee structure and explain how it accorded with the principle of Article VIII of the GATT 1994. In reply, the representative of Tajikistan said that the current fee structure was similar to the structure applied in other countries.

- **Application of internal taxes to imports**

87. The representative of Tajikistan said that internal taxes were applied in accordance with the Tax Code of 3 December 2004. Imports and domestically produced goods were subject to excise taxes and Value Added Tax (VAT). The excise duty regime was based on Resolution No. 153 of 31 March 2003. Effective 1 May 2003, identical duty rates were levied on domestically-produced and imported goods. The tax rates and goods subject to excise duties are listed in Table 7. Exports were exempt from excise duties. Ethyl alcohol used in the production of alcoholic solutions was eligible for an excise offset when used for scientific research and analysis or for medical purposes in hospitals and pharmacies pursuant to Article 215 of the 1998 Tax Code. The offset equalled the amount of excise duties paid.

88. Some Members noted that Tajikistan levied different excise tax rates on brown spirits relative to other distilled spirits and requested a justification for such differential treatment of similar ("like") products. The representative of Tajikistan considered brown spirits distinct from other distilled spirits in terms of the production processes, costs and consumption patterns. The Members did not share this view.

89. The representative of Tajikistan said that goods and services were subject to VAT, levied at a single rate of 20 per cent. The tax base for imports was the customs value inclusive of customs duties, excise tax (if applicable), and customs service charges levied at the border. VAT was applied on an MFN basis to imports from all trading partners. Exports to all destinations were zero-rated to avoid double taxation of Tajik exports. He was not aware of any State applying VAT to goods exported to Tajikistan.

90. VAT exemptions on the supply of goods and services were provided in accordance with Article 211 of the 2004 Tax Code for (i) the sale, transfer and rent of real estate, except for hotel accommodation, holiday homes and newly constructed homes less than two years old; (ii) the provision of financial leasing services; (iii) foreign or national currency and securities, except for numismatic purposes; (iv) religious services and rituals by religious organizations; (v) medical

services, except cosmetic services, provided by persons with State licenses or permission to engage in this activity; (vi) educational services, specifically preschool training and education; general basic and intermediate education; elementary, intermediate, higher professional, graduate professional education; and additional and special education, by persons with State licenses or permission to engage in these activities; (vii) humanitarian aid; (viii) the supply of goods, works and services by penitentiary agencies or State enterprises involved in the penitentiary system of Tajikistan; (ix) newspapers, magazines, art literature, children's literature, scientific books, technical books and textbooks (except erotic and specialized advertizing publications); (x) children's goods such as clothing, shoes, head dresses, hosiery and socks, as per a list fixed by the Government; (xi) specialized goods used by the handicapped; and (xii) sanatorium resort services provided by institutions approved by the Government. The VAT exemptions applied regardless of the nationality of the provider.

91. Imports exempt from VAT included (i) foreign and national currency and securities, except for numismatic purposes; (ii) precious metals, gems and stones (gold, silver, platinum, palladium, diamonds, sapphires, emeralds, rubies, pearls, spenels and alexandrites) imported by the Ministry of Finance and the National Bank of Tajikistan; (iii) goods as humanitarian aid transferred on a non-repayable basis to charitable organizations or to State agencies of Tajikistan; (iv) industrial or technological equipment and components, used directly in the production of goods, works and services by foreign enterprises. VAT would be collected in case of liquation of an enterprise or non-usage of the equipment within four years of import; (v) agricultural technology, i.e. machinery, equipment and spare parts, as identified by the Government; (vi) goods for target projects approved by the Government of Tajikistan, and funded by grants, credits or loans from individuals, foreign States or governments, or international organizations; (vii) goods for the construction of "objects of special importance" as determined by the Government of Tajikistan; (viii) raw materials, energy resources and equipment imported by the Tajik Aluminium Plant for the production of primary aluminium. The volume and type of exempted inputs was determined by the Government; and (ix) specialized goods used by the handicapped. He confirmed that all internal and external sales of these products, regardless of origin or destination, were exempt from VAT in accordance with Article 211.3 of the 2004 Tax Code.

92. The representative of Tajikistan added that domestically produced primary aluminium and cotton fibre were exempt from VAT, but subject to a sales tax levied in accordance with Chapter 43 (Articles 311-317) of the 2004 Tax Code and Law No. 664 of 12 November 1998. The tax amounted to 10 per cent on cotton fibre and 3 per cent on primary aluminium sold in the domestic market or exported. Imported primary aluminium and cotton fibre were not exempt from VAT.

93. Some Members stated that Tajikistan should bring its VAT regime into conformity with Article III:2 of the GATT 1994 by abolishing the sales tax and by applying the same rate of VAT to domestic production of primary aluminium and cotton fibre as applied to imports of primary aluminium and cotton fibre. Appropriate WTO conformity should be achieved without undue delay. In reply, the representative of Tajikistan confirmed Tajikistan's willingness to abolish the sales tax. In January 2008, his Government had approved a Plan of Action to simplify import and export procedures, and amend the Tax Code (including replacing the sales tax with VAT).

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

94. The representative of Tajikistan provided information on non-tariff measures applied on imported goods notably on foodstuff and food additives; narcotics; medical goods; poisonous substances; ethyl alcohol and alcoholic beverages; radio-electronic facilities and high-frequency devices; cryptographic devices; uranium and other radioactive chemical elements; explosives; and arms, ammunition, equipment and accessories for military purposes (Table 8).

95. Concerning restrictions on alcohol, he noted that Resolution No. 131 "On Approving of Regulations Related to State Regulation of Production and Turnover of Ethyl Alcohol and Alcoholic Beverages" of 7 April 1999 allowed the imposition of import quotas on ethyl alcohol and alcoholic beverages. However, this legal provision had never been used. Production and trade in ethyl alcohol and alcoholic beverages was regulated through licensing. Only licensed enterprises would be considered legitimate producers of alcohol and thus eligible to obtain import or export licences for ethyl alcohol and alcoholic beverages. In the past, licenses had been issued by the State Unitary Enterprise "Khurokvori Food and Processing Industry Corporation". The licensing authority had subsequently been transferred to the Ministry of Energy and Industry. Tajikistan had introduced import restrictions on ethyl alcohol - an important ingredient in domestic production of alcoholic beverages - as a more liberal import regime operated in the past had led to considerable unregulated production of low-quality goods. He stressed that the restrictions on the production and trade in alcohol had been introduced to safeguard human health and as such could be justified under Article XX(b) of the GATT 1994.

96. Some Members noted that Tajik legislation allowed the imposition of quantitative import restrictions on alcohol, and that Tajikistan was seeking to maintain trade restrictions with reference to the GATT Article XX(b). However, import quotas were inconsistent with Article XI of the GATT 1994 and Article 4 of the Agreement on Agriculture, the measures imposed by Tajikistan appeared to be more trade-restrictive than necessary, and Tajikistan had provided no evidence that comparable restrictions were being applied to domestic production of such goods. Health concerns in

relation to these products should be addressed in other ways, in particular through measures to regulate consumption.

97. The representative of Tajikistan reiterated that despite the legal provisions, no formal import quotas had been established on alcohol so far. Legitimate producers were allowed to import the ethyl alcohol needed for their own production without limitation. The level of alcohol imports had fluctuated over the years in line with movements in domestic consumption. However, while import licensing was mainly maintained on health grounds and linked to transit restrictions in neighbouring countries, he acknowledged that the import restrictions on alcoholic beverages had also served to maintain a proportion of the market for domestic production.

98. Concerning the application of non-tariff measures on other import items, the representative of Tajikistan said that a "Government permit" was needed pursuant to Government Resolution No. 111 of 19 February 1997 for the importation of (i) uranium and other radioactive substances, nuclear technologies, appliances, equipment or plants and other sources of radiation including radioactive waste; (ii) gunpowder, explosives and related waste; (iii) drugs and psychotropic or toxic substances; (iv) military equipment, arms and munitions, spare parts, works and services (including engineering or documentation for military production), military uniforms and related items for military use; and (v) cryptographic devices, including cryptographic equipment, spare parts and cryptographic software. Responding to concerns that a broad import licensing requirement for cryptographic equipment could jeopardize trade in everyday technology goods, he confirmed that Tajikistan's licensing requirement had been introduced for national security reasons and therefore did not extend to everyday consumer products containing encryption equipment and software such as cell phones and laptop computers. Pursuant to Regulation No. 371 of 1 August 1994, the State Service for the Control and Regulation in the Area of Communication and Information Technologies under the Ministry of Transport and Communication administered the importation of radio-electronic facilities and high-frequency devices. Item 9 of the Regulation determined the goods requiring permission or licenses for importation into Tajikistan. As indicated in Table 8, importation of many types of goods required a permit or licence issued by the Government. In such cases, the applicant would first approach the line ministry in charge of regulating the good(s) in question. The Ministry would then present the request to the Government for decision.

99. Importation and exportation of medicines and medical products was regulated in accordance with Resolution No. 245 of 5 June 2002, Law No. 37 "On Licensing Certain Types of Activities" of 17 May 2004, and the amended Regulation No. 172 "On the Peculiarities of Licensing Certain Types of Activities" of 3 April 2007. Resolution No. 465 "On approval of Regulation on the Procedure of

Issue of Licenses in the Sphere of Legal Turnover of Drugs, Psychotropic Substances and Precursors" had been abrogated with the introduction of activity licensing pursuant to Regulation No. 337 on 1 September 2005. Similarly, Resolution No. 453 of 27 October 1999 regulating importation and exportation of tobacco products had been revoked as domestic production of tobacco had become subject to activity licensing. He also confirmed that Resolution No. 62 of 20 February 1998 stipulating the need to obtain authorization from the Ministry of Agriculture to import silkworms, seeds, and agricultural and decorative herbaceous crops had not been applied since 1998.

100. A Member sought clarification whether Tajikistan applied automatic import licensing within the meaning of Articles 1 and 2 of the Agreement on Import Licensing Procedures, in which case all legal and natural persons seeking to import the affected products would be equally eligible to apply for and obtain the licenses; licence applications could be submitted on any working day prior to the customs clearance of the goods; appropriately completed applications would be approved in all cases within a period not exceeding ten working days; and no reasons existed to refuse a licence, and no circumstances existed under which a licence could be refused.

101. In reply, the representative of Tajikistan said that Tajikistan's import licensing requirements were non-automatic, except for the importation of medical goods, which were subject to automatic licensing. He added that Tajikistan intended to develop its licensing system in accordance with the Agreement on Import Licensing Procedures. Licence applications were not rejected for minor documentation errors according to current practice, but the existing practice would be codified in new legislation. This work would also address the transparency and notification aspects of the Agreement. The import licensing questionnaire would be submitted once the new licensing system had been adopted.

- **Customs valuation**

102. The representative of Tajikistan said that the Customs Code of 3 December 2004, in force since 1 January 2005, had abrogated the previous legislation on customs valuation, in particular the Law "On Customs Tariff" of 14 May 1999. He considered the customs valuation system under the 2004 Customs Code to be in compliance with the WTO Agreement on Implementation of Article VII of the GATT 1994 (Customs Valuation Agreement). In particular, Chapter 42 of the Code "On Specification of Customs Value of Goods" had been developed in line with the provisions of the Agreement and the revised Kyoto Convention on simplification and harmonization of customs procedures. The hierarchy of valuation methods and the conditions under which these could be used corresponded to the provisions of the WTO Agreement. Normative and legal acts to implement the Customs Code were in the process of being approved by the relevant Ministries and Government

agencies. A (draft normative act) Regulation "On methods of applying Customs Valuation", would incorporate the text of the Interpretative Notes of the Customs Valuation Agreement.

103. The principal valuation method in Tajikistan was the transaction value. In line with Article 355 (Item 2) of the Customs Code, the transaction value incorporated the expenses borne in the delivery of goods into the customs territory of Tajikistan, including costs for transportation, transshipment, loading or unloading; insurance; expenses borne by the purchaser for items such as packing and packaging material, broker fees and commissions, containers etc. if considered part of the goods being valued; raw materials and other inputs (works, services) directly or indirectly bartered by the buyer or importer to the seller for the production or sale of the imported goods; royalties and licence fees payable directly or indirectly by the purchaser or importer as a condition for sale, if such royalties and fees had not been included in the price, actually paid or payable; and profits accrued by the seller from any further resale, transfer or use of the goods in Tajikistan. He considered Article 355 to be fully consistent with Article 8 of the Customs Valuation Agreement and noted that the Customs Body had adopted rules and procedures for the information to be included in customs declarations and adjustments to the transaction value. In response to a specific question, he added that Tajik enterprises were in the process of implementing the generally accepted accounting principles pursuant to Government Resolution No. 465 of 3 October 2006. He expected the process to be completed by 2010.

104. Some Members requested further information on the conformity of the customs valuation legislation with the provisions of the Customs Valuation Agreement, in particular with its Articles 1.2(a) and (b); 2; 5 (including 5.1(a) and 5.2); 7; and 10. Some Members reiterated their interest in Tajikistan submitting a completed Customs Valuation Questionnaire.

105. In reply, the representative of Tajikistan said that the Customs Code reflected these respective provisions of the WTO Agreement in its Articles 354 to 360. He confirmed that the Customs Code prohibited the use of valuation practices such as minimum import values and reference prices, and that the Code used terminology identical to, and consistent with, the Agreement. The protection of confidential information obtained by Customs Bodies was provided for in Article 9 of the Customs Code. Tajikistan fulfilled the transparency and publication requirements outlined in Article 12 of the Agreement through Government Regulation No. 456 (Item 14) of 5 October 2001, wherein normative legal acts were published in official publications (except for acts that contained State or other secrets protected by law). Normative legal acts, judicial decisions and administrative rulings of general application would come into force only upon their publication. This requirement also applied to normative acts on customs valuation.

106. The right to appeal was provided for in Chapter 7 of the Customs Code "On appealing Decisions, Actions (Inaction) of the Customs Authority and Customs". The Code permitted the right of administrative appeal, without penalty, of any decision taken by the Customs Bodies, and the final right of appeal to a judicial authority as required in Article 11 of the Agreement. Article 46 (Item 1) of the Customs Code stated that "decisions, actions (inaction) of customs agencies or their officials may be appealed in customs agencies, prosecutor's office and/or in court." Large scale customs fraud was punishable by imprisonment of five to ten years with or without confiscation of property pursuant to Article 289 of the Criminal Code.

107. Concerning the conditional release of goods in cases where the final determination of customs value was delayed, he said that Article 366 of the Code allowed for the withdrawal of goods from customs control, assuming a sufficient guarantee in the form of a surety, deposit or other appropriate instrument was posted to cover the ultimate liability.

108. He noted that the Customs Code would be amended to provide a precise definition of the "price actually paid or payable". As for the Interpretative Notes (Annex I of the Agreement), he considered these incorporated in the existing legislation on customs valuation.

- **Rules of origin**

109. The representative of Tajikistan said that rules of origin were determined and regulated by Chapter 6 of the Customs Code. The principles and methods used in the determination of origin were based on existing international practice. The requirements of the Special Attachment "K" of the International Convention on simplification and harmonization of customs procedures (revised Kyoto Convention), in particular the provisions on "Rules on determining the origin of goods", had been taken into consideration in developing the relevant provisions of the Customs Code.

110. Tajikistan's rules of origin were based on the wholly obtained and substantial transformation criteria; i.e. change of tariff heading or *ad valorem* criterion. Change of (four digit) tariff heading was the principal method to determine substantial transformation. Article 31.4 of the Customs Code referred to additional criteria, i.e. processing methods or *ad valorem* criteria, but this provision had not been developed further. Origin could be conferred to a group of countries, a customs union, a region or a part of a country. The European Community was considered a single entity for origin purposes. The rules of origin also applied without exception to goods originating from free economic zones and free warehouses.

111. In compliance with international agreements and Article 36.1 of the Customs Code, a document confirming the country of origin had to be submitted together with the customs declaration upon importation of goods in cases where Tajikistan accorded tariff preferences. A certificate of origin could be issued by the authorities in the country of exportation or by non-governmental bodies such as Chambers of Commerce. The customs bodies were authorized to demand a document confirming the country of origin of goods in cases when the declared information on the country of origin was suspected to be inadequate, would affect the application of customs duties or taxes, or circumvent prohibitions and restrictions established in compliance with the legislation of Tajikistan. The Chambers of Commerce in Tajikistan could assist in obtaining or verifying such a document.

112. He stated that the requirements of Article 2(h) and Annex II, paragraph 3(d) of the WTO Agreement on Rules of Origin were met in Articles 42-44 of the Customs Code. The Code provided an exporter, importer or any person with a justifiable cause, a right to request a preliminary assessment of the origin of goods and their classification.

113. In response to a query, he acknowledged that the origin of goods produced in spaceships was not specifically covered in the revised Kyoto Convention. However, in accordance with Article 30 (Item 10) of the Customs Code, goods produced in spaceships were considered "products of higher technologies received as cosmic objects in open space" and origin was attributed to the country where the spaceship had been registered, owned or leased.

- **Preshipment inspection**

114. The representative of Tajikistan said that mandatory pre-shipment inspection had not been applied in Tajikistan so far. However, Law No. 3 of 24 February 2004, amending the Law "On Foreign Economic Activity" of 27 December 1993, contained a provision that would allow the Government of Tajikistan to introduce a pre-shipment inspection regime in the future.

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

115. The representative of Tajikistan said that Law No. 744 "On Customs Tariff" of 14 May 1999 had provided the legislative basis for contingent trade remedies in Tajikistan but this law had been revoked by Law No. 66 of 9 December 2004. Article 344 of the 2004 Customs Code provided the general framework for anti-dumping, countervailing duties and safeguard measures, but detailed provisions to initiate, implement and enforce contingent trade remedies were yet to be developed. A new law on trade remedies was in preparation and would be submitted to the Working Party once the draft had been completed.

116. Article 9 of the Law "On Customs Tariff" provided for the application of antidumping duties when goods were imported into the customs territory of Tajikistan at a price lower than their "normal price in the country of export at the moment of export"; and if such exports inflicted or threatened to inflict losses on domestic producers of similar goods, or hindered the establishment or expansion of production of similar goods in Tajikistan. He said that the expression "hinders to start or expand production" in the Tajik legislation was akin to the expression "material retardation of the establishment of domestic industry" in Article VI.1 of the GATT 1994 and the WTO Agreement on Implementation of Article VI of the GATT 1994. In his view, the antidumping regime in Tajikistan corresponded substantially to the norms and standards of the relevant GATT/WTO provisions. However, antidumping actions had not been initiated in Tajikistan to date, and he confirmed that measures would not be applied until further detailed procedural provisions had been adopted and implemented in full conformity with the rules and disciplines of the WTO.

117. Article 10 of the Law "On Customs Tariff" provided for the use of countervailing measures if the production and export of goods, imported into the customs territory of Tajikistan, had directly or indirectly been subsidized, and if such exports inflicted or threatened to inflict losses on domestic producers of similar goods, or hindered the establishment or expansion of production of similar goods in Tajikistan. In his view, Tajikistan defined subsidies in accordance with the WTO Agreement on Subsidies and Countervailing Measures, and the countervailing measures regime corresponded substantially to the relevant GATT/WTO provisions. Countervailing duties had so far never been applied in Tajikistan. He added that new detailed provisions on countervailing measures would be drafted in full conformity with the relevant WTO rules.

118. Article 8 of the Law "On Customs Tariff" provided for the use of safeguards measures in the form of special duties. Safeguards were applied as a protective measure if goods were imported into the customs territory of Tajikistan in quantities and under such conditions that inflicted or threatened to inflict losses to domestic producers of similar or directly competing goods; or as a reciprocal or retaliatory measure against discriminatory or other actions taken by other States or their unions that hindered the interests of Tajikistan. Actions that hindered the interests of Tajikistan could include the unilateral and unjustified use of special safeguards, antidumping, countervailing or other measures affecting the foreign trade of Tajikistan negatively. He added that reciprocal or retaliatory measures would only be applied when authorized under the WTO Dispute Settlement Understanding. Tajikistan applied no safeguard measures at present. In his view, the safeguards regime corresponded substantially to the relevant GATT/WTO provisions. New detailed provisions on safeguards would be drafted to ensure full compliance. He confirmed that safeguard measures would only be applied in full conformity with Article XIX of the GATT 1994 and the WTO Agreement on Safeguards.

119. Article 11 of the Law "On Customs Tariff" set out the procedures for the application of contingent trade remedies. The use of safeguards, antidumping, and countervailing measures had to be preceded by an investigation conducted by the Ministry of Public Revenues and Charges. The investigation could be initiated by the Ministry on its own initiative, or through the initiative of other public or State managed bodies in Tajikistan. Investigations had to be based on quantitatively measurable data. The Government of Tajikistan would determine the relevant contingent duty rates based on the dumping margins and injury established by the investigations.

120. The Euro-Asian Economic Community (EAEC), which included Tajikistan, envisaged a coordinated policy and common treatment in the application of trade remedies. In accordance with the EAEC Protocol of 17 February 2000 and Decision No. 117 of the Interstate Council of 27 April 2003, EAEC member-States were working to develop common mechanisms for the application of safeguard, anti-dumping and countervailing measures applicable to trade between themselves. He confirmed that such mechanisms, once adopted, would be notified to the WTO. He added that the mechanisms for the application of contingent trade remedies would use standard terminology and be in compliance with international standards.

121. A Member noted that Tajikistan was treated as a non-market economy in its domestic legislation for anti-dumping purposes. Should Tajikistan be considered a non-market economy at the time of its accession, WTO Members should be able to apply alternative calculation methodologies (e.g. prices in a surrogate market economy) in trade remedy proceedings.

122. The representative of Tajikistan confirmed that Tajikistan would not apply any anti-dumping, countervailing or safeguard measures until it had notified and implemented laws in conformity with the WTO Agreements on the Implementation of Article VI of the GATT 1994, on Subsidies and Countervailing Measures, and on Safeguards. He confirmed that any new legislation would be in full conformity with the relevant WTO provisions upon accession.

B. EXPORT REGULATION

- Customs tariffs, fees and charges for services rendered, application of internal taxes to exports

123. The representative of Tajikistan said that Tajikistan had never levied any export duties although Law No. 744 "On Customs Tariff" (abolished by Law No. 66 of 9 December 2004) had provided a legal basis for such measures. Article 182.2 of the Customs Code specifically prohibited

the application of export duties on processed goods. Tajikistan did not levy export duties on any product at present.

124. Tajikistan levied fees and charges enumerated in Table 6 for the customs clearance of exports. In addition, the Chambers of Commerce charged a fee for issuing a certificate of origin to accompany consignments of exported goods. He added that since January 2009, this fee (of 0.1 per cent) now amounted to a cost-based fixed charge of 175 Somoni (around US\$45).

- **Export restrictions**

125. The representative of Tajikistan provided information on non-tariff measures applied on exported goods, notably on foodstuff, animal and vegetable products; narcotics; alcohol and ethyl alcohol; medical goods; ferrous and non-ferrous scrap; works of historic, scientific or cultural value; chemical agents, fertilizers and ozone depleting substances; uranium and other radioactive chemical elements; hunting trophies; monetary valuables; cryptographic devices; explosives; arms and ammunition; and military armaments, equipment, documents and accessories (Table 9). He confirmed that Tajikistan had no Government-mandated export bans.

126. The exportation of ferrous and non-ferrous scrap was regulated pursuant to Resolution No. 172 of 3 April 2007 (see Section on "Trading Rights"). Export licenses were required to combat illicit trade in metal scrap. Exports of alcoholic beverages and ethyl alcohol were subject to licensing by SUE "Khurokvoli" and the Ministry of Energy and Industry and maintained as a public health measure. Restrictions on the export of tobacco products pursuant to Resolution No. 453 of 27 October 1999 had been abolished.

127. As stipulated in Resolution No. 111 of 19 February 1997, prior authorization of the Government was needed for the export of (i) uranium and other radioactive substances, nuclear technologies, appliances, equipment or plants and other sources of radiation including radioactive waste; (ii) gunpowder, explosives and related waste; (iii) drugs and psychotropic or toxic substances; (iv) military equipment, arms and munitions, spare parts, works and services (including engineering or documentation for military production), military uniforms and related items for military use; (v) cryptographic devices, including cryptographic equipment, spare parts and cryptographic software; (vi) mineralogy and palaeontology materials, information regarding mineral resources and oilfields in Tajikistan, including charts, maps and drawings; (vii) works of art, collectables and antiques, of significant artistic, historical, scientific and cultural value; and (viii) endangered wild animals and birds.

128. In accordance with Decree No. 237 "On Measures to Improve the Promotion of Domestically Produced Goods in Foreign Markets" of 8 June 2001, certain commodities were sold through the Tajik Universal Commodity Exchange (Table 10). The Commodity Exchange was a limited liability company with a stake held by the Ministry of Economic Development and Trade. The commodities were either exported directly through auctions at the Exchange or, if a sales contract had been negotiated outside the Exchange, the exporter was required to register the contract with the Commodity Exchange, which issued a document acknowledging the transaction.

Table 10: Commodities Sold Through the Tajik Universal Commodity Exchange

CCFEA	Goods Description
1404	Materials of phytogenous origin (lint)
24	Tobacco and industrial tobacco substitutes
26	Ores and ashes
2801	Fluorine, chlorine, bromine, iodine
2805	Rare-earth metals
2815	Sodium Hydrate, etc.
30	Pharmaceutical production
3602, 3603	Explosives
4101, 4102, 4103	Raw hides and skins
50	Silk
51	Fleece, fine and coarse wool
52	Cotton
71	Natural and cultivated pearls, precious and semiprecious stones, precious metals, clad metals and different goods from them
72-73	Ferrous metals and goods from them
7404	Copper waste
7503	Nickel waste
76	Aluminium goods
7802	Lead waste
8544	Isolated wires, cables and other isolated electric wires with connecting parts or without them

129. Auctions at the Commodity Exchange were conducted on certain days of the week. Commodities and raw materials could be auctioned for sale as exports by local and foreign producers. A broker or seller participating in the auction submitted an application with accompanying data, including the commodity description, quantity and any conditions for the sale requested by the seller. The commodity was sold to the highest bidder and a contract to this effect was concluded after the auction. The strike prices were influenced by trends in world market prices. For export sales conducted outside the Commodity Exchange, the customs authorities would not release the goods without the contract acknowledged by the Commodity Exchange. The Commodity Exchange would compare the contract price with prices realized at its auctions. No acknowledgement would be issued if the contract price was significantly lower, and the sale would accordingly be blocked.

130. Some Members considered the mandatory sale of certain goods for export through the Tajik Universal Commodity Exchange an export restriction not conforming with Article XI of the GATT 1994 in the sense that the measure precluded the possibility of an export contract being agreed without an auction being held. In addition, Tajikistan required the mandatory registration of contracts with the Commodity Exchange and a permit for customs clearance of exported goods contingent on the sale taking place at the auction price. Tajikistan was requested to eliminate these requirements by the date of accession as less restrictive and burdensome means were available to monitor and control capital outflows.

131. The representative of Tajikistan replied that the goods listed in Table 10 were sold through the Commodity Exchange but that such sales were no longer mandatory as Government Resolution No. 126 of 5 March 2008 had revoked Resolution No. 237. However, contracts concluded outside the Tajikistan Universal Commodity Exchange remained subject to Government control, and sales could be blocked if the contract price was much lower than the auction price. His Government was considering less trade restrictive mechanisms to control the outflow of capital.

132. As noted in the section "Foreign Exchange and Payments", 100 per cent pre-payment was mandatory for the export of certain products (Table 1). The pre-payment requirement was distinct and administratively separate from the export of certain goods through the Commodity Exchange.

133. In conformity with Government Resolution No. 547 "On Some Measures to Improve Insurance Activities" of 31 December 1998, cargo shipped by State entities in Tajikistan was subject to mandatory insurance. Insurance payments did not exceed 0.2 per cent of the value of the exported cargo. The State Unitary Enterprise Insurance Company "Tojiksarmoyaguzor" under the Ministry of Finance was exclusively responsible for the insurance of cargo exported by State entities. Private companies engaged in exportation were not required to obtain such insurance.

- **Export subsidies**

134. The representative of Tajikistan said that Tajikistan did not operate any export financing, export subsidy or export promotion measures at present. Duty drawback on imported merchandise was regulated by Chapter 48 (Articles 396-398) of the Customs Code.

135. Asked about the refund of VAT and excise taxes on exports and Tajikistan's conformity with Annex 1 (Items (g) and (h)) of the Agreement on Subsidies and Countervailing Measures, the representative of Tajikistan said that VAT and excise tax paid at the time of importation for goods subsequently re-exported or incorporated in exported goods could be refunded to the amount of VAT

and excise duty paid. He confirmed that the refund would not exceed the amount actually paid at the time of importation.

136. The representative of Tajikistan confirmed that Tajikistan did not apply any prohibited subsidies within the meaning of Article 3 of the Agreement of Subsidies and Countervailing Measures and Article XVI of the GATT 1994, and that Tajikistan had no plans to introduce any such subsidies in the future. He further confirmed that Tajikistan would administer any subsidy programmes in place or established after accession, at all levels of Government, in conformity with the WTO Agreement. Any export financing or export promotion measures introduced in the future would not be operated in a manner inconsistent with Tajikistan's WTO commitments.

C. INTERNAL POLICIES AFFECTING FOREIGN TRADE IN GOODS

- Industrial policy, including subsidies

137. The representative of Tajikistan said that the industrial policy of Tajikistan was not geared towards the protection of specific economic activities. His Government did not subsidize exports either directly or indirectly. He confirmed that Tajikistan did not provide any indirect subsidies within the meaning of Article 1.1(a)(1)(iv) of the Agreement on Subsidies and Countervailing Measures (ASCM).

138. His Government provided limited support for industrial development. Articles 145 and 211 of the 2004 Tax Code and Article 345 of the 2004 Customs Code included provisions for tax and custom duty exemptions. These incentives were not provided on the basis of mandatory export performance and were therefore, in his opinion, not prohibited subsidies as set out in Article 3.1(a) of the Agreement on Subsidies and Countervailing Measures.

139. The Ministry of Energy and Industry provided support to the coal industry and for the exploration and extraction of oil and natural gas. The budgetary allocation for the geological prospecting of oil and gas and for the coal industry had amounted to 363,800 Somoni in 2002, and 417,300 Somoni had been earmarked to be disbursed in 2003. Of this, 150,000 Somoni had been to support the loss-making coal industry and to promote fuel independence. He stressed that these subsidies were not contingent on local content or export performance requirements.

140. The State budget, through the Ministry of Energy and Industry, allocated US\$120,000 annually to the State Unitary Enterprise "Zarya Vostoka" to maintain the temporarily idle facilities at this enterprise. In addition, general subsidies to the mining and chemical industry had amounted to 202,000 Somoni in the 2003 budget. These funds were allocated to the mining enterprises Takobskii

GOK Joint Stock Company (8,600 Somoni), AO Anzobskii GOK Joint Stock Company (19,500 Somoni), Adrasmanskii Joint Stock Company (85,600 Somoni), and Jamast State Unitary Enterprise (85,600 Somoni). The Tajikkhimprom Joint Stock Company, a chemical enterprise, received a subsidy of 2,700 Somoni through the chemical industry as a whole was not presently subsidized through the State budget. He confirmed that the funds allocated to the mining enterprises were not contingent on local content or export performance requirements.

141. The subsidies approved by the Ministry of Energy and Industry were allocated directly to each enterprise through the Central Treasury under the Ministry of Finance. For enterprises involved in exploration or exploitation of mineral resources, the amount of funds transferred was adjusted to account for the taxes due on royalties and bonuses.

142. Tajikistan did not operate any micro-credit or preferential loan schemes for any industrial sector at present. However, his Government had provided a VAT exemption (amounting to US\$51,345 in 2002) for the financial rehabilitation of the Tajik Aluminium Plant on the import of basic raw materials, energy and equipment used by the plant. Tariff rebates on electricity and customs duties had also been provided.

143. Noting the statement by the representative of Tajikistan that Tajikistan was not providing subsidies of the kind defined in Article 1.1(a)(1)(iv) of the ASCM, a Member requested confirmation that Tajikistan would not provide any such WTO-inconsistent indirect subsidies in the future. The Member also sought confirmation that Tajikistan would not invoke any of the provisions of Articles 27, 28 or 29 of the ASCM. Tajikistan was also requested to submit a subsidy notification covering all types of programmes pursuant to Article 25 of the Agreement. The Member also noted that, although the relevant provisions of the ASCM would normally apply in proceedings under parts II, III and V of the Agreement, the importing Member might have to resort to alternative methodologies in cases where special difficulties would arise as the prevailing terms and conditions in Tajikistan would not be available as appropriate benchmarks.

144. In reply, the representative of Tajikistan confirmed that Tajikistan would not provide any indirect subsidies inconsistent with the ASCM from the date of accession. Tajikistan did not intend to invoke any of the provisions of Articles 27, 28 and 29 of the Agreement. A draft subsidies notification would be submitted in due course.

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

145. The representative of Tajikistan said that standards and technical regulations were applied in accordance with the Law "On Standardization" of 14 December 1996; the Law "On Certification of Products and Services" of 13 December 1996; the Law "On Provision of Unified Measurements" of 15 May 1997; the Law "On the Protection of Consumer Rights" of 15 May 1997; and Resolution No. 97 "On Protection of Consumer Market of the Republic of Tajikistan against Poor Quality Products" of 16 March 1999. A draft Law "On Technical Regulations" (reviewed by the Working Party) had subsequently been reworked into a new Law "On Technical Regulating" (adopted by the Parliament). As indicated in the checklist (document WT/ACC/TJK/8), the Law had been prepared to bring the standards and certification regime of Tajikistan in conformity with the provisions of the WTO Agreement on Technical Barriers to Trade (TBT Agreement). With the adoption of the new Law, several laws and legal acts would be harmonized or amended, including the Law "On Standardization", the Law "On Certification of Products and Services", the Law "On the Protection of Consumer Rights" and Resolution No. 97. The Law "On Provision of Unified Measurements" would be replaced by a new Law.

146. Standards and certification requirements were applied to provide for the safety or quality of goods, work and services; to protect the environment, health, life, property, and labour conditions; to protect consumers' interests and rights; to ensure the unity of measurements; and for defence and national security considerations. Referring to Article 2.2 of the TBT Agreement, he added that the draft Law included a provision stipulating that technical regulations would be applied only to protect human life and health; to prevent deceptive practices or actions that would mislead consumers; to protect the environment; and to protect animal or plant life or health.

147. At present, the Agency on Standardization, Metrology, Certification and Trade Inspection ("Tajikstandart") was responsible for the preparation, adoption and application of standards, technical regulations and conformity assessment procedures. Tajikstandart had been designated as Tajikistan's enquiry point and the agency responsible for notifications, publications and all other transparency-related provisions stipulated in the TBT Agreement. However, until the enquiry point was fully operational the WTO Division in the Ministry of Economy and Trade would serve this function. He added that the journal "Standarty va Siphat", circulated on a quarterly basis, published notices of proposed technical regulations and conformity assessment procedures. Tajikstandart had developed a website (www.stadart.tj) to disseminate information and publish notices of proposed standards, certification requirements and conformity assessment procedures.

148. In compliance with Resolution No. 97 "On Protection of Consumer Market of the Republic of Tajikistan against Poor Quality Products" of 16 March 1999 (as amended by Government Regulation No. 486 of 1 October 2008), Tajikstandart had developed a "Nomenclature of Products and Services (Works) Subject to Mandatory Certification" and procedures had been approved to certify food and other products brought in and out of Tajikistan. This nomenclature had subsequently been harmonized with other CIS countries. Tajikstandart issued "certificates of compliance" for the purpose of consumer protection and product safety, but did not apply quality controls or technical standards in issuing such certificates. He confirmed the existence of a list of goods subject to mandatory certification, noting that the list applied equally to imported and domestically-produced goods and that the products listed had been reduced through Regulation No. 486.

149. At present Tajikistan applied international standards (ISO), its own national standards (STRT), interstate CIS standards (GOST), interstate CIS standards harmonized with ISO (GOST ISO), and the standards of other countries with which bilateral agreements had been concluded, such as Belarus and Ukraine. More than 20,500 standards had been established in Tajikistan; mainly interstate standards (19,500), State standards of Tajikistan (around 350), as well as standards based on bilateral agreements.

150. Tajikstandart represented Tajikistan in international and regional standardization organizations. Tajikistan had signed the CIS Agreement on coordinated policy in Standardization, Metrology and Certification of 13 March 1992, as well as the Protocol of 20 June 2000 on changes and amendments to this Agreement. Tajikistan was a member of the CIS Interstate Council on Standardization, Metrology and Certification. Interstate CIS standards (GOST) were developed by an Intergovernmental Council comprising representatives of the States-members, and approved and registered in compliance with the 1992 CIS Agreement, as amended in 2000. Article 1 of this Agreement envisaged the harmonization of the new GOST requirements with international, regional and leading national standards. The level of such harmonization had reached 35 per cent by 2009. In response to specific questions, he confirmed that the signatories to the CIS Agreement were not required to adopt CIS standards as technical regulations, and that interested parties were accorded the opportunity to comment on draft standards.

151. The representative of Tajikistan said that his Government had signed bilateral agreements on cooperation in standardization, metrology and certification with the Governments of Armenia, Azerbaijan, Belarus, Iran, Turkey and Ukraine. He stated that if an international agreement signed and ratified by Tajikistan stipulated rules other than those contained in its national legislation, then the rules of the international agreement would prevail.

152. Asked about Tajikistan's acceptance of conformity assessment procedures in the absence of mutual recognition agreements, he said that Article 30 (Item 2) of the [draft Law] provided for the recognition of the results of conformity assessment and conformity marks in accordance with procedures established by the Government of Tajikistan.

153. Fees for certification were based on Document RD 50-002-2002 of the Ministry of Economy and Trade on "Standards of labour output ratio and order of work payment on verification and calibration of medium of measurement, standardization and certification of products, services and accreditation of testing units". He added that Tajikistan no longer differentiated between domestic and imported products in levying fees for standards, certification and conformity assessment. He stated that all fees for certification would be brought into compliance with the national treatment principle upon accession. The [draft] Law "On Technical Regulation" stipulated the principle of equal treatment. Fees for certification were charged on an MFN basis. Recognition procedures were applied instead of certification procedures in cases where mutual recognition agreements existed.

154. Responding to specific questions on the draft Law "On Technical Regulations", the representative of Tajikistan added that the functions of "Tajikstandart" related to standardization and technical regulation would be separated with the entry into force of the new Law. A national standardization body would be created, charged with the development of standards. The body with adhere to the Code of Good Practice. Draft standards would be developed by ministries and technical committees and submitted to the standardization body for approval. An "Authorized Body for Technical Regulation" would be established within the Ministry of Economic Development and Trade. The authorized body would be responsible for policy development and implementation issues in the area of technical regulation. The authorized body would cooperate closely with the national standardization body, in particular with its technical committees. Procedures providing for the recognition of conformity assessment results performed outside of Tajikistan would be established after the adoption of the Law "On Technical Regulations". The journal "Standard va Sifat" would continue to publish notifications on proposed standards, technical regulations, and conformity assessment procedures on a regular basis in compliance with the TBT Agreement. The TBT Enquiry point would be established by the time of WTO accession.

- **Sanitary and phytosanitary measures**

155. The representative of Tajikistan said that Article 12 of the Law "On Government Regulation of Foreign Trade Activity" of 3 September 1999 stipulated that imported goods had to comply with the established technical, pharmacological, sanitary, veterinary, phytosanitary and ecological standards and requirements of Tajikistan.

156. Tajikistan was a Member of the World Organization of Animal Health (OIE), the CIS and Euro Asian Economic Community Intergovernmental Veterinary Council, and was considering joining the European Organization for the Protection and Quarantine of Plants. Tajikistan was taking steps to join the International Plant Protection Convention (IPPC) and the WHO Codex Alimentarius Commission. Tajikistan applied FAO standards for "Safe and/or Harmless Fodders and Fodders Additives" and cooperated with FAO on veterinary matters. His Government intended to harmonize Tajikistan's legislation on food safety, animal and plant health with international standards. Tajikistan would only use standards different from those of the OIE, IPPC and the Codex Alimentarius Commission pursuant to the objectives and conditions stipulated in Article 2, paragraphs 1 and 2 of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement).

157. The Ministry of Health was responsible for human health and food safety. Human health regulations were based on the Law No. 419 "On Protection of Health of the Population" of 15 May 1997. As for sanitary measures, the Ministry of Health had been setting medical and biological norms or certifications on hygiene for certain imported consumer goods, including foodstuffs, medications, chemicals, raw materials and minerals in accordance with the Law "On State Sanitary Inspection" of 20 July 1994. This law had been revoked and replaced by Law No. 49 "On Provision of Sanitary - Epidemiological Security of the Population" of 8 December 2003, which regulated the sanitary inspection of imports in Articles 14, 15, 39-41. He noted that Tajikistan performed independent risk assessments in the area of food safety.

158. New food products, materials and articles manufactured locally or imported into Tajikistan for the first time were subject to State registration pursuant to Article 10 of Law No. 54 "On the Quality and Safety of Food Products" of 10 May 2002. The registration was performed by the authorized State bodies on sanitary-epidemiological control and veterinary control in accordance with Government regulations. State registration involved the examination of documentation, including test results (as necessary), provided by the manufacturer or supplier. Certificates of registration were issued for items included in the registry. The certificate entitled the holder to manufacture, import or distribute the item throughout the territory of Tajikistan. Each item had to be registered separately. The procedures were the same for imported and domestic products.

159. The Veterinary Department under the Ministry of Agriculture was responsible for measures related to animal health. Veterinary Law No. 73 of 8 December 2003 (as amended in 2005 and 2006) regulated veterinary services and related measures, entitlements or responsibilities of animal owners, quarantine procedures and other institutional or legal issues related to the veterinary services. Tajikistan was a Member of the OIE and, in his view, its legislation in this area complied with the

SPS Agreement and other international rules and disciplines (Veterinary and Sanitary Codes, Paris 2000 and 2003).

160. Animal products were subject to mandatory veterinary inspection at the border crossing points pursuant to the Veterinary Law. Import permits for animals and animal products were issued by the Veterinary Inspection under the Ministry of Agriculture (Table 11). The Veterinary Inspection verified the veterinary status of the exporting country as determined by OIE reports, recommendations and other available information. Refusals to issue a permit could be appealed to the superior body of the State veterinary inspection or to the courts. The bodies responsible for border control were guided by the International Convention on Coordination of Border Cargo Control Terms of 21 October 1982.

Table 11: List of Goods Subject to Veterinary Certificate

CC FEA	Commodity Description	Type of Certificate
01	Live animals	Veterinary certificate No. 5 a
14	Vegetal products for animals	Veterinary certificate No. 5 b
05	Pedigree materials (sperm, embryos, incubative materials, caviar, etc.)	Veterinary certificate No. 5 c
04, 01	Milk and dairy products	Veterinary certificate No. 5 d
02, 01	Meat and meat products, including meat of livestock and wild animals	Veterinary certificate No. 5 e
05	Animal stocks	Veterinary certificate No. 5 f

161. The Service of the State Inspectorate on Phytosanitary and Plants Quarantine under the Ministry of Agriculture was the agency responsible for controls and measures related to plant quarantine, effected pursuant to Law No. 25 "On Plant Quarantine" of 12 May 2001 (replaced by Law No. 498 "On Plant Quarantine" of 26 March 2009). He said that the new Plant Quarantine Law was adopted to comply with WTO requirements. Asked about Tajikistan's phytosanitary certification system and border plant quarantine inspection measures for transiting commodities, the representative of Tajikistan said that a list of quarantine objects had been established. Phytosanitary certificates were issued when examinations confirmed the absence of objects requiring quarantine. For goods in transit, the examination covered the transport means as well as exterior examination of the cargo.

162. Tajik institutions responsible for control, inspection and approval procedures in accordance with Annex C of the SPS Agreement were the Agency of Standardization, Metrology, Certification and Trade Inspection (Tajikstandart); the Sanitary and Epidemiologic Inspectorate (for pharmaceutical and medical products); the Agency on Protection of Environment and Forestry; Veterinary Inspectorate; and the Quarantine Inspectorate.

163. As per the checklist submitted by Tajikistan in document WT/ACC/TJK/9, his Government did not intend to introduce any new standards, animal health and food safety regulations, which did not comply with the SPS Agreement. Provisions and basic principles of the SPS Agreement which at present were not specifically or fully covered by domestic legislation in Tajikistan included (i) the transparency requirements and the establishment of a single enquiry point (Article 7 and Annex B of the SPS Agreement); (ii) regulations to be based on science (Articles 2.2, 3.3 and 5.2 of the SPS Agreement); (iii) equivalence (Article 4 of the SPS Agreement); (iv) risk assessment (Article 5.1, 5.2 and 5.3 of the SPS Agreement); and (v) provisions concerning regional conditions (Article 6 and Annex A of the SPS Agreement). Tajikistan intended to amend the laws "On the Quality and Safety of Food Products", "On Plant Quarantine", "On Ensuring of Sanitary-Epidemiological Control of the Population" and the Veterinary Law. In response to a specific question on the incorporation of Article 6 of the SPS Agreement in Tajikistan's legislation, he noted that Article 6 of the Law "On Plant Quarantine" captured the principle of regional conditions and pest and disease free areas (or low prevalence of pests and diseases).

164. Work was underway to address the notification and transparency obligations of the SPS Agreement. Although the line ministries were not legally obliged to disseminate draft SPS legislation, some ministries and departments presented drafts through websites, bulletins and periodicals or in round-table discussions. His Government was setting up a single enquiry point, which interested parties could approach for information on specific measures. As an interim arrangement, the WTO Division of the Ministry of Economic Development and Trade served as an information centre for SPS issues.

165. A Member urged Tajikistan to establish laws or procedures providing for prior publication of proposed SPS measures, notification to the WTO, and reasonable timeframes for comments from Members. A Member noted that Tajikistan was banning imports of products treated with biostimulators, antibiotics and hormones, and that similar bans had been found inconsistent with the SPS Agreement. Tajikistan was requested to remove this ban upon accession unless it was able to demonstrate the compliance of this measure with WTO Agreements.

166. The representative of Tajikistan replied that the import ban on biostimulators, antibiotics and hormones remained in force and no plans had been drawn up to abolish it. The ban was, in his view, based on the Terrestrial Animal Health Code of the OIE.

- **Trade-related investment measures**

167. The representative of Tajikistan said that his Government did not apply any investment measures that did not comply with the rules and disciplines of the WTO Agreement on Trade-Related Investment Measures.

- **State trading entities**

168. The representative of Tajikistan said that the Ministry of Economic Development and Trade was responsible for State trading entities and practices in Tajikistan. In accordance with Regulation No. 77 of 17 February 2001, the Ministry approved the list of State enterprises and joint stock companies engaged in commercial activities. In his opinion, the management of State enterprises in Tajikistan was in conformity with Article XVII of the GATT 1994 and the Understanding on the Interpretation of Article XVII of the GATT 1994.

169. In response to specific questions, he identified eight enterprises trading on behalf of the Government or possessing privileges not available to other firms or enterprises, i.e. the State Unitary Enterprise (SUE) "Tojkgaz" (natural gas); the Open Stock Company "Barki Tojik" (electricity and thermal energy); "Tajiknefteproduct" (importation of oil products); the State Unitary Aviation Enterprise "Tojik Air"; the SUE "Rohi Ohan" (railroad transport and terminal services); TadAZ - the Tajik Aluminium Plant; the stock company "Tojiktelecom"; and the SUE "Khurokvorii" (Table 3(c)). Asked to confirm that these were the only enterprises granted an "exclusive or special privilege" in purchases or sales involving imports or exports, the representative of Tajikistan said that Tojik Air, Rohi Ohan and Tojiktelecom in his opinion did not qualify as State trading enterprises according to Article XVII of the GATT 1994.

170. He acknowledged that the Khurokvorii Food and Processing Industry Corporation met the definition of a State trading enterprise. Khurokvorii had been created in July 1997 pursuant to Government Regulation No. 48. Khurokvorii was State-owned and reported to the Ministry of Energy and Industry. Khurokvorii consisted of enterprises, associations, organizations, and farms in the food processing industry, regardless of the form of ownership, and had been created to coordinate activities, protect rights and to represent the common interests of its constituents. The specific functions and responsibilities of Khurokvorii were stipulated in the Charter of the State Unitary Enterprise. The enterprise carried out marketing, investment, financial activities, product development, technical services and foreign economic activities. Khurokvorii regulated certain aspects of the production, turnover, sales, exports and imports of ethyl alcohol and alcohol products on behalf of the Ministry of Energy and Industry, but was no longer authorized to issue licences for

production and import of alcoholic products. Moreover, Khurokvori no longer regulated the production and trade in tobacco goods, as these activities were now subject to licensing by the Ministry of Energy and Industry.

171. The representative of Tajikistan confirmed that State-trading Enterprises (including State-owned and State-controlled enterprises, enterprises with special or exclusive privileges, and unitary enterprises) in Tajikistan would make any purchases or sales, which were not for the Government's own use or consumption, solely in accordance with commercial considerations, including price, quality, availability, marketability, transportation and other conditions of purchase or sale. He further confirmed that these State trading enterprises would afford the enterprises of other Members adequate opportunity, in accordance with customary business practice, to compete for participation in purchases from or sales to Tajikistan's State enterprises. He also confirmed that any restrictions on exports of materials to ensure essential quantities of such materials to a domestic processing industry would not operate to increase the exports of, or the protection of, such domestic industry.

172. A Member considered that, in view of the special characteristics of Tajikistan's economy, when State owned enterprises (including banks) were providing financial contributions, they were doing so as Government actors within the scope of Article 1.1(a) of the ASCM. In addition, for purposes of applying Articles 1.2 and 2 of the ASCM, subsidies provided to State-owned enterprises (including State trading entities) would be viewed as specific if, *inter alia*, State-owned enterprises were the predominant recipients of such subsidies or State-owned enterprises received disproportionately large amounts of such subsidies.

- **Free zones, special economic areas**

173. The representative of Tajikistan said that work was underway to develop the necessary infrastructure and legal framework for free zones or free economic zones in Tajikistan. The Law "On Free Economic Zones" had been adopted in 2004 and the Government Regulation No. 227 "On the Establishing of Free Zones "Pyanj" and "Sugd"" had been promulgated on 2 May 2008.

174. Free zones or free economic zones were defined as a detached territory within the territory of Tajikistan, the perimeter of which was considered the customs border of Tajikistan. Provisions of Tajikistan's customs legislation were not applied in the territory of a free zone, but bans or restrictions on specific economic activities could be imposed within free zones in line with national interests. Production and any other commercial operation, except for retail trade, was permitted in free zones.

175. Goods imported or exported from such zones were not subject to customs duties and internal taxes. However, pursuant to Article 270.1 of the Customs Code, goods produced in free zones or free economic zones would be subject to normal tariffs, taxes and other customs requirements if sold elsewhere in Tajikistan. He confirmed that WTO provisions would apply within the territory of any free economic zones established in Tajikistan, and that importers and exporters in these zones would have recourse to administrative and judicial appeals on the same basis as elsewhere in Tajikistan. Asked to confirm that the right of firms to establish and operate in free zones or special economic areas did not depend on export performance, trade balancing or local content requirements, he said that regulations were being drafted to define the conditions for firms to establish and operate in the free economic zones.

176. According to the Customs Code, licenses and customs charges for establishing a customs warehouse, a duty-free shop, a free warehouse and a temporary warehouse had been eliminated. However, registration requirements applied to legal persons in their capacity as owners of warehouses of temporary storage, customs warehouses, duty-free shops and customs brokers (representatives). No fees were charged for the registration. However, as set out in Article 384.1 of the Customs Code, if necessary, activities could only be undertaken upon payment of a security deposit or a guarantee.

- **Government-mandated barter and counter-trade**

177. The representative of Tajikistan said that Tajikistan did not engage in Government-mandated counter-trade or barter. He noted that the Tajik Aluminium Plant bartered primary aluminium for raw materials and production equipment and that the volume of this trade was determined by the Ministry of Economy and Trade and his Government. He confirmed that the Tajik Aluminium Plant was not subject to any import substitution or export performance requirements.

- **Government procurement**

178. The representative of Tajikistan said that Law No. 511 "On government procurement of goods, works and services" of 12 December 1997 regulated government procurement procedures and practices. Enhancing participation and competition among domestic and foreign suppliers was one of the main objectives of the existing government procurement legislation. The Law stipulated equal opportunities for domestic and foreign suppliers to participate in government procurement, but also allowed procurement to be reserved for domestic suppliers in certain circumstances. A preferential margin of 20 per cent was allowed in the procurement of goods, and 10 per cent for works (Article 18). The preference margin for works was only available provided domestic labour was used, and the local content of materials and other inputs was minimum 30 per cent. A 10 per cent

preferential margin could also be applied to domestic suppliers of consultancy services provided that minimum 70 per cent of the permanent staff was recruited locally. He added that a new Law "On State procurement of goods, works and services" was in preparation. The new Law would remove the restrictions in existing legislation on the participation of foreign suppliers.

179. Tajikistan had established a State procurement agency under the Ministry of Economy and Trade, responsible for government procurement since 2001. The State procurement agency performed its activities in accordance with domestic law, and the recommendations, norms, legal documents or standards of UNCITRAL (UN Commission on International Trade Law), the World Bank, and the International Development Association.

180. The procedures for government procurement were initiated by a Government body or entity submitting a request, including the nomenclature and procurement conditions, to the authorized State procurement agency. The authorized agency, jointly with the concerned Government ministries, would then set up a tender commission and invite the participation of interested parties in a tender through the mass media, i.e. national television and radio, and printed media. Open competitive bidding was the main method used for tenders. A minimum of three participants was required for a quorum. The same quorum was envisaged for procurement in a two-stage bidding method. The authorized State procurement agency also used alternative procurement methods such as requests for proposals, requests for quotations and single source procurement. The procurement method chosen depended on factors and criteria such as the size and volume of the procurement contract, its duration, the type of product or service involved and the characteristics of the market concerned. At the end of the period stated in the tender invitation, the Tender Commission would open the sealed bids, and announce the preliminary result and winning bid. The State procurement agency, jointly with the concerned Government ministries, would examine the qualifications of the declared winner and decide whether to award the tender. An agreement and a Tender Commission protocol would be prepared for signature. One copy of each document was sent to the State procurement agency for safe-keeping; the Ministry of Finance for the payment of dues; and the concerned Government entities and winning bidder for the implementation of the procurement order. He noted that government procurement was increasingly effected through tenders (Table 12).

Table 12: Government Procurement Tenders

Indicator	2006	2007	2008
Tenders conducted	2,390	3,309	3,355
Total government procurement agreements concluded (thousand Somoni)	110,713	199,556	282,815

181. The representative of Tajikistan confirmed Tajikistan's willingness to accede to the Agreement on Government Procurement. Tajikistan was willing to become an observer to the Agreement upon accession, and submit an application for membership with a coverage offer within one year after accession to the WTO.

- **Transit**

182. The representative of Tajikistan said that goods could transit through the customs territory of Tajikistan freely and without restriction, except for goods, works or services specified in Resolution No. 111 "On Measures to Improve Foreign Economic Activities in the Republic of Tajikistan" of 19 February 1997. In accordance with this resolution, transit was restricted for (i) uranium and other radioactive substances, nuclear technologies, appliances, equipment or plants and other sources of radiation including radioactive waste; (ii) gunpowder, explosives and related waste; (iii) drugs and psychotropic or toxic substances; (iv) military equipment, arms and munitions, spare parts, military works and services, including engineering or documentation for military production, military uniforms and related items for military use; (v) cryptographic devices, including cryptographic equipment, spare parts and cryptographic software; (vi) mineralogy and palaeontology materials, information on mineral resources and oilfields in Tajikistan, including charts, maps and drawings; (vii) works of art, collectables and antiques of significant artistic, historical, scientific and cultural value; and (viii) endangered wild animals and birds.

183. Within the framework of the customs unions to which Tajikistan was a signatory, the "Agreement on Unified Transit Conditions via Territories of Customs Union Member-States" of 22 January 1998 had entered into force on 4 January 1999. The objective of this Agreement was to unify customs legislation, customs processing, transit controls; to eliminate barriers and restrictions on transit; and to facilitate transit trade in the member States.

184. Transit trade was significant in Tajikistan given its geographical location. His Government had been a member of the Economic Cooperation Organization (ECO) Transit Trade Agreement since April 1996. Tajikistan fulfilled its international commitments on transit as an ECO member. The ECO Transit Trade Agreement covered transportation by road, rail, sea and air.

- **Agricultural policies**

(a) **Imports**

185. The representative of Tajikistan said that the import of agricultural goods did not differ in any respect from the import of non-agricultural goods. Agricultural products were not subject to special

duties. Imports of plants, animals, and products thereof, were subject to sanitary and phytosanitary requirements in accordance with existing legislation.

186. He confirmed that Tajikistan did not apply any of the measures prohibited under Article 4.2 of the WTO Agreement on Agriculture, such as quantitative import restrictions, variable import levies, minimum import prices, discretionary import licensing, non-tariff measures maintained through State trading enterprises, voluntary export restraints, and similar border measures other than ordinary customs duties.

(b) Exports

187. The representative of Tajikistan said that exports of agricultural products were governed by the same general rules, disciplines and procedures applied to non-agricultural exports. Tajikistan provided no direct export subsidies for agricultural products. Export credits and export guarantee schemes were also currently not in use.

188. Some Members welcomed Tajikistan's intention to bind export subsidies at zero upon accession.

(c) Internal policies

189. The representative of Tajikistan provided information on domestic support and export subsidies in agriculture during 2001-2003 in document WT/ACC/SPEC/TJK/3, and for the period 2003-2005 in documents WT/ACC/SPEC/TJK/3/Revisions 1 and 2. During 2003-2005, Tajikistan provided "green box" support averaging Somoni 25.3 million (US\$8.3 million) per year, mainly on infrastructural services and public stockholding of wheat (in 2005). Tajikistan also reported measures with reference to Article 6.2 of the Agreement on Agriculture, primarily in the form of foreign-funded non-repayable investment grants. All "amber box" support fell below the 10 per cent de minimis threshold during the reporting period.

- **Trade in civil aircraft**

[to be completed]

- **Textiles Regime**

190. The representative of Tajikistan said that Tajikistan had signed a Textile Trade Agreement with the European Community in July 1993, subsequently extended until 31 December 2003.

Tajikistan had been accorded the status of a standard beneficiary country in the European Union, and enjoyed a 15 per cent reduction in the MFN tariffs on textile exports to this market.

V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME

- GENERAL

- Industrial property protection

191. The representative of Tajikistan said that Article 40 of the Constitution established the principle of intellectual property protection. Tajikistan aimed at achieving world standards in intellectual property rights (IPR) protection by improving and developing its legislation; establishing competent bodies and executive authorities to enhance implementation and enforcement; strengthening judicial procedures and the court system; and increasing public awareness of intellectual property protection.

192. Detailed information on the implementation of the WTO Agreement on Trade Related Intellectual Property Rights (TRIPS Agreement) was provided in document WT/ACC/TJK/10 and Revision 1. The Legislative Action Plan (WT/ACC/TJK/7 and its Revisions) also highlighted legislation enacted or pending to bring Tajikistan's legislation into conformity with the TRIPS Agreement.

- Responsible agencies for policy formulation and implementation

193. The representative of Tajikistan said that the agencies responsible for IPR policy formulation and implementation were (i) the National Centre for Patents and Information (NCPI) under the Ministry of Economic Development and Trade, inter alia responsible for the protection of inventions, industrial designs, trademarks, service marks and appellations of origin; (ii) the Division of Copyright and Related Rights under the Ministry of Culture; (iii) the State Commission on Plant Varieties within the Ministry of Agriculture, responsible for protection of plant varieties; (iv) the Department for Anti-monopoly Policy and Development of Competition within the Ministry of Economic Development and Trade, responsible for implementing Tajikistan's competition policy legislation, including provisions prohibiting unauthorized use of trademarks, trade packaging and undisclosed business information; (v) the Customs Service (special border measures); and (vi) other Government agencies and organizations such as the Supreme Economic Court and the Ministry of Interior.

- **Participation in international intellectual property agreements**

194. The representative of Tajikistan said that Tajikistan had acceded to the World Intellectual Property Organization (WIPO) in January 1994. On industrial property protection, Tajikistan had ratified and implemented the Convention Establishing the WIPO; the Paris Convention for the Protection of Industrial Property; the Madrid Agreement Concerning the International Registration of Marks; the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks; the Locarno Agreement Establishing an International Classification for Industrial Designs; the Patent Cooperation Treaty; the Strasbourg Agreement Concerning the International Patent Classification; the Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the Purposes of Patent Procedure; and the Nairobi Treaty on the Protection of the Olympic Symbol.

195. Tajikistan was a member of the Universal Copyright Convention. Tajikistan had acceded to the Berne Convention for the Protection of Literary and Artistic Works in March 2000, the Rome Convention on the Protection of the Rights of Performers, Producers of Phonograms and Broadcasting Organizations in May 2008 and the WIPO Copyright Treaty in April 2009. The Division for Copyright and Related Rights was considering and preparing Tajikistan's accession to the WIPO Performances and Phonograms Treaty; the Convention for the Protection of the Interests of Producers of Phonograms from Illegal Broadcasting of their Phonograms (the Geneva Convention); and the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (the Satellite Convention).

196. Tajikistan was represented in the International Union for the Protection of New Varieties of Plants (UPOV). His Government had submitted an application to join the UPOV Agreement in 2003. The UPOV Secretariat was reviewing this application.

197. Within the framework of the Commonwealth of Independent States, the following Agreements had entered into force in Tajikistan - the Agreement "On Measures for Industrial Property Protection and on Creation of the Interstate Council on Industrial Property Protection Matters" of 12 March 1993; the Agreement "On Cooperation on Suppression of Infringements in the Field of Intellectual Property" of 6 March 1998; the Agreement "On Measures to Prevent the Use of False Trademarks and Geographical Indications" of 4 July 1998; and the Agreement "On Mutual Security of Interstate Secrets in the Field of Industrial Property" of 4 June 1999. Tajikistan had also signed and ratified the Euro Asian Patent Convention in 1995. This Convention had established an inter-state system of invention protection on the basis of common patents. The common patents were

valid throughout the contracting States, i.e. Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyz Republic, Moldova, the Russian Federation, Tajikistan and Turkmenistan.

198. On a bilateral level, Tajikistan had made intellectual property commitments under the United States - Tajikistan Trade Agreement of 1993. The National Centre for Patents and Information within the Ministry of Economic Development and Trade had signed a mutual cooperation agreement with the Russian Agency on Patents and Trademarks (ROSPATENT). The Division on Copyright and Related Rights also had bilateral agreements with the copyright organizations of Kazakhstan, Kyrgyz Republic, Moldova, the Russian Federation and Uzbekistan.

- **Application of national and MFN treatment to foreign nationals**

199. The representative of Tajikistan said that Tajikistan's intellectual property rights legislation provided MFN treatment to all foreign nationals. National treatment was also provided with some qualifications or exceptions as long as this would not contradict the provisions of other international agreements to which Tajikistan was a signatory. The exception to national treatment concerned a differential fee structure for foreign and domestic nationals. He noted that Tajik nationals not resident in Tajikistan, or foreign legal entities which did not have permanent establishments in Tajikistan, had to register patents or trademarks through patent attorneys accredited with the NCPI.

- **Fees and taxes**

200. The representative of Tajikistan said that a temporary measure, set out in Decree No. 533 "On Regulations of State Patent Fees" of 28 November 1994, had established different fees - and different methods for tabulating the fees - for foreign nationals and citizens of Tajikistan. Fees were charged for legal procedures and applications to grant and renew industrial property protection, to register licence agreements, and to lodge appeals with the Appeal Board of the NCPI. Fees were also charged for copyright and related rights. The fees and charges are enumerated in Table 13.

201. He added that Tajikistan would eliminate the discriminatory and differential fee structure. Asked to update the Working Party on the elimination of the discriminatory and differential fee structure, he said that Tajikistan planned to adopt a system that would differentiate on the basis of per capita income (UN calculations). Citizens of countries with per capita income of less than US\$3,000 would be entitled to a preferential fee (regardless of the nationality of the applicant). The new system would be implemented through a Government Resolution.

- **SUBSTANTIVE STANDARDS OF PROTECTION, INCLUDING PROCEDURES FOR THE ACQUISITION AND MAINTENANCE OF INTELLECTUAL PROPERTY RIGHTS**

- **Copyright and related rights**

202. The representative of Tajikistan said that the Law No. 726 "On Copyright and Related Rights" of 13 November 1998, as amended, governed copyright protection in Tajikistan. Tajikistan had been a member of the Berne Convention since 2000, the Rome Convention since 2008 and the WIPO Copyright Treaty since 2009.

203. In accordance with Articles 5 and 6 of the Law "On Copyright and Related Rights", protection was extended to "scientific, literary and artistic works that were the product of creative work, regardless of the purpose, the merit and the manner of expression thereof". Copyright protection was provided to authors of oral works (speeches, reports, etc.), literary works (scientific, educational, including computer programmes of both source text and objective code), audiovisual works, derived works, etc.

204. As provided for in Articles 17 and 42 of the Law, the term of copyright protection in Tajikistan was the lifetime of the author and 50 years after his/her death. Other related rights were protected for 50 years from the first fixation or performance. Copyrighted works first published up to 30 years after the author's death were accorded protection for 50 years following the authorized publication. The term of protection under the previous copyright legislation (Article 493 of the Tajik Civil Code of 1965) had been 25 years. Works, whose terms of protection of 25 years had expired before the entry into force of the new Law in November 1998, had become public property. However, if a work was still under protection as of 13 November 1998, then its term of protection had been increased to 50 years. This retroactivity principle, in accordance with Articles 14.6 and 70.2 of the TRIPS Agreement, had also been extended to sound recordings, i.e. the rights of performers and producers of phonograms, with amendments to the Law "On Copyright and Related Rights" introduced in 2009.

205. Although copyright and related rights were transferable, in full or in part, and on an exclusive or non-exclusive basis, the royalties or minimum (but not maximum) remuneration payable to right holders were subject to Government regulation (Government Decrees No. 252 of 1 July 1999; No. 37 of 4 February 2002; and No. 351 of 1 August 2006). In practice, the remuneration was fixed by the contracting parties by mutual agreement with due consideration given to the type, difficulty, volume and significance of the work as well as the qualifications of the author.

206. The principle of national treatment was respected and provided for in Articles 4 and 30 of the Law "On Copyright and Related Rights" (as amended in Law No. 162 of March 2006). He stated that Tajikistan provided copyright protection in full conformity with Article 3 of the TRIPS Agreement.

207. Asked about the points of attachment for the protection of foreign sound recordings and whether Tajikistan would join the Geneva Phonograms Convention, the representative of Tajikistan said that Articles 30 and 42 of the Copyright Law protected the rights of foreign performers and phonogram producers. Tajikistan had also acceded to the Rome Convention, and thus accorded full protection to phonogram producers. With regard to providing producers of sound recordings an exclusive right to public performance and transmission in either analog or digital format, he noted that Article 35 of the Law gave phonogram producers remuneration rights and a right to public performance. The Law had been amended in 2006 to provide for transmission rights of public performances in digital medium (additions to Articles 34 and 35).

- **Trademarks, including service marks**

208. The representative of Tajikistan said that trademarks were protected in accordance with the Law No. 234 "On Trademarks and Service Marks" of 5 March 2007. The provisions of the 2007 Law were in conformity with the provisions of the TRIPS Agreement, including with respect to Articles 15.5, 16.2, 19.1 and 21 of the Agreement.

209. Trademarks and service marks were defined as "designations, capable of individualization (distinguishing the) goods, works and services of legal entities or natural persons engaged in commercial activities". As provided for in Article 18 of the Law, the ten year term of protection for trademarks was renewable, upon request by the right holder during the last year of the term, for additional periods of ten years.

210. Article 20 of the Law provided for the publication of information on registration. The opportunity to object to the registration of a trademark was given to third parties only after publication of the registered trademark in the Official Gazette (Article 33).

211. Well known marks were protected according to Articles 23 and 24 of the Law. Procedures for the registration of a well known mark were stipulated in "Rules for the Recognition of a Trademark as Well Known in Tajikistan", adopted by the Ministry of Economic Development and Trade in July 2007. Whether a mark was well known was determined by (i) territory of use, (ii) period of use, (iii) resources spent on advertising, and (iv) recognition of the mark. Specialized organizations would conduct sociological surveys to determine the latter. Tajikistan protected

trademarks and well known marks without registration in accordance with the Madrid Agreement by decision of the Appellate Council of the Patent Agency. Articles 33 and 34 of the Law "On Trademarks and Service Marks" set criteria for the termination of protection for a well known mark.

212. Article 34 of the Law allowed for the cancellation of registered trademarks upon submission of a petition, and a court decision to that effect, on the grounds of non-use for an uninterrupted period of three years from the date of registration, or for a period of five years prior to the submission of the court petition. Other grounds for the cancellation of registered trademarks included the expiry of the term of protection; liquidation of the owner of the trademark; a trademark being recognized as invalid; and a trademark owner having voluntarily surrendered the trademark.

213. He recognized that Article 21 of the TRIPS Agreement explicitly prohibited the compulsory licensing of trademarks and confirmed that no provisions permitted the compulsory licensing of a trademark in Tajikistan. The Law granted the owner of a trademark the right to transfer (Article 30) or assignment (Article 31), while not conditioning the right to transfer on the transfer of business.

- **Geographical indications, including appellations of origin**

214. The representative of Tajikistan said that geographical indications were protected pursuant to Law No. 236 "On Geographical Indications" of 5 March 2007. Registrations of appellations of origin had previously been undertaken on the basis of temporary regulations "On Appellation of Origin and Grant of the Right to Use It" of February 1995.

215. An appellation of origin was defined as "a designation which is or contains a contemporary or historical name of a country, settlement, location or other geographical object (or a derivative from such designation) and which has become known as a result of its use in respect of a good the specific quality and features of which are essentially or exclusively defined by natural conditions and/or human factors specific to a given geographical object." Legal protection of appellations of origin was provided on the basis of registration or by virtue of inclusion in international treaties that Tajikistan had ratified.

216. In accordance with Article 22.2(b) of the TRIPS Agreement, the legal means provided to interested parties to prevent misleading use of a geographical indication, or any use that constituted an act of unfair competition within the meaning of Article 10*bis* of the Paris Convention, was provided for through the Law "On Trademarks and Service Marks" (Article 8), the Law "On Geographical Indications" (Article 16), and Article 7 the Law "On competition and restriction of monopoly activity

in the commodity markets" of 10 November 2000. The Competition Law gave interested parties an opportunity to file petitions with the Department for Anti-Monopoly Policies and Development of Competition, which would consider the infringements of the Law and take decisions within the limits of its competence (set by Article 20 of the Competition Law).

217. He added that additional protection of geographical indications for wines and spirits, as stipulated in Article 23 of the TRIPS Agreement, was not provided for in the present legislation. Geographical indications for wines and spirits were currently protected only in accordance with general practice. Asked whether a prior-in-time trademark would have priority over a conflicting later-in-time geographical indication, the representative of Tajikistan said that the Law did not provide for priority of a geographical indication (appellation or origin) over a prior-in-time trademark, nor did the Law provide for a prior-in-time registered trademark to co-exist with a later-in-time geographical indication.

- **Industrial designs**

218. The representative of Tajikistan said that Law No. 16 "On Industrial Designs" of 28 February 2004 formed the legislative basis for the protection of industrial designs, replacing a temporary Regulation "On Invention, Utility Models and Industrial Designs" of 1994. Tajikistan provided protection for an industrial design representing "novelty and originality" (Article 5, paragraph 2). The initial term of protection was for ten years, with the possibility of extension for a period of not more than five years (Article 6, paragraph 4). The protection of textile designs, as stipulated in Article 25.2 of the TRIPS Agreement, was provided in Article 6.7 of the Law "On Copyright and Related Rights".

- **Patents**

219. The representative of Tajikistan said that Law No. 17 "On Inventions" of 28 February 2004 governed patent protection in Tajikistan. The Law was, in his view, in conformity with the provisions of the TRIPS Agreement, having replaced a temporary Regulation "On Inventions, Utility Models and Industrial Designs" of 1994.

220. In accordance with Article 6 of the Law "On Inventions", patent protection was provided for inventions considered new, involving an inventive step, and industrially applicable. The commercial exploitation of proposals or solutions contrary to public interests or principles of humanity and morality were not recognized as patentable subject matter under the Law "On Inventions". Scientific theories and mathematical methods; methods of organization and the management of the economy;

conventional signs, schedules and rules; algorithms and computer programmes; rules and methods for performing mental acts; lay-out designs of constructions, buildings etc.; and proposals solely related to aesthetics and the external appearance of manufactured products were not recognized as inventions and were thus also excluded from patent protection.

221. Patent protection was granted for a period of twenty years from the date of filing of the application with the NCPI. If a petty patent was converted into a patent, the 20 year term of protection applied from the date of filing the application for a petty patent. As provided for in Article 26 of the Law, the rights conferred on the patent or petty patent holder included the exclusive right to manufacture, use, import, sell and in any other way put to commercial use the patented product or process. The patent also gave the holder the right to prohibit the use of the patented inventions by other persons, except in cases where such use, in accordance with the Law, did not constitute an infringement of the patent owner's exclusive right. Pursuant to Article 30 of the Law "On Inventions", the exclusive right of the holder did not preclude the use of a patented invention for non-commercial purposes (scientific research, emergency situations, exhaustion of rights, etc.). These exceptions did not, in his opinion, unreasonably conflict with a normal exploitation of a patent and did not unreasonably prejudice the legitimate interests of the patent owner, taking account of the legitimate interests of third parties.

222. On compulsory licensing, he said that Article 28 of the Law "On Inventions" provided for the issue of compulsory licenses in compliance with Article 31(a) through (l) of the TRIPS Agreement. Compulsory licenses could be issued for reasons of unjustifiable non-use or insufficient use during a minimum period of five years, and after efforts to obtain a licence on reasonable terms had failed; in case of national emergency or similar situations; and in the circumstances foreseen in Article 31(l) of the TRIPS Agreement. Compulsory licenses were non-exclusive and non-assignable. The decision of a court to issue a compulsory licence was communicated to all parties concerned. Importation would be considered "use" of a patent in Tajikistan. Disputes concerning application of the Law "On Inventions" and its provisions related to compulsory licensing, were resolved in court (Article 37). He added that the Law would be amended to ensure full compliance with Article 31(f) of the TRIPS Agreement, i.e. use to be authorized predominantly for the supply of the domestic market.

223. As for process patents, he said that Article 5 of the Law "On Inventions" in his opinion fulfilled the requirements of Article 34.1(a) of the TRIPS Agreement regarding reversing the burden of proof to the defendant.

- **Plant variety protection**

224. The representative of Tajikistan said that the Law "On Protection of Plant Varieties" granted patents for the protection of plant varieties and animal breeds. Patents were obtained by filing an application with the State Commission on Plant Varieties under the Ministry of Agriculture. Law No. 119 "On Selection Achievements of Agricultural Crops" of 4 November 1995, as amended in 2002 and 2004, and its implementing regulations (Regulation of the State Commission "On Sort Tests of Agricultural Crops and Protection of Plants", Law No. 25 "On Quarantine of Plants" of 19 May 2001, and the Regulation "On the Service of the State Phytosanitary and the Quarantine of Plants" approved by Governmental Resolution No. 372 of 1 August 2008) also provided the legislative basis for protection of plant varieties. Amendments introduced to the Law "On Selection Achievements of Agricultural Crops" had incorporated comments from UPOV experts and had - in his opinion - brought the Law into conformity with the provisions of Article 27.3(b) of the TRIPS Agreement. He added that the Laws "On Protection of Plant Varieties" and "On Seed Farming" had been amended on 5 January 2008.

- **Layout designs of integrated circuits**

225. The representative of Tajikistan said that Part 3, Article 1126 of the Civil Code referred to layout designs of integrated circuits as "protected objects". However, rather than according protection through the Law "On Inventions", Tajikistan had introduced a separate Law No. 218 "On the Legal Protection of Electronic Integrated Circuits" of 22 December 2006.

- **Requirements on undisclosed information, including trade secrets and test data**

226. The representative of Tajikistan said that Articles 152-154 of the Civil Code protected undisclosed information. In addition, Article 7 of Law No. 147 "On Competition and Restriction of Monopoly Activity in Commodity Markets" of 10 November 2000 also restricted the acquisition, use and disclosure of scientific, technical, industrial or commercial information, including commercial secrets, without the consent of the owner. However, Article 7 of Law No. 147 did not apply to Government entities, including entities responsible for approval of pharmaceutical or agricultural chemical products. Protection in these instances was provided in accordance with Article 152 of the Civil Code, which required Government entities to protect commercial secrets.

227. The Pharmacology Centre at the State Medication Examination Centre, under procedures approved by the Ministry of Health, was responsible for keeping all tests and other data related to the marketing of pharmaceutical products in Tajikistan. Pursuant to Government Resolution No. 391 of

October 2002, the State Laboratories on Standardization, Certification and Licensing of Veterinary Drugs had also been set up for the marketing of pharmaceutical products using new chemicals and protection from unfair commercial use.

228. Asked whether Tajik legislation would be amended to ensure compliance with Article 39.2 of the TRIPS Agreement, he said that Article 153 of the Civil Code would be amended and the expression "there is free legitimate access to it" would be replaced by "absence of free access to it on a legal basis". He added that neither the Civil Code nor the Law "On Competition and Restriction of Monopoly Activity in Commodity Markets" required his Government to preclude reliance by a second applicant for registration of a pharmaceutical or drug on the basis of marketing data submitted by the first applicant for marketing approval.

229. As for Tajikistan's compliance with Article 39.3 of the Agreement, he said that the use of undisclosed test and other data, without the owner's consent, was deemed a form of unfair competition pursuant to Article 7 of Law No. 147 and was contrary to Article 16 of the Law "On Inventions", which stipulated that all materials submitted in the course of the application process were confidential prior to publication, and could not be disseminated to third parties. Furthermore, Article 153 of the Civil Code protected official and commercial secrets of real or potential commercial value. Article 278 of the Criminal Code provided for liability for unauthorized dissemination to third parties.

- **MEASURES TO CONTROL ABUSE OF INTELLECTUAL PROPERTY RIGHTS**

230. The representative of Tajikistan said that the abuse of intellectual property rights was controlled by means of compulsory licensing and the right to prohibit unfair competition in Tajikistan. Provisions of the temporary Regulations "On Inventions, Utility Model and Industrial Designs" (Article 10), Law "On Inventions" (Article 28), Law "On Trademarks and Service Marks" (Article 24) and the Law "On Competition and Restriction of Monopoly Activity in Commodity Markets" provided recourse to measures in cases of abuse of IPR protection.

- **ENFORCEMENT**

- **Civil judicial procedures and remedies**

231. The representative of Tajikistan said that civil judicial procedures and remedies were provided for in Articles 11, 12, 15, 152 and 171 of the Civil Code. Part III of the Civil Code included further provisions for the protection and enforcement of intellectual property. Provisions regarding the collection of evidence were contained in the Civil Procedure Code (Articles 33, 39, 40 and 41) and the Criminal Procedure Code (Articles 63 and 80).

232. In response to queries on the seizure or destruction of infringed goods and damages awarded for IPR violations in civil cases, the representative of Tajikistan said that Article 15 of the Civil Code provided for the complete indemnification of the losses of the intellectual property right holder in cases of infringement. Destruction of the infringed goods, and the materials or equipment used in their production, was carried out in accordance with Article 847 of the Administrative Violations Code and Article 80 of the Criminal Procedure Code. Furthermore, in accordance with Article 48 of the Law "On Copyright and Related Rights", right holders were conferred the right to demand from the infringer the payment of compensation in the amount established by the court or the surrender, in place of the payment of damages, of revenue derived by the infringer from the infringement. The Law also provided for the cessation of acts infringing or liable to infringe the rights of the copyright holder. Counterfeited goods or works seized in Tajikistan could, upon request, be handed over to the copyright holder or destroyed. Compensation for losses was provided for in Article 32 of the Law "On Trademarks and Service Marks". Article 156 of the Criminal Code defined "significant damage" with regard to infringement of patents or copyright and related rights as damage exceeding 1,000 calculation units (i.e. more than 25,000 Somoni in 2009).

233. He added that it was necessary to create patent courts in Tajikistan as presently all patent-related disputes were considered by the Board of Appeals in the NCPI, and in some cases, the Supreme Economic Court of Tajikistan.

- **Provisional measures**

234. The representative of Tajikistan said that provisional measures for the protection of intellectual property were available pursuant to the Civil Procedure Code (Articles 33, 38, 41 and 142-147) and the Economic Procedure Code (Articles 54, 71 and 72). However, existing provisions did not grant judges the authority to order injunctions *inaudita altera parte*, and the Codes would be amended to provide indemnification to the defending party for harm caused by unjustified provisional measures.

- **Administrative procedures and remedies**

235. The representative of Tajikistan said that Tajikistan's legislation envisaged administrative procedures and remedies if the nature of the infringement or violation of intellectual property rights did not constitute a criminal offence under existing laws. Administrative decisions or orders could be appealed in courts according to Article 11 of the Civil Code. District (municipal) courts were authorized to examine such cases.

236. Violations of copyright and related rights were subject to administrative fines and the confiscation of such works or goods in accordance with Articles 375-381 and 847 of the Administrative Violations Code of 31 December 2008. Fines were imposed not less than two months from the date of infringement, and ranged from 3 to 300 calculation units. The fines ranged from 5 to 400 calculation units for repeat offences. Detailed administrative procedures were set out in the legislation to determine and verify the violation of rights, to take the necessary administrative decisions and, if necessary, to prepare the case for court. The Ministry of Internal Affairs (Department to Combat Against Infringements of Intellectual Property Rights) and the Prosecutor's Office were responsible for implementing administrative measures and penalties. Final decisions on administrative fines were taken by the district (municipal) judicial courts.

237. Administrative remedies were also available pursuant to Articles 9 and 16 of the Law "On Competition and Restriction of Monopoly Activity in Commodity Markets" for the unauthorized use of trademarks and illegal use of undisclosed information, etc. However, fines were not applied on the basis of this Law as the Civil Code, the Code of Administrative Violations and the Criminal Code were more relevant for matters of intellectual property protection.

- **Special border measures**

238. The representative of Tajikistan said that the Customs Code contained provisions on special border measures. In addition, provisions governing the protection of intellectual property rights were reflected in Government Resolution No. 185 "On Adopting the Decision on Rules of Customs Control Over the Movement of Goods Containing Objects of Intellectual Property", in "Provision on order of customs control related to goods containing intellectual property objects", and in other legislative acts.

239. A new regulation to implement the CIS Heads of State Decision "On Rules for Customs Control of Transfer across the Customs Border of Goods Containing Intellectual Property Objects" was being developed. Item 10 of the CIS Heads of State Decision entitled custom bodies to suspend or withdraw the release of goods that contained intellectual property if evidence indicated that the goods were counterfeit. Decisions on the merits of a case were referred to the judicial authorities in Tajikistan. Provisions for the suspension of release of counterfeit or pirated goods were also provided for in Chapter 54 of the Customs Code and Section V(5.7) of the "Rules of customs control over goods containing objects of intellectual property". He considered these provisions to be in conformity with Article 55 of the TRIPS Agreement. Chapter 54 of the Code also applied to the exportation of fake or pirated goods from Tajikistan. These special border measures applied to the transit movement of counterfeit or pirated goods, except in respect to goods transiting in international postal shipments. Pursuant to Article 444 of the Customs Code, provisions for the suspension of release were not

applied to goods with objects of intellectual property carried through the border by physical persons, or sent in international postal shipments in "insignificant quantities", if such goods were intended for personal use and non-commercial activities. Asked to provide more precision to the term "insignificant quantities", he referred to Government Resolution No. 544 which allowed simplified customs formalities for goods imported for personal use within a value limit of US\$1,000 and weight limit of 50 kilograms. The value limit amounted to 150 calculation units for goods shipped via international mail.

240. An application for invoking special border measures had to be accompanied by an appropriate collateral. The procedure by which a right holder submitted collateral to custom bodies in Tajikistan was outlined in the CIS Heads of State Decision. He added that the collateral or financial commitment guaranteed the refund of costs incurred by the customs body and compensation, if necessary, to the importer. Provisions to establish the amount of the collateral and the refund of costs incurred by a custom body were in preparation.

241. In accordance with Item 8 of the CIS Heads of State Decision and Article 442 of the Customs Code, an applicant or declarant could take samples and photos for an expert examination of the suspected counterfeit or pirated goods. Article 442 of the Code developed further the procedures relating to the right of inspection and information. The Customs body could provide the right holder with information he/she might need to prove the violation of his/her rights such as the address and other details of the consignor, exporter or importer, as well as data on the quantity of goods suspended or withdrawn from release by Customs.

242. The existing legislation did not establish conditions for the customs authorities to act *ex officio* nor for public officials to be held liable when acting in bad faith.

- **Criminal procedures**

243. The representative of Tajikistan said that the Criminal Code (Articles 156, 275, 277, 278, 294, 298, and 301) established criminal penalties for the wilful infringement of copyright and patents (Article 156), trademarks (Article 275), unauthorized acquisition or disclosure of commercial or bank secrets (Articles 277 and 278), unfair competition and the deception of consumers (Article 294), and the unauthorized access or acquisition of (undisclosed) computer information (Articles 298 and 301). The level of counterfeit activity subject to criminal prosecution had been defined by Article 156 of the Criminal Code, and had been set as damages exceeding 1,000 calculation units (i.e. more than 25,000 Somoni in 2009).

244. In accordance with Article 122 of the Criminal Procedures Code, criminal investigations and cases were pursued by the Office of the Public Prosecutor. The Prosecutor's Office had processed 55 criminal cases in 2003 and 135 cases in 2004. Penalties, as set out in the Criminal Code, ranged from 200 to 1,500 calculation units and/or imprisonment for up to five years for copyright, patent or other industrial property infringements. For repeat offences, and following the exhaustion of available administrative remedies, criminal penalties for the illegal use of trademarks ranged from 1 to 2,000 calculation units and/or imprisonment for up to six months, or disciplinary works for up to two years.

VI. POLICIES AFFECTING TRADE IN SERVICES

[Tajikistan submitted an initial offer on specific commitments in services in February 2004 (WT/ACC/SPEC/TJK/2). The latest revised offer is dated March 2009 (WT/ACC/SPEC/TJK/2/Rev.3).]

245. The representative of Tajikistan said that services accounted for about 42 per cent of GDP. Trade in services had increased ten-fold over the last decade from US\$50.2 million in 1998 to US\$504.2 million in 2008. Services incidental to mining and transportation services were the principal service sectors in Tajikistan. Tourism, education, communications and construction services were also important. Information, based on the format of WT/ACC/5, was provided in Annex 7 of document WT/ACC/TJK/3.

246. As a transition economy the State's role in the provision of services had evolved, and been reduced over time, in tandem with an increasing role of the private sector. The Ministries and Government bodies responsible for services trade in Tajikistan included the Ministry of Economy and Trade; the Ministry of Finance; the Ministry of Transport and Communication; the Ministry of Energy; the Ministry of Health; the Ministry of Education; the Ministry of Justice; the Ministry of Culture; the Ministry of Agriculture; the Ministry of Industry; the Ministry of Water Resources; the Ministry of Labour and Social Protection; the National Bank of Tajikistan; the State Unitary Tourism Enterprise "Sayoh"; and the Government Committee on Architecture and Construction.

247. Tajikistan's services regime imposed few limitations on market access and national treatment. A requirement for foreign enterprises to hire at least 70 per cent of their work force locally, imposed by Article 27 of the Foreign Investment Law of 10 March 1992, did not apply to domestic enterprises.

248. Concerning legal services, he said that foreign legal entities had the right to set up affiliates and representative offices in Tajikistan in accordance with the Civil Code. As per the Law

"On Advocacy" of 4 November 1995, Tajikistan recognized, on a mutual basis, the rights of foreign lawyers to provide legal services on its territory without the right or requirement to open legal offices. Consistent with the existing legislation, foreign lawyers were allowed to apply and obtain a licence to practice in Tajikistan on the same basis as local candidates, if he/she had a diploma of higher education in law from Tajikistan, or a diploma from other CIS countries acknowledged by Tajikistan. Article 210 of the Economic-Procedural Code governed the participation of foreign lawyers in non-judicial proceedings, such as arbitration or mediation, and provided foreign persons or entities with equal rights in such proceedings.

249. With regard to financial services, and specifically to the licensing requirements for banking services applied by the National Bank of Tajikistan, he confirmed that the same standards and requirements were applied to foreign and domestic banks. A specialized agency on securities had been created under the Ministry of Finance for the further development of a securities market in Tajikistan. A National Real Estate Exchange had also been created. The Law "On Securities and Stock Exchanges" regulated securities transactions. However, a secondary market in securities was still at its formative stage.

250. Article 51 of the Civil Code and the Law "On Insurance" governed the provision of insurance services. Licenses to participate in insurance activities were issued by the State Insurance Inspectorate under the Ministry of Finance. Foreign nationals or legal entities could establish limited liability or joint stock insurance companies, with foreign investment limited to 49 per cent of the statutory funds of the company.

VII. TRANSPARENCY

- Publication of information on trade

251. The representative of Tajikistan said that Law No. 54 "On Normative Legal Acts" of 8 December 2003 provided for the publication of normative legal acts, except for acts containing State or other secrets protected by law. Judicial decisions were not covered by the Law. Article 6 of the Law defined normative legal acts as official documents with instructions of general application, amending or repealing regulations adopted by the State, authorized officials or through referendum. Pursuant to Articles 53 and 54 of the Law, normative legal acts were published in three official publications ("Akhbori Majlisi Oli", the newspaper "Jumhuriyat", and the Code of Laws of the Republic of Tajikistan) within fifteen days of being signed into law by the President. These provisions were, in his view, in full compliance with Article X of the GATT. The legal acts came into force only upon publication. On issues of importance and of general public interest, the

publication of draft acts was envisaged in the mass media for public discussion. Article 45 of the Law "On Normative Legal Acts" would be amended to mandate agencies to publish draft legislation for comment. In practice, interested parties were given one month to forward comments. Suggestions and comments received from the public were considered in the revision of these draft laws.

252. In accordance with Regulation No. 456 of 5 October 2001, all normative legal acts of Ministries and State agencies were published, except for acts containing State or other secrets protected by Law. The legal acts were published in official publications and would come into force only upon publication. He confirmed that this requirement also covered the normative acts of custom bodies in Tajikistan. Legal normative acts regulating the activities of Tajikistan's tax and customs bodies were published in the weekly publications "Boju Hiroch" and "Vestnik". The press service of the Ministry of Public Revenues also provided information on tax and customs matters to the mass media.

- **Notifications**

[to be completed]

VIII. TRADE AGREEMENTS

253. The representative of Tajikistan said that Tajikistan had signed bilateral agreements for MFN treatment with Afghanistan, Austria, Hungary, Viet Nam, Kuwait, Pakistan, Romania, Syria, the Slovak Republic, India, Islamic Republic of Iran, Peoples Republic of China, United States of America, Turkey, and the Czech Republic. Preferential treatment could be accorded to States which had a Free Trade Agreement or a Customs Union with Tajikistan, or which as developing or least-developed countries received preferences in accordance with the Generalized System of Preferences (GSP). The list of beneficiaries of the GSP scheme of Tajikistan was revised by his Government at least once every five years. Presently, Tajikistan accorded duty-free treatment to goods exported by the least-developed countries in accordance with Resolution No. 450 "On Customs Tariff" of 25 October 2003.

254. As provided for in the Ashgabat Agreement on "General Conditions and Mechanism of Support for Development of Production Cooperation of Enterprises and Branches of CIS member-States", the parties to this Agreement had undertaken to cooperate on the custom clearance of goods and not to apply import and export duties, taxes, excise taxes and quantitative restrictions on goods, delivered by way of cooperation, within the framework of this Agreement. Pursuant to this Agreement, Tajikistan had approved the procedures for the transfer of goods through its custom

borders through Regulation No. 28 of 12 January 1996. Bilateral Agreements on Cooperation in production had been signed with the Governments of the Russian Federation and Moldova. The Ministry of Energy and Industry had also signed Cooperation Agreements with the Ministries of Industry of Belarus, the Kyrgyz Republic and Ukraine.

255. He stated that Tajikistan had not considered the creation of a single agricultural market among the CIS member States. However, this issue had been discussed within the Organization of Central Asian Cooperation (OCAC). A draft text on the "Creation of a Food Market Consortium" had been agreed at the working group level, and was under active consideration by the OCAC member States.

256. Tajikistan was a member of the Euro-Asian Economic Community. The Treaty establishing the Euro-Asian Economic Community had been signed on 10 October 2000. The other member States of this Community were the Russian Federation, Kazakhstan, the Kyrgyz Republic and Belarus. Commodities imported from the member-states of the Euro Asian Economic Community were granted certain preferential tariffs and duty exemptions. Work was underway to create a single domestic market, single customs territory and single customs tariffs; to harmonize economic and trade regulation; and to abolish customs control over the internal borders of the member States. A coordinated policy on the application of trade remedies was also envisaged.

257. Responding to concerns that the establishment of a free trade area or customs union within the meaning of Article XXIV of the GATT 1994 and the Uruguay Round Understanding on that Article required a plan and schedule for the elimination of duties on substantially all trade and other regulations of commerce between the constituent parties, the representative of Tajikistan noted that the Treaty envisaged the adoption of documents confirming the staging of the integration between the member States of the Eurasian Community.

CONCLUSIONS

[to be completed]

ANNEX 1

Laws, Regulations and Other Information Provided to the Working Party by Tajikistan

- "Tax Code" of the Republic of Tajikistan of 3 December 2004;
- Law No. 133 "On Introducing Amendments into the Law of the Republic of Tajikistan "On Banks and Bank Activity"" of 28 December 2005;
- Protocol No. 51 "On Procedure for Issuing Permission for Residents for Opening of Accounts in Foreign Currency in Banks Outside of the Republic of Tajikistan" of 16 September 1997;
- Decree No. 113 "On Putting into Effect the Law of the Republic of Tajikistan on Foreign Exchange Regulation and Control" of 4 November 1995;
- Decree No. 1249 "On Liberalization of Currency and Export Operations and Measures to Ensure Complete Return of the Currency Proceeds to the Republic of Tajikistan" of 13 July 1999;
- Instruction No. 142 "On Order of Import into the Republic of Tajikistan and Export from the Republic of Tajikistan of Foreign Currency in Cash and Securities in Foreign Currency" of 11 October 2005;
- Instruction Regulation "On the Procedure to Implement Currency Control on Exchange Earnings in the Republic of Tajikistan Coming from the Export of Merchandise" of 14 August 1996;
- Regulation No. 51 of the Republic of Tajikistan on "Procedure of Carrying Currency Transactions Related to Capital Movement" of 16 September 1997;
- Law No. 555 "On Foreign Investment in the Republic of Tajikistan" of 10 March 1992;
- Law No. 260 "On Investments" of 12 May 2007;
- Law No. 10 "On State Enterprises" of 28 February 2004;
- Charter of the State Unitary Enterprise "Khurokvori";
- Resolution No. 310 "On Approval of the Regulation on Procedure of Formation and Application of Free Prices and Tariffs" of 4 May 1995;
- Decree No. 526 "On Natural Monopolies of 13 December 1997;
- Extract from the Law "On Competition and the Restricting of Monopoly Activities in Commodity Markets" of 10 November 2000;
- Law No. 54 of the Republic of Tajikistan on "Normative Legal Acts of the Republic of Tajikistan" of 8 December 2003;
- Resolution No. 456 "On Approval of Regulation on the Procedure of State Record and Registration of Normative-Legal Acts of the Republic of Tajikistan" of 5 October 2001;
- Chapter 4 (Articles 48-135) of the "Civil Code" of the Republic of Tajikistan;
- Chapter 4 of the Code "On Economic Court Proceedings";
- Chapter 13 (Articles 142 - 147) of the Code "Of Civil Procedures";
- Article 156 of the Criminal Code No. 575 of 21 May 1998;
- Law No. 3 of the Republic of Tajikistan on "External Economic Activity in the Republic of Tajikistan" of 27 December 1993;
- Law No. 3 "On Introducing Amendments and Additions into the Law of the Republic of Tajikistan "On Foreign-Economic Activity of the Republic of Tajikistan"" of 28 February 2004;
- Law No. 822 of the Republic of Tajikistan on the "State Regulation of External Trade Activities" of 3 September 1999;
- Law No. 5 "On State Registration of Legal Entity" of 22 April 2003;
- Law of the Republic of Tajikistan on "State Duty" of 28 February 2004;
- "Customs Code" of the Republic of Tajikistan of 3 December 2004;
- Resolution No. 472 "On Approval of Rates of Customs Fees for Customs Services Rendered" of 2 December 2005;
- Resolution No. 450 "On the Customs Tariff" of 25 October 2003;

- Extract from the Customs Code and Resolution of the Majlisi Oli of the Republic of Tajikistan on the Customs Code of the Republic of Tajikistan No. 199 of 4 November 1995;
- Law No. 744 "On Customs Tariffs" of 14 May 1999;
- Tax Code (Section VII.) - Value Added Tax;
- Resolution No. 126 "On Excise Tax Rate for Specific Goods Produced in the Republic of Tajikistan and Imported into the Territory of the Republic of Tajikistan" of 2 April 2005;
- Resolution No. 111 "On Measures for Improvement of Foreign Economic Activity in the Republic of Tajikistan" of 19 February 1997;
- Information on production and consumption of tobacco and alcohol during 2002-2005;
- Law No. 37 "On Licensing of Separate Types of Activity" of 17 May 2004;
- Resolution No. 172 "On the Approval of the Regulations "On the Peculiarities of Licensing Certain Types of Activities" of 3 April 2007;
- Regulation No. 337 "On Specifics of Licensing of Certain Types of Activities" of 1 September 2005;
- Regulation No. 245 "On Approval of Order of Import and Export of Medicine and Medical Products in the Republic of Tajikistan" of 5 June 2002;
- Resolution No. 215 "On Rules for Purchase and Sale, Export and Import of Precious Metals, Precious Stones and Raw Materials Containing Precious and Non-ferrous Metals" of 6 May 2000;
- Protocol "On Applying Special Preventive, Antidumping and Mitigating Measures in Trade Amongst State-Parties to the Customs Union" of 17 February 2000;
- Government Decree No. 237 "On the Enhancement of Promotion of Domestically Manufactured Goods in International Markets" of 8 June 2001;
- Draft Law "On the Technical Regulation";
- Law No. 72 "On Consumers' Rights Protection" of 9 December 2004;
- Law No. 25 "On the Quarantine of Plants" of 12 May 2001;
- Law No. 118 "On Selection Achievement of Agricultural Crops" of 4 November 1995;
- Law No. 73 "On Veterinary Practices" of 8 December 2003;
- Law No. 117 "On Introducing Amendments into the Law of the Republic of Tajikistan "On Veterinary Medicine"" of 26 December 2005;
- Law No. 49 "On Provision of Sanitary-Epidemiological Security of the Population" of 8 December 2003;
- Law No. 355 "On Seeds-Growing" of 5 January 2008;
- Resolution No. 97 "On the Procedure of Certifying Food Products and Other Commodities Imported - Exported Beyond the Republic of Tajikistan" of 16 March 1999;
- Law No. 522 "On Free Economic Zones in the Republic of Tajikistan" of 29 April 2004;
- Law No. 511 "On Government Procurement of Goods, Works and Services" of 12 December 1997;
- Regulation No. 159 "On Accedence of the Republic of Tajikistan to the International Convention on Protection of Interests of Actor-Performers, Producers of Phonograms and Broadcasting Organizations" of 11 November 2005;
- Law No. 726 "On Copyright and Related Rights" of 13 November 1998;
- Law No. 162 "On Introducing Amendments and Additions into the Law of the Republic of Tajikistan "On Copyright and Allied Rights"" of 3 March 2006;
- Article 158(2) of the Law No. 913 "On Sale, Rent or Other Illegal Use of the Copies of Works or Phonograms for commercial purposes" of 11 December 1999;
- Law No. 456 "On Trade and Service Marks" of 23 December 1991;
- Draft Law "On Trademarks and Service Marks";
- Draft Law "On Geographical Indications";
- Draft Law "On Industrial Designs";
- Draft Law "On the Legal Protection of the Topologies of Integrated Circuits";
- Draft Law "On Inventions" of 24 December 2003;

- Temporary Provision of the Republic of Tajikistan "On Inventions, Utility and Industrial Designs" of 1994;
- Regulation No. 251 of the Republic of Tajikistan on "Minimal Amount of Royalties for Publication of Works of Science, Literature, Art and Implementation of Orders for Creation of Dramatic, Musical and Musical Dramatic and Literary Works for Public Performance or for the Right of First Public Execution of Unpublished Works" of 1 July 1999;
- Resolution No. 252 of the Republic of Tajikistan on "Minimal Rates of Royalty for Performance of Literature and Art Works, Reproduction of Works in Sound (mechanical) Recording and Distribution of Copies of Sound Recordings and Audiovisual Works and Reproduction of Works of Fine Art and Replication of Decorative Applied Artworks Industrially" of 1 July 1999;
- Resolution No. 37 of the Republic of Tajikistan on "Minimal Rates of Royalty for Art and Graphic and Photographic Works for Press" of 4 February 2002;
- Resolution No. 533 "On Approval of Temporary Regulation On State Patent Fees" of 28 November 1994;
- Part III Section V of the Civil Code "On Intellectual Property";
- Government Resolution No. 185 "On Approval of the Decision on the Rules for Customs Control on the Transfer of Goods Containing Intellectual Property Objects across the Customs Border" of 30 April 2002;
- Law No. 170 "On Audit of the Republic of Tajikistan" of 3 March 2006; and
- Law No. 172 "On Geodesy and Cartography" of 3 March 2006.

ANNEX 2

Table 2: Privatization of State-Owned Enterprises

(a) Information on Privatization of State Property by Sector

	1991	1992 - 1999	2000	2001	2002	2003	2004	2005	2006	2007	Total
Industry	1	88	34	11	62	21	27	90	89	30	453
Construction	2	119	22	27	53	22	22	75	110	15	467
Transport and communications	0	47	15	16	49	26	41	79	81	20	374
Trade	9	1,403	107	71	84	78	60	42	42	19	1,915
Public catering	8	479	35	17	38	16	31	36	7	5	672
Consumer services	17	1,745	94	76	104	60	57	50	49	40	2,292
Public health	0	89	18	9	9	14	20	29	15	3	206
Social sector	0	263	40	36	38	31	50	41	18	11	528
Agriculture	0	444	81	49	91	69	162	182	308	440	1,826
Assets under construction/ incomplete construction	1	111	19	3	0	0	0	5	7	2	148
Other	1	560	181	102	102	84	66	41	78	72	1,287
TOTAL	39	5,348	646	417	630	421	536	670	804	657	10,168

(b) General Information on Privatization of State Property

	1991 - 2000	2001	2002	2003	2004	2005	2006	2007	2008	2009 (May)	Total
State Property Units											
Privatized	6,027	417	633	421	536	670	804	657	537	43	10,748
Of which: Small Enterprises											
Privatized	5,733	345	467	374	423	521	643	536	400	37	9,485
Of which: Medium-size and Large Enterprises											
Privatized	294	72	163	47	113	149	161	121	137	6	1,263

(c) Information on Privatized Enterprises by Sector
in Accordance with the Strategic Privatization Plan (2003-2007)

Sector	Total
Industry	124
Construction	93
Transport and communications	75
Trade	96
Public utilities	7
Consumer services	5
Public health	1
Agriculture	14
Other	4
Total	419

Table 3: Enterprises not yet Privatized

(a) List of Medium and Large Enterprises Not Privatized as of 1 April 2009

No.	Name	Region	Area	Section	Communal Property	State Share (per cent)	Collective Share	Year
1.	JV "Bunafsha"	Khatlon	Nurek city	industry	No	100		
2.	JV "Transformatorniy zavod"	Khatlon	Kurgan-tube city	industry	No	100		
3.	JV "RMZ"	DRS	Bahdat city	industry	No	100		
4.	JV "Shurobskoye SHSU"	Sogd	Isfara city	industry	No			
5.	JV "Proletarskiy RMZ"	Sogd	J. Rasulov dist.	industry	No			
6.	JV "Obyorii Dangara"	Khatlon	Dangara city	industry	No	100		
7.	JV "Matbuot"	Dushanbe	Dushanbe city	culture	No	100		
8.	JV "Kokinholi Kulob"	Khatlon	Kulob city	industry	No	100		
9.	JV "Charog"	Sogd	Isfara city	industry	No	100		
10.	JV "Angisht"	Sogd	Isfara city	industry	No	100		
11.	JV "Gidrosohtmon"	Khatlon	Farhor dist.	industry	No	100		
12.	JV "MNA-27"	Khatlon	Hamadoni dist.	transport	No	100		
13.	JV "Hotel Khujand"	Sogd	Chkalovsk city	service		51		
14.	JV "Madad"	DRS	Vahdat city	trade		100		

(b) Information on the Enterprises not Privatized According to the Strategic Privatization Plan by Sector (2009)

Sector	Total
Industry	11
Construction	-
Transport and communications	1
Trade	1
Public catering	-
Utility enterprises	-
Consumer services	1
Public health	-
Social sector	-
Agriculture	-
Other	-
Total	14

(c) Information on Privatization of Enterprises Trading on Behalf
of the Government or Granted Privileges not available to other firms

No.	Name	Privatization schedule	Notes
1.	State Unitary Company TAJIKGAS	To be determined.	Individual restructuring plan has been approved by Resolution No. 438 of the Government of the Republic of Tajikistan (27 August 2008). Currently in accordance with the individual restructuring plan and the Resolution of the Government of Tajikistan No. 81 of 2 February 2009, State Unitary Enterprise "Tajikgaz" has been transformed into Open Joint Stock Company "Tajiktransgaz".
2.	OJSC BARKI TOJIK	To be determined.	Individual restructuring plan is being prepared.
3.	OJSC NAFTRASON (former TAJIKNEFTEPRODUCT)	To be determined.	Removed from the Strategic Plan in accordance with Resolution of the Government of Tajikistan No. 232 of 3 May 2008.
4.	State Unitary Air Company TAJIK AIR (former State Unitary Air Company TOJIKISTON)	To be determined.	Individual restructuring plan has been approved by Resolution No. 175 of the Government of the Republic of Tajikistan (3 April 2007). Currently, in accordance with Resolution of the Government of Tajikistan No. 491 of 1 October 2009, State Unitary Aviation Enterprise "Tajik Air" has been divided into six independent enterprises: State Unitary Enterprise "International Airport Dushanbe", State Unitary Enterprise "International Airport Hodjent", State Unitary Enterprise "International Airport Kurgan-tyube", State Unitary Enterprise "International Airport Kulyab". In 2009 in accordance with the individual restructuring plan, it is envisioned to transform five enterprises into joint stock companies (State Unitary Aviation Enterprise "Tajik Air", State Unitary Enterprise "International Airport Dushanbe", State Unitary Enterprise "International Airport Hodjent", State Unitary Enterprise "International Airport Kurgan-tyube", State Unitary Enterprise "International Airport Kulyab").
5.	State Unitary Company ROKHI OUKHANI TOJIKISTON	To be determined.	Individual restructuring plan is under preparation.
6.	TADAZ	To be determined.	Individual restructuring plan is under preparation.
7.	State Unitary Company KHOUROKVORI	To be determined.	Individual restructuring plan is under preparation.
8.	JSC TOJIKTELECOM	In 2009, individual privatization draft plan for the JSC TOJIKTELECOM should be prepared in accordance with the individual restructuring plan.	Individual restructuring plan has been approved by Resolution No. 71 of the Government of the Republic of Tajikistan (3 January 2006).

Table 5(a): Goods and Services Subject to Activity Licensing

Licensed Activity	Authorized Government Agency	Legislative Framework
Activities, which involve electronic digital signatures and data protection	Head Office for Protection of State Secrets under the Government of the Republic of Tajikistan and its regional bodies in Gorno-Badakhshan Autonomous Oblast, in Soghd and Khatlon Oblasts	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Activities, which involve production of print media materials protected from forgery (including certified securities) and circulation of the above products	Ministry of Finance of the Republic of Tajikistan	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Activities of pawnbroker's offices	Ministry of Finance of the Republic of Tajikistan	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Audit activities	Ministry of Finance of the Republic of Tajikistan - audit of broker's boards, non-budgetary funds, investment companies, insurance companies and general audit; National Bank of Tajikistan - audit of banking organizations	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Valuation activities	State Committee for Investments and State Property Management of the Republic of Tajikistan	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Activities, which involve installation, repairs and maintenance of fire safety facilities for buildings and constructions	Ministry of Internal Affairs of the Republic of Tajikistan	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Activities, which involve selling of non-military and duty weapons, their major components and related ammunition	Ministry of Internal Affairs of the Republic of Tajikistan	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Activities, which involve maintenance and repairs of lifting devices, operation of explosion-hazardous and chemically hazardous industrial facilities	Head Office for State Surveillance of Safe Industrial Operations and Mines Inspectorate under the Government of the Republic of Tajikistan	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Activities, which involve expert examination of industrial safety	Head Office for State Surveillance of Safe Industrial Operations and Mines Inspectorate under the Government of the Republic of Tajikistan	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Activities, which involve production, storage, distribution and transportation of industrial explosives; production and distribution of pyrotechnic items	Head Office for State Surveillance of Safe Industrial Operations and Mines Inspectorate under the Government of the Republic of Tajikistan	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.

Licensed Activity	Authorized Government Agency	Legislative Framework
Activities in energy sector	Ministry of Energy and Industry of the Republic of Tajikistan; Agency for Construction and Architecture under the Government of the Republic of Tajikistan - works to assemble, adjust and repair power facilities	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Construction activities	Agency for Construction and Architecture under the Government of the Republic of Tajikistan	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Geodesy and cartography activities	Agency for Land Management, Geodesy and Cartography under the Government of the Republic of Tajikistan; Agency for Construction and Architecture under the Government of the Republic of Tajikistan - construction works	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Mine-surveying activities	Head Office for State Surveillance of Safe Industrial Operations and Mines Inspectorate under the Government of the Republic of Tajikistan	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Activities in hydrometeorology and related sectors including proactive management of hydro-meteorological and geophysical processes and phenomena	Ministry of Agriculture and Conservation of Nature of the Republic of Tajikistan	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Activities, which involve collection, use, transportation and disposal of hazardous waste	Office for State Surveillance of Environmental Management and Conservation of Nature	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Pharmaceutical activities; production of means of disinfection, desinsection and deratization	Unit for State Surveillance of Pharmaceutical and Medical Activities (having the status of Service)	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Activities, which involve maintenance of medical equipment and dealing with agents of infectious diseases	Ministry of Health of the Republic of Tajikistan	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Activities, which involve gathering of medical plants and procurement of crude drugs	Unit for State Surveillance of Pharmaceutical and Medical Activities (having the status of Service)	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Private medical practice	Unit for State Surveillance of Pharmaceutical and Medical Activities (having the status of Service)	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.

Licensed Activity	Authorized Government Agency	Legislative Framework
Activities, which involve cultivation of drug-containing plants for research, development of new narcotic drugs and psychotropic substances; activities, which involve legal circulation of narcotic drugs, psychotropic substances and precursors	Unit for State Surveillance of Pharmaceutical and Medical Activities (having the status of Service) - activities, which involve legal circulation of narcotic drugs, psychotropic substances and precursors used in health sector; Drug Control Agency under the President of the Republic of Tajikistan - activities, which involve legal circulation of precursors	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Activities, which involve the use of ionizing radiation (generating) sources and radioactive agents	Academy of Sciences of the Republic of Tajikistan	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Land transport operations	State Office for Surveillance and Regulation in Transport Sector	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Air transport operations	State Office for Surveillance and Regulation in Transport Sector	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Activities, which involve setting up and management of pari-mutuels and gambling establishments	Ministry of Finance of the Republic of Tajikistan	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Touring activities	Committee for Youth Affairs, Sports and Tourism under the Government of the Republic of Tajikistan	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Activities of patent solicitors	Ministry of Economic Development and Trade of the Republic of Tajikistan	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Activities, which involve processing and disposal/selling of ferrous and nonferrous metal scrap and waste	Ministry of Energy and Industry of the Republic of Tajikistan	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Activities related to employment of nationals of the Republic of Tajikistan outside the Republic of Tajikistan and of foreign nationals within the Republic of Tajikistan	Ministry of Internal Affairs of the Republic of Tajikistan (Resolution No. 518 of the Government of the Republic of Tajikistan, 1 October 2007)	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Private veterinary practice	Office for State Veterinary Surveillance	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Activities, which involve production, imports, and exports of tobacco goods	Ministry of Energy and Industry of the Republic of Tajikistan	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Proctor activities	Ministry of Justice of the Republic of Tajikistan	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Activities in education sector	Ministry of Education of the Republic of Tajikistan	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.

Licensed Activity	Authorized Government Agency	Legislative Framework
Activities, which involve circulation of precious metals and precious stones	Ministry of Energy and Industry of the Republic of Tajikistan - processing of scrap and waste of precious metals for end products; affintage of precious metals; recuperation of precious stones; Ministry of Finance of the Republic of Tajikistan - buying-up from public of jewellery and other items made of precious metals and precious stones and related scrap for distributive industries	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Activities, which involve TV and radio broadcasting and production of artworks on audio-visual media	Committee for TV and Radio Broadcasting under the Government of the Republic of Tajikistan	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Activities, which involve purchase, sale, use and disposal of ozone layer depleting substances and goods containing the ones; all operations related to installation, maintenance and repairs of equipment in which ozone layer depleting substances are used	Office for State Surveillance of Environmental Management and Conservation of Nature	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Activities of non-governmental pension funds	Ministry of Finance of the Republic of Tajikistan	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Broker activities	Ministry of Finance of the Republic of Tajikistan	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Insurance activities	Ministry of Finance of the Republic of Tajikistan	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Activities of professional securities market players	Ministry of Finance of the Republic of Tajikistan	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Activities of lending organizations (including non-banking organizations)	National Bank of Tajikistan	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Activities, which involve production and circulation of ethanol, alcohol and spirituous items	Ministry of Energy and Industry of the Republic of Tajikistan	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Activities in telecommunications	State Office for Surveillance and Regulation in Telecommunications and IT	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.

Licensed Activity	Authorized Government Agency	Legislative Framework
Activities, which involve the use of mineral resources	Government of the Republic of Tajikistan (executive licensing authority - Head Geological Office under the Government of the Republic of Tajikistan - geological prospecting, valuation and exploration works and collection of mineralogical, paleontological and geological materials; Ministry of Energy and Industry of the Republic of Tajikistan - extraction of oil, gas and coal; the use of minerals and non-minerals including waste of rock constituents and their processing); Ministry of Energy and Industry of the Republic of Tajikistan - the use of widespread mineral resources	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Activities, which involve the use of endangered species of flora and fauna entered on the Red List of the Republic of Tajikistan	Office for State Surveillance of Environmental Management and Conservation of Nature	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.
Activities, which involve works and services in the use of nuclear energy	Academy of Sciences of the Republic of Tajikistan	Resolution on the Approval of the Regulation on the Key Elements of Licensing Certain Activities.

Table 5(b): Imported Goods subject to Activity Licensing

Code	Description	Issuing Authority	Licensing Procedure
1302 11 000 0	Opium	Ministry of Health	<p>Additional documents:</p> <ul style="list-style-type: none"> - Opinion of appropriate authorities of the interior about the possibility of storing narcotic and psychotropic substances in the facilities for implementation of the proposed activity; - Statement from authorities of the interior about clean record of persons having access to narcotic and psychotropic substances; - Statement from the narcology service with regard to persons having access to narcotic and psychotropic substances; - Order of the head of the institution about appointment of persons having access to narcotic and psychotropic substances; - Copies of diplomas of persons having access to narcotic and psychotropic substances; and - In case of proposed cultivation of drug-containing plants for scientific purposes as well as development of new narcotic and psychotropic substances a positive expert report from the Academy of Sciences of the Republic of Tajikistan about expedience of conducting that particular activity is required.
220300	Malt beer	Ministry of Agriculture	<p>No additional documents except for those indicated in the Regulation No. 172 of 3 April 2007.</p> <p>A licensing fee in the amount of 76 minimal wages for each year of the licence period is charged for issuance of a licence to organization engaged in production and turnover of ethyl alcohol, alcoholic beverages and spirit-based goods irrespective of forms of ownership. A licensing fee in the amount of 12 minimal wages for each year of the licence period is charged for issuance of a licence to organizations (irrespective of organizational</p>
2204	Grape wines, natural wines, including fortified; stum, except for mentioned in merchandise position 2009 (including wine materials)		
2205	Vermouths and natural wines, other wines with vegetation and aromatic substances		
2206 00	Other fermented drinks (for example, cider, pear cider, and honey drink); mixes from fermented drinks, and mixes from fermented drinks and soft drinks not listed somewhere else;		
2207	Ethyl non-denatured alcohol with ethyl concentration of no less than 80% or more; ethyl alcohol and other denatured alcohols of any concentration;		

Code	Description	Issuing Authority	Licensing Procedure
2207 10 000 0	Ethyl non-denatured alcohol with ethyl concentration of no less than 80% or more		and legal form) and individual entrepreneurs engaged in retail trade of alcoholic beverages and spirit-based goods.
2207 20 000 0	Ethyl alcohol, other denatured alcohols of any concentration		
2208	Ethyl non-denatured alcohol with ethyl concentration of no less than 80%; alcohol liqueurs, liqueurs, and other alcoholic drinks		
2939 91 110 0	unrefined cocaine	Ministry of Health	<p>Additional documents:</p> <ul style="list-style-type: none"> - Opinion of appropriate authorities of the interior about the possibility of storing narcotic and psychotropic substances in the facilities for implementation of the proposed activity; - Statement from authorities of the interior about clean record of persons having access to narcotic and psychotropic substances; - Statement from the narcology service with regard to persons having access to narcotic and psychotropic substances; - Order of the head of the institution about appointment of persons having access to narcotic and psychotropic substances; - Copies of diplomas of persons having access to narcotic and psychotropic substances; and - In case of proposed cultivation of drug-containing plants for scientific purposes as well as development of new narcotic and psychotropic substances a positive expert report from the Academy of Sciences of the Republic of Tajikistan about expedience of conducting that particular activity is required.
2939 11 000 0	concentrates from poppy straws; buprenorphine (INN), codeine, dihydrocodeine (INN), ethylmorphine, ethorphine (INN), heroin, hydrocodone (INN), hydromorphone (INN), morphine, nicomorphine (INN), oxycodone (INN), oxymorphone (INN), folcodine (INN), tebacone (INN), and tebaine; salts of these compounds;		
2939 91	cocaine, ecgonine, levometamphethamine, metamphethamine (INN), metamphethamine racemate; salts, esters, and other derivative substances; cocaine and its salts;		
2922 14 000 0	dextropropoxiphene (INN) and it salts		
2922 31 000 0	amphepamone (INN), metadone (INN), and normetadone (INN); salts of these compounds;		
2922 44 000 0	Tilidine (INN) and its salts		
2926 30 000 0	phenoproporex (INN) and its salts; metadone (INN) -an interim product (4-cyano-2-dimethylamino-4.4-diphenylbutane);		
2933 33 000 0	alfentanil (INN), anileridine (INN), bezitramide (INN), bromazepam (INN), diphenoxine (INN), diphenoxilate (INN), dipipanone (INN), fentanyl (INN), ketobemidone (INN), methylphenidate (INN), pentazocine (INN), pethidine (INN), pethidine (INN) - an interim A product, phencyclidine (INN) (PCP), phenoperidine (INN), pipradrol (INN), piritramide (INN), propirame (INN), and trimeperidine (INN); salts of these compounds;		
2933 11 100 0	propiphenazone (INN)		
2915 24 000 0	acetic anhydride		
2922 43 000 0	anthranil acid and its salts		
2914 11 000 0	Acetone		
2924 29	others: (acetylanthranyl acid)		
2924 29 100 0	lidocaine (INN)		
2924 29 300 0	paracetamol (INN)		
2932 91 000 0	Isosafrole		
2939 63 000 0	lysergic acid and its salts		

Code	Description	Issuing Authority	Licensing Procedure
2932 92 000 0	1-(1.3-benzodioxole-5-il) propane-2-on		
2914 12 000 0	butanone (methyl ethyl ketone)		
2933 32 000 0	piperidine and its salts		
2932 93 000 0	Piperonal		
2841 61 000 0	potassium permanganate		
2939 42 000 0	pseudoephedrine (INN) and its salts		
2932 94 000 0	Safrole		
2807 00 100 0	sulphuric acid		
2806 10 100 0	hydrogen chloride (hydrochloric acid)		
2902 30	Toluol		
2916 34 000 0	phenylacetic acid and its salts		
2914 31 000 0	phenylacetone (phenylpropane-2-on)		
2939 41 000 0	ephedrine and its salts		
2939 61 000 0	ergometrine (INN) and its salts		
2939 62 000 0	ergotamine (INN) and its salts		
2909 11 000 0	Diethyl ether		

Table 7: Excise Rates effective 1 May 2003

Merchandise Codes in Accordance with Merchandise Nomenclature for Euroasian Economic Community (EurAzES) Foreign Economic Activities	Merchandise	Excise Rate in % of Value or in Euro per Product Unit
GROUP 22		
220300	Malt beer	Euro 0.05 per litre
2204	Grape wines, natural wines, including fortified; stum, except for mentioned in merchandise position 2009; Except for:	Euro 0.07 per litre
2204 10 110 0	Champagne	Euro 0.50 per litre
2204 10 190 0	Other champagne	Euro 0.50 per litre
2204 10 910 0	Asti Spumante	Euro 0.20 per litre
2204 10 990 0	Other	Euro 0.20 per litre
2205	Vermouths and natural grapes wines, other wines with addition of vegetable and aromatic extracts;	Euro 0.07 per litre
2207	Ethyl non-denatured alcohol with alcohol concentration of no less than 80%; ethyl alcohol and other denatured alcohols of any concentration;	Euro 0.50 per litre
2208	Ethyl non-denatured alcohol with alcohol concentration of no less than 80%; alcohol liqueurs, liqueurs, and other alcoholic drinks; Except for:	Euro 0.30 per litre
220820120 0	Cognac	Euro 1.20 per litre
220860	Vodka	Euro 0.56 per litre
220890	Others:	Euro 0.56 per litre
	Tajik vodka "Arak"	
GROUP 24		
2401	Tobacco raw materials and tobacco waste; Except for:	0
From 2401	Tobacco raw materials and fermented tobacco waste;	Euro 0.09 per kg
2402	Cigars, cigars with cut ends, cigarillos (thin cigars), and cigarettes from tobacco or its substitutes;	Euro 0.60 per 1,000 pieces
240220	Filter-tipped cigarettes containing tobacco;	Euro 0.75 per 1,000 pieces
240220	Cigarettes without filter containing tobacco;	Euro 0.34 per 1,000 pieces
2403	Other industrially produced tobacco, "homogenized" or "restored"; tobacco extracts and essence;	10%
GROUP 27		
270900	Raw oil and raw oil products generated from bituminous minerals:	0
2710	Oil and raw oil materials generated from bituminous minerals, excluding raw materials; products not named anywhere containing 70% or oil products generated from bituminous minerals, which are the main compounds; Except for:	Euro 40 per ton

Merchandise Codes in Accordance with Merchandise Nomenclature for Euroasian Economic Community (EurAzES) Foreign Economic Activities	Merchandise	Excise Rate in % of Value or in Euro per Product Unit
	Motor gasoline:	
2710 11 310 0	aviation gasoline	Euro 50 per 1,000 litres
2710 11 410 0	with octane level lower than 95	Euro 50 per 1,000 litres
2710 11 450 0	with octane level 95 or higher, but no higher than 98	Euro 50 per 1,000 litres
2710 11 490 0	with octane level 98 or higher	Euro 50 per 1,000 litres
2710 11 510 0	with octane level lower than 98	Euro 50 per 1,000 litres
2710 11 590 0	with octane level 98 or higher	Euro 50 per 1,000 litres
2710 11 700 0	jet engine fuel	Euro 50 per 1,000 litres
2710 11 900 0	light distillates other	Euro 50 per 1,000 litres
	Medium distillates: Kerosene:	
2710 19 210 0	jet engine fuel	Euro 20 per 1,000 kilos
2710 19 250 0	Other	Euro 20 per 1,000 kilos
2710 19 290 0	Others	Euro 20 per 1,000 kilos
	Heavy distillates: Gas-oil (diesel fuel):	
2710 19 310 0	For specific processing processes	Euro 6.6 per 1,000 kilos
2710 19 350 0	For chemical transformation in processes except for mentioned in 2710 19 310 0	Euro 6.6 per 1,000 kilos
2710 19 410 0	With sulphur content of no more than 0.05%	Euro 6.6 per 1,000 kilos
2710 19 450 0	With sulphur content of more than 0.05% and no more than 0.2%	Euro 6.6 per 1,000 kilos
2710 19 490 0	With sulphur content of more than 0.2%	Euro 6.6 per 1,000 kilos
	Liquid fuels (black oil fuel):	
2710 19 510 0	For specific processing processes	0
2710 19 550 0	For chemical conversion in processes, except for mentioned in 2710 19 510 0	0
2710 19 610 0	With sulphur content of no more than 1%	0
2710 19 630 0	With sulphur content of more than 1% but no more than 2%	0
2710 19 650 0	With sulphur content of more than 2% but no more than 2.8%	0
2710 19 690 0	With sulphur content of more than 2.8%	0
GROUP 40 - RUBBER AND GOODS		
4011	Tires, pneumatic rubber, new: Except for:	10%
401130	For use in aviation	0
401140	For motorcycles	0
401150 000 0	For bicycles	0
	Others with protector with herring-bone pattern or analogous protectors;	0
401199 000 0	Other:	0
4012	Tires, pneumatic rubber new, restored or used; tires, solid or semi-pneumatic; interchangeable tire protectors and rubber rim strips; Except for:	10%

Merchandise Codes in Accordance with Merchandise Nomenclature for Euroasian Economic Community (EurAzES) Foreign Economic Activities	Merchandise	Excise Rate in % of Value or in Euro per Product Unit
	Pneumatic rubber tires restored on the territory of the Republic of Tajikistan	5%
401213100 0	For civil aviation	0
401220100 0	For civil aviation	0
GROUP 87		
8703	Cars and other motor transport vehicles to carry passengers (except for vehicles mentioned in merchandise position 8702), including cargo-passenger vans and racing cars.	10%

Notes:

1. Goods classification is given in accordance with Merchandise Nomenclature for Euroasian Economic Community (EurAzES) Foreign Economic Activities.
2. Excise calculated in Euro is paid in national currency on the exchange rate of the National bank of Tajikistan on the day of receipt of cargo customs declaration or release of goods.

Table 8: Non-tariff Measures Applied on Importation of Goods to Tajikistan

CC FEA	Commodity description	Type of measure	Responsible authorities	Legislation	WTO justification
01, 02, 03, 04, 05, 15	Live animals, animal products, foodstuff	Veterinary certificate	Department of State Veterinary Control, Ministry of Agriculture	Law No. 73 "On Veterinary" of 8 December 2003	Agreement on the Application of Sanitary and Phytosanitary Measures.
13, 16	Foodstuff, food additives, raw produce, as well as their contacting materials, products and production technology	Certificate	Ministry of Health	Law No. 49 "On Sanitary-Epidemiological Security of Population" of 8 December 2003	Protection of human health (GATT 1947, Article XX).
	Foodstuff, materials and products imported to Tajikistan for the first time	State registration	Ministry of Health and Ministry of Agriculture	Law of the Republic of Tajikistan on Quality and Security of Foodstuff	Protection of human health (GATT 1947, Article XX).
06, 07, 08, 09, 10, 11, 12, 14, 15	Vegetable products	Import Quarantine Permission (IQP), Phytosanitary certificate	State Inspection on Plant Quarantine of the Ministry of Agriculture	Law No. 25" On Plant Quarantine" of 12 May 2001	Agreement on the Application of Sanitary and Phytosanitary Measures; Plant protection (GATT 1947, Article XX).
2939	Import of narcotic and psychotropic substances and precursors	Non-Automatic Licence	Ministry of Health	Law No. 37"On Licensing of Separate Types of Activities", Regulation No. 172 of 3 April 2007	Protection of human health (GATT 1947, Article XX).
2203, 2204, 2205, 2206, 2207, 2208	Import of alcohol and ethyl alcohol	Non-Automatic Licence /quota	Ministry of Energy and Industry	Regulation No. 172 of 3 April 2007	Protection of human health (GATT 1947, Article XX).
30	Importation of medical goods	Automatic Licence	Ministry of Health	Regulation No. 172 of 3 April 2007	Protection of human health (GATT 1947, Article XX).
28	Importation of poisonous substances, chemical agents for protection of plants, mineral, non-organic and organic fertilizer, ozone-harmful substances	Permission	State Committee on Ecology and Forestry Protection	Law of the Republic of Tajikistan "On Protection of Nature"	Protection of human and plant health (GATT 1947, Article XX).
85	Import of radio-electronic facilities and high-frequency devices	Permission	Ministry of Communication	Resolution No. 371 of the Council of Ministers of the Republic of Tajikistan of 1 August 1994	Protection of national security (GATT 1947, Article XXI).
2844, 28401	Import of uranium and other radioactive chemical elements and radioactive isotopes (including the fissile or fertile chemical elements and isotopes) and their compounds; mixtures and residues containing these products.	Government Decision	Government of the Republic of Tajikistan	Resolution No. 111 of the Government of the Republic of Tajikistan of 19 February 1997	Protection of national security GATT 1947, Article XXI.
3601-3604	Import of powders, explosives and their waste	Government Decision	Government of the Republic of Tajikistan	Resolution No. 111 of the Government of the Republic of Tajikistan of 19 February 1997	Protection of national security GATT 1947, Article XXI.

CC FEA	Commodity description	Type of measure	Responsible authorities	Legislation	WTO justification
8710, 8802, 8803, 8804, 8805	Importation of armament and military equipment, their compounds for production, works and services in the field of military-technical cooperation	Government Decision	Government of the Republic of Tajikistan	Resolution No. 111 of the Government of the Republic of Tajikistan of 19 February 1997	Protection of national security GATT 1947, Article XXI.
4901, 4905, 4906	Importation of normative-technical documentation to the products of military purposes (construction and operational)	Government Decision	Government of the Republic of Tajikistan	Resolution No. 111 of the Government of the Republic of Tajikistan of 19 February 1997	Protection of national security GATT 1947, Article XXI.
9301 9307	Importation of official and civil weapons	Government Decision	Government of the Republic of Tajikistan	Resolution No. 111 of the Government of the Republic of Tajikistan of 19 February 1997	Protection of national security GATT 1947, Article XXI.
6201-6208, 6214, 3217	Importation of military clothing and their accessories	Government Decision	Government of the Republic of Tajikistan	Resolution No. 111 of the Government of the Republic of Tajikistan of 19 February 1997	Protection of national security GATT 1947, Article XXI.
4015, 4016, 6210	Import of means of protection from military chemical gases, its parts and accessories	Government Decision	Government of the Republic of Tajikistan	Resolution No. 111 of the Government of the Republic of Tajikistan of 19 February 1997	Protection of national security GATT 1947, Article XXI.
8471, 8473, 8548	Import of cryptographic devices (including cryptographic machines, its parts and accessories), normative-technical documentation to cryptographic devices	Government Decision	Government of the Republic of Tajikistan	Resolution No. 111 of the Government of the Republic of Tajikistan of 19 February 1997	Protection of national security GATT 1947, Article XXI.

Table 9: Non-tariff Measures Applied on Exportation of Goods from Tajikistan

CC FEA	Commodity Description	Type of Measure	Responsible Authority	Legislation	WTO Justification
01, 02, 03, 04, 05, 15	Live animals, animal products, foodstuff	Veterinary certificate	Department of State Veterinary Control of the Ministry of Agriculture	Law No. 73 of the Republic of Tajikistan on Veterinary of 8 December 2003	Agreement on the Application of Sanitary and Phytosanitary Measures.
06, 07, 08, 09, 10, 11, 12, 14, 15	Vegetable products	Import Quarantine Permission (IQP), Phytosanitary certificate	State Inspection on Plant Quarantine of the Ministry of Agriculture	Law No. 25 of the Republic of Tajikistan on Plant Quarantine of 12 May 2001	Agreement on the Application of Sanitary and Phytosanitary Measures. Plant protection (Article XX GATT).
2939	Narcotic and psychotropic substances and precursors	Government permission	Government of the Republic of Tajikistan	Resolution No. 111 of the Government of the Republic of Tajikistan of 19 February 1997	Article XX(b) of GATT.
2203, 2204, 2205, 2206, 2207, 2208	Alcohol and ethyl alcohol	Licence	SUE "Khurokvori", Ministry of Agriculture of the Republic of Tajikistan	Resolution No. 337 of the Government of the Republic of Tajikistan of 1 September 2005	Article XX(b) of GATT.
30	Exportation of medical goods	Licence	Ministry of Health of the Republic of Tajikistan	Resolution No. 337 of the Government of the Republic of Tajikistan of 1 September 2005	Article XX(b) of GATT.
74, 75, 76, 78, 79, 80	Ferrous and nonferrous scrap	Licence	Ministry of Energy and Industry	Resolution No. 172 of the Republic of Tajikistan of 3 April 2007	Article XX(d) of GATT.
	Cultural valuables	Certificate	Ministry of Culture of the Republic of Tajikistan	Law of the Republic of Tajikistan on Import and Export of Cultural Valuables	Protection of national treasures of artistic, historical and archaeological value, GATT Article XX.
	Work of art, Articles of collection and antiquaries of significant art, historical, scientific or cultural value	Government resolution	Government of the Republic of Tajikistan	Resolution No. 111 of the Government of the Republic of Tajikistan of 19 February 1997	Protection of national treasures of artistic, historical and archaeological value, GATT Article XX.
28	Exportation of poisonous substances, chemical agents for protection of plants, mineral, non-organic and organic fertilizer, ozone-harmful substances	Permission	State Committee of Ecologic and Forestry Protection of the Republic of Tajikistan	Law of the Republic of Tajikistan on Protection of Nature	Article XX(b) of GATT.

CC FEA	Commodity Description	Type of Measure	Responsible Authority	Legislation	WTO Justification
	Hunting trophies	Permission	State Committee of Ecologic and Forestry Protection of the Republic of Tajikistan	Law of the Republic of Tajikistan on Protection of Nature	Article XX(b) of GATT.
93	Trade in arms and main parts of firearms; Trade in ammunition	Licence	Ministry of Internal Affairs of the Republic of Tajikistan	Resolution No. 337 of the Government of the Republic of Tajikistan of 1 September 2005	Article XXI of GATT.
	Export of civil arms by physical persons	Permission	Internal affairs bodies of the Republic of Tajikistan		Article XXI of GATT.
	Export of monetary valuables	Permission	Authorized Bank of Tajikistan		
2844, 8401	Export of uranium and other radioactive chemical elements and radioactive isotopes (including the fissile or fertile chemical elements and isotopes) and their compounds; mixtures and residues containing these products.	Government Decision	Government of the Republic of Tajikistan	Resolution No. 111 of the Government of the Republic of Tajikistan of 19 February 1997	Article XXI of GATT.
3601-3604	Export of powders, explosives and their waste	Government Decision	Government of the Republic of Tajikistan	Resolution No. 111 of the Government of the Republic of Tajikistan of 19 February 1997	Article XXI of GATT.
8710, 8802, 8803, 8804, 8805, except for civil use 9301, 9307	Exportation of armament and military equipment, their compounds for production, works and services in the field of military-technical cooperation	Government Decision	Government of the Republic of Tajikistan	Resolution No. 111 of the Government of the Republic of Tajikistan of 19 February 1997	Article XXI of GATT.
4901, 4905, 4906	Exportation of normative-technical documentation to the products of military purposes (construction and operational)	Government Decision	Government of the Republic of Tajikistan	Resolution No. 111 of the Government of the Republic of Tajikistan of 19 February 1997	Article XXI of GATT.
9301	Exportation of official and civil weapons	Government Decision	Government of the Republic of Tajikistan	Resolution No. 111 of the Government of the Republic of Tajikistan of 19 February 1997	Article XXI of GATT.
6201-6208, 6214, 3217	Exportation of military clothing and their accessories	Government Decision	Government of the Republic of Tajikistan	Resolution No. 111 of the Government of the Republic of Tajikistan of 19 February 1997	Article XXI of GATT.

CC FEA	Commodity Description	Type of Measure	Responsible Authority	Legislation	WTO Justification
4015, 4016, 6210	Export of means of protection from military chemical gases, its parts and accessories	Government Decision	Government of the Republic of Tajikistan	Resolution No. 111 of the Government of the Republic of Tajikistan of 19 February 1997	Article XXI of GATT.
8471, 8473, 8548	Export of cryptographic devices (including cryptographic machines, its parts and accessories), normative-technical documentation to cryptographic devices	Government Decision	Government of the Republic of Tajikistan	Resolution No. 111 of the Government of the Republic of Tajikistan of 19 February 1997	Protection of National Security (GATT 1947, Article XX).

Table 13: Fees for Intellectual Property Protection

(a) Fees for Patenting Inventions

Actions for which Fees are Charged	For Nationals of Tajikistan (in Minimum Salary)	For Foreign Persons, US\$
Filing a patent application	0.2	50
Amendments on the volition of the applicant	0.1	10
Examination of an application as to substance	1.0	410 (a reduction of the fee by 20 and 50% is provided)
Changes in invention formula on the volition of the applicant	0.2	80
Publication of the application	0.8	200
Lodging an appeal before the Appeal Board:		
- against a decision of refusal as a result of examination as to form	0.3	60
- against a decision of refusal as a result of examination as to substance	0.8	400
Grant of a patent	0.8	200
Registration of a licence agreement	3.8	60

(b) Fees for the Maintenance of a Patent for Invention

Years	For Nationals of Tajikistan (in Minimum Salary)	For Foreign Persons, US\$
3-4	0.2	50
5-6	0.3	80
7-8	0.4	100
9-10	0.5	150
11-12	0.9	230
13-14	1.2	300
15-16	1.5	400
17-18	1.5	400
19-20	2.0	500

(c) Fees for Patenting Utility Models

Actions for which fees are charged	For nationals of Tajikistan (in minimum salary)	For foreign persons, US\$
Filing a utility model application	0.1	30
Amendments on the volition of the applicant	0.1	10
Publication of the application	0.8	200
Grant of a certificate for a utility model	0.8	200
Registration of a licence agreement	3.8	60

(d) Fees for the Maintenance of a Certificate of the Registration of a Utility Model

Years	For nationals of Tajikistan (in Minimum Salary)	For Foreign Persons, US\$
1-2	0.1	30
3	0.2	50
4-5	0.3	80

(e) Fees for Patenting of an Industrial Design

Actions for which Fees are Charged	For Nationals of Tajikistan (in Minimum Salary)	For Foreign Persons, US\$
Filing a patent application	0.2	30
Amendments on the volition of the applicant	0.1	20
Examination of an application as to substance	0.4	210 (a reduction of the fee by 20 and 50% is provided)
Lodging an appeal before the Appeal Board:		
- against a decision of refusal as a result of examination as to form	0.3	60
- against a decision of refusal as a result of examination as to substance	0.8	400
Grant of a patent for an industrial design	0.4	200
Registration of a licence agreement	3.8	60

(f) Fees for the Maintenance of a Patent for an Industrial Design

Years	For Nationals of Tajikistan (in Minimum Salary)	For Foreign Persons, US\$
3-4	0.2	50
5-6	0.3	80
7-8	0.4	100
9-10	0.6	150

(g) Fees for Renewal of a Patent for an Industrial Design

Years	For Nationals of Tajikistan (in Minimum Salary)	For Foreign Persons, US\$
1-2	0.6	150
3-5	0.8	200

(h) Fees for the Registration of a Trademark and Service Mark

Actions for which Fees are Charged	For Nationals of Tajikistan (in Minimum Salary)	For Foreign Persons, US\$
Filing application for registration	1.0	160
Lodging an appeal before the Appeal Board:		
- against a decision of refusal to accept an application	0.6	100
- against a decision of refusal to register a trademark	1.6	350
- against the registration of a trademark	3.2	650
- registration of a trademark	1.6	250
Entry of amendments in the State Register	0.4	60
Registration of a licence agreement	7.6	120
Registration of an agreement on assignment of a certificate	12.6	100
Renewal of the registration	3.2	500

(i) Fees for The Registration of an Appellation of Origin and Grant the Right to use them

Actions for which Fees are Charged	For Nationals of Tajikistan (in Minimum Salary)	For Foreign Persons, US\$
Filing application for grant of a certificate	0.8	110
Lodging an appeal before the Appeal Board:		
- against a decision of refusal as a result of examination as to form	0.6	100
- against a decision of refusal to register an appellation of origin and grant the right to use them	1.6	350
- against a registration of an appellation of origin and grant the right to use them	3.2	650
Grant of a certificate of the right to use an appellation of origin	1.6	250
Entry of amendments in the State Registry	0.4	60
Renewal of a certificate of the right to use an appellation of origin	3.2	500

(j) Copyright Fees Related to the Official Registration of Literature, Science and Arts Works

Types of Works	For Nationals of Tajikistan (in Somoni)	For Foreign Nationals US\$
Fiction, scientific-technical and political literature, textbooks, etc.	3-9	50
Musical compositions in notation form	4-12	70
Graphics	4-12	100
Calendars, crosswords, etc.	2-6	50
Audiovisual works	4-12	70
Software and database	5-15	100