

**DRAFT REPORT OF THE WORKING PARTY ON
THE ACCESSION OF BULGARIA**

Revision

1. At its meetings on 5-6 November 1986 and 20 February 1990, respectively, the Council established a Working Party to examine the application of the Government of Bulgaria to accede to the General Agreement under Article XXXIII and to submit to the Council recommendations which might include a draft Protocol of Accession. It was understood that in its examination, the Working Party would consider the compatibility of Bulgaria's foreign trade regime with the General Agreement with regard *inter alia*, to the provisions concerning national treatment, non-discrimination, State-trading, subsidies and safeguards. On 11 April 1995, the Government of Bulgaria advised that it had decided to negotiate the terms of accession of the Republic of Bulgaria to the Agreement Establishing the World Trade Organization (hereinafter referred to as the "WTO") under Article XII of the Agreement. In pursuance of the decision adopted by the General Council on 31 January 1995, the Working Party on the Accession of Bulgaria to the GATT 1947 was transformed into a WTO Accession Working Party.

2. The Working Party met on 15-16 July 1991, 12-13 July 1993, 4-5 November 1993, 28-29 March 1994, 7-8 July 1994, 5 and 7 July 1995, 10 and [29] July 1996 under the chairmanship of H.E. Mr. E.C. Selmer (Norway). The terms of reference and the membership of the Working Party are set out in document WT/L/58.

3. The Working Party had before it, to serve as a basis for its discussion, the Memoranda on Bulgaria's Foreign Trade Regime (L/6364 and Corr.1 and Add.1, L/6512, L/6880 and Add.1-5, L/7244) and the questions submitted by members on the foreign trade regime of Bulgaria together with the replies of the Bulgarian authorities thereto (L/6867, L/7309/Rev.1, L/7309/Rev.1/Add.1 and WT/SPEC/12). In addition, the Government of the Republic of Bulgaria made available to the Working Party the following material:

- * Constitution of the Republic of Bulgaria, adopted in 1991
- * Law on Commerce, adopted in 1991
- * Law on the Ownership and the Use of Agricultural Lands, adopted 1991

- * Law on Accountancy, adopted in 1991
- * Law on Value Added Tax, adopted in 1993
- * Law on the Excise Duties, adopted in 1994
- * Law on the Protection of Competition, adopted in 1991
- * Law on the Bulgarian National Bank, adopted in 1991
- * Law on the Economic Activity of Foreign Persons and on the Protection of Foreign Investments, adopted in 1992
- * Law on Transformation and Privatization of State-owned and Municipal Enterprises, adopted in 1992
- * Law on Banks and Credit Activity, adopted in 1992
- * Patent Law, adopted in 1993
- * Law on Copyright and neighbouring rights, adopted in 1993
- * Tax Administration Law, adopted in 1993
- * Tax Procedure Law, adopted in 1993
- * Act on the Settlement of Non-Performing Loans Contracting Prior to 31 December 1990, adopted in 1993
- * The Tobacco and the Tobacco Products Act, adopted in 1993
- * Customs Tariff of the Republic of Bulgaria, in force from 1 July 1992
- * The Bulgarian foreign trade regime under Ordinance 241 of December 1993 of the Council of Ministers
- * Regulations 180/1993 and 181/1993 on safeguard measures and on protection against dumped and subsidized imports
- * Bulgarian 1992 import statistics
- * Information on progress of the privatization process of State and Municipal Enterprises by 28 February 1994.
- * Information concerning companies offered for privatization
- * Information concerning the consistency of the foreign trade regime with the WTO Multilateral Trade Agreements
- * Note on Trade Related Aspects of Intellectual Property Rights
- * Note on services régime

General Statements

4. In his initial introductory statements to the Working Party, the representative of Bulgaria noted that the accession to GATT 1947 was a priority for his Government and an important objective of the reform programme currently under way in Bulgaria with the whole-hearted support of the new democratic structures in place since 1991. Later on, prior to the conclusion of the Uruguay Round, he emphasized Bulgaria's intent to become a full fledged member of the WTO preferably at the same time and on the same bases as the original members. He stressed that the Bulgarian economy was in transition. Since 1991 his Government had pursued decidedly the transformation to a market economy through a far reaching process of structural adjustment and liberalization which needed the firm support of the international community. Even though in 1992 GDP per capita was only US\$983, Bulgaria had chosen not to claim developing country status on the expectation that members could recognize this position as a significant contribution on the part of Bulgaria towards full participation in the multilateral trading system. He added that in 1993 due to the considerable liberalization of the Bulgarian foreign

trade regime and to the absence of trade policy instruments to deal with the importation of goods in such increased quantities and under such conditions as to cause or threaten to cause serious injury to domestic producers, the Government had had to introduce, as a temporary measure, a system of reference import prices affecting some agricultural imports. This measure aimed at preventing distortions in the domestic market in the meat, fresh fruit and vegetable sector resulting from the importation of heavily subsidized agricultural production. Bulgaria would align these measures with the Agreement Establishing the WTO's requirements upon Bulgarian accession. In the case of imports of beverages and tobacco products the measure was aimed at avoiding under invoicing. Since the earlier meetings of the Working Party, the description and the established levels of export taxes for some tariff lines had been changed; the quota amount for ice cream had been increased by 50 per cent; two eight-digit tariff lines had been introduced in the Bulgarian Customs Tariff. He also stated that Bulgaria was presently in a difficult economic situation. This was partly due to the unresolved debt to the private banks and partly to the severe repercussions in the Bulgarian economy of the trade and economic sanctions against Serbia and Montenegro. In observing the UN Security Council embargo against Serbia and Montenegro, Bulgaria had suffered huge direct and indirect losses. Bulgaria considered that the prompt conclusion of the proceedings of accession to the Agreement Establishing the WTO would represent in a way an indirect compensation for some of these losses. Noting that the Bulgarian economy and foreign trade were undergoing profound transformations, he said that this process would continue with additional structural adjustment measures to avoid internal economic and social tensions. Bulgaria considered the accession to the Agreement Establishing the WTO as a very important stage in the adjustment process of the Bulgarian economy to the principles of the world economy and the multilateral trading system which would further the participation of Bulgaria as a reliable trade and economic partner in the international community and also contribute to the country's stability. Finally, he stressed that Bulgaria's incorporation into the multilateral trading system should also be seen as a step towards consolidating the democratization of the Bulgarian society.

5. Noting that Bulgaria had been implementing far reaching reforms aimed at liberalizing the foreign trade regime and bringing it into conformity with the multilateral trading system, members of the Working Party welcomed the initial application of Bulgaria for accession to the General Agreement 1947 and later on to the Agreement Establishing the WTO. In expressing support and encouragement for Bulgaria's efforts to continue to reform and liberalize its economy, members stated their firm conviction that accession to the GATT 1947 and to the Agreement Establishing the WTO would facilitate the country's transition to a market economy and would contribute to improving the standard of living of the Bulgarian people by ensuring stability and attracting further investments which would be job creating and lead to better competitive conditions for Bulgaria's exports in world markets. In this regard

they noted that the market access concessions negotiated in the context of the Uruguay Round which were significant would be available to Bulgaria upon becoming a Member of the World Trade Organization.

Foreign Trade Régime

6. The Working Party reviewed the foreign trade régime of Bulgaria and the possible terms of a draft decision and Protocol of Accession to the World Trade Organization. The views expressed by the members of the Working Party are summarized below in paragraphs 7 to 88.

I. Agreement Establishing the World Trade Organization (WTO)

7. Prior to Bulgaria's formal application for accession to the WTO, some members of the Working Party noted that with the formal adoption of the Final Act of the Uruguay Round at Marrakesh, GATT accession deliberations must contemplate the expansion of the negotiations to encompass the expanded scope of GATT institutions under the WTO. They sought confirmation of Bulgaria's intent to adhere to the WTO and stated that a protocol package for Bulgaria that contemplates WTO membership would have to include the schedules required for WTO membership, i.e., an agricultural schedule that includes commitments in the areas of market access, domestic supports and export subsidies and commitments on market access for goods and services; the initial submissions/notifications required by the WTO Agreements on Import Licensing Procedures, Technical Barriers to Trade, Customs Valuation, and TRIMs; a list of non-tariff barriers by tariff line that are subject to import or export quotas, automatic or non-automatic licensing requirements, certifications, surcharges or taxes, or any restrictions that require WTO justification in order to (1) comply with the requirements of the Agreement on Import Licensing Procedures, and (2) negotiate, as necessary, their elimination or transformation towards WTO conformity. In their view the preparation of the required WTO schedules and the list of the non-tariff measures by HS line and their WTO justification would facilitate the negotiation of a protocol for Bulgaria. In this connection some members requested information on Bulgaria's commitments concerning intellectual property rights and its intentions concerning participation in the Agreement on Trade Related Aspects of Intellectual Property Rights and in the General Agreement on Trade in Services.

8. A member suggested that in this case, with the consent of the Government of Bulgaria, accession to GATT and the World Trade Organization might be addressed jointly. Therefore, he suggested that the Protocol of Accession of Bulgaria might include the following additional elements: (i) WTO

consistent application of taxes and charges applied to imports and non-tariff restrictions on imports and exports; and (ii) an assurance that periodic updates will be provided covering the process of privatization and trade by State-owned enterprises.

9. In response the representative of Bulgaria said that as a country acceding to GATT 1947 Bulgaria had been associated with the concluding phase of the Uruguay Round Multilateral Trade Negotiations and had since that time envisaged commencing the process of accession to the Agreement Establishing the WTO. His Government had been negotiating accession to the General Agreement 1947 with the clear intention of becoming as well an original member of the World Trade Organization in accordance with the provisions of Article XI thereof. Therefore, the market access negotiations undertaken between a number of GATT contracting parties and Bulgaria had been expected to lead to the establishment of a schedule of market access commitments which would be annexed to the Protocol of Accession to the GATT 1947, as well as to the GATT 1994 following the approval of the Preparatory Committee for the Establishment of the World Trade Organization as foreseen in the Ministerial Decision of 14 April 1994 on Acceptance of an Accession to the Agreement Establishing the World Trade Organization. Due to the complexity of the negotiating process, for reasons independent of Bulgaria this objective had not been attained. Therefore, on 11 April 1995, the Government of Bulgaria had applied for accession to the WTO Agreement in pursuance of Article XII thereof and the Working Party on Accession to GATT 1947 had been transformed into a WTO Accession Working Party. In document WT/ACC/BGR/2, Bulgaria had submitted to the Working Party, information on the consistency of the foreign trade regime of Bulgaria with the WTO Agreement as well as Notes on TRIPS and Services.

Tariff Negotiations

10. The Working Party noted that in response to the invitation of Bulgaria, a number of members had entered into market access negotiations with Bulgaria relating to its accession to the Agreement Establishing the WTO. Some members of the Working Party said that in the bilateral tariff negotiations they would seek the binding of the whole Bulgarian tariff as well as other tariff concessions at a rate commensurate with Bulgaria's development level and participation in world trade. In response the representative of Bulgaria said that his Government was ready to bind the country's tariff at a level consistent with Bulgaria's financial, development and trade needs, on the understanding that the resulting package of tariff and trade concessions would constitute the contribution of Bulgaria to the market access negotiations for the purpose of membership in the WTO.

II. Economic Transition

11. In response to questions concerning recent economic developments in Bulgaria, in particular the role of the State, its share in the productive capacity of the economy and the manner in which the ownership responsibility over firms was exercised, the representative of Bulgaria said that the Bulgarian economy was heavily dependent on foreign trade. In the past several years, Bulgarian foreign trade had declined mainly due to the collapse of trade with its partners from Central and Eastern Europe and due to the strict application of the embargoes towards Iraq, Serbia and Montenegro in accordance with UN Security Council resolutions. Following the disruption of trade with the former CMEA countries, trade flows with the OECD countries had gained momentum. He added that in parallel with the elaboration of a new legislative framework, the Government of Bulgaria had embarked on a comprehensive macroeconomic stabilization and structural reform programme with support from the international financial institutions. The programme aimed at two main policy objectives. First, to achieve progress towards a sustainable external position, including the revival of foreign trade, the diversification of external markets and an improvement in Bulgaria's international reserves position, as well as progress towards resolving Bulgaria's external debt situation. Second, to move towards restoring macroeconomic equilibrium through the appropriate mix of fiscal, monetary and incomes policies. A key step in this regard was to reduce the size of the fiscal deficit, to tighten the monetary supply and credit expansion and to limit the uncontrolled income growth. The expectation being that progress towards macroeconomic stability would create a favourable environment for the emerging private sector and for non-inflationary growth. The following results had been achieved in implementing the above-mentioned programme. In 1991-1994 important reforms had been undertaken towards price liberalization, the liberalization of the trade regime and the process of privatization, as well as in the financial sector and in agriculture. The Government had freed virtually all prices in the economy. Nevertheless, the 1991 three-digit inflation rate had been substantially reduced and remained under control. Thus, the 1993 yearly inflation rate of 63.9 per cent had decreased in February 1994 to a 4.6 per cent monthly level. He recalled that in July 1992 Bulgaria had introduced a new customs tariff based on the Harmonized Commodity Description and Coding System. Since then the customs tariff had become the main trade policy instrument in the economy. All economy units, irrespective of their ownership whether private or public had acquired the right to carry out foreign trade activities. The licensing system applied in the past which had involved direct government regulation of almost all foreign trade had been eliminated. In the financial sector, a two-tier banking system had been established. The national currency, the leva (BGL), had attained internal convertibility for current account transactions. The rate of the BGL quoted daily by the Bulgarian National Bank reflected the average weighted rate of sales and purchases of foreign currencies on the inter bank market. The

exchange rate of the BGL quoted by the Bulgarian National Bank, served only as a reference to the licensed commercial banks and exchange bureaux. Customers could freely negotiate the exchange rate with commercial banks and the foreign exchange agents licensed for carrying out such operations.

12. In his statements to the Working Party, the representative of Bulgaria also recalled that since the establishment of parliamentary democracy in the early 1990s, fundamental political and economic changes had taken place in Bulgaria. The country had embarked upon a radical economy reform programme aimed at transformation to a market economy. The trade reform had opened the economy to external competition and the Law on the Economic Activity of Foreign Persons and on the Protection of Foreign Investments had also Bulgaria's economy opened to foreign investors. The main reforms already in place were as follows: the elimination of the State monopoly of foreign trade in 1989, free access to foreign exchange for current account transactions in 1991, the central role of the tariff and the virtual removal of quantitative restrictions on imports, the rationalization of the taxation regime, the decentralization of the State-owned sector and the transfer of productive property to the private sector.

Foreign Exchange Regime

13. In response to questions concerning current foreign exchange regulations, the conditions for its acquisition and use, and whether there was any discrimination in the availability of or the exchange rates for imports of capital equipment, intermediate goods, consumer goods or new materials, the representative of Bulgaria said that following the establishment in 1991 of an inter bank market the rate of the BGL against the US\$ was quoted daily by the Bulgarian National Bank (i.e. the Central Bank) and reflected the average weighted rate of sales and purchases of foreign currencies on the inter bank market. The exchange rate of the BGL, quoted by the BNB, was applied for the purposes of statistics, accounting and customs valuation. It was not obligatory for transactions and served only as a reference to the licensed banks and exchange bureaux. Customers freely negotiated the exchange rate with the commercial banks and the foreign exchange agents. They had the right to sell or purchase foreign exchange without any restrictions. Companies could freely buy from the inter bank market the foreign exchange needed for payments in connection with imports and other types of current account transactions, as well as trade foreign currencies among themselves. There was no surrender requirement for the foreign currency earned. Local persons and foreigners could freely trade foreign currencies on the interbank currency market for current account transactions. No restrictions existed for nationals and foreign persons to open accounts in foreign currencies with commercial banks and to dispose of the funds in their accounts.

14. Some members noted that Bulgaria maintained bilateral payment agreements with a number of countries, including Albania, Belarus, Cambodia, China, Ethiopia, Finland, Ghana, Greece, Mozambique, Peru, Romania, the Russian Federation and Ukraine and asked whether trade payments and/or foreign exchange provisions in these agreements differed from such arrangements/provisions with other countries. In response the representative of Bulgaria said that the Republic of Bulgaria did not maintain at present any operational bilateral payments agreements denominated in non-convertible currencies. No intergovernmental barter, import/export balancing or payment in kind agreements and clearing arrangements were in effect in Bulgaria at present. Trade with all countries was conducted under normal commercial considerations in convertible currencies. Some members of the Working Party noted that Bulgaria maintained barter agreements and import/export balancing arrangements. The representative of Bulgaria informed the Working Party that no intergovernmental barter, import/export or payment in kind agreements and clearing arrangements were in effect.

Price Policy

15. Some members enquired whether the State Council Decree of February 1988 which authorises the State to "prevent unlawful increases in prices" was in force and asked for a detailed description of the price control mechanism. In response the representative of Bulgaria said that the 1991 Constitution stipulates in its Article 19 paragraphs 1 and 2 that the Bulgarian economy is based on free entrepreneurship and the Law creates and guarantees to all citizens and legal persons equal juridical conditions for economic activity, preventing the abuse of monopolies and the unfair competition. The application of State Decree 115/1988 was envisaged as long as some fixed prices as well as monitoring existed. The price control mechanism which was irrespective of the ownership embodied fixed prices, ceiling prices and prices under Government monitoring. Fixed prices had applied to the following energy products: electricity; heating energy; coal for production purposes and for home heating, briquettes (imported coal for production purposes was not subject to fixed prices). These products were estimated to account for less than 10 per cent of retail and wholesale turnover. The fixed prices had been raised several times since the initial increase in 1991. The number of products under fixed-price had been reduced and the restriction on petroleum prices lessened. Some members of the Working Party asked that Bulgaria notify the Working Party of its timetable and plans for abolition of the price controls. In 1995 the representative of Bulgaria informed the Working Party that prices of goods and services in the Republic of Bulgaria had been liberalized. Prices were determined by the market. Prices could only be regulated in order to avoid the establishment of monopolies, to prevent abuse of a dominant market position, and to protect consumers. As of 1995, price regulation was of the following types: fixed prices for electricity, heating energy (for the population); domestic coal (for

production purposes), postal and basic telecommunication services, tobacco products for internal sale. These products can be sold only at the prices fixed by the government; ceiling prices for gasoline, diesel oil, gas oil (for production purposes), fuel oil, gas propane-butane. The prices of these products cannot exceed the level determined by the Council of Ministers monthly and on the basis of the international market prices and the changes in the US\$/BGL exchange rate; price monitoring (surveillance) for goods that are of vital importance to the living standards of the population and the national economy. These are the following: food products (bread, meat, milk, yoghurt, cheese, oil, butter, eggs, macaroni, noodles, sugar, beans, lentils, rice and potatoes), non-food products (pharmaceuticals for human consumption, coal and briquettes for the population), the passenger (rail, urban and interurban) road transport services. The regulation of the prices under monitoring is applied actually only on profit margins and not on the prices themselves. The profit margins for different products cannot exceed: for producers: 12 per cent for food products, 20 per cent for pharmaceuticals and mineral waters, 7 per cent for heating energy for production purposes, coal and briquettes, 12 per cent for transport services, 30 per cent for drinking water and water for production purposes and 15 per cent for other non-food products; for sellers: 14 per cent for food products and 25 per cent for non-food products. Bulgaria stated that the price controls did not breach the WTO national treatment principle - domestic and imported products were treated in a uniform manner that did not afford protection to domestic production, nor was there differential treatment based on the origin of the products. The representative of Bulgaria said that currently the goods and services with fixed prices account for 2.20 per cent of GDP, goods with ceiling prices 1.13 per cent and goods and services under price monitoring 8.94 per cent. Thus the total equals to 12.27 per cent of GDP. The representative of Bulgaria assured the Working Party that the price policy pursued by the Republic of Bulgaria aimed at transparent rules and regulating mechanisms directed to overcome market imperfections, imbalance of supply and demand and the need to maintain control over prices of natural monopolies. The price control measures which Bulgaria maintained did not discriminate against imports. The Working Party took note of these assurances.

16. The representative of Bulgaria confirmed that price controls on products and services in Bulgaria have been eliminated with the exception of those listed in paragraph 15. He added that, except in the case of critical situations, monopolies, the protection of consumers, or abuse of dominant market position by firms, prices for goods and services in every sector in Bulgaria were determined by market forces. He further confirmed that in the application of such controls, and any that are introduced or re-introduced in the future, Bulgaria will apply such measures in a WTO-consistent fashion, and take account of the interests of exporting WTO members as provided for in Article III.9 of the GATT 1994. Bulgaria

will also publish the list of goods and services subject to State price controls in the State Gazette including any changes from the list in paragraph 15. The Working Party took note of these commitments.

17. The representative of Bulgaria stated that the system of import reference prices applied to agriculture had been eliminated as of 1 January 1995, and that such measures will not be reintroduced except in accordance with WTO Agreements. The Working Party took note of this commitment.

State-Owned Enterprises and Privatization

18. Some members requested a comprehensive list of enterprises wholly or substantially owned by the State and the products in which they traded as well as their trade volume and value and asked for information on the role of the State in management and decision making, the bankruptcy and liquidation of State-owned firms. Members also requested a description of the Privatization Law, and the functions and operations of the Agency on Privatization as well as the current status and the future prospects of the privatization process. In response, the representative of Bulgaria said that the number of State enterprises was about 4,500. The Privatization Programme for 1993 had envisaged privatization of 318 enterprises, including 150 differentiated assets. Privatization was one of the most essential elements in the structural reform in Bulgaria. This process had started at the beginning of 1992 with the restitution laws which affected mainly industrial and residential property, small shops and agricultural land. The legal regulation of privatization in Bulgaria was contained in the Law on Transformation and Privatization of State and Municipal Enterprises (published in State Gazette No. 38 of 1992). The State authorities engaged in the privatization process are as follows: (i) The Parliament: adopts legislative acts, adopts the annual privatization programme submitted by the Council of Ministers, appoints six members of the Supervisory Board of the Agency for Privatization, supervises the fulfilment of the annual privatization programme, and in particular approves the report on its fulfilment given by the Agency for Privatization. (ii) The Council of Ministers: adopts regulations on the implementation of legislative acts, authorises the relevant government bodies for small-scale privatization (less than BGL 10 million balance sheet value of assets of the enterprise under privatization), approves the privatization of enterprises with balance sheet value of the long-term assets exceeding BGL 200 million, appoints five members of the Supervisory Board of the Agency for Privatization. (iii) The Agency for Privatization is a government body authorized to organize and control the privatization of State-owned enterprises as well as to carry out privatization in the cases provided by the law. It is a budget-financed legal person; licences Bulgarian and foreign appraisers, drafts the annual privatization programme and submits it to the Council of Ministers, organizes and controls privatization effected by other bodies, privatises State-owned enterprises with a balance sheet value of long-term assets exceeding BGL 10

million (about 30 per cent of the total number of State-owned enterprises). (iv) Government bodies, authorised to carry out small scale privatization: The Council of Ministers has granted privatization competence to some ministries and committees with respect to State-owned enterprises with a balance sheet value of long-term assets up to 10 million BGL. Those government bodies take decisions for privatization, carry out the privatization process and conclude the privatization transactions.

(v) Municipal Councils: the Municipal Councils are responsible for the privatization of municipal enterprises, regardless of their balance sheet value of long-term assets. The Law regulates the basic framework within which the process of privatization is effected. The competence for taking privatization decisions is allocated to the State or to municipal bodies depending on the form of ownership and assets to be privatized. The Law provides for equal treatment of all participants in privatization. The right of preferential participation has been established only for workers and employees with a minimum length of service at the enterprise undergoing privatization prior to the date of declaration of the privatization decision. In cases of selling of shares and stock owned by the State and Municipalities, the employees have the right to buy up to 20 per cent of the shares of the common stock of the capital of the company at a 50 per cent discount on the fixed price. Only if 30 per cent of the employees declare that they will participate in the auction or competition, they become owners of the assets with a 30 per cent reduction of the price, declared as definitive. The original selling price of shares, the initial price of the auctions and the tender price at holding competition or negotiations are determined on the basis of a value appraisal of the enterprise. The Law regulates the following methods of organizing the sale of shares and stock owned by the State and the Municipalities which may be applied simultaneously: open sale (applied only for shares and after preliminary co-ordination with the Privatization Agency), public auction, publicly announced competition and negotiations with potential buyers. The sale of State and municipal enterprises or parts thereof is effected through auction or competition. The ownership can be transferred by renting for a period up to 25 years with a clause for buying out; management with clause for buying out or selling to third person; sale by paying by instalments with retention of ownership; sale under deferment and discontinuation conditions such as maintaining the previous activity of the enterprise, the work places, making investments, obtaining certain results etc. The provisions of the Law on Transformation and Privatization of State and Municipal Enterprises were applied also with respect to selling property of State and municipal enterprises that have been closed down owing to insolvency or for other reasons, left after paying off all debts in accordance with the rules of closing down in case of insolvency, as well as whole enterprises transformed into commercial companies or differentiated parts which are fully owned by the State and the Municipalities with a book value of the fixed assets below BGL 10 million. Privatization was possible through restitution as well.

19. The representative of Bulgaria said that in 1994 the Privatization Agency and the central governmental bodies have undertaken a total number of 610 privatization procedures (489 for whole State enterprises and 121 for parts of State enterprises), distributed per sectors as follows: industry - 198, trade - 127, agriculture - 115, tourism - 85, construction - 42, transport - 20, others - 23. The total number of the privatization transactions concluded in 1994 is 171 (sales of whole enterprises - 90 (52.6 per cent), sales of parts of State enterprises - 81 (47.4 per cent), distributed per sectors as follows: trade - 55, construction - 15, transport - 10, tourism - 8, others - 2. During the first five months of 1995 the total number of initiated privatization procedures is 218, whereas the total number of the transactions concluded is 97. There is a clear tendency of acceleration in the privatization process demonstrated by the index of the transactions concluded. At the end of May 1995 the total number of initiated privatization procedures is 1228 and that of the concluded privatization transactions is 337. The objectives, priorities and figures relevant to the privatization process for the current year are set in the 1995 Privatization Programme (SG 54/1995) adopted by the National Assembly. The "exemption list" of some sectors that are excluded from the scope of the privatization under this programme does not constitute by itself a prohibition but a temporary exclusion of a limited number of sectors for the current year. Privatization of basic telecommunications is not scheduled as imminent because of the projects for their modernization financed with investment credits of the World Bank and other international financial institutions that are State guaranteed. The machine building sector is not in "the exemption list". Moreover, it is among the sectoral priorities under the 1995 privatization programme. As of mid 1995 the land under private ownership or control accounts for 65 per cent of the land subject to restitution.

20. The representative of Bulgaria added that the status as of 30 June 1995 of the privatization process was as follows:

INFORMATION ON PROGRESS OF THE PRIVATIZATION PROCESS OF STATE ENTERPRISES BY 30.06.1995

STEP UNDERTAKEN	Privatizat Agency	Industry				Ministry of				Committee of				TOTAL
		Industry	Agricult.	Construct.	Trade	Transport.	Culture	Tourism	Telecom.	Energy	Forestry			
1	Decision to open procedure	280	199	170	76	277	109	14	91	1	8	3	1228	
	- on whole enterprises	229	166	98	30	141	78	13	73	1	6	3	838	
	- on separated parts of enterprises	51	33	72	46	136	31	1	18		2		48	
		25	15	21	15	59	8		6				390	
2	Suspended procedures	14	4	11	12	5	2		2				149	
3	Tenders for evaluation announced	150	159	55	29	127	72	7	36	1	4	1	641	
4	Evaluations assigned	127	150	151	61	189	76	6	34	1	4		799	
5	Evaluations accepted	116	113	104	55	122	48	3	29		2		592	
	- returned	5		1					14				20	
6	Tenders, auctions, direct negotiat.	23	37		45	39	18	2			3		167	
	- auctions				6								6	
	- tenders	3	3		22		4	2					34	
	- direct negotiations	20	34		17	39	14				3		127	
			8		7	39	6						60	
7	Transactions concluded - total	63	34	73	38	90	17	2	18	1	1		337	
a/.	on whole enterprises by:	34	33	33	15	24	7	2	11	1	1		161	
	- auctions			5									5	
	- tenders	4	7	11	10	15			2				49	
	- direct negotiations	30	26	17	3	9	7	2	9	1	1		105	
			6	2	2	3	1		6				20	
b/.	on separated parts of enterprises by	20	1	40	23	66	10		7				167	
	- auctions			7	2	19							28	
	- tenders	11		20	10	30	3		1				75	
	- direct negotiations	9	1	13	11	17	7		6				64	
		7	1	5	10	16	3		5				47	
c/.	assets	9											9	
8	Transactions suspended	2		1	1	2							6	
9	Expenditures in thous.leva	37855	10913	6159	5712	7295	4837	405	2951	123	532	34	76816.1	
10	Proceeds of sales - in thous.leva	3399423	195571	136332	127904	224406	29331	5100	180915	2849	80		4301912.4	
	- paying in securities	4082956	114893	66357	42292	342551	77291	15001	35821	8606	2445		4787813.6	

Due to technical reasons Bulgaria was not in a position to provide exact data on the share of State-owned companies in foreign trade. However, the share of the private sector in Gross Domestic Product¹ was as follows:

The share of the private sector in Gross Domestic Product

(computed at current price)

(percentage shares)					
Economic activity	1990	1991	1992	1993	1994 ¹
Private sector - total	9.5	11.9	18.3	25.0	27.2
Agriculture and Forestry	6.7	5.3	6.7	7.2	8.9
Industry ²	1.7	2.7	4.3	6.3	5.9
Services ³	1.1	7.3	7.3	11.5	12.4

21. The representative of Bulgaria said that the total number of privatization transactions scheduled for conclusion by the Privatization Agency under the 1995 Privatization Programme accounts for a total of 170 transactions. Besides, there were 34 large State-owned enterprises which will be subject to privatization by the Agency for Privatization upon approval by the Council of Ministers. At the enterprise level the national statistics account for trade in general and not according to entities. The total share of the private enterprises was 60 per cent. The share of foreign trade accounted by the largest State-owned enterprises in major sectors (Bulgartabac, Balkancar, Bulgarplodexport, Bulgarian Meat Company, Electroimpex, Industrialimport, Intercommerce, Isotimpex, Lesoimpex, Mineralimpex, Pharmachim, Rudmetal, Vinimpex) in 1994 was 7 per cent.

22. The representative of Bulgaria added that State intervention in the economic activity of all companies has been abolished. Article 19 of the Constitution of Bulgaria states, *inter alia*, that the economy of Bulgaria is based on the principles of the free entrepreneurship and that the legislation

¹Computed at basis prices

²Including construction

³Including transport, communication, trade, housing, public utilities and household services, science and technology, education, culture and art, health, social insurance, finance, credit and insurance.

shall create and assure equal legal conditions for carrying out economic activities for all legal and natural persons, thus establishing the principle of non-discrimination between State-owned and private enterprises. Privileged protection of State property has been deleted in the Penal Code. Moreover, the Law on the Protection of Competition of 1991 prevented enterprises from abusing their dominant position which could lead to a restriction of competition. The 1991 Law on Commerce and all other legislation provide for a legal status of State-owned enterprises entirely identical with that of private enterprises. Upon the "corporatization", i.e. the transformation of State organizations into joint-stock or limited liability companies, their autonomy from the Government is guaranteed so that their activity is based on commercial considerations only. Thus the State's role in State-owned enterprises is restricted to that of an ordinary shareholder. The State-owned enterprise is an independent legal person being a titular of its property and acting on its own economic and legal responsibility. State-owned enterprises are in a position to define independently their own market behaviour, to implement it through the respective operational decisions and to conclude commercial transactions of any kind in accordance with the customary business practice and the legislation in force. Neither economic nor legal privileges are granted to them by the Government. The legal status, the position of the State as a regular shareholder and the identical legal and economic treatment of State-owned and private enterprises are guarantees that the State will not be involved in enterprise policy making. The members of the Management and Supervisory boards of the State-owned enterprises are appointed pursuant to Article 137, paragraph 1, subparagraph 5 and Article 221, paragraph 1 of the Law of Commerce. The selection process is based on certain requirements with respect to education, qualification, business experience, etc. The candidates for an appointment should meet the above mentioned criteria. Individual candidacies are considered on a competitive basis. The selected candidates or candidate negotiate a Management Contract with the respective governmental body. This contract regulates the relations between the Management and Supervisory Boards and the relevant governmental body. As a rule the Management Contracts are of three years duration and can be terminated on grounds strictly defined so that a stable management of the State-owned enterprises is guaranteed in accordance with the general requirement of compliance with the labour legislation in force. The Bankruptcy Law had been adopted in 1994, as SG 63/1994. It formed Part IV of the Commercial Law and was entitled "Insolvency" In the law, there were no privileges for State-owned firms or interference of the State in the bankruptcy procedures. Insolvent companies can be offered for liquidation by the State or by the servicing banks. However there is a difference in the procedure: the Council of Ministers or the appropriate Minister simply issues a formal decision to such effect, whereas the banks and creditors have to start formal proceedings before the court.

23. Finally, the representative of Bulgaria said that in December 1993, the Parliament had adopted the Law on the Settlement of Non-Performing Loans Contracted Prior to 31 December 1990. Loans

contracted by companies and banks with State-ownership over 50 per cent before 31 December 1990 and with arrears of more than 180 days would be replaced by long-term bonds denominated in BGL and in US\$. The bonds issued in pursuance of the provisions of this Law could be used both as securities and in the process of privatization. Within three months from the transformation of the loans, the managing bodies of the companies should develop programmes for restructuring aimed at stabilizing the financial situation of the enterprises. The representative of Bulgaria confirmed that the Ministry of Finance and the Bulgarian National Bank maintained a policy of not granting or guaranteeing loans to State owned enterprises for operational purposes. He added that the break-up of most large State-owned enterprises into smaller units had been virtually completed. These new enterprises were registered under the 1991 Law on Commerce (the Company Act) as commercial companies (both joint-stock companies and limited liability companies) with the State as a single shareholder, thus legally prepared for privatization. In conclusion, the representative of Bulgaria expressed the view that the restitution of many urban properties and privatization had created a dynamic private sector which already accounts for a third of all economic activity in the country.

24. A number of members of the Working Party expressed appreciation for the clarifications concerning the status and prospects for Bulgaria's efforts to privatize State-owned enterprises and the manner in which the State exercised its ownership in State-owned firms and the role of State-owned enterprises in international trade. These members noted, however, that while Bulgaria was constructing the legal framework for equality of treatment of private enterprises with State firms and the eventual separation of former State firms from government association after privatization, the current rules for the management of State-owned firms contemplated a State role in enterprise operations. For example, Government ministries appointed the Management and Supervisory Boards that select the management of State firms and that negotiate the terms of a Management Contract with the selected individuals. These contracts regulated the relationship between management, labour, and the State, and there were areas, such as the establishment of subsidiaries, where the management was required to consult with the Government. Even though Bulgaria had stated that the Government was not liable for State enterprises debt, the most recent regulations had transferred the ultimate responsibility for a great deal of State enterprise debt from the banks to the Government, in order to allow the banks to reorganize their role in Bulgaria's economy and free up resources for new loans. In 1994, a full separation of the State from the still sizeable and economically critical State-owned sector was not possible. Moreover, in their view, Bulgaria's privatization process was proceeding very slowly because of the approximately 4,500 State firms slated for transfer to private ownership under the Law on Transformation and Privatization of State and Municipal Enterprises, Bulgaria was preparing some 400 State firms for sale and the reasons for cautious progress were clear. It would appear, therefore, that the setting up of an economic basis independent of the Bulgarian State would be a long-term project. While respecting

Bulgaria's statements concerning its ultimate goals and intent to establish a market-driven economy based on private ownership, these members believed that for accession to the Agreement Establishing the WTO the relationship between the Bulgarian State and its trade and industry had to be clear. As a minimum they expected transparency and dialogue as Bulgaria's economic transition progressed and would intend to address these issues in the Protocol of Accession of Bulgaria. A member recalled that Bulgaria had the commitment to keep the WTO informed of these developments. The representative of Bulgaria affirmed his Government's intention to ensure the transparency of its national trade policies and practices under the regular trade policy reviews in the WTO, including the wider background of national and economic development. This was not to be regarded as a basis for the imposition of specific obligations under the Agreements or as a basis for the adoption of new special policy commitments. Bulgaria could not undertake commitments exceeding the regular membership obligations. The Republic of Bulgaria was committed to fulfil the notification requirements ensuing from the existing procedures in the WTO Agreements. The Working Party took note of this commitment.

25. The representative of Bulgaria confirmed that the former State monopoly in foreign trade in Bulgaria has been abolished and that no restrictions exist on the right of foreign and domestic individuals and enterprises to import and export goods and services within Bulgaria's customs territory, except as provided for in WTO Agreements. He further confirmed that individuals and firms were not restricted in their ability to import or export based on their registered scope of business, and the criteria for registration of companies in Bulgaria were generally applicable and published in the State Gazette. The Working Party took note of these commitments.

26. At the request of a member of the Working Party, the representative of Bulgaria agreed that it was important to ensure full transparency and to keep WTO Members informed of its progress in the reform of its transforming economic and trade régime. He stated that his Government would provide promptly to WTO Members information on developments in its programme of privatization along the lines of that provided to the Working Party, and on other issues related to its economic reforms as relevant to its obligations under the WTO. He stated that, as a rule, "promptly" would mean not less than once every 18 months. The Working Party took note of this commitment.

III. Tariff Policy

Customs Tariff

27. Some members of the Working Party noted that Bulgaria had relatively high and recently increased average tariff levels which for some items had reached 40-55 per cent, particularly in the agricultural sector. They requested that Bulgaria justify these rates and describe how the tariff structure

would develop over the next 5-10 years. In response the representative of Bulgaria said that as a result of the price reform the removal of the import restrictions and the drastic changes in import licensing, tariffs had become the main trade policy instrument. A new import tariff based on the Harmonised Commodity Description and Coding System was in force in Bulgaria as of 1 July 1992. The new customs tariff contained ninety-six chapters, 1,241 four-digit headings, 5,018 six-digit headings and 845 eight-digit headings. The Tariff contains two columns. The first column specifies rates under Bulgaria's Generalized System of Preferences scheme. The second column specifies most-favoured-nation rates (m.f.n.). Imports from least-developed countries were subject to zero tariff rates. The tariff for imports from countries which do not apply m.f.n. treatment to Bulgaria were 200 per cent of the m.f.n. rate. The average nominal m.f.n. tariff rate was 17.96 per cent. The trade weighted average for m.f.n. imports was 13.72 per cent. For industrial products, the average nominal rate was 16.69 per cent and the trade weighted average was 12.50 per cent. For agricultural products, the levels were 25.97 per cent and 30.91 per cent, respectively. Bulgaria's maximum tariff of 55 per cent applied to three agricultural items. Bulgaria's tariff had five basic m.f.n. rates ranging from 5 to 40 per cent. The most common rate was 25 per cent representing almost 31 per cent of all tariff lines. Only 8 per cent of tariff lines fell under the rate of 40 per cent accounting for less than 5 per cent of total 1992 imports. The greatest share of imports (34 per cent) fell under the lowest rate of 5 per cent. The preferential margin under Bulgaria's Generalized System of Preferences scheme varied from 20 to 40 per cent of the most favoured nation (m.f.n.) rates. As a future member of the World Trade Organization, Bulgaria would aim at further development of the process of liberalization under the conditions and in conformity with the GATT 1994 and the Agreement Establishing the WTO rules and practices.

Surcharges

28. Some members of the Working Party requested information on the 3 per cent import surcharge introduced on 1 August 1993 as well as the calendar for its elimination. The representative of Bulgaria said that as of 1 August 1993, a temporary import surcharge was introduced in order to forestall the imminent threat of a serious decline in the foreign exchange reserves. The 1993 surcharge affected equally all trade except some products essential for the economy (energy products and base raw materials) and was applied on an *erga omnes* basis including the trading partners with whom Bulgaria's commercial relations are based on free trade agreements. The representative of Bulgaria added that a schedule of elimination was announced at the time of the introduction of the measure in 1993, and Bulgaria had complied with this schedule strictly. Until the end of 1993, the import surcharge was 3 per cent. It had been reduced to 2 per cent for the year 1994, and to 1 per cent for 1995. The representative of Bulgaria stated that the import surcharge of 1 per cent ad valorem (introduced in 1993) had been eliminated on 1 January 1996. However, in view of the very difficult balance of payments position,

the Government of the Republic of Bulgaria decided to introduce, effective 4 June 1996, a temporary import surcharge of 5 per cent ad valorem. A description of the surcharge, the reasons for its imposition, and the precise product coverage as reflected in WT/SPEC/41, are annexed to this Report.

29. The representative of Bulgaria stated that according to current regulations, the surcharge introduced at 5 per cent ad valorem on 4 June 1996 was applied to all imports from all sources (including preferential trading partners) with the exception of the list of products contained in WT/SPEC/41 annexed to this Report. The surcharge would be reduced to 4 per cent on 1 July 1997, to 2 per cent on 1 July 1998, to 1 per cent on 1 July 1999, and finally eliminated on 30 June 2000. He confirmed that the surcharge was to be based on the customs value of the goods and would be added to the applied tariff rates and would not alter the commitments undertaken in the Schedule of Concessions on Goods annexed to the Protocol. After accession, the Government of Bulgaria would immediately enter into consultations with the WTO to review the measure within the framework of WTO provisions governing the application of measures for Balance of Payments purposes contained in Article XII of the GATT 1994 and the WTO Understanding on the Application of Measures for Balance of Payments purposes, and would review remaining measures on an annual basis. If it was determined in the course of any of these consultations that Bulgaria was no longer justified in applying such measures for balance of payments purposes, the Government of Bulgaria would advance the elimination of this surcharge. He further confirmed that Bulgaria would not expand the list of exempted import categories without consultations with the WTO to ensure that the surcharge was not being applied selectively, and that any subsequent application of customs duties, charges and surcharges to imports by Bulgaria will be in accordance with the provisions of WTO Agreements. The Working Party took note of these commitments.

30. The representative of Bulgaria stated that, as of the date of accession, the only charges applied to imports would be the import duty and the Customs Clearance Fee, and the import surcharge as described in paragraph 29. Any other charges applied to imports after this time would be in accordance with WTO provisions. Reflecting this situation, he confirmed that Bulgaria would not list any additional charges in its goods market access schedule under Article II.1(b) of the GATT 1994. The Working Party took note of these commitments.

Import Taxes

31. In response to questions concerning import taxes, the representative of Bulgaria said that the 15 per cent import tax applied in 1991 in addition to the import duty had been abolished with the introduction of the new import tariff. However, as of 1 July 1992 an import tax had been introduced

for a limited number of products. The list had been reduced in 1993 and import taxes were applied to frozen beef, veal, pork and poultry meat, yoghurt, butter, fresh grapes (from 1 July to 31 October), fresh apples (from 1 August to 31 December), fresh tomatoes, cucumbers, peppers, processed fruit, fruit juices. The import tax was applied also on imports of some perfumery and cosmetics items. The import tax had varied from 5 per cent (juices and perfumes) to 25 per cent (frozen pork, veal, beef and poultry meat). As of 1 July 1993, Bulgaria had either eliminated or, in the case of a few agricultural items, incorporated the import taxes into the customs tariff. This change was *erga omnes* and affected trade under preferential agreements. The Working Party took note of this statement. Finally, the representative of Bulgaria said that an import tax of 10 per cent of the customs value was payable on second-hand motor vehicles which had been registered for not less than 10 years (a measure which actually substituted a former ban on imports of used automobiles of not less than 10 years). The tax was applied for ecological reasons. A member of the Working Party questioned the conformity of the 10 per cent tax on imports of used automobiles with Article III of the GATT 1994 as the tax is not applied to autos of similar vintage when sold by a domestic owner.

32. The representative of Bulgaria stated that the 10 per cent tax on imports of used automobiles was applied for ecological reasons. By the date of accession, the tax would be revised to ensure that used automobiles whether imported or sold within the Bulgarian customs territory would bear the same tax upon sale, importation or resale of the automobile. The Working Party took note of this commitment.

Duty Exemptions

33. Some members requested information on duty exemptions for certain imports, as well as information on how tariff rate quotas were allocated. The representative of Bulgaria said that some goods were temporarily exempted from import duties for social and ecological considerations. The list of exemptions was being gradually reduced. Exempted from duties were the imports of baby food, raw materials and substances for the production of medicines, animal feed, farming equipment and spares, plant protection chemicals and some fertilizers, ambulance cars, equipment for environmental protection as well as measurement and control devices for environmental analysis, molasses, non-processed timber, medical appliances and equipment. All tariff exemptions were implemented on a *erga omnes* basis without any differentiation as to the origin and/or conditions of importation. The tariff rate quotas were allocated on a "first come, first served" basis. The list of products subject to temporary duty suspension or under tariff quotas were determined by the annexes of the Regulation of the Council of Ministers No. 307/1994.

34. The representative of Bulgaria confirmed that the access to the duty-free and reduced-duty tariff rate quotas (TRQs) applied on the products listed in paragraph 33 will be administered on a non-discriminatory basis among all import suppliers. The Working Party took note of these commitments.

Customs Fee

35. The representative of Bulgaria confirmed that by 31 December 1997 Bulgaria would bring its customs clearance fee into conformity with Article VIII of the GATT 1994. In this regard, from that time revenues collected through the application of the Customs Clearance Fee would be used solely for the operation of customs clearance of imports and exports to which the fee was applied, and total annual revenues from collection of the fee would not exceed the cost of customs clearance operations items subject to the fees. Information regarding the application and level of the fee, revenues collected and their use would be provided to WTO Members upon request. The Working Party took note of these commitments.

Export Taxes

36. In response to questions concerning the export taxes levied by Bulgaria and their rates, the representative of Bulgaria said that as of November 1993 export taxes were levied on eleven groups of product, notably raw materials such as sunflower seed and oil, hides and skins, timber, firewood, wood in the rough, waste and scrap paper, wool, grain flour and other products. In reply to a question asking why the export taxes were necessary, the representative of Bulgaria said that were specific taxes applied to prevent or relieve critical shortages of foodstuffs and other essential products, consistent with Article XI of the GATT 1994. This tax was temporary and would be dismantled when the domestic supply situation improved. The Working Party took note of this statement.

37. The representative of Bulgaria stated that his Government applied export taxes for the relief of critical shortages of foodstuffs or in cases of critical short supply for the domestic industry, and that after accession, any such taxes would be applied in accordance with the provisions of the WTO Agreement. He noted that, at the current time, Bulgaria applied the export taxes only to the goods and services listed in the Annex 2 to the Report. Bulgaria would, after accession, minimize its use of such taxes and confirmed that any changes in the application of such measures, their level, scope, or justification, would be published in the State Gazette. The Working Party took note of these commitments.

Implementation of Article X

38. The representative of Bulgaria stated that, from the date of accession, all laws and other normative acts related to trade will be published in the State Gazette promptly. As a rule, "promptly" under the WTO Agreements would mean two weeks prior to implementation, unless a longer period is specified under the relevant WTO Agreement. He stated further that they will be accessible to traders prior to implementation, and that no law, rule, etc. related to international trade will become effective prior to such publication. The Working Party took note of this commitment.

IV. Fiscal Policy

39. In response to some members who requested information concerning internal taxes and the treatment of imports in Bulgaria's fiscal legislation, including the treatment of inputs and other exemptions thereof, the representative of Bulgaria said that fiscal policy was playing a crucial role in the stabilization and restructuring effort. Its principal objectives were to contain and reduce the budget deficit in relation to GDP, to reduce the redistributive role of the State budget through a sharp decrease of both revenues and expenditures in relation to GDP, and to contribute to keeping inflationary processes under control. Important steps had been taken in the context of a comprehensive fiscal reform in line with the principles of a market economy and Bulgaria had introduced a value-added tax. The percentage of revenues from taxes and other duties in relation to GDP had fallen from 42.9 per cent in 1990 to 29.8 per cent in 1992 and to 32.2 per cent for 1993.

40. Pursuant to the Law on Excise Tax, effective on 1 April 1994, the following goods and services are subject to excise tax at the rates listed below:

A. GOODS:

1. Beer - ordinary 1.5 BGL/litre; 2. Beer - stabilized - 2 BGL/litre; 3. Wines - up to 15 per cent, vol. with the exception of natural sparkling wines - 6 BGL/litre; 4. Ordinary brandies from fruits, ordinary brandies, desert and aromatized wines, natural sparkling wines, natural fruit liquors - 30 BGL/litre; 5. Alcoholic beverages including brandy and wine brandy - 40 BGL/litre;
6. Luxurious beverages with high content of alcohol including whisky and cognac (V.S.O.P.) - 160 BGL/litter; 7. Tobacco products: 7.1. Cigarettes - Luxurious - 1000 BGL/1000 pieces, 7.2. Cigarettes - representative - 600 BGL/1000 pieces, 7.3. Cigarettes - ordinary - 300 BGL/1000 pieces, 7.4. Cigarettes without filter - 100 BGL/1000 pieces, 7.5. Cigars - 400 BGL/100 pieces, 7.6. Tobacco for cigarettes, pipes, for chewing and snuff - 1000 BGL/1 kg.;
8. Coffee and tea (with the exception of the herb and fruit teas) - 30 per cent; 9. Leather and

fur clothing - 40 per cent; 10. Passenger cars with a cylinder capacity from 1800 to 2500 cm³ - 10 per cent; 11. Passenger cars more than 2500 cm³- 40 per cent; 12. Articles of precious metals, including jewellery - 20 per cent; 13. Perfumery and cosmetics in aerosol containers - 40 per cent; 14. Gasoline with an octane number up to 96 - 70 per cent, 14.1. Lead free gasoline with an octane number up to 96 - 60 per cent; 15. Gasoline with an octane number more than 96 - 110 per cent, 15.1. Lead free gasoline with an octane number more than 96 - 100 per cent; 16. Diesel fuel - 30 per cent; 17. Erotic and pornographic works - 70 per cent; 18. Audio - visual devices - 10 per cent;

B. SERVICES:

19. Entry tickets for bars, music halls, erotic and other like performances - 50 per cent;

C. WINES AND OTHER SPIRITS PRODUCED BY NATURAL PERSONS FROM THEIR OWN PRIME MATERIALS FOR THEIR OWN CONSUMPTION:

20. Wines - 2 BGL per litre; 21. Brandies - 0.3 BGL per every alcoholic degree.

D. HAZARDOUS GAMES:

22. Lotteries and raffles 50 per cent; 23. Bets on the results of competitions and other accidental events -5 time the max. gain; 24. Coin and disk operated games, class B 15000 BGL each three months; 25. Coin and disk operated games, class C in casino 30000 BGL each three months; 26. Casino roulettes - 3000000 BGL each three months; 27. Other casino operated games and tables 500000 BGL each three months; 28. Bingo 300000 BGL each three months.

41. The representative of Bulgaria added that the Law on Value Added Tax (VAT) had entered into force on 1 April 1994. The Law had established a uniform 18 per cent rate for goods and services with a short list of temporary exceptions including a schedule for their elimination. Bulgaria had submitted detailed information on the Law on VAT. In response to a question, the representative of Bulgaria stated that the VAT and excise tax laws made no differentiation between imported and domestically produced goods. Some members said that in the area of certain distilled spirits significant volume importations tended to be more heavily taxed than domestic products. The representative of Bulgaria replied that the products subject to excise taxation were described by their physical commercial characteristics and not in terms of origin. Bulgaria's excise tax regime complied with the m.f.n. and national treatment. Domestic and imported goods were subject to equal excise tax rates. The excise tax is levied and collected as follows:

- (a) For domestic production: levied and collected from the producer of goods or the supplier of services as a percentage (or an absolute amount) of the selling price without excise, on the date of invoicing;

- (b) For imported goods: levied and collected by the customs authorities from the importer as a percentage (or an absolute amount) of the customs value plus duties and fees on the date the customs control is effected.

The excise tax is payable only once (i.e. one-stage tax), and it is not collected at subsequent transactions. Concerning VAT, he said that no exemptions were provided for domestic agricultural products sold by producers. There was a temporary list of some food products namely, bread, milk, cheese which were not subject to VAT until the VAT law had been in place for three years. This temporary exemption applied to both domestic and imported products.

42. In conclusion some members of the Working Party said that, in their view, Bulgaria levied some border charges which, if not consistent with the provisions of the GATT 1994, should be either modified, or eliminated as a result of Bulgaria's commitments in the Protocol of Accession. Those members acknowledged, nonetheless, that the new Value Added Tax Law had greatly improved the transparency and equity of Bulgaria's tax system vis-a-vis imports.

43. The representative of Bulgaria said that upon accession to the Agreement Establishing the WTO, his Government would use the authority to apply taxes and surcharges on imports and exports in conformity with the provisions of the GATT 1994, in particular Articles III, VI, VIII, XII, XVIII and XIX thereof. The representative of Bulgaria stated that as of 31 December 1997, Bulgaria would apply its excise tax rates on beer, wine, distilled spirits and tobacco products in strict compliance with Article III of the GATT 1994, in a non-discriminatory manner to imported and domestically produced goods. During this period, Bulgaria will not increase the difference in the amount of tax between imported and domestically produced goods. As of 31 December 1997, Bulgaria will implement a new system of excise taxes on beer, wine, spirits and cigarettes, which is currently being developed, that envisages the following methods of determination of the excise tax levels: (a) for distilled spirits, on the basis of percentage alcohol content; and (b) for beer, wine and cigarettes, an identical tax on imported and domestically produced articles, or on the basis of specific, measurable characteristics of the product or the component parts of the product, which criteria will be consistent with Article III of the GATT 1994, published and readily available to importers, exporters and domestic producers. The Working Party took note of these commitments.

V. Non-Tariff Measures

Import and Export Licensing

44. Some members of the Working Party requested that Bulgaria provide a list of non-tariff measures by tariff lines including licensing, quotas and any other restrictions and explain their justification. In their view a number of the quotas and licensing requirements on products such as tobacco, citrus, etc. appeared to be substantively and/or procedurally not in conformity with WTO obligations. In response the representative of Bulgaria submitted a list of non-tariff measures by tariff lines, including the list of products subject to automatic and non-automatic import licensing. With regard to licensing, he said that the Council of Ministers was the body authorized to determine the range of goods subject to licensing. Licensing was applied in a fair and equitable manner. The information that is strictly necessary for a licensing regime in accordance with Article 1.5 of the Agreement on Import Licensing Procedures was required to be submitted in support of an application for a licence, for instance commercial and tax registration certificates, and documents necessary to certify the date in the import licensing application form. Automatic licences were applied for monitoring purposes and were issued within one day. Non-automatic licences were granted within five working days from the date of application. No fees were charged for the issuing of licences. Licences were issued by the Ministry of Trade. The import licensing regime in force has been established by Government Ordinance No. 72/1993 (published in State Gazette No. 30/1993) and its respective amendments. Imports into Bulgaria were liberalized and were not subject to import licensing, unless explicitly stated. Exceptions were stipulated for (a) goods subject to control regime under international commitments undertaken by Bulgaria; (b) goods under quantitative restrictions if import quotas were established. Automatic licensing was applied for monitoring purposes on imports of the following items: coal, crude oil and liquid fuels, alcoholic beverages, meat, dairy products, ferrous and non-ferrous metals. Imports of alcoholic beverages (HS 22030000, ex2204, 2205, 2207, 2208) were subject to automatic licensing for monitoring purposes. There had been import quota of 12,000 tons for tobacco (HS 2401, 24039100). This quota had been eliminated by the end of 1993. Exports of tobacco and products thereof (Chapter 24 of the HS) were subject to automatic licensing. Imports of nuclear materials, dangerous waste, plant protection chemicals, asbestos, and manufactured tobacco, tobacco products, natural gas, etc. were subject to non-automatic licensing. Imports of essential oils were not subject to licensing. The restrictions on tobacco and products thereof had been introduced on the ground that certain imports, by the quantity and conditions under which they were performed, caused or threatened to cause a serious injury to domestic producers of like or directly competitive products. The non-automatic licensing of imports of pharmaceutical products, raw materials and substances for their production was aimed at protecting human and animal health. The measure was applied for monitoring purposes and did not constitute a disguised restriction on trade. The sole requirement for granting the licences was the registration

of the product with the Ministry of Health. He added that at present there was no product prohibited for import in Bulgaria. However, imports of materials and waste dangerous to the environment were subject to non-automatic licensing, and to approval in writing from the Ministry of Environment. The importation of plant protection chemicals had to be approved by the Ministry of Agriculture. The approval was subject to the chemicals being registered in Bulgaria. Import licences were granted by the Ministry of Trade within 5 days from the application.

Import and Export Quotas

45. Some members enquired about the consistency of certain quotas with the GATT 1994. In response the representative of Bulgaria said that pursuant to the Law on Establishment of Single-person State-owned Enterprises (State Gazette 55/1991), the Bulgarian Government could establish quantitative restrictions on imports and exports. As of 1 January 1994 Bulgaria applied an import quota on the following product only: HS 21050000, ice cream ready for consumption, 1,500 tons. The import quota on ice cream had been introduced by the Government on a temporary basis to support an infant industry in an economy in transition. The import ceiling was administered through an import licensing system. Due to a deterioration in the economic conditions for domestic production of tobacco in recent years, and with the view to avoiding serious social tension in some underdeveloped regions of the country, the Government had replaced the import quota on tobacco with import licensing. The Government had established temporary quantitative restrictions on certain exports, to ensure adequate supplies in the domestic market and prevent or relieve critical shortages. Presently Bulgaria applied export quotas on the following items: ex 0104000 Female livestock for breeding, bovine live animals of more than 12 months: 4,800; ex 01042000 ex 0102 Ovine and caprine live animals, of more than 18 months: 750. Certain quota amounts under VERs were defined in the respective agreements: with the European Communities on textiles and clothing, ferrous metals, live sheep and goat and meat thereof; with the United States on textiles and clothing; with Canada on textiles and clothing. A list of cereals essential for the nutrition of the population as well as a few tariff lines covering basic fodder had been temporarily prohibited for export. With the exception of maize, the export ban on certain grains had been replaced by automatic licensing. An export ban for ferrous and non-ferrous scrap and copper ingots and billets was in place except for stainless steel scrap with the view to solving transitional problems in the economy. Export restrictions were applied to Christmas trees, and rough hewn timber because they were exhaustible natural resources; and to sunflower seeds because they were an essential foodstuff in critical shortage. The agricultural export restrictions currently in effect were temporarily applied to prevent or relieve critical shortages on the domestic market and would be dismantled in response to an improved domestic market situation.

46. Some members of the Working Party proposed and the representative of Bulgaria accepted that the quantitative restrictions maintained by WTO Members on imports of textiles and clothing products originating in Bulgaria that are in force on the date prior to the date of the accession of Bulgaria to the WTO shall be notified to the Textiles Monitoring Body (TMB) as being the base levels for the purpose of application of Articles 2 and 3 of the WTO Agreement on Textiles and Clothing. Thus, for the purpose of Bulgaria's accession to the WTO, the phrase "day prior to the date of entry into force of the WTO Agreement" contained in Article 2.1 of the Agreement on Textiles and Clothing shall be deemed to refer to the day prior to the date of accession of Bulgaria to the WTO. To these base levels the increase in growth rates provided for in Articles 2.13 and 2.14 of the Agreement on Textiles and Clothing shall be applied, as appropriate, from the date of accession of Bulgaria to the WTO.

47. In conclusion the representative of Bulgaria confirmed that, in the context of its accession to the Agreement Establishing the WTO, the Bulgarian Government would use its authority to suspend or prohibit imports and exports or otherwise restrict their quantities in conformity with the provisions of the GATT 1994 in particular Articles XI, XII, XIII, XIX, XX and XXI. The Working Party took note of this commitment.

48. The representative of Bulgaria confirmed that, from the date of accession, Bulgaria will eliminate and shall not introduce, re-introduce or apply quantitative restrictions on imports or other non-tariff measures such as licensing, quotas, bans and other restrictions having equivalent effect that cannot be justified under the provisions of the WTO Agreement. In this regard, Bulgaria will eliminate, as of the date of accession, its discretionary licensing régime and any other WTO inconsistent measures on tobacco imports and on other products covered by the WTO Agreement on Agriculture. The Working Party took note of these commitments.

Agreement on Implementation of Article VI of GATT 1994 and Agreement on Subsidies and Countervailing Measures

49. In response to questions concerning Bulgaria's regulations on safeguards and unfair trade practices, the representative of Bulgaria said that the Regulation of the Council of Ministers No. 181 dated 15 September 1993 which had established the general legal framework attempted to incorporate the basic elements of the relevant GATT 1994 provisions including in particular the Agreement on the Implementation of Article VI of the GATT 1994 and the Agreement on Subsidies and Countervailing Measures. The Regulation contains definitions of dumping, subsidy, serious injury, the extent of the offsetting measures (duty) and the procedures to be followed in order to apply the offsetting measures. Under the provisions of the Regulation, an anti-dumping duty may be imposed on any product whose

importation in Bulgaria through the effects of dumping causes or threatens to cause serious injury to a Bulgarian industry. A product is considered as being dumped if its export price to Bulgaria is less than the normal value of the like product in the ordinary course of trade in the country of origin or export. A countervailing duty may be imposed for the purpose of offsetting the effect of a subsidy bestowed in the country of origin or export whose importation in Bulgaria causes serious injury to a Bulgarian industry. The Regulation stipulates that the determination of serious injury shall be made only if the dumped or subsidized imports through the effects of dumping or subsidization are causing injury. Injuries caused by other factors which individually or in combination also adversely affect the Bulgarian industry under consideration must not be attributed to the dumped or subsidized imports.

50. Some members of the Working Party expressed concern that the provisions of the Regulation were imprecise and did not reflect the precise requirements of the Agreement on Subsidies and Countervailing Measures and the Antidumping Agreement in matters such as conversion of currencies, sales below cost, price averaging, domestic judicial review, time limits, etc. The representative of Bulgaria said that when certain provisions did not specify particular procedures, administrative practice would ensure compliance with the requirements of the Agreement on Implementation of Article VI of the GATT 1994 (Antidumping Agreement). Subsequent amendments to the Regulation to make it compatible with the WTO Agreement on Subsidies and Countervailing Measures and the Antidumping Agreement were currently under consideration. Finally, the representative of Bulgaria said that pursuant to Article V, paragraph 4 of the Constitution duly ratified and published international treaties became part of domestic law, and had priority over the rules of domestic law in the event of a contradiction. Thus, compatibility with WTO obligations would be guaranteed in a general way through the ratification of the accession of Bulgaria to the WTO by the National Assembly.

51. A member of the Working Party stated that his Government had reviewed the draft Regulation on Anti-Dumping and Countervailing Measures provided by the Bulgarian delegation, and that, with a few exceptions, the draft regulation appeared to track the language of the Agreements on Anti-Dumping and Subsidies and Countervailing Measures as they relate to the investigation and disposition of unfairly traded imports. There were a number of areas, however, where amendments to the draft regulation could strengthen its consistency with the Agreement and prevent future conflicts based on the supremacy of international agreements ratified by Bulgaria over domestic law. These included the following: The Regulation should provide explicitly for judicial review of the administrative decisions made on Anti-Dumping and Countervailing Measures cases, as is required by both Agreements. If such provisions exist in other Bulgarian laws that address this, they should be referenced in the law; The Regulation should provide for "sunset review" of existing actions, as required by the Agreements; The Regulation

should contain language addressing adjustment to cost for "start up operations" as provided for in footnote 6 of the Agreement; The Regulation should provide that normal value may be determined only by the cost of production in the country of origin plus a reasonable amount for administrative and selling costs and for profits. The reference to "any other costs" which does not have a counterpart in the relevant text of the WTO Agreement, should be dropped; The Regulation should be amended to ensure that constructed export price can be used as opposed to export price, only when there is a compensatory relationship. The reference to "or for other reasons the price actually ... is unreliable" should be dropped since it does not have a counterpart in the relevant text of the WTO Agreement (Article 2.3); The Regulation should be amended to incorporate the justification for comparing that normal value established on a weighted average basis with that determined on a transaction by transaction basis; The Regulation does not incorporate the concept that to limit the examination either to a reasonable number of interested parties or products by using samples should only occur if the samples taken are statistically valid. It should be expanded to incorporate these concepts; The Regulation allows an affirmative determination based on threat of material injury "where a particular market situation is likely to develop into actual injury". In contrast, the standard in the Anti-dumping Agreement is "injury must be clearly foreseen and imminent". Bulgaria should alter the law or make specific assurances to the Working Party that the formulation in the Agreement will take precedence; The Regulation should ensure that its language defining the number of producers that constitute an "industry" for the purposes of making a complaint is consistent with the provisions of the Agreement (Article 5.4) requiring that industry support be based on total production, defined as domestic industry representing 50 per cent of the total production of the like product produced by that portion of the domestic industry expressing either support for or opposition to the application, and that no investigation shall be initiated when domestic producers expressly supporting the application account for less than 25 per cent of total production of the like product produced by the domestic industry; Article 23.2 of the Agreement should make it clear that the 30 day period for responding to a questionnaire "shall be counted from the date of receipt of the questionnaire" as provided for in Article 6.1.1 Footnote 15 of the Anti-Dumping Agreement; Article 30.1(c) of the draft legislation should indicate that a provisional measure applied cannot be more than estimated amount of the anti-dumping duty or level of subsidization.

52. This Working Party member went on to state that Bulgaria should be prepared to confirm in the Protocol that, notwithstanding the possibility that Bulgaria's future legislation in the area of anti-dumping and countervailing measures, which is currently in draft and under consideration, may contain provisions not totally in conformity with the WTO Agreements on Anti-Dumping and Subsidies and Countervailing Measures, Bulgaria would enforce the provisions of these Agreements in the conduct of any investigations in these areas.

53. The representative of Bulgaria confirmed that it was Bulgaria's intent that its legislation conform to the provisions of the WTO Agreements on Anti-Dumping and Subsidies and Countervailing Measures, and that draft legislation was under consideration to accomplish that goal. He further confirmed that, from the date of accession, and notwithstanding any provision of domestic law to the contrary, Bulgaria would administer all proceedings and measures taken for anti-dumping or countervailing duty purposes in full conformity with the provisions of these WTO Agreements, and that no action would be taken by the Government of Bulgaria that departed from the provisions of these agreements. The Working Party took note of this commitment.

54. In response to questions by members of the Working Party, the representative of Bulgaria said that as a result of the price liberalization, subsidies had been drastically curtailed - from 16-17 per cent of GDP in 1990 to less than 2 per cent of GDP in 1992 and 1.69 per cent in 1993. Since 1991, no export subsidies were being applied in Bulgaria. Some members requested clarification of this statement. The representative of Bulgaria stated that no subsidies contingent on export performance, Government export credits at more favourable than ordinary rates, tax exemption schemes related to the production and distribution of exported products were made available. The statement did not envisage explicitly the provisions of Article 3 of the Subsidies and Countervailing Measures Agreement. Bulgaria would apply Article 29 and the respective provisions of Articles 3, and 6.1 of the Subsidies and Countervailing Measures Agreement. As a country in the process of transformation from centrally planned into a market and free enterprise economy, Bulgaria would like to benefit from the special treatment provided in Article 29 of the Subsidies and Countervailing Measures Agreement, upon appropriate notification. The representative of Bulgaria noted that production subsidies were applied primarily for: (i) compensating higher production costs in some vital sectors (energy and transportation) with considerable social implications; (ii) social considerations (including support for producers in mountainous regions and for disadvantaged regions of the country). The Bulgarian Government would continue its policy of further scaling down subsidies. He added that as a result of the unprecedented scale of economic reform and exclusively to alleviate social problems the following sectors of the economy received financial assistance from the State: (i) Energy production: The 1995 State budget allocated 3564 million BGL for the production of energy. Self-financing of energy production was envisaged in the future. (ii) Agriculture.

55. The representative of Bulgaria confirmed that his Government does not maintain subsidies which meet the definition of a prohibited subsidy, within the meaning of Article 3 of the Agreement on Subsidies and Countervailing Measures, and would therefore not invoke provisions in the Agreement that provide for the progressive elimination of such measures within a fixed period of time. The Working Party took note of this commitment.

Agreement on Agriculture

56. In documents Spec(95)4 and addenda and WT/SPEC/12, the representative of Bulgaria submitted the Agriculture Country Schedule of Bulgaria. In response to some members, he explained the meaning of the terms applied administered prices, external reference price and product specific bonus used in some of the supporting tables. He confirmed that the system of reference prices had been eliminated as of 1 January 1995. Since 1991, Bulgarian agriculture was undergoing a reform process consisting of the restitution of land and the privatization of the food industry. The collapse of the former centrally planned economy and the lack of proper market structures had led to a drop in agricultural production. The main instrument for support of agriculture in the 1991-1994 period was the subsidization of the interest rate. The level of the AMS relative to GDP in the agriculture sector for the period 1991-1994 was as follows:

Year	GDP agriculture	AMS	(%)
1991	993 mln.XEU	161.7 mln.XEU	16
1992	791 mln.XEU	156 mln.XEU	19
1993	837 mln.XEU	130.4 mln.XEU	16
1994	1 150 mln.XEU	69.3 mln.XEU	6

The representative of Bulgaria added that the 1993 State budget had allocated 964 million BGL as technical assistance for the agrarian reform that includes: Restoration of the property rights on farm lands; Legal procedures at the established Commissions for the restoration of the lands and at the courts. For the land owners there was a five-year income tax and profit tax relief from the entry into force of the Law on the Ownership and Use of Agricultural Land, i.e. from 1 March 1991. The recovery of the ecologically polluted areas was financed by the State. The 1993 State budget had allocated 63 million BGL in subsidies for the mountainous areas, the break-down of the amount was as follows: transportation of bread: 15 million BGL; transportation of other basic foodstuffs: 48 million BGL. Other assistance granted to agriculture in 1993 was as follows: (1) 1 billion BGL - for credits, (2) 750 million BGL - for the construction, reconstruction, modernization and maintenance of the irrigation system; (3) 276 million BGL - for financing expenses in the veterinary field; (4) 22 million BGL - allocated under the Law on the preservation of cultivated lands and pastures (Article 15 and 17) for financing the soil conservation. The representative of Bulgaria added that progress in the restitution of arable land had necessitated the establishment of support for the emerging agriculture sector. Because of the reform of the agricultural sector, an "Agricultural Fund" had been established in 1995. The Fund directed a certain percentage of GDP for agricultural support through guaranteed minimum prices, export subsidies, subsidies for fuel, storage and other related activities. In addition, proceeds from the

privatization of the food industry would also be allocated for agricultural development. Tobacco growers also received support. He added that Bulgarian law ensured non-discriminatory access to credits. As banks determined their credit policy independently, the access to credits did not depend on the type of ownership of the borrower. Private and State-owned companies as well as joint ventures had equal access to credit. There was no obligation for the banks to make loans to State enterprises as a percentage of the bank capital or on any other basis.

57. The representative of Bulgaria confirmed that after accession to the Agreement Establishing the WTO, his Government would observe the provisions of Article XVI of the GATT 1994, including the notification provisions of paragraph 1 of Article XVI of the GATT 1994 and of the Agreement on Subsidies and Countervailing Measures. In pursuance of the agriculture country schedule, the Government of Bulgaria would also comply with the provisions of the WTO Agreement on Agriculture. The Working Party took note of these assurances.

58. The schedule of Bulgaria's Export Subsidies Commitments (Part IV) has been included in Part IV of the Schedule (document WT/SPEC/14/Rev.1/Add.1). The initial and final commitments are based on the most recent representative period for which statistical information was available. An earlier period than the most recent three year period was accepted by WTO Members only because the latter was not regarded as representative due to the United Nations embargo applied to the former Republic of Yugoslavia.

Agreement on Safeguards

59. Some members of the Working Party expressed concern that the administration of the Law on Safeguards set out in Regulation No. 180 in some respects such as the use of the designations critical circumstances, market disruption, broad section of consumers, provisional measures, etc. failed to conform to the provisions of the WTO Agreement on Safeguards and requested clarification concerning Bulgaria's safeguards regime. In response, the representative of Bulgaria said that the Ministry of Trade and Foreign Economic Cooperation was the authority competent to make the serious injury finding (Article 5, paragraph 1 of the Regulation). For the purpose of conducting the investigation an ad-hoc commission is established including representatives of the Ministry of Industry, the Ministry of Agriculture and the Food Industries, the Ministry of Finance (General Customs Directorate), the Ministry of Foreign Affairs and the Ministry of Trade and Foreign Economic Cooperation. The investigation is carried out under an administrative non-judicial procedure. The Council of Ministers is authorized to adopt the safeguard measure (Article 6 of the Regulation). The Ministry of Finance (General Customs Directorate) is empowered as to the enforcement of the safeguard measure (§ 1 of the Transitional

and Final Provisions of the Regulation). During safeguard investigations, the authority was required to give interested parties opportunities to make submissions. The authority was required to establish that there had been a volume increase in either absolute or relative terms, and that those imports had, through factors such as loss of production, productivity, decline in capacity utilization, etc., had caused serious injury to the domestic industry. When an allegation of a threat of serious injury was made, the investigating authorities were required to examine whether it was clearly foreseeable that the rate of imports would increase, and that actual injury was likely to result. The current Regulation provided a maximum period of two years for the application of safeguard measures. A safeguard measure could not be renewed, however, if a safeguard measure was in place for less than two years, it could be extended. The representative of Bulgaria stated that the Regulation establishing the regime did not presently permit the taking of provisional measures. Amendments were currently being prepared to make the Regulation fully compatible with the Agreement on Safeguard Measures, in respect of provisional safeguard measures. Up to now safeguard measures had only been implemented on the imports of matches where a reference price had been established.

Agreements on Technical Barriers to Trade and Sanitary and Phytosanitary Measures

60. Some members requested additional information on standards and enquired how Bulgaria intended to implement the requirements of the Agreements on Technical Barriers to Trade. In response, the representative of Bulgaria provided information on the procedure in effect under the Implementation Rules concerning the submission of the draft standards to the relevant governmental bodies; the consideration of the comments received the approval by technical standardization committees, the evaluation of the draft standards and the final adoption by the Committee on Standardization and Metrology. Under Regulation No. 1/1994 of the Committee on Standardization and Metrology (SG 7/1994) there was a mechanism for the implementation of international and regional standards in the Republic of Bulgaria. The Regulation of the Council of Ministers on Certification of the Manufactured Products in the Republic of Bulgaria (SG 40/1988) laid down the rules for certification ensuring a positive assurance of conformity with the national standards ("technical regulations") by a certificate and/or a verified compliance mark. He also provided information setting out the changes being made to the Bulgarian standards regime which would be brought into conformity with the WTO Agreement. The Bulgarian Committee on Standardization and Metrology monitored international standards. Bulgaria requested an 18 month transitional period for implementation of the Agreement on Technical Barriers to Trade. Bulgaria explained that it required the transitional period in order to reorganize its national standards system, to be able to comply with the notification requirements of the Agreement. A draft regulation of the Council of Ministers on Certification of Products for their Assessment for Conformity with Standards was being prepared and a new Standardization Law would

be drafted based on the ISO/IEC Code of Good Practices for Conformity Assessment. He noted that Bulgaria would be prepared to comply with the transparency requirements and the obligation to establish an enquiry point. Finally, the representative of Bulgaria said that there were other acts relating to the sale of goods in the Republic of Bulgaria (e.g. labelling, packaging, weights and measures, etc.). These laws and regulations were applied uniformly to domestic and imported products and were not administered so as to constitute an arbitrary or disguised restriction on international trade.

61. Some members requested information on how Bulgaria intended to implement the requirements of the Agreement on Sanitary and Phytosanitary Measures (SPS). In response the representative of Bulgaria said that Bulgarian sanitary and phytosanitary measures conformed in principle with international standards, guidelines or recommendations. Bulgaria was a signatory to the following conventions and agreements in this field: Codex Alimentarius; International Agreement for the Establishment of the International Office of Epizootics; International Convention for Plant Protection; Convention on the Establishment of the European and Mediterranean Plant Protection Organization; Convention on the International Trade in Endangered Species of Wild Fauna and Flora. Improvements might be necessary in some areas, e.g. the publication of regulations, in particular to allow a reasonable interval between the publication of a sanitary or phytosanitary measure and its entry into force. However, such improvements which would fundamentally strengthen transparency did not contradict the existing regulations in Bulgaria. Therefore, Bulgaria did not expect substantial difficulties in adapting sanitary and phytosanitary regulations to the requirements of the Agreement on SPS. With reference to regulation No. 87 of 19 February 1993 on quality control at the border, he said that the quality control was effected by the officers of the Directorate of Border Quality Control within the Committee for Standardization and Metrology. Imports and exports were released at the border upon presentation by the exporter or importer of a quality certificate or protocol for the preliminary test of samples. Such certificates or protocols could be issued by any authorized laboratory in the territory of the country. He added that the draft Law on Plant Protection was at an initial stage of preparation. The draft had been debated internally in the Ministry of Agriculture and Food Industries and would be submitted to the relevant governmental bodies. The draft law was consistent with the WTO Agreement on Sanitary and Phytosanitary Measures, as well as with the international conventions for plant protection and quarantine of which Bulgaria was a signatory.

62. The representative of Bulgaria stated that Bulgaria would apply the WTO Agreements on Technical Barriers to Trade and Sanitary and Phytosanitary Measures from the date of accession without recourse to any transition period. He further confirmed that, in particular, Bulgaria would apply the same controls, criteria and rules regarding technical regulations, standards certification and labelling requirements to imported and domestic goods, and would not use such regulations to restrict imports.

Bulgaria would ensure that its technical regulations, standards certification and labelling requirements are not applied to imports in an arbitrary manner, in a way that discriminates between supplier countries where the same conditions apply or as a disguised restriction on international trade. Bulgaria will not require additional certification or sanitary registration for products which have been certified as safe for human use and consumption by recognized foreign or international bodies. Bulgaria would also ensure that, from the date of accession, its criteria for granting prior authorization or securing required certification or 'sanitary registration' for imported products will be published and available to traders, and that its sanitary and other certification requirements are administered in a transparent and expeditious manner. Bulgaria would be willing to consult with WTO Members concerning the effect of these requirements on their trade with a view to resolving specific problems. The Working Party took note of these commitments.

Free Trade Zones

63. In response to questions concerning the free trade zones, the representative of Bulgaria said that these zones had been established by Decree No. 2242 of 1987. The Decree defines a free trade zone as an area in which foreign economic entities or joint ventures may conduct economic activities without the obligation to pay customs duties on their imports and with certain tax advantages. There was a 5 year profit tax relief for activities in the zones. Upon the expiry of the grace period, the rate of the profit tax was 20 per cent. There was no time limit for the existence of the zones. There were seven free trade zones in the regions of the cities of Rousse, Vidin, Bourgas, Plovdiv, Dragoman, Haskovo and Svilengrad. The activities most common in the free trade zones included handling, storage and warehousing. Goods and services exported from the free trade zones to the customs territory of Bulgaria were subject to the customs duties, charges and taxation currently in force in the customs territory of Bulgaria, i.e. normal tariffs and taxes were applied to exports from the zones into Bulgarian customs territory. There were no exceptions to this rule. The representative of Bulgaria added that as of 1 October 1993, the profit tax relief for firms that locate in the free trade zones was no longer in effect. The common profit tax of 40 per cent in force on the territory of Bulgaria was applied. However, legal persons who had started using these incentives would continue to benefit from them until the expiration of the period accorded. The Working Party took note of these assurances.

State Trading Enterprises

64. Recalling the provisions of Article XVII of the GATT 1994, several members of the Working Party noted that while Bulgaria had abolished the State legal monopoly on foreign trade at least 60 per cent of Bulgaria's exports and imports were still generated by State-owned enterprises and in many

cases were still carried out by the same trading enterprises that formerly had defined and controlled this trade. In the view of some members of the Working Party, a full separation of the State from the still sizable and economically critical State-owned sector did not seem possible. Even the current rules for the management of State-owned firms clearly contemplated a role for the State in the operations of certain enterprises. In addition Bulgaria's privatization process was proceeding slowly. Out of the 4,500 State-owned firms which would be transferred to private ownership under the Law on Transformation and Privatization of State and Municipal Enterprises, Bulgaria was still in the early stages of preparing some of them for sale. These members requested that Bulgaria provide full details of the role of the State in management and decision making in enterprises wholly or substantially owned by the State, and the products which they traded. In this regard special reference was made to the State trading companies on tobacco and tobacco products (Bulgartabac) and wines and spirits (Vinimpex).

65. The representative of Bulgaria pointed out that as of 1 July 1991, the Commercial Law (Company Act) was in force. Pursuant to this law, economic activities could be carried out on the basis of various forms of ownership including private, municipal, State and joint ventures with foreign participation. Article 1.1 of the Company Act defined the conduct of trade (domestic or international) as "commercial activity". To carry on that activity, businesses must be incorporated, pursuant to the Company Act. This required that all natural and legal persons, whether Bulgarian or with foreign participation, have their business entered in a commercial register held in a District Court. Following incorporation, businesses acquired the right to carry out economic activities, including foreign trade activity. No companies had exclusive or privileged import rights. The importation of all goods may be effected by any economic entity, irrespective of its ownership. State-owned trading companies performed foreign trade activities solely on the basis of commercial considerations, competing with each other and with the private companies. Noting that State intervention in the economic activity of all companies had been abolished, he reiterated that Article 19 of the Constitution of Bulgaria states, *inter alia*, that the economy of Bulgaria is based on the principle of the free entrepreneurship and that the legislation shall create and assure equal legal conditions for carrying out economic activities for all legal and natural persons, thus establishing the principle of non-discrimination between State-owned and private enterprises. Therefore, State-owned enterprises were in a position to define independently their own market behaviour, to implement it through the respective operational decisions and to conclude commercial transactions of any kind in accordance with the customary business practices and the legislation in force. Neither economic nor legal privileges were granted to them by the Government. He added that at present there were no State trading monopolies in Bulgaria. It seemed that Bulgaria had had only one State trading enterprise within the meaning of Article XVII of the GATT 1994, Bulgartabac. There were no enterprises having the principal responsibility for import or export of any commodities and products. Neither private nor State-owned enterprises in Bulgaria were bound by any obligation concerning

production or trade in any products or goods, nor with respect to the volume, value of trade, product composition of their sales and purchases, etc. All enterprises acting under Bulgarian legislation are entitled to include in the scope of their activities foreign trade with no limitations with respect to the product coverage of their trade. For the first half of 1993 according to an estimate of the Ministry of Trade the following companies had had a significant activity in foreign trade: Balcancar, Pharmachim, Nephtochim, Bulgartabac, Energoimpex, Chimimport, Kremikovtzy, Ruen, Plama. The principal activity of some of them (Balcancar, Pharmachim, Nephtochim, Bulgartabac) was in the field of production. A list of the enterprises in which the State had ownership participation was in preparation, even though there were difficulties, resulting from the changes in the statistical system, and of the identification numbers of enterprises. The Law on Commerce and the Law on the Protection of Competition did not permit the Government to instruct State-owned enterprises in the conduct of domestic or foreign trade operations. The Government was not in a position to prevent any enterprise under its jurisdiction from acting as normal market operators in accordance with the principles of Article XVII of the GATT 1994 and especially with its paragraph 1 (c). All other laws, ordinances and regulations dealing with the activity of the economic operators in Bulgaria were consistent with the Law on Commerce and provisions of the Constitution which excluded State monopolies on trade.

66. The representative of Bulgaria added that within the meaning and under the conditions set out in Article XVII of the GATT 1994, Bulgaria had had only one State-trading company, Bulgartabac, which according to the 1947 Law on State Monopoly on Tobacco had exclusive rights on trade in raw tobacco and the manufacturing of tobacco products. However, the 1947 Law on State Monopoly on Tobacco had been repealed by the 1993 Tobacco and the Tobacco Products Act and the "Bulgartabac" enterprise had been transformed into a holding of smaller joint-stock and limited liability companies registered under the 1991 Law on Commerce. Bulgartabac did not have dominant market positions in internal and foreign trade in tobacco products but enjoyed a dominant position in the production of tobacco products and trade in raw tobacco. Vinimpex did not have a monopoly position in foreign trade in wines and spirits. Vinimpex could not be considered a State-trading enterprise within the meaning of Article XVII as it was not granted by the State any exclusive or special privileges and had statutory authority for deciding on imports and exports. The representative of Bulgaria additionally noted that parts of Vinimpex had recently been privatized. "Vinimpex" continued to trade in alcoholic beverages but did not have a dominant position on the market. It was one of the many companies that trade in alcoholic beverages. He reiterated there was no State monopoly in trade in alcoholic beverages in Bulgaria. As of November 1990, the Council of Ministers had discontinued the existence of the enterprise Vinprom, and the producers of wines and alcoholic beverages were registered as independent legal persons with the right to conduct foreign and domestic trade on their own or through intermediaries. Any firm or individual was free to import alcoholic beverages. The 1992 imports of alcoholic beverages

effected by private companies had accounted for 75.8 per cent of total imports of alcoholic beverages. He noted also that in 1992 noted also that the share of some of the former major foreign trade organizations responsible for agricultural commodity imports and exports had been as follows:

Company	Commodity	Imports	Exports
BULGARPLODEXPORT	fresh vegetables	0	0.73%
L B BULGARICUM	dairy products	3.84%	7.99%
BULGARIAN MEAT Co	live animals and meat thereof	0	4.74%
RODOPAIMPEX	live animals and meat thereof		4.24%

67. The representative of Bulgaria confirmed that his Government would apply its laws and regulations governing the trading activities of State-owned enterprises in conformity with the relevant provisions of the WTO Agreement, in particular and where relevant, Article XVII of the GATT 1994, the WTO Understanding on that Article, and Article VIII of the GATS. In this regard, he noted the list of State-owned firms contained in WT/ACC/BGR/3, some of which were in the process of privatization. He also said that Bulgaria would abide by the provisions for notification, non-discrimination, and the application of commercial considerations for trade transactions for any enterprise whose activities were subject to Article XVII of the GATT 1994, the WTO Understanding on that Article and Article VIII of the GATS. The Working Party took note of these commitments.

Customs Valuation

68. Members of the Working Party reviewed information provided by Bulgaria on its customs valuation régime in WT/ACC/BGR/2, concerning the application of Regulation No.35/26 February 1992 (Decree 35/92) published in State Gazette 20/10 March 1992. Members of the Working Party noted that Decree 35 did not fully implement the WTO Agreement on the Implementation of Article VII of the GATT 1994 (Customs Valuation Agreement). A member stated that much of the language and terminology used in Decree 35 departed markedly from that of the Valuation Agreement. This member urged Bulgaria to resolve these apparent discrepancies between its legislation in this area and its WTO customs valuation obligations.

69. The representative of Bulgaria stated that his Government intended to be in full conformity with the Agreement on Customs Valuation prior to accession. He stated that Bulgaria had implemented

new customs valuation regulations. These were contained in Regulation of the Council of Ministers No.39 of 8 March 1996 (Regulation 39/96) on the determination of customs value of goods, imported in the Republic of Bulgaria, which was published in State Gazette No.22 of 1996. The regulations were elaborated by Instruction No.2 of the Minister of Finance of 12 March 1996, concerning the particulars of the customs value, which was published in State Gazette No.24 of 1996. Both these regulations were provided to the Working Party in Bulgaria's draft notifications, as requested by a member. Bulgaria subsequently indicated in its draft notifications that it applies in practice, based on Article 8 of Regulation of the Council of Ministers No.39 of 8 March 1996 (published in State Gazette No.22 of 1996), the provision of paragraph 2 of the Decision of 24 September 1984 on the Valuation of Carrier Media Bearing Software for Data Processing Equipment and the provisions of the Decision of 26 April 1984 on the Treatment of Interest Charges in Customs Value of Imported Goods (VAL/8 - adopted by the WTO Committee on 12 May 1995). The representative of Bulgaria stated that these provisions represented a full implementation of the Agreement on Customs Valuation, as requested by the Working Party.

70. Members of the Working Party noted that Regulation 39/96 was as a general matter, in conformity with the provisions of the WTO on customs valuation, and commended Bulgaria on its efforts to amend current practice to bring it up to WTO norms. A member noted that there were some provisions where clarification on terminology and application could improve the text, for example, the precise meaning in Article 1.10 and 1.12 of Regulation 39/96 of goods "declared for free circulation in Bulgaria" and whether the references in Article 1.13 and 1.14 are actually to transaction value. It would also be useful to clarify in Article 10 who, ultimately, is responsible for providing the information necessary for appraisal of the imported goods. Finally, it is not clear from whence is derived the definition in Article 1.12 for a sale for exportation. This member sought Bulgaria's clarification of these points, but was otherwise satisfied that Bulgaria's regulations on customs valuation were adequate to implement the Customs Valuation Agreement.

71. The representative of Bulgaria indicated that it will fully apply the WTO provisions concerning customs valuation from the date of accession, including, in addition to the Agreement on the Implementation of Article VII of the GATT 1994, the provisions for the Valuation of Carrier Media Bearing Software for Data Processing Equipment and the provisions on the Treatment of Interest Charges in Customs Value of Imported Goods. He further confirmed that, as an international agreement, the provisions of the WTO Agreement on the Implementation of Article VII of the GATT 1994 would supersede domestic law after accession. The Working Party took note of this commitment.

Rules of Origin

72. Members of the Working Party noted the information provided by Bulgaria in WT/ACC/BGR/2 and in its draft submission on Rules of Origin. This information was not, however, adequate to assess the consistency of Bulgaria's laws and regulations on rules of origin with the WTO Agreement. A member of the Working Party sought further information from Bulgaria concerning its procedural protection and the basis for determination of origin, as follows: Did Bulgaria's legislation and implementation of its régime in the area of rules of origin provide for rulings within 150 days of initiation of customs formalities? Did importers have the right of appeal? Were the administrative and judicial rulings that emerged from this process binding on all parties involved? Was the "50 per cent of value" criteria reported in WT/ACC/BGR/2 the only criterion applied by Bulgaria for substantial transformation? What would happen if no one country could be found to account for 50 per cent of the value? What was the basis for determining the composition of the 50 per cent of value, i.e., what components of the value of the good were counted - only inputs/materials, direct and indirect labour, profit, interest, depreciation? This member sought Bulgaria's responses to these questions and its assurances that deficiencies in these areas would be corrected prior to Bulgaria's accession.

73. The representative of Bulgaria confirmed that Bulgaria would remedy any departures from full conformity with the WTO Agreement on Rules of Origin prior to its accession, and that by that time, Bulgaria's application of rules of origin for both MFN and preferential trade would be administered in conformity with the provisions of the Agreement. The Working Party took note of this commitment.

VI. Trade Agreements

Regional Trade Agreements

74. Some members of the Working Party expressed the concern that the relatively high and recently increased m.f.n. tariff levels would lead to trade distortions against Bulgarian m.f.n. trading partners and requested detailed information and trade data on the agreements establishing preferential access to the Bulgarian market. In response the representative of Bulgaria said that in March 1993, Bulgaria had signed the Europe Agreement with the European Community providing for the establishment of a free-trade area in a ten-year period. This Agreement would eliminate trade barriers for industrial goods and improve market access for agricultural products. The process of trade liberalization was asymmetrical due to the economic disparities between Bulgaria and the EC. Also in March 1993, Bulgaria had signed a Free Trade Agreement with the EFTA States covering trade in industrial products, fish and processed agricultural goods. The Agreement paralleled the Europe Agreement with the EC.

There was also an asymmetry in the implementation schedule of trade liberalization in favour of Bulgaria. Bilateral Agreements on trade in agricultural goods with each individual EFTA State had been signed on the same date. In 1992 Bulgaria's imports from EFTA States and the EC had accounted for 6.8 per cent and 32.6 per cent respectively of total imports. Their relative shares had increased in 1992 as a consequence of the contraction of Bulgarian trade and the partial reorientation to the OECD markets following the CMEA dissolution. The representative of Bulgaria added that at this moment his Government was not in a position to submit information on trade flows in the framework of the FTAs for the following reasons: both agreements had recently entered into force so there was not enough empirical evidence for analysis; the implementation of both agreements had been strongly hampered because of UN sanctions imposed on Serbia and Montenegro, so trade flows were heavily distorted; the statistical system was undergoing a process of transformation. However, new information would be submitted as soon as available. The representative of Bulgaria said that in Bulgaria's view the free trade agreements were in conformity with the rules and conditions of Article XXIV of the GATT 1994 and his Government was ready to comply with the relevant Understanding agreed in the context of WTO Agreement. The Working Party took note of these assurances.

Bilateral Trade Agreements

75. With reference to bilateral trade agreements, the representative of Bulgaria said that an Agreement for Trade Relations between the Republic of Bulgaria and the United States had been signed on 22 April 1991. By virtue of this Agreement the two countries had extended to each other m.f.n. treatment. As from 1 January 1991, trade with the former CMEA countries was conducted in convertible currencies and at world prices. The new trade agreements with the former CMEA countries were consistent with the requirements of GATT 1994 and contained the m.f.n. clause. Identical trade agreements had been signed with some of the States of the former Soviet Union, namely Belarus, Lithuania, Russia, and Ukraine.

76. The representative of Bulgaria stated that his Government would observe the provisions of the WTO including Article XIV of the GATT 1994 and Article V of the GATS in its trade agreements and would ensure that the provisions of these WTO Agreements for notification, consultation and other requirements concerning preferential trading systems, free trade areas and customs unions of which Bulgaria is a member are met from the date of accession. The Working Party took note of these commitments.

VII. Multilateral and Plurilateral Trade Agreements

77. At the initial stages of the deliberations, several members of the Working Party noted that Bulgaria was a member of Tokyo Round Arrangements on Bovine Meat and Dairy Products. Recalling that Bulgaria had had observer status in a number of MTN Agreements, e.g. the Codes on Import Licensing Procedures, Technical Barriers to Trade, Subsidies and Anti-Dumping, these members later on requested that Bulgaria clarified its intentions as to joining the Multilateral Trade Agreements. In response the representative of Bulgaria informed the Working Party, that Bulgaria was ready, at the time of accession to the Agreement Establishing the WTO, to accept the WTO Agreement and the Multilateral Trade Agreements annexed thereto. In document WT/ACC/BGR/2, the representative of Bulgaria submitted detailed information concerning the consistency of his country's foreign trade régime with the WTO Multilateral Trade Agreements. With respect to the Customs Valuation Agreement, the representative of Bulgaria further informed that as of March 1996 Decree No.35 governing the respective procedures has been superseded by a new regulation No.39/1996 that provides for implementation of the WTO Agreement on the Implementation of Article VII of the GATT 1994, including the understanding on the valuation of software that is appended to the Agreement. Bulgaria notified Regulation 39/1996 to the Working Party. With regard to the Agreement on Subsidies and Countervailing Measures and the Agreement on Implementation of Article VI of the GATT 1994, he stated that some transitional periods would be required taking into consideration the provisions for economies in transition. He added that Bulgaria would consider acceding to the Agreement on Government Procurement after the adoption of the necessary legal basis. He recalled that Bulgaria was a member of the Arrangements on Bovine Meat and Dairy Products and the Protocols thereof and that his Government had signed, subject to ratification, the modified Plurilateral Trade Agreements in Marrakesh. Bulgaria would comply with the conditions for membership in the WTO which included acceptance of all the Multilateral Trade Agreements. The representative of Bulgaria stated his assumption that nothing in the Protocol of Accession went beyond obligations required to be undertaken by Bulgaria in the WTO Agreements. The Working Party took note of these assurances.

78. The representative of Bulgaria confirmed that, upon accession, his Government would notify the Committee on Government Procurement of its intention to accede to the Agreement on Government Procurement and seek observer status in that Committee. He further confirmed that Bulgaria will initiate negotiations for membership in the Agreement by tabling an entity offer prior to 30 June 1997. He also confirmed that, if the results of the negotiations are satisfactory to the interests of Bulgaria and the other members of the Agreement, Bulgaria will complete negotiations for membership in the Agreement by 31 December 1997. The Working Party took note of this commitment.

79. The representative of Bulgaria stated that his Government would accede to the Agreement on Trade in Civil Aircraft at the time of accession.

Agreement on Trade Related Investment Measures (TRIMs)

80. In response to questions concerning the consistency of the foreign trade regime of Bulgaria the Agreement on TRIMs, the representative of Bulgaria said that current Bulgarian legislation did not provide for local content and trade balancing requirements. Bulgaria would undertake not to maintain measures inconsistent with the provisions of Articles III and XI of GATT 1994.

81. The representative of Bulgaria stated that Bulgaria does not maintain measures that are not in conformity with the Agreement on Trade-Related Investment Measures and would therefore not invoke provisions in the Agreement that provide for the progressive elimination of such measures within a fixed period of time. The Working Party took note of this commitment.

VIII Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS)

82. Some members of the Working Party requested information on Bulgaria's acceptance of international agreements on intellectual property, the compliance with their substantive obligations, the protection of computer programs, rental rights, the rights of performers, the terms of protection, the rights of broadcasters, compulsory licensing, exclusions from patentability, etc. Concerning TRIPS, the representative of Bulgaria said that Bulgaria is a signatory to the following international treaties, conventions and agreements related to intellectual property:

A. World Intellectual Property Organization: 1. Convention Establishing the World Intellectual Property Organization (since 8 January 1970); 2. Paris Convention for the Protection of Industrial Property Ratification (since 13 June 1921); 3. Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods (since 12 August 1975); 4. Madrid Agreement Concerning the International Registration of Marks (since 1 August 1985); 5. Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (since 12 August 1975); 6. Patent Cooperation Treaty (since 21 May 1984); 7. Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (since 8 May 1978); 8. Nairobi Treaty on the Protection of the Olympic Symbol (since 6 May 1984); 9. Bern Convention for the Protection of Literary and Artistic Works (since 5 December 1921); 10. International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, adopted at Rome on 26 October 1961; and 11. Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, adopted at Geneva on 29 May 1971. The

Government of the Republic of Bulgaria intended to join the Hague Agreement Concerning the International Deposit of Industrial Designs of 6 November 1925. B. UNESCO: 1. Universal Copyright Convention as revised at Paris on 24 July 1971 (since 5 December 1921). The representative of Bulgaria said that in order to become a member of the World Trade Organization, Bulgaria would accept the Agreement on Trade-Related Aspects of Intellectual Property Rights, including Trade in Counterfeit Goods (TRIPS) set out in Annex 1B of the Agreement Establishing the WTO. The representative of Bulgaria said that the Law on Copyright and Neighbouring Rights and the Patent Law complied with the rules of the TRIPS Agreement. He confirmed that an opportunity for judicial review was provided. He added therefore, Bulgaria would adapt its domestic legislation as necessary. The 1991 Law on Protection of Competition provides for the protection of trade secrets. The Law on Protection of Competition has provisions on anticompetitive practices in contractual licences. Under Bulgarian legislation there were no restrictions on the licensing of intellectual property. The administrative system for enforcement of intellectual property rights in place included units in the Ministry of Culture (for copyright and neighbouring rights) and in the Patent Office (for industrial property rights). Under the Penal Code charges may be pressed against copyright infringers in case they use illegally a trademark or service mark, appellation of origin or industrial design with the purpose of unfair competition. Article 227 of the Penal Code provides for such cases imprisonment of not more than one year of community service or a fine of 10,000BGLs. The Law on Amendment to the Penal Code adopted by the National Assembly on 17 May 1995 (SG 50/1995) had introduced criminalization for copyright and neighbouring rights' infringers. Bulgarian legislation provided for the full ranges of relief required by the TRIPS Agreement, with the exception of border measures. The new draft Law on Customs included specific provisions and procedures in compliance with Articles 50-60 of the TRIPS Agreement. The Working Party took note of these assurances.

83. The representative of Bulgaria confirmed that his Government would apply the provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights by the date of its accession to the WTO, without recourse to any transitional period. The Working Party took note of this commitment.

IX General Agreement on Trade in Services (GATS)

84. Some members of the Working Party requested information concerning emergency safeguard measures and restrictions on international payments and transfers for current transactions. In document WT/ACC/BGR/2, the representative of Bulgaria submitted a note concerning trade in services. Bulgaria also invited interested members to submit as soon as possible their request lists concerning possible services commitments. In document WT/SPEC/14/Add.2/Rev.1, the representative of Bulgaria submitted

a revised draft schedule concerning initial commitments on trade in services which would be annexed to the GATS. The representative of Bulgaria said that in respect of emergency safeguard measures and restrictions on international payments and transfers for current transactions, Bulgaria would comply with the GATS and the requirements specified thereunder. He added that being an economy in transition and having serious external financial difficulties, Bulgaria maintained restrictions on capital transfers in order to ensure the maintenance of the level of financial reserves adequate for the servicing of its external debt. These restrictions were applied on a non-discriminatory and temporary basis, and they are consistent with the Articles of Agreement of the International Monetary Fund.

85. Members of the Working Party commended Bulgaria for the broad commitments to national treatment and market access for foreign service suppliers offered in the revised draft services schedule and indicated that this level of commitment demonstrated that Bulgaria is moving towards greater integration with global services markets. The representative of Bulgaria added that his Government would need a transitional period of five years from the date of accession during which market access for firms wishing to establish a commercial presence could be suspended for new entrants for a period not exceeding two years. Bulgaria would apply the limitation only to the extent necessary to address specific adjustment concerns and would notify the appropriate GATS body of its intent to apply such measures as least two months in advance of application. He also stated that his Government would be prepared to consult on the application of such limitations with interested WTO Members.

86. In the light of the level of commitments undertaken by Bulgaria and given Bulgaria's concerns, some members of the Working Party approved the inclusion of a transition period as described below: (a) As a transitional measure lasting up to 31 December 2000, Bulgaria may impose, in order to address specific adjustment concerns, a suspension of its commitments to permit a foreign service supplier to establish an initial or an additional commercial presence in Bulgaria. Those commitments which may be suspended are as listed in the schedule of specific commitments on services annexed to the Protocol of Accession of Bulgaria; (b) The maximum duration of any suspension described in paragraph 44(a) shall be two years, except that in no case shall any suspension last beyond 31 December 2001. No suspension may be extended beyond this limit and no later suspension may be imposed with respect to the same commitments involved, in whole or in part, in an earlier suspension. Except in the case of expansion of an existing commercial presence to a new geographic location, this limitation shall not apply to foreign service suppliers that have already established in Bulgaria a commercial presence, as defined in Article XXVIII(d) of the GATS, prior to the date that the suspension is implemented; (c) Two months before taking any action under this limitation, Bulgaria will inform the GATS Council and relevant sectoral committees of the GATS Council of the measure it intends to take, its duration and the circumstances that require it to take such action. At the time Bulgaria

notifies the GATS Council and relevant sectoral committees of the GATS Council of its intent to apply the measure, Bulgaria will also, upon request, immediately enter into consultations with any WTO Member affected by application of the limitation with a view to reaching agreement on alteration or withdrawal of the suspension. If consultations do not lead to an agreement between Bulgaria and the WTO Member concerned, Bulgaria shall be free to apply the suspension to the notified sectors no less than two months from the date of its original notification.

87. Some members of the Working Party considered nevertheless that the level of commitments could be improved or made clearer. It was suggested that some measures listed in the draft schedule could still be clarified when the schedules of commitments will be verified from a technical point of view. As far as improvement of commitments was concerned, a member insisted on considering also commitments on basic telecommunications, in particular in light of the Decision on Commitments in Basic Telecommunications adopted by the Council for Trade in Services on 30 April 1996. Given that members have time until 15 February 1997 to consider their commitments in this sector, a contribution from Bulgaria was expected as well. Reference was also made to market access commitments for financial leasing in financial services. The representative of Bulgaria explained that services was a new agreement and that some experience with scheduling and liberalization of trade in services was necessary, particularly within its administration. Bulgaria was willing, however, to consider further commitments so as to comply, as other WTO members, with the obligations resulting from the GATS.

Review of Commitments and Transitional Periods

88. The representative of Bulgaria also stated that his Government would notify the WTO Secretariat annually of the implementation of the phased commitments with definitive dates for compliance referred to in paragraphs 29, 35, 43, 78 and 86 of this Report and would identify any delays in implementation together with the reasons therefore. The Working Party took note of this commitment.

Conclusions

89. The Working Party took note of the explanations and statements of Bulgaria concerning its foreign trade regime, as reflected in this report. The Working Party took note of the statements and assurances given by Bulgaria in relation to certain specific matters which are reproduced in paragraphs 15, 31, 36, 57, 63, 74, 77 and 82 of this report. The Working Party took note of the commitments given by Bulgaria in relation to certain specific matters which are reproduced in paragraphs 16, 17, 24, 25, 26, 29, 30, 32, 34, 35, 37, 38, 43, 47, 48, 53, 55, 62, 67, 71, 73, 76, 78, 81, 83, 86 and

88 of this Report. The Working Party took note that these commitments had been incorporated in Paragraph 2 of the Protocol of Accession of Bulgaria to the WTO.

90. Having carried out the examination of the foreign trade régime of Bulgaria and in the light of the explanations, statements, assurances, commitments and concessions made by the representative of Bulgaria, the Working Party reached the conclusion that Bulgaria be invited to accede to the Agreement Establishing the WTO under the provisions of Article XII. For this purpose the Working Party has prepared the draft Decision and Protocol of Accession reproduced in the Appendix to this Report, and takes note of Bulgaria's Schedule of Specific Commitments on Services (document WT/SPEC/14/Add.2/Rev.1) and its Schedule of Concessions and Commitments on Goods (document WT/SPEC/14/Rev.1/Add.1) that are annexed to the Protocol. It is proposed that these texts be adopted by the General Council when it adopts the Report. When the Decision is adopted, the Protocol of Accession would be open for acceptance by Bulgaria which would become a Member 30 days after it accepts the said Protocol. The Working Party agreed therefore, that it had completed its work concerning the negotiations for the accession of Bulgaria to the Agreement Establishing the WTO.

APPENDIX

ACCESSION OF BULGARIA

Draft Decision

The General Council,

Having regard to the results of the negotiations directed towards the accession of the Republic of Bulgaria to the Agreement Establishing the World Trade Organization and having prepared a Protocol for the Accession of Bulgaria.

Decide, in accordance with Article XII of the Agreement Establishing the World Trade Organisation, that the Republic of Bulgaria may accede to the Agreement Establishing the World Trade Organisation on the terms set out in the said Protocol.

**PROTOCOL FOR THE ACCESSION OF BULGARIA
TO THE MARRAKESH AGREEMENT ESTABLISHING
THE WORLD TRADE ORGANIZATION
DRAFT**

The World Trade Organization (hereinafter referred to as the "WTO"), pursuant to the approval of the General Council of the WTO accorded under Article XII of the Marrakesh Agreement Establishing the World Trade Organization (hereinafter referred to as the "WTO Agreement"), and the Republic of Bulgaria, (hereinafter referred to as "Bulgaria"),

Taking note of the Report of the Working Party on the Accession of Bulgaria WTO Agreement in document (hereinafter referred to as the "Working Party Report"),

Having regard to the results of the negotiations on the Accession of Bulgaria WTO,

Agree as follows:

Part I - General

1. Upon entry into force of this Protocol, Bulgaria accedes to the WTO Agreement pursuant to Article XII of that Agreement and thereby becomes a Member of the WTO.
2. The WTO Agreement to which Bulgaria accedes shall be the WTO Agreement as rectified, amended or otherwise modified by such legal instruments as may have entered into force before the date of entry into force of this Protocol. This Protocol, including the commitments referred to in paragraph 89 of the Working Party Report which are hereby incorporated into this Protocol, shall be an integral part of the WTO Agreement.
3. Except as otherwise provided for in the paragraphs referred to in paragraph 89 of the Working Party Report, those obligations in the Multilateral Trade Agreements annexed to the WTO Agreement that are to be implemented over a period of time starting with the entry into force of that Agreement shall be implemented by Bulgaria as if it had accepted that Agreement on the date of its entry into force.
4. Bulgaria may maintain a measure inconsistent with paragraph 1 of Article II of the GATS provided that such a measure is recorded in the List of Article II Exemptions annexed to this Protocol and meets the conditions of the Annex to the GATS on Article II Exemptions.

Part II - Schedules

5. The Schedules annexed to this Protocol shall become the Schedule of Concessions and Commitments annexed to the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as the "GATT 1994") and the Schedule of Specific Commitments annexed to the General Agreement on Trade in Services (hereinafter referred to as "GATS") relating to Bulgaria. The staging of the concessions and commitments listed in the Schedules shall be implemented as specified in the relevant parts of the respective Schedules.

6. For the purpose of the reference in paragraph 6(a) of Article II of the GATT 1994 to the date of that Agreement, the applicable date in respect of the Schedules of Concessions and Commitments annexed to this Protocol shall be the date of entry into force of this Protocol.

Part III - Final Provisions

7. This Protocol shall be open for acceptance, by signature or otherwise, by Bulgaria until 30 April 1997.

8. This Protocol shall enter into force on the thirtieth day following the day of its acceptance.

9. This Protocol shall be deposited with the Director-General of the WTO. The Director-General of the WTO shall promptly furnish a certified copy of this Protocol and a notification of acceptance by Bulgaria thereto pursuant to paragraph 7 to each Member of the WTO and to Bulgaria.

10. This Protocol shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

Done at Geneva this day of one thousand nine hundred and ninety, in a single copy in the English, French and Spanish languages, each text being authentic.

ANNEX I

SCHEDULE CXXXIX - BULGARIA

Part I - Goods

[Circulated in document WT/SPEC/14/Rev.1/Add.1]

Part II - Services

[Circulated in document WT/SPEC/14/Add.2/Rev.1]

ANNEX 1

to the Report of the Working Party on the Accession of Bulgaria

INFORMATION ON THE INTRODUCTION OF A TEMPORARY SURCHARGE ON IMPORTS INTO THE REPUBLIC OF BULGARIA FOR BALANCE OF PAYMENTS REASONS

The introduction of an import surcharge

Pursuant to Regulation of the Council of Ministers No. 118 of 30 May 1996 (published in State Gazette No. 48 of 1996) the Government of the Republic of Bulgaria has introduced a 5% temporary surcharge on imports of goods into the Republic of Bulgaria (except a limited list of products essential for the economy - see Annex), with effect from 4 June 1996 in order to forestall an imminent threat of serious decline in Bulgaria's foreign exchange reserves. The Government decided to respond by introducing the least disruptive measures.

The import surcharge shall be calculated on the customs value of the imported goods. The import surcharge shall be invoiced, paid and charged together with the amounts of assessed customs duty.

The surcharge will be gradually phased in accordance with the following schedule:

- from June 4, 1996 till June 30, 1997 - 5%
- from July 1, 1997 till June 30, 1998 - 4%
- from July 1, 1998 till June 30, 1999 - 2%
- from July 1, 1999 till June 30, 2000 - 1%.

The import surcharge will be eliminated from July 1 2000.

Reasons for the adoption of a restrictive measure

Marked progress in stabilization was achieved in 1995: inflation fell sharply, economic growth increased, and the balance-of-payments strengthened. However, these stabilization gains were short-lived because of deeply entrenched problems of financial undiscipline in the enterprise sector and insolvency of the banking system. Years of delay have laden the budget with debt, undermined monetary control, and now threaten fiscal sustainability. Since the latter half of 1995 a depletion of the exchange reserves, a renewed pressure on the exchange rate and real interest rates were observed.

Significant changes in the macroeconomic environment, including a weakening of economic growth and revenues, higher than expected inflation and nominal interest rates, a much sharper than expected depreciation of the Bulgarian lev, widespread withdrawal of deposits (particularly of foreign exchange) from the banking sector and the loss of greater part of the country's foreign exchange reserves followed in 1996.

There is a considerable uncertainty about balance-of-payments prospects for 1996. Although the overall balance-of-payments for the year 1995 was positive, the negative trend became obvious in the last quarter of 1995. The deficit for the first quarter of 1996 of the overall balance-of-payments was US\$ 583.5 million.

Both external and internal factors are likely to reduce export volume in 1996. Export volume is expected to fall slightly because of weak foreign demand in some important trade partners for Bulgaria, lower international prices for metals (an important export commodity for Bulgaria), weak crops, higher domestic energy prices, enterprise restructuring and the attended slow down in domestic production.

The capital account of the balance-of-payments is expected to deteriorate markedly in 1996 (from US\$ 150 million in 1995 to 647 million in 1996) due to large amortization payments and large capital outflows in the first half of 1996 which are not expected to be fully reversed in the second half of the year.

Official reserves (including gold) have fallen to a precariously low level (less than US\$ 1 billion) and are estimated to have declined by around US\$ 650 million in the first half of 1996.

In this economic situation, the high external indebtedness is a substantial factor in devising the appropriate economic policies and measures.

The foreign debt payments will reach their peak of US\$ 1186 million in 1996, and in 1997 and 1998 will remain at substantially the same high level - US\$ 1117.3 million and US\$ 1012.6 million respectively. In the years 1999 and 2000 the payments will become lower, but will still remain at a very high level - US\$ 848 million and US\$ 725.5 million respectively.

The Republic of Bulgaria is fully determined to restore the confidence in its national currency and in its ability to sustain the regular servicing of its external debt. For this purpose, the Government has undertaken a number of measures to increase budget revenues and to improve its balance-of-payment position. On the basis of these measures, it expects to conclude a Stand-by Agreement with the IMF, and a Structural Adjustment Loan with the World Bank. One of the requirements to reduce the financing gap is to ensure a surplus of the trade balance in spite of the averse effects on exports in the present economic situation.

The measures of the Government are targeted to increase the official reserves to US\$ 1.3 billion by end-1996 and US\$ 1.7 billion by end-1997 (well below three and a half months of imports of goods and non-factor services), to improve the overall balance-of-payments by reducing its deficit to US\$ 244 million by the end of 1996.

A programme, supported by the IMF and the WB is being launched. An agreement was reached in principle with the IMF on a comprehensive programme of economic and structural reform designed to deal decisively with the problems presently confronting Bulgaria which comprises policies to be supported by a Fund arrangement. The programme includes the closure or isolation from the banking system of most loss-making state-owned enterprises and the liquidation of some of the major insolvent banks (both state-owned and private). Some 40 000 people will lose their jobs (i.e. 0.1 - 1.5% of the labour force). The Bulgarian National Bank (the Central Bank) petitioned the Court to initiate bankruptcy proceedings for a number of insolvent trade banks.

The surcharge alternative measures

After considering different options aiming at forestalling the imminent threat of a serious decline in Bulgaria foreign exchange reserves, the Government has chosen the measure that least distorts trade. In accordance with the Understanding on the Balance-of-Payments Provisions of the GATT 1994, the import surcharge as a price-based measure is considered to have less disruptive effect on trade than alternative quantitative restrictions or other similar measures, since it will not interfere with the policies aimed at granting all traders equal opportunity to engage in international commerce.

Because of its comprehensive trade coverage, the surcharge is not used for the purpose of protecting any specific industry or sector of the economy.

The impose surcharge will only be applied to control the general level of imports and will not exceed what is necessary to address the balance-of-payments situation.

In taking this action Bulgaria recognizes that no viable alternative options are available under the present circumstances, for the following reasons:

1. the high level of existing external debt calls for restraint in seeking new credit facilities which could be used to support the balance of payments;
2. a severe depletion of foreign exchange reserves has to be avoided in order to maintain the debt-servicing schedule and safeguard the internal convertibility of the national currency which is crucial for the continuing liberalization of external trade;
3. in carrying out its domestic economic policies, the Bulgarian government has already employed a range of generally recognized instruments aimed at securing the balance-of-payments equilibrium by alternative means. Bulgaria has made considerable effort to obtain progress in the transitions to a market-based system. Trade policies and exchange system reforms have been geared towards reducing distortions to trade, encouraging market forces, and integrating Bulgaria into the world economy. The temporary import surcharge is introduced to protect the implementation of the liberalization measures and to assure their continuity. While taking such measures, the Government of Bulgaria wishes to maintain also its policy of open access to convertible currency resources for all business agents, so as to encourage their activities and promote the spirit of free enterprise.

GATT justification of the measures taken

The surcharge will be administered consistently with the procedures established under the respective Articles of the GATT 1994 and according to the provisions of the 1979 Declaration on Trade Measures Taken for Balance-of-Payments Purposes and the Understanding on Balance-of-Payments Provisions of the GATT 1994.

Bulgaria's view that the surcharge described above is in conformity with the essential standard of consistency with the relevant GATT/WTO provisions and practices is based, inter alia, on the following features of this measure:

1. the reasons that lead to the necessity of introducing the import surcharge fall under the "special factor" qualification (e.g. in Article XII:2 of the GATT 1994);
2. the restrictive impact on trade will be confined to what is considered necessary for meeting the stated objective of the measure, as provided for in the GATT 1994;
3. the import surcharge is price based, uniform and non-discriminatory, administered with regard to imports covered by the measure from all sources of imports, as required by Article XIII:1 of the GATT 1994. This affects equally all trade, including the trading partners with whom Bulgaria's commercial relations are based on Article XXIV of the GATT 1994;
4. the intention of the Bulgarian government is to pursue its reform programme through economic measures which expand, rather than contract, international trade. In this respect, and in conformity with GATT/WTO requirements, the surcharge will be progressively relaxed and eliminated according to the schedule indicated above;

5. the measure is considered by the Bulgarian government as being potentially less trade disruptive than quantitative restrictions on imports or other similar measures.

As regards foreign exchange policy, Bulgaria intends to maintain, protect and expand the present system of virtually unrestricted internal convertibility. In fact, the convertibility for current account operations has been one of the key instruments in our efforts to develop market economy. The selection of foreign exchange controls, rather than the surcharge, would have meant an unacceptable reversal of this policy.

ANNEX

Description of products	Tariff item No.
Crude oil	ex 2709 00
Natural gas	2711 11 00 0 2711 21 00 0
Electrical energy	2716 00 00 0
Coal and briquettes	2701
Lignite	2702
Coke and semi-coke of coal of lignite	2704
Nuclear fuel	ex 2844 20
Copper ores and concentrates	2603 00 00
Unwrought aluminium	7601
Chemical wood pulp	4703 4704
Polyvinyl chloride	ex 3904
Cotton	5201
Medicaments	3003 3004
Raw cane sugar	1701
Wheat	1001
Maize for forage	1005 90 00 1
Wheat flour	ex 1101 00 00 0

ANNEX 2
to the Report of the Working Party on the Accession of Bulgaria

LIST OF EXPORT TAXES APPLIED IN THE REPUBLIC OF BULGARIA

Description of products	Bulgarian Customs Tariff No
1. Live animals:	
horses	0101 11 0101 19
bovine animals	0102
sheep and goats	0104
2. Sea snails	ex 0307 91
3. Hides and skins:	
raw hides and skins of bovine animals	4101
raw hides and skins of sheep and goats	4102 4103 10
raw pigskins	ex 4103 90
4. Wood:	
fuel wood	ex 4401
wood in the rough, coniferous and non-coniferous with the diameter of the slender edge exceeding 4 cm, excl. cerise, acacia, lime-tree	ex 4403
wood chipped lengthwise:	ex 4407
- planks and details of all kinds of wood, excl. walnut, cerise, acacia and lime-tree	
- walnut wood, sliced lengthwise	
- beams:	
. of all kinds of wood, excl. walnut, cerise, acacia and lime-tree	
. of walnut	
- details of walnut, any size	
5. Waste of paper and paperboard	4707
6. Wool:	5101 11
greasy wool, fleece-washed	5101 19 5101 21
degreased wool, not carbonised	5101 29 5103 10
noils of wool or of fine animal hair	5105 10
wool tops	5105 21 5105 29
7. Waste and scrap:	
ferrous, and remelting scrap ingots of iron or steel	7204
of aluminium	7602
of zinc	7902
8. Copper products	7419 91 7419 99