ACCESSION OF SAUDI ARABIA

Questions and Replies to the Memorandum
on the Foreign Trade Régime (L/7489 & Add.1)

In a communication dated 23 June 1993, circulated as document L/7248, the Government of Saudi Arabia applied for accession to the General Agreement pursuant to Article XXXIII. At its meeting on 21 July 1993, the Council set up a Working Party to examine Saudi Arabia's application for accession (C/M/265) and approved the terms of reference of the Working Party which are reproduced in document L/7287/Rev.1. In document L/7489 contracting parties were invited to submit in writing questions concerning the Foreign Trade Régime of Saudi Arabia. The present document sets forth the questions submitted by contracting parties in connection with Saudi Arabia's foreign trade régime and the replies thereto provided by the Saudi Arabian authorities. The annexes mentioned in this document, which are available in the Secretariat for consultation, are listed in document L/7645.

Delegations wishing to raise additional questions concerning Saudi Arabia's foreign trade régime might inform the delegation of that country (with a copy to the secretariat) of such questions in advance of the meeting of the Working Party, so that considered replies can be made available by Saudi Arabia to members at the time of the Working Party meetings.
I. INTRODUCTION

Q1. Paragraph 3 - Please describe in detail in what fashion Saudi Arabia's "system of comprehensive planning" affects international trade.

Reply 1

The system of comprehensive planning is structured around the development plans, of which there have been five five-year plans. These development plans provide a framework for government planning so as to increase the efficiency of government policies and government expenditures in a balanced and coordinated manner for the betterment of the Kingdom of Saudi Arabia and its people.

An examination of several of the broad goals of the development plans provides an excellent indication of how this system of comprehensive planning affects international trade.

Diversifying the Economy and Reducing Dependence on Oil: All the development plans have stressed the need to establish strong economic sectors and income sources other than in the oil sector. Primary instruments used to implement this policy have been the Saudi Industrial Development Fund, the Royal Commission for Jubail and Yanbu, and the eight industrial cities. Due in large part to these programmes, industries have been established which have resulted in the diversification of the Kingdom's economy. This diversification has resulted in growth of non-oil exports.

Raising Living Standards and Improving the Quality of Life: A continuing goal has been to distribute the benefits of the Kingdom's increasing wealth throughout the population and to provide opportunities for all members of Saudi society to participate in the development process. In general, the raising of the living standards of Saudi society has resulted in an increase in the citizens' purchasing power and a concomitant increase in the level of imports.

Regional Development: Balanced and integrated regional development has been a goal of all five year plans. One manifestation of this policy has been the enactment of measures to promote the agricultural sector. Promotion of the agricultural sector has, in turn, had an effect on preventing migration from rural areas and increasing employment in agricultural areas and agricultural products that meet some domestic demand.

Broadening the Linkages Between the Kingdom and other Nations: In light of its expanding role in the world politically, economically, socially and in religion, an important goal is to broaden and deepen the Kingdom's relationships with international organizations and other countries, especially the Gulf Cooperation Council. How this policy affects international trade is readily apparent from just two examples. First, the Unified Economic Agreement among the Gulf Cooperation Council members has led to a free trade area which has resulted in greater trade among the members of the GCC. Second, the decision by the Kingdom to accede to the GATT will secure Saudi Arabia's full participation in the international trading community.

Developing and Completing the Physical Infrastructure: One of the major objectives on which development plans have concentrated is the provision of physical infrastructure necessary to modernize the national economy and increase its involvement in international economy. Therefore, oil revenues in the first three plans were invested primarily in establishing the physical and social infrastructure systems essential to a stable, productive and just society. The emphasis has recently changed to the maintenance of existing facilities, thereby ensuring their long term value to the Kingdom. Physical infrastructure such as roads, ports, and airports, have had a direct impact on international trade by facilitating the import and export of goods and services.
Developing Human Resources: The development plans have placed great importance on human resource development, through advances in primary, secondary, and higher education as well as vocational and technical education and training. Development of human resources has increased, and will continue to increase, the productive employment of Saudi citizens. The impact of this development on international trade occurs in various ways. Increasing the productive employment of Saudi citizens increases their purchasing power which, in turn, increases demand for imported goods and services. It may also lead to the development of domestic industries that enjoys comparative advantages which results in changes in the size and nature of imports and exports.

Q2. Paragraph 5 - Please describe in detail the objective criteria by which Saudi Arabia believes it can be considered a country at a low level of economic development for the purposes of the application of GATT/WTO provisions.

Reply 2

The Kingdom of Saudi Arabia never said it was at a low level of economic development. What it did say is that it should be treated as a developing country within the context of the GATT. The following are among the reasons why:

- It depends on the export of a single raw exhaustible resource to generate most of its foreign exchange earnings. Foreign exchange earnings are vulnerable to the volatile price of this single raw commodity.

- The Saudi Arabian economy is highly dependent on the production of a single raw commodity. Other sectors in the economy are affected either directly or indirectly by the production of this single raw commodity.

- The Saudi Arabian GNP per capita is roughly $7,100, which is well below the level of any country considered to be a developed country by the GATT.

- Despite the rapid improvements that have been made in the past two decades, the Saudi economy still depends, to a large extent, on the technical skills of foreign workers and foreign enterprises.

- Virtually all the advanced (value-added) machinery and technology demanded in the domestic market is imported, indicating that the country has not yet advanced to a developed stage.

- Finally, it should be noted that the OECD considers Saudi Arabia to be a developing country. Please refer to the Development Assistance Committee (DAC) List of Aid Recipients.

Q3. Paragraph 7 - This paragraph states that "As a developing country, the Kingdom attaches particular importance to Article XXXVI." By what criteria does Saudi Arabia claim to be a developing country? Which provisions of the GATT/WTO relating to developing countries would Saudi Arabia wish to apply to its accession?

Reply 3

Please refer to Reply 2. As a developing country within the context of the GATT, Saudi Arabia would expect that all provisions relating to developing countries would apply to Saudi Arabia.
Q4. Paragraph 7 - What is specifically meant by the statement that "As a developing country, the Kingdom attaches particular importance to Article XXXVI."

Reply 4

The statement has three purposes. First, it is an acknowledgment that the Kingdom of Saudi Arabia considers itself a developing country for purposes of the General Agreement on Tariffs and Trade and the World Trade Organization. Second, it signals Saudi Arabia's expectation that the Contracting Parties will accord to the Kingdom the treatment accorded to other developing countries that are either signatories to the General Agreement on Tariffs and Trade or members of the World Trade Organization. Third, it indicates the Kingdom's strong approval of the principles and objectives outlined in Article XXXVI and expectation that other members will live up to these principles and objectives.

Q5. Paragraph 7 - In Chapter 1 Saudi Arabia notes its intention to assume all obligations and rights under the GATT as a contracting party. What are Saudi Arabia's intentions with respect to the WTO Agreement?

Reply 5

Saudi Arabia intends to apply for membership in the WTO when the internal procedures are completed. These procedures are now in the final stage.

Q6. Does Saudi Arabia intend to accede to the World Trade Organization?

Reply 6

Please refer to answer 5.

Q7. Paragraph 7 - Given the imminent entry into force of the World Trade Organization, is Saudi Arabia prepared to acknowledge that its accession negotiations will cover accession to that organization as well as to the GATT?

Reply 7

Saudi Arabia has requested accession to GATT 1947. As stated in Reply 5, Saudi Arabia intends to request membership in the WTO after completing internal procedures.

Q8. Does Saudi Arabia require that any product produced or sold in Saudi Arabia contain domestically-produced content?

Reply 8

No. Saudi Arabia does not require any product produced or sold in Saudi Arabia to contain domestically-produced content.
II. ECONOMY AND FOREIGN TRADE

1. Economy
(b) Main directions

Q9. The economic data presented in Chapter II of the Memorandum pertains largely to 1992 and previous years. Are more recent statistics available, including growth forecasts? Can Saudi Arabia make this information available to the members of the Working Party?

Reply 9

The following are updates of the statistical data provided in Chapter II:

Saudi Arabia’s gross domestic product is estimated to have risen by 1.0 per cent, in nominal terms, in 1993 to a total of about $123 billion. Private sector growth is estimated to have been 5.1 per cent.

The non-oil sector of the economy contributed over 63 per cent of total economic output in 1992, at current prices. By economic activity, construction accounted for 8.8 per cent of GDP, trade for 7.0 per cent, and agriculture, forestry and fishing for 6.5 per cent.

In current prices, the oil sector accounted for 37.1 per cent of country’s economic output in 1992. Over the period 1986-1992, the value of crude oil and petroleum product exports accounted for an average 73 per cent and 17 per cent, respectively, of the total value of exports.

The cost of living for all consumers recorded an increase of 0.8 per cent in 1993 and 0.6 per cent in 1994. The national budget for 1995 projects revenues of SR135 billion and expenditures of SR150 billion. Spending will be cut 6.25 per cent from the 1994 level.

During the period 1981-1992, exports averaged approximately 45 per cent of nominal GDP and imports averaged some 28 per cent of GDP. In 1992 exports amounted to $50 billion while oil exports totalled $47 billion. In 1992, the United States purchased the largest share of Saudi exports, 21 per cent, followed by Japan, 16 per cent, and South Korea, 7 per cent.

In 1993 exports amounted to $42 billion while oil exports totalled $39 billion. For detailed information on imports in 1993, please refer to Annex 1.

Saudi Arabia does not issue growth forecasts.

Q10. Paragraph 12 - Please describe in detail the Islamic values that guide Saudi Arabia’s trade, investment, and economic policy, with particular emphasis on the measures applied in Saudi trade, investment, and economic policy to preserve these values.

Reply 10

The government will safeguard Islamic values by duly observing, disseminating and confirming Allah’s Sharia. The Islamic values that guide Saudi Arabia’s trade are the same Islamic values that guide Moslems around the world. The government will safeguard these Islamic values by duly observing and confirming these values. It is known that Islamic values stress the preservation of life and property, and protect the rights of all people without discrimination. Islamic values are the reason for most prohibited imports (as well as domestic production and export of such prohibited items). They also lead to the country’s free enterprise system through the guarantee of private property. Islamic values respect the contracts made among individuals, firms, and governments.
According to the Basic Law of Rule, the Kingdom is an Arab Islamic state, its constitution is derived from the Holy Quran and the Sunna. Information about the Holy Quran and the Sunna is readily available. The rule in Saudi Arabia is based on fairness, justice, consultation and equality. All natural resources are owned by the state. Private and public property are protected by the state. Taxes and dues are based on fairness and shall not be imposed except in case of need. Social and economic development shall be sought pursuant to a fair and studied plan.

Q11. Paragraph 13 - Please describe in detail the objectives of the 1990-95 five year plan in relation to the development of domestic industries, including references to the oil investment and services sector.

Reply 11

The overall objectives of the Fifth Development Plan (1990-1995) are as follows:

- To safeguard Islamic values by duly observing, disseminating, and confirming Allah’s Sharia (God’s Divine Law).
- To defend the Faith and the Nation, and to uphold the security and social stability of the Kingdom.
- To form a productive national work force by encouraging citizens to avail themselves of the benefits from the infrastructure and institutions provided for them by the State, ensuring their livelihood and rewarding them on the basis of their work.
- To develop human resources, thus ensuring a constant supply of manpower, upgrading its quality and improving its efficiency to meet the requirements of the national economy.
- To raise cultural and information standards to keep pace with the Kingdom’s development.
- To reduce dependence on the production and export of crude oil as the main source of national income.
- To continue with real structural changes in the Kingdom’s economy so as to establish a diversified economic base—with due emphasis on industry and agriculture.
- To develop mineral resources and to encourage discovery and utilization thereof.
- To concentrate on qualitative development of already-established utilities and facilities by improving their level of performance.
- To complete the infrastructural projects necessary to achieve overall development.
- To further encourage private sector participation in socio-economic development.
- To achieve balanced growth throughout all regions of the Kingdom.
- To achieve economic and social integration among the Gulf Cooperation Council (GCC) countries.

More specific plan objectives in relation to domestic industries include the following:
- To maximize the domestic transformation of domestically produced raw materials and intermediate products, particularly oil derivatives and petrochemicals;

- To encourage export-oriented industries which have a comparative advantage, and to provide adequate means and incentives required for their development;

- To achieve integration and inter-linkages among activities in the industrial as well as other economic sectors;

- To improve labour productivity in the industrial sector;

- To strengthen industrial cooperation among the Gulf Cooperation Council (GCC) countries and to develop joint GCC industrial projects, within the framework of the joint economic agreement and the joint industrial strategy of the GCC;

- To develop industrial cooperation with foreign countries for the prudent and well studied transfer of technology, and to attract foreign capital.

More specific plan objectives in relation to oil investment include the following:

- To construct 334 kms of pipelines per year as part of the petroleum products distribution networks;

- To raise the petroleum depots’ bulk storage capacity from 21 million barrels in 1409 to 29 million barrels at the end of the plan period.

More specific plan objectives in relation to the service sector include the following:

- To develop and regulate this sector according to the needs of the national economy in order to achieve maximum efficiency at minimum costs;

- To increase the involvement of the private sector in activities currently undertaken by the government;

- To develop Saudi manpower and improve productivity levels according to the requirements of the sector;

- To promote the development of business services and professions as a necessary support system for high standards of efficiency and competitiveness in the producing sectors.

Q12. Paragraph 13 - Does this five year plan or any of the other previous plans identify specific industrial sectors or firms to be supported? Does Saudi Arabia intend to seek special GATT/WTO treatment for any firm or sector for national security reasons?

Reply 12(a)

The Fifth Development Plan and the previous four plans do not identify specific firms to be supported. However, two industrial sectors have been mentioned in almost all the plan documents as sectors in which the Kingdom demonstrates a comparative advantage and whose development should be encouraged in order to diversify the economy. These two are basic petrochemical industries and downstream petrochemical industries.
Saudi Arabia does not plan to seek special GATT/WTO treatment for any firm or sector. It, however, would reserve its right to use relevant GATT/WTO provisions available to all member countries.

Q13. The description indicates that the strengthening of the role of private sector is one of the goals of the five-year plans. Are there any concrete plans to privatize some of the public sector enterprises in the foreseeable future?

Reply 13

The Kingdom is currently in the preliminary stages of a programme to privatize productive organizations through the flotation of shares of those companies deemed to be ready for privatization. The Custodian of the Two Holy Mosques, King Fahd ibn Abdulaziz, has reconfirmed the Kingdom's determination to expand its privatization drive so that it encompasses profitable enterprises such as the telephone service. Analysis is ongoing with regard to the precise steps to be taken and their timing. The goal of giving the private sector the opportunity to undertake many of the current economic tasks of the Government has also been put forth in the Sixth Development Plan.


Reply 14

A copy of Decree No. 142 of 1413 (H) setting out the “General Objectives and Strategic Bases of the Sixth Development Plan” is reproduced in Annex 2.

Q15. Paragraph 14 - Please provide, in translation, a copy of the Fifth Development Plan (1990-95), and an advance copy or draft of the plan for the next five year period.

Reply 15

Please refer to Annex 2.

Q16. Paragraph 14 - Are there any laws, regulations, or decrees other than the Law for the Protection and Encouragement of National Industry concerning industrial development? If so, please provide them to the Working Party in translation.

Reply 16

Other than the Law for the Protection and Encouragement of National Industry, the laws and regulations concerning industrial development are the Saudi Industrial Development Fund Law, the Investment of Foreign Capital Regulation, and the Rules for Coordination and Encouragement of the Establishment of Industrial Projects in the Gulf Arab States Cooperation Council. Please refer to Annex 3 for (unofficial) English language translations of all four documents.

Q17. Paragraph 15 - Please describe in detail the "institutional support for private sector-led growth and diversification" that "will be provided by the Government." Is this support available to foreign investors as well as domestic?
The paragraph in question referred to "institutional support" in the context of developing the Kingdom’s banking and financial sector and financial markets. Government support for development of the financial sector and financial markets takes place in three primary ways: (1) by allowing for the use of various financial instruments under the regulatory supervision of the government; (2) by encouraging the use of advanced technology and training programmes within the financial sector; and (3) by further developing the capital market in Saudi Arabia through enhancement of the government’s management of the share market. For example, in 1993 the Electronic Securities Information System (ESIS) was enhanced by the introduction of ESISNET, which offers national coverage by extending some of the order management and settlement delivery services throughout the Kingdom.

To the extent that foreign investors are licensed to participate in the financial sector, then foreign investors will enjoy the institutional support provided by the government. For example, the joint venture banks that currently operate in Saudi Arabia are not prohibited in any way from offering the same services and financial instruments as wholly Saudi owned financial institutions. However, there are limits imposed on foreign participation in the share market. Non-Gulf Cooperation Council investors are, for all practical purposes, prohibited from investing in the Saudi stock market.

Q18. Paragraph 15 - It is stated that "Institutional support for private sector-led growth and diversification will be provided by the Government, through rapid development of the Kingdom’s banking and financial sector and financial markets, as well as a widening range of business services." Could Saudi Arabia provide more detailed information on the Government’s plans to develop its financial sector and financial markets? Are there any laws or regulations concerning and/or restricting the establishment or activity of foreign financial firms in Saudi Arabia?

Reply 18

Government support for development of the financial sector and financial markets takes place in three primary ways: (1) by allowing for the use of various financial instruments under the regulatory supervision of the government; (2) by encouraging the use of advanced technology and training programmes within the financial sector; and (3) by further developing the capital market in Saudi Arabia through enhancement of the government’s management of the share market. For example, in 1993 the Electronic Securities Information System (ESIS) was enhanced by the introduction of ESISNET, which offers national coverage by extending some of the order management and settlement delivery services throughout the Kingdom.

Activities of foreign financial firms are governed by the Banks Control Law. Under Article 2 of the Banks Control Law, any natural or juristical person must have a licence to carry on, in the Kingdom, banking business. Under Article 3 of the Banks Control Law, a national bank - a bank the head office of which lies in the Kingdom—may be granted a licence if, among other things, it is a Saudi joint stock company. This includes joint venture banks. A foreign bank - a bank whose head office lies outside the Kingdom and its branches therein—may be granted a licence to establish one or more branches in the Kingdom if it satisfies the conditions determined by the Council of Ministers upon the recommendation of the Minister of Finance and National Economy.

Q19. Paragraph 15 - Please list the specific sectors targeted by Saudi Arabia in its efforts toward economic diversification.
As mentioned in Reply 12, basic petrochemical industries and downstream petrochemical industries have been mentioned in the development plans as sectors in which the Kingdom has a comparative advantage and whose development is hence encouraged. Table 1 in Annex 4 provides a breakdown of licensed foreign investments by International Standard Industrial Classification (ISIC).

Q20. Paragraph 15 - Please describe the measures to be employed in providing this support, including but not limited to the following information:

What programmes have already been put into place to carry out development in these priority sectors? At what stage in the process is Saudi Arabia in implementing these programmes.

Reply 20(a)

There are no programmes targeted at specific sectors. However, potential investors in priority sectors (See Reply 11) are advised of generally available incentives to encourage investment in those priority sectors.

What tools is Saudi Arabia using to develop priority sectors (e.g. subsidies, import protection, preferential input supply, Saudi Government equity participation, dual pricing schemes)?

Reply 20(b)

The following incentives are currently generally available: Lease of land at a nominal fee; loans by the Saudi Industrial Development Fund; customs duty exemptions for raw, process and packaging materials; assistance in the selection of industrial projects, the preparation of their economic feasibility studies and their evaluation; provision of organizational, operational, technical and managerial assistance. See Reply 20(a).

What goals and objectives does the Saudi government have in developing downstream industries in the energy/chemical sectors? What is the timetable for this development? What specific commitments have already been made.

Reply 20(c)

One of the specific objectives of the Fifth Development Plan was to maximize the domestic transformation of domestically produced raw materials and intermediate products, particularly petroleum derivatives and petrochemicals. There is no specific timetable for this development as it is a continuing process, the specific elements of which are subject to market conditions. The government of Saudi Arabia's role is to provide the infrastructure and institute programmes that will reveal the Kingdom's comparative advantage in this sector.

Q21. Paragraph 15 - Could information be provided on the implementation of privatization of major government holdings in the telephone/telegraph system, the national airline (SAUDIA) and Saudi Basic Industries (SABIC), as well as the options being considered for Build-Operate-Transfer (BOT) and Export Credit.
Reply 21

The Kingdom is currently in the preliminary stages of a programme to privatize productive organizations through the flotation of shares of those companies deemed to be ready for privatization. Analysis is ongoing with regard to the precise steps to be taken and their timing.

Q22. Paragraph 16 - Please elaborate on what specific "structural support" is planned in building Saudi Arabia’s technology base, as referred to in this paragraph. Please indicate whether domestic-owned firms would receive preference for this support and the conditions under which foreign investment would have access to this support. Are there areas other than educational services and structural support in which Saudi Arabia is planning to improve its technology base.

Reply 22

The government will facilitate and encourage the participation of the private sector by providing opportunities for scientists and researchers to conduct scientific and technological research, with the cooperation of the King Abdul Aziz City for Science and Technology (KACST) and other universities. The Kingdom will support centres and programmes for basic and applied research.

The government of Saudi Arabia is involved in scientific research through KACST. The main objectives of KACST are focused on supporting, encouraging and conducting basic and applied research.

The basic functions of KACST can be outlined as follows:

1. Proposing national policy for science and technology, and drawing up a planned strategy for its implementation.

2. Carrying out basic and applied research programmes.

3. Supporting Joint Research programmes between KACST and international scientific institutions in order to keep abreast of the latest scientific developments.

4. Offering scholarships to develop manpower skills necessary for developing and carrying out scientific research programmes, and awarding grants to individuals and institutions for conducting applied research.

5. Coordinating with government agencies, scientific institutions and research centres in the Kingdom for enhancing research; exchanging information and expertise, and avoiding duplication of efforts.

In addition to the universities and other higher education institutions in the Kingdom of Saudi Arabia, different government agencies are involved in basic research activities in their areas of interest. They either perform research by themselves or provide funds to others.

The Kingdom will continue supporting development of scientific research activities through encouragement of foreign investments. Both domestic and foreign firms will be encouraged to perform scientific research on equal basis. The protection of intellectual right will help both domestic and foreign firms in this area.

The General Objectives and Strategic Bases of the Sixth Development Plan states the following government objectives concerning technological development and scientific research:
To promote scientific activities and to raise cultural and informational standards.

- Utilizing advanced technology in all public services sections through mechanization and the use of advanced methods.
- Supporting the trend to invest in projects applying new technologies or which are badly needed, such as solar energy projects, modern irrigation methods, and the use of greenhouses.
- Enhancing and supporting research and development activities in private sector industrial and productive institutions.
- Facilitating and encouraging the participation of the private sector in providing opportunities for scientists and researchers to conduct scientific and technological research, with the cooperation of the KACST and the universities.
- Paying attention to the quality of training by concentrating on the use of advanced technology at the intermediate and advanced level.
- Supporting centres and programmes for applied research.

Q23. Paragraphs 17-18 - These paragraphs describe Saudi Arabia's plans to increase the competitiveness of domestic labour. Please elaborate further on Saudi Arabia's planned approach to increasing the ratio of domestic versus foreign labour services, making specific reference to any restrictions or differential treatment to be given to foreign labour services.

Reply 23

The two primary means used to increase the ratio of domestic to foreign labour services are (1) increasing the level of education, and (2) increasing the level of technical proficiency. The government provides financing to improve the quantity and quality of educational services, including technical schools, in order to further the objective of greater use of domestic labour. In addition, the Investment of Foreign Capital Regulation states that one of the conditions for obtaining a licence for the investment of foreign capital is that "the foreign capital is accompanied by foreign technical expertise." Further, the Labour and Workers Regulations states that "every employer shall improve his Saudi workers' level of technical proficiency in work carried out by non-Saudi workers in order to enable them to be sufficiently qualified in their occupation so that they can replace non-Saudi workers."

With regard to differential treatment given to foreign labour services, the Labour and Workers Regulations states that "the percentage of the Saudi workers engaged by the employer shall not be less than 75 per cent of his total workforce." It also says that "where Saudi workers with the necessary technical proficiency or academic qualifications are not available, the Minister of Labour may provisionally reduce the said percentage."

Q24. Paragraph 17 - Please describe and provide English translations of Saudi Arabia's laws and regulations governing international participation in its services sector.

Reply 24

International participation in the various service sectors is governed by the Investment of Foreign Capital Regulation. In addition, there are the following sector specific laws and regulations:

BANKING SERVICES: The Banks Control Law;

MARITIME SERVICES: Order No. 53 Dated 24.3.1403 (AH);

HEALTH SERVICES: Ministerial Order Number 4104/20M of 1408 Concerning the Implementing Regulations to the Private Medical Establishment Law;
EDUCATIONAL SERVICES: Implementing Regulations to the Regulation of Technical Institutes and National Occupational Centres;

TOURISM SERVICES: Ministerial Order No. 1/1/4/8/10 of 29.6.1400 Regarding Regulation of Tourism and Travel Agencies and Companies Engaged in Air Transport;

ENGINEERING SERVICES: Ministerial Order No. 264 of 16.9.1402 Concerning Organization of the Practice of the Profession of Engineering Consultancy;

ACCOUNTING SERVICES: Law of Certified Accountants, and the Implementing Regulations of the Accountants Law;

LEGAL SERVICES: Ministerial Order Number 1190 of 1402 Pertaining to the Regulation of Carrying on the Profession of Legal Consultancy; and

PHARMACEUTICAL SERVICES: Law Concerning the Carrying on of the Profession of Pharmacy and Trading in Medicaments and Medical Preparations.

Applicable provisions of all these laws are provided in Annex 5, with the exception of the Investment of Foreign Capital Regulation, which is reproduced in Annex 3.

Q25. Paragraph 17 - The government states that "particular importance is attached to further development of vocational and technical education so that the country's skilled manpower needs can be increasingly met by indigenous, as opposed to expatriate, labour". Could the government of Saudi Arabia describe in specific terms its policy on and laws governing the employment of expatriates?

Reply 25(a)

The policy on and laws governing the employment of expatriates is covered under the Labour and Workers Regulations. Chapter 3 of the Regulations states the following:

Work is a right of the Saudi national and no other person shall be allowed to exercise this right unless the conditions set down in this chapter shall have been fulfilled.

It shall not be allowed to prompt entry of foreigners to work or permit them to do work with private companies and firm, except pursuant to the Minister of Labour's approval and the obtaining of a work permit as per the pro-forma proceedings and rules laid down by the Labour Ministry. The said permit shall not be given unless the following conditions have been satisfied:

1. The worker shall have entered the country legally and satisfies the conditions prescribed in the Residence Regulation;

2. He must possess the occupational proficiencies or academic qualifications needed in the country, provided that no Saudi national holds the same or that the number of the available Saudi nationals does not satisfy demand;

3. He shall have entered into a contract with a Saudi employer or a non-Saudi employer who is authorized under the Investment of Foreign Capital Regulation and under the guarantee of the employer, or if he is a liberal professional guaranteed by a Saudi national or is on contract with and guaranteed by any of the concessionaire companies.
It is our understanding that (i) Saudi employees must constitute at least three-quarters of a given firm's workforce and (ii) in keeping with the above-noted policy, all foreign investment proposals must be accompanied by plans for training Saudis. Is this understanding correct?

Reply 25(b)

The Labour and Workers Regulations states that "the percentage of the Saudi workers engaged by the employer shall not be less than 75 per cent of his total workforce." It also says that "where Saudi workers with the necessary technical proficiency or academic qualifications are not available, the Minister of Labour may provisionally reduce the said percentage."

The Investment of Foreign Capital Regulation states that one of the conditions for obtaining a licence for the investment of foreign capital is that "the foreign capital is accompanied by foreign technical expertise." Further, the Labour and Workers Regulations states that "every employer shall improve his Saudi workers' level of technical proficiency in work carried out by non-Saudi workers in order to enable them to be sufficiently qualified in their occupation so that they can replace non-Saudi workers."

Q26. Paragraph 17 - Please provide a detailed overview of restrictions on the establishment of an operation, transfer of key personnel, and the cross-border provision of services in the following sectors: banking, insurance, value-added telecommunications, accounting, legal services, travel and tourism, shipping and retail.

Reply 26

In general, there are few restrictions on cross-border provision of services. That is to say, residents of Saudi Arabia are generally not precluded from using any services available to them that originate from establishments outside the Kingdom of Saudi Arabia, with the exception of callback services.

Rules concerning temporary residence in Saudi Arabia by foreigners engaged in trade in services are governed by the Law of Stay. As a general policy, such foreigners are granted the right to stay in Saudi Arabia provided one or more of the following conditions are satisfied:

The person has in hand a contract from a company, registered commercial house, a contractor or a businessman known in the country, provided the contract stipulates for the repatriation to the person's country as soon as the original or extended term of the contract expires;

A responsible person of the company, registered commercial house, contractor or a businessman known in the country must submit the reasons necessitating the person’s import and an assessment of the need for the person’s services in the work, the non-availability of Saudi nationals who can perform the person's work and a guarantee to repatriate the person as soon as the work assigned is completed or renewal thereof.

In addition, Chapter 3 of the Labour and Workers Regulations states the following:

Work is a right of the Saudi national and no other person shall be allowed to exercise this right unless the conditions set down in this chapter shall have been fulfilled.

It shall not be allowed to import foreigners to work or permit them to do work with private companies and firm, except pursuant to the Minister of Labour's approval and the obtaining
of a work permit as per the pro-forma proceedings and rules laid down by the Labour Ministry. The said permit shall not be given unless the following conditions have been satisfied:

(1) The worker shall have entered the country legally and satisfies the conditions prescribed in the Residence Regulation;
(2) He must possess the occupational proficiencies or academic qualifications needed in the country, provided that no Saudi national holds the same or that the number of the available Saudi nationals does not satisfy demand;
(3) He shall have entered into a contract with a Saudi employer or a non-Saudi employer who is authorized under the Investment of Foreign Capital Regulation and under the guarantee of the employer, or if he is a liberal professional guaranteed by a Saudi national or is on contract with and guaranteed by any of the concessionaire companies.

With regard to restrictions on the establishment of an operation, foreign capital, whether in a joint venture or wholly owned, must be approved by the Foreign Capital Investment Committee. The conditions for approval under the Investment of Foreign Capital Regulation are that the capital be invested in development enterprises, other than extraction of petroleum and mining, and that the foreign capital be accompanied by technical expertise. In addition, there are sector specific laws and regulations covering the following areas:

Banking: Article 3 of the Banks Control Law states that in order to be granted a licence to establish one or more branches in the Kingdom, a foreign bank shall have to satisfy the conditions determined by the Council of Ministers upon the motion of the Minister of Finance and National Economy. Refer to Reply 18 for further details.

Accounting: Saudi Arabian only provides for the establishment of accounting firm only under a licence granted to a certified accountant in accordance with the Law of Certified Accountants, and under Article 1 of the Law, only Saudi nationals can be registered as certified accountants within Saudi Arabia.

Legal Services: Article 2 of Ministerial Order No. 1190 of 16.2.1402 AH concerning the regulation of carrying on the profession of legal consultancy states that in order to grant a licence to practice the profession of legal consultant, the applicant must be a Saudi national. In addition, Article 3 of Ministerial Order No. 1190 of 16.2.1402 AH states that a legal consultancy office may take the form a joint professional partnership between two or more Saudi legal consultants who are authorized to carry on the profession.

Travel and Tourism: Article 3 of Ministerial Order No. 1/1/4/8/10 of 29.6.1400 AH concerning the regulation of tourism and travel agencies and companies engaged in air transport states that a foreign firm wishing to obtain a licence to establish a tourism or travel agency can do so, subject to laws and implementing regulations made in accordance with the Investment of Foreign Capital Regulation and provided they belong to states which give Saudi nationals a right to establish travel and tourism offices in their countries.

Shipping: Article 3 of Ministerial Order No. 53 of 24.3.1403 AH concerning the application for licences by maritime companies and firms for carrying on maritime carriage states that the authorized capital must, for the duration of the period of licence be in the ownership of Saudi nationals or in partnership with non-nationals in a proportion to be determined by the Foreign Capital Investment Committee.

Q27. Paragraph 18 - What is the Saudi Arabian policy regarding recognition of professional licensure of foreign physicians and other professionals.
Saudi Arabia recognizes the professional licence granted by a national authority for any foreign physician. However, the physician cannot practice in Saudi Arabia unless he has passed a qualifying test conducted by the Saudi Arabian Ministry of Health. The professional licensure of other professionals is subject to certification by the Authority of Equivalence of Degrees in the Ministry of Higher Education.

Q28. Are any of Saudi Arabia’s services sectors closed completely to foreign suppliers?

Reply 28

Yes. Foreigners are prohibited from participating in services such as civilian security guards, commercial agents, customs clearing agents, transaction follow-up clerks to government departments, and real estate agents.

Q29. Are there any service sectors subject to restrictions on modes of supply (cross-border supply, commercial presence, etc.)?

Reply 29

Yes. For example, the presence of foreign banks is limited to branches or joint ventures; foreign participation in the maritime carriage sector is limited to joint ventures; currency exchange operations, and technical institutes cannot be owned by foreigners; and, a foreign accountant, lawyer or pharmacist must work out of the office of a Saudi licensed accountant, lawyer, or pharmacist, respectively.

Q30. What rules and regulations apply to imports of financial, telecommunications, health, education and professional services? Is trade in any of these service sectors affected by the system of comprehensive planning for economic and social development?

Reply 30

Specific rules and regulations affecting imports of financial services are the Banks Control Law and the various applicable regulations issued by the Saudi Arabian Monetary Agency. Those that most directly affect imports of telecommunications services are the various applicable regulations issued by the Ministry of Post, Telephones, and Telegraphs. Those that most directly affect imports of health services are the Law of Private Medical Establishments, Ministerial Order Number 4104/20M of 1408 concerning the implementing regulations to the Private Medical Establishment Law, and the various applicable regulations issued by the Ministry of Health. Those that most directly affect imports of educational services are the Public Institution for Technical Education and Occupational Training Law, the Implementing Regulations to the Regulation of Technical Institutes and National Occupational Centres, and various applicable regulations issued by the Ministry of Education and the Ministry of Higher Education. Those that most directly affect imports of professional services are the Law of Certified Accountants, the Implementing Regulations of the Law of Certified Accountants, Ministerial Order Number 264 of 1402 concerning engineering consultancy, Ministerial Order Number 1190 of 1402 pertaining to the regulation of carrying on the profession of legal consultancy, the Law Concerning the Carrying on of the Profession of Pharmacy and Trading in Medicaments and Medical Preparations, and various applicable regulations issued by the Ministry of Trade and Commerce. In addition, the Law of Stay and the Labour and Workers Regulations apply to the import of all labour, including labour needed for the services mentioned in the question.

Imports of service sectors have been affected by the system of comprehensive planning for economic and social development to the extent that the Foreign Capital Investment Committee has been...
guided by the economic and social development objectives and to the extent that service sector imports have been considered by the Foreign Capital Investment Committee.

Q31. What are the rules concerning temporary residence in Saudi Arabia by foreigners engaged in trade in services?

Reply 31

Please refer to Reply 26.

Q32. Are there any market access or national treatment restrictions on the temporary entry, stay, movement or exit of foreign managers, professionals or specialists?

Reply 32

Please refer to Reply 26.

Q33. We would appreciate information on the supply of professional services. Are there any market access or national treatment restrictions on the supply of foreign professionals, such as accountants, architects and engineers?

Reply 33

Please refer to Replies 26, 27, 28, and 29.

Q34. Which of the bilateral economic, technical cooperation and trade agreements signed by Saudi Arabia cover trade in services? Do any of these agreements confer preferred or reciprocal supplier status on companies from signatory countries?

Reply 34

The agreements with Jordan and Egypt confer reciprocal supplier status with regard to cross-border truck and public transportation vehicles; the agreements with Tunisia and Egypt stipulate that preference shall be given to national shipping and transport modes in bilateral trade; the agreements with Syria, Turkey and Lebanon provide for reciprocal treatment with regard to transportation and transport vehicles; the agreement with Morocco includes reciprocal airline privileges.

Q35. Is there a body responsible for regulating the telecommunications sector? Does it licence market entry? Please describe the licensing procedures and whatever criteria are applied.

Reply 35

The primary body responsible for regulating the telecommunications sector is the Ministry of Posts, Telephones and Telegraphs. It is responsible for licensing all operations and/or services rendered in the telecommunications sector within the Kingdom of Saudi Arabia. Please refer to Reply 36 for more details.

Q36. Are foreign entities permitted to supply enhanced telecommunications services in Saudi Arabia? If so, which ones? Can such services be supplied through the cross-border mode of supply? Are there restrictions on foreign investment in suppliers of enhanced services established in the territory of Saudi Arabia?
Reply 36

Foreign entities are permitted to supply enhanced telecommunications services in Saudi Arabia. The following is an indicative list of the enhanced services which foreign entities are permitted to supply: electronic mail, voice mail, fax and telex messaging, file transfer, conferencing, and on-line information and data-base retrieval.

In all cases, users must use the public telecommunication network and only with the authorization of the national telecommunication authorities.

Foreign investment by suppliers of enhanced services is governed by the same principles and practices applied to foreign investment in general. Namely, the foreign investment is subject to the grant of a licence which is provided to enterprises which, among other things, further the development of the Kingdom and supply foreign technical expertise.

Q37. Is all customer premises equipment subject to type approval, or only terminal or other equipment which interfaces with the network?

Reply 37

As was stated in the Memorandum on Foreign Trade Regime (L/7489), standards are applied to a wide variety of goods in a non-discriminatory manner. By the end of 1994, the Saudi Arabian Standards Organization (SASO) had prepared over 800 standards and measures, copies of which can be obtained from SASO or the main Chambers of Commerce in the Kingdom. The list may include standards for those goods which are referred to as "customer premises equipment." It should also be mentioned that Saudi Arabia is a participating member of the International Telecommunications Union and the Consultative Committee for International Telephones and Telegraphy, and as such supports the adoption of international standards which assure inter-operability and are applied in a non-discriminatory fashion.

Q38. Are there any plans to liberalize basic telecommunications services? If so, could further information be provided?

Reply 38

There are no plans to privatize basic telecommunications services. Foreign corporations continue to enjoy national treatment in participating in the construction, modernization, and maintenance of the basic telecommunication infrastructure.

Q39. We would appreciate information on Saudi Arabian policies, laws and regulations with respect to maritime transport, port and onward services, including freight forwarding. Are foreign services suppliers of maritime transport services allowed to establish, acquire or operate in Saudi Arabia?

Reply 39

Maritime transport, port, and onward services are governed by the Law of Ports, Harbours and Lighthouses, and the various regulations and orders issued by the Ministry of Communications. Under Order number 53 of 1403, foreign investors in the maritime carriage sector are governed by the provisions of the Investment of Foreign Capital Regulation. Anyone wishing to carry on the business of maritime carriage must have a licence issued by the Ministry of Communications. Licences are issued to companies or organizations whose authorized capital is in the ownership of Saudi nationals.
or in partnership with non-nationals in a proportion to be determined by the Foreign Capital Investment Committee.

Q40. Paragraph 19 - The section indicates that Saudi Arabia accords considerable importance to environmental protection and conservation. What import restrictions are in effect for environmental reasons? Are there any restrictions on the establishment or operations on foreign firms offering environmental services? Are environmental protection and conservation services subject to the Procurement of Government Purchases Law, the Council of Minister Resolution 124 of the year 1403(H), or the Standard Rules for Government Purchases?

Reply 40

Import restrictions related to the environmental are of three types:

A permit must be obtained from the National Commission for Wildlife Conservation and Development (NCWCD) prior to importing wildlife. NCWCD issued 137 licences to import and export wildlife in 1991. In addition, Saudi Arabia follows the guidelines set down by the United Nations Convention on International Trade in Endangered Species.

The Saudi Meteorology and Environmental Protection Administration has used some general standards to provide appropriate bases for the evaluation and regulation of industrial and urban activities that currently exist in the Kingdom in order to, among other things, help protect the Kingdom’s environment. As a result of these standards, imports of highly polluting capital equipment are implicitly discouraged while imports of non-polluting equipment are encouraged.

The Saudi Arabian Standards Organization considers environmental issues when formulating certain standards. For example, automobile imports should meet certain emission standards. In addition, Saudi Arabia is applying Montreal Protocol standards to applicable products.

Environmental protection and conservation services are subject to the Procurement of Government Purchases Law, the Council of Ministers Resolution 124 (1403), or the Standard Rules for Government Purchases.

Q41. Paragraph 19 - Please elaborate on Saudi Arabia’s efforts toward environmental protection with special emphasis on trade-related measures, by affected sector or industry.

Reply 41

Please refer to Reply 40.

(c) Current economic situation

Q42. Paragraph 22 - Government services account for a significant share of Saudi Arabia’s non-oil economy. In which sectors does the government provide services, either exclusively, or on a non-commercial basis, or not in competition with other services suppliers? Are there any plans to increase or reduce the role of government in the economy, i.e., are there any plans to privatize services currently provided by the Government?
Reply 42

The government provides the following services: public administration, defense, education and vocational training, health care, social security and welfare services, housing and community amenities, certain athletic activities, television and radio broadcasting, telecommunications, public utilities, certain financing operations, environment and meteorological services, insurance, port and airport services, and mass transportation such as trains, planes, and buses. It should be mentioned that some of these activities are open to the private sector. In fact, the government encourages the private sector to participate in activities such as health care, insurance, and transportation.

In the early stages of its development, the Saudi Arabian government took an active role in the establishment of enterprises in order to ensure the success of the development process and maximize the benefits of oil revenues. A major facet of the sixth development plan is the development of policy giving the private sector the opportunity to assume many of the economic tasks currently undertaken by the government. The private sector will be provided with the opportunity to operate, manage, and maintain various economic activities with the understanding that this will result in lower costs, better performance, and additional employment opportunities for Saudi citizens.

The Custodian of the Two Holy Mosques, King Fahd ibn Abdulaziz, has reconfirmed the Kingdom's determination to expand its privatization drive so that it encompasses profitable enterprises such as the telephone service. This will be done through the timely flotation of the shares of various basic industries set up by the state. No exact date has been set nor has the specific methodology of privatization been specified.

Q43. Paragraph 26 - Please indicate the value of revenues from tariffs, customs duties, and excise taxes applied to imports during 1992 and 1993. What portion of government revenue in these years was derived from these sources.

Reply 43

There are no excise taxes applied to imports or domestic products. Tariff revenues in 1992 were SR9.9 billion representing 6.2 per cent of government revenues. Complete information on 1993 is unavailable.

(d) Division of Authority

Q44. Paragraph 27 - Please describe in more detail how policy-making and application is divided within the central government. Please indicate in each case the legal authority for this responsibility. In particular, how will the Government of Saudi Arabia adopt new laws and regulations to bring its trade regime into conformity with the GATT/WTO at the time of accession, and to implement the provisions of the Agreement Establishing the WTO and its annexes?

Reply 44

The Basic Law of Rule, instituted by Royal Decree No. A/90 dated 27 Shaaban 1412 AH, sets down the law concerning political authority within the Kingdom. Article 56 of the Basic Law of Rule states that the King is the Chairman of the Council of Ministers and will be assisted by the ministers in the performance of his duties. It also states that the Law of the Council of Ministers shall lay down the powers of the Council regarding the internal and external policies, the organization and
coordination of the various Government authorities; and it shall set down the conditions to be satisfied by, the powers of, the method of responsibility and all affairs of the ministers.

Upon a request by the chairman of the Council of Ministers, the Consultative Council shall study treaties and international agreements under consideration and make suggestions with regard to such documents, as is deemed appropriate, in the form of resolutions. The resolutions passed by the Consultative Council are forwarded to the chairman of the Council of Ministers, who will pass them to the Council of Ministers for consideration. When the points of view of both councils are concordant, they shall, after being approved by the King, be enacted. In case of a difference of opinion, the King shall approve what he considers appropriate.

Laws, treaties and international agreements and concessions shall be enacted and amended by Royal Decrees after having been considered by the Consultative Council. No initials shall be affected on any agreement or obligation to which the state is a party, except after having referred such agreement or obligation to the Council of Ministers, save where the ministers or the responsible officer representing the Kingdom has been given the power to do so.

The Kingdom of Saudi Arabia will do whatever is required, whether through Royal Decree, Council of Ministers Decree or Ministerial Orders to bring its trade regime into conformity with its GATT obligations where it is determined that such conformity does not currently exist.

2. Foreign Trade

Q45. Paragraph 29 - Please provide import data for 1991-93, by tariff line item and supplier country.

Reply 45

Please refer to Annex 1.

Q46. Paragraph 30 - It is indicated that the Gulf Cooperation Council states, as a whole, are the largest importers of Saudi non-oil exports. Please indicate by GCC member and product sector (e.g. petrochemical, agriculture, base metals, etc.) the relative shares of these exports.

Reply 46

Please refer to Annex 1.

Q47. Paragraph 32 - Would Saudi Arabia please provide the most current statistics on imports to Saudi Arabia indicating products imported and main supplier countries of these products. Would Saudi Arabia also supply the members of the Working Party with the current Saudi Arabian customs tariff?

Reply 47

Please refer to Annex 1 for import statistics. The current Saudi Arabian customs tariff rates can be found in Annex 6.
Q48. Paragraph 34 - Please indicate the major components of Saudi Arabia’s services trade and transfers balance.

Reply 48

The services trade and transfers components of the balance of payments consists of both receipts and payments. The receipts portion embodies investment income, bunker oil sales, expenses of pilgrims and other visitors, the expenses of foreign missions, receipts of the Saudi Arabian Airlines, and port and airport revenues. The payments portion consists of freight and insurance charges, oil sector payments, travel expenses overseas, investment income payments, foreign aid, subscriptions of capital to regional and international development agencies, and certain government imports.

III. FOREIGN TRADE REGIME

1. Import Regulations
   (a) The evolution of the custom tariff regulation

Q49. Paragraph 36 - Please give average tariff rate and a statistical breakdown of tariff rates both for agricultural as well as industrial products.

Reply 49

The average weighted (1993, by value) tariff for agricultural goods is 7.5 per cent and for industrial goods is 10.5 per cent. A table listing average weighted tariffs for each of the twenty one sections follows below. No information is available on average effective tariffs but these would be lower than the average tariffs found in the table due to duty exemptions.

<table>
<thead>
<tr>
<th>Description</th>
<th>Tariff Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Animal and Animal Products</td>
<td>6.9 %</td>
</tr>
<tr>
<td>Vegetable and Vegetable Products</td>
<td>5.5 %</td>
</tr>
<tr>
<td>Fats and Oils</td>
<td>12.0 %</td>
</tr>
<tr>
<td>Prepared Foods and Tobacco</td>
<td>13.7 %</td>
</tr>
<tr>
<td>Mineral Products</td>
<td>12.6 %</td>
</tr>
<tr>
<td>Chemical Products</td>
<td>7.8 %</td>
</tr>
<tr>
<td>Plastics and Rubber</td>
<td>12.6 %</td>
</tr>
<tr>
<td>Leather Products</td>
<td>12.0 %</td>
</tr>
<tr>
<td>Wood Products</td>
<td>12.2 %</td>
</tr>
<tr>
<td>Paper Products</td>
<td>11.8 %</td>
</tr>
<tr>
<td>Textile and Textile Products</td>
<td>12.2 %</td>
</tr>
<tr>
<td>Clothing Accessories</td>
<td>12.9 %</td>
</tr>
<tr>
<td>Stone and Glass Products</td>
<td>12.2 %</td>
</tr>
<tr>
<td>Precious Metals, Jewellery</td>
<td>2.2 %</td>
</tr>
<tr>
<td>Base Metals</td>
<td>13.6 %</td>
</tr>
<tr>
<td>Machinery and Electrical Equipment</td>
<td>12.0 %</td>
</tr>
<tr>
<td>Transportation Equipment</td>
<td>7.6 %</td>
</tr>
<tr>
<td>Miscellaneous Instruments</td>
<td>10.2 %</td>
</tr>
<tr>
<td>Arms and Ammunition</td>
<td>4.1 %</td>
</tr>
<tr>
<td>Miscellaneous Manufactures</td>
<td>15.9 %</td>
</tr>
<tr>
<td>Art, NEC</td>
<td>12.0 %</td>
</tr>
</tbody>
</table>

Q50. Paragraph 37 - Please provide a description of the regulatory process for updating customs regulations and supplanting old regulations.
With regard to customs regulations, the Minister of Finance and National Economy is responsible for implementing the Customs Law and may issue any orders necessary to carry out its responsibilities. Of course the Ministry of Finance and National Economy would consult with all appropriate interested parties, both in the public and private sector, prior to issuance of such orders. The Customs Law itself can only be changed by a Royal Decree, alone or together with a Council of Ministers Resolution, and this would generally only occur after consultation with all appropriate interested parties, both in the public and private sectors, prior to issuance of the change. There is no written regulations on how these consultations should be carried out.

Q51. Paragraph 37 - Did the Customs Tariff revision which took place in 1988 involve a complete review of all customs regulations? What were the nature of the changes made in 1988? Are there presently plans to update and revise the current Customs Tariff?

Reply 51

The Customs Tariff revision which took place in 1988 did not involve a complete review of all customs regulations. The revision was restricted to the adjustment of the tariff rates themselves.

The Customs tariff revision in 1988 involved raising the tariff rates but it did not include any change in the customs regulations themselves. The tariff rates were changed as follows:

- The general tariff rate imposed on imports was raised from 7 per cent to 12 per cent;
- The number of duty-free imports was reduced;
- The protective rate was raised from 10 to 20 per cent;

Protective tariffs were instituted for steel pipes, barbed and fencing wires, lamp posts, construction steel, and all kinds of soap.

There are currently no plans to update or revise the current tariff schedule. Of course proposals to change the tariffs for individual line items are considered from time to time and adjustments could be made at any time in the future. In addition, changes of a more sweeping nature could be made as a result of events such as an agreement with the other Gulf Cooperation Council members on the details of a customs union or in response to changing fiscal conditions.

Q52. Paragraph 37 - Is Saudi Arabia prepared to comprehensively bind its customs tariffs at a rate commensurate with its level of development and involvement in international trade?

Reply 52

Saudi Arabia would be prepared to negotiate the binding of its tariffs, keeping in mind its position as a developing country in the early stages of industrialization and bearing in mind the principle of mutual advantage. The level and extent of bindings will emerge from the tariff negotiations.

(b) Customs tariff nomenclature, types of duties, etc.

Q53. Paragraph 39 - Has Saudi Arabia provided its HS-based tariff schedule for the review of the Working Party?
Reply 54

The complete list of tariff rates can be found in Annex 6.

Q54. Paragraph 40 - Please list the 60-70 tariff lines (1 per cent of the total) that have specific or mixed duties and list the duties.

Reply 54

Please see Table 1 in Annex 7 listing all products by 8 digit Harmonized Code that attract specific or mixed duties.

Q55. Paragraph 40 - Please provide details of tariff lines that attract specific or mixed duties.

Reply 55

Please see Reply 54.

Q56. Paragraph 42 - It is stated that “There are 6,252 items subject to a duty of 12 per cent which could be revised upward depending on fiscal conditions.” Under what specific conditions and under what procedures is the revision of duty conducted.

Reply 56

The duties of 12 per cent could be revised upwards if there is a need for generating more revenues, which could not be raised from other sources. Changes in individual line items are permitted are based on a decision from the Council of Ministers after a joint recommendation from the Minister of Finance and National Economy, Minister of Industry and Electricity, and Minister of Commerce. The recommendation is made only after a study is performed by a joint committee formed by the three ministries. The new tariff rate is effective the day after it is published in the official gazette, the Um Al-Qura. Changes to the tariff rates of a more sweeping nature, such as in 1988, would usually be made in conjunction with the release of the fiscal budget and after deliberative consideration by the Council of Ministers. In all cases the Council of Ministers gives final approval to changes in tariff rates. It may be stated that duties have not been revised since 1988, which shows that changes in tariffs are not frequent.

Q57. Paragraph 42 - Under what "fiscal conditions" are items subject to a 12 per cent tariff revised upwards as described in this paragraph?

Reply 57

Please refer to Reply 56.

Q58. Paragraph 42 - Please list the 431 tariff lines that are subject to customs duties of 20 per cent ad valorem and the 20 tariff lines subject to customs duties of 30 per cent.

Reply 58

Please see Tables 2 and 3 in Annex 7 listing all products by 8 digit Harmonized Code that are subject to duties of 20 per cent and 30 per cent.
Q59. Paragraph 40-43 - Is Saudi Arabia willing to convert these duties to ad valorem duties in the context of GATT/WTO accession?

Reply 59

The GATT does not require contracting parties to apply all import duties on an ad valorem basis. The GATT also does not require that specific and mixed duties should be converted to ad valorem duties. Many contracting parties use specific and mixed duties.

Q60. Paragraph 42 - Can Saudi Arabia provide details of the product areas subject to duties of 20 per cent and 30 per cent. Are there any items other than tobacco products that are subject to 30 per cent tariffs?

Reply 60

Please refer to Reply 58. There are no items other than tobacco products attracting 30 per cent tariffs.

Q61. Paragraphs 40-43 - On page 7, a general indication of tariff levels is provided. Would Saudi Arabia provide additional details of tariff levels by HS tariff chapter or by product group? Does Saudi Arabia intend to bind all of its tariffs in line with the Uruguay Round? At what level would Saudi Arabia intend binding its tariff across the board?

Reply 61

Tariff levels are not accorded per HS chapter but rather on an individual 8-digit line basis. The complete list of tariff rates can be found in Annex 6. Saudi Arabia would be prepared negotiate the binding of its tariffs, keeping in mind its position as a developing country in the early stages of industrialization and bearing in mind the principle of mutual advantage. The level and extent of bindings will emerge from the tariff negotiations.

(c) Import charges and fees

Q62. Paragraph 44 - Please provide the Working Party with a list of loading, unloading, and storage charges levied on imports, and penalties related to customs clearance or other procedures.

Reply 62

Please refer to the Implementing Regulations to the Customs Law, an (unofficial) English translation of which is reproduced in Annex 8. Warehouse charges can be found in Article 57. Portage dues can be found in Article 79. Supervising charges can be found in Articles 80 and 81. Penalties related to customs clearance can be found in Articles 192 and 206 and Chapter 18.

Q63. Paragraph 44 - This paragraph states "The Saudi Arabian government does not impose any other import charges or fees. Charges for loading, unloading and storage are levied on imports in return for actual services rendered; they are not levied on the basis of value or on a flat ad valorem rate." Are these charges standard for all imports? Are they added to the import price as duties are? How are these charges different from other import charges or fees?
Loading, unloading and storage charges are levied on the basis of services rendered. These charges depend on the time and labour involved for loading and unloading, on the weight and volume of imports and on the length of the storage period.

Loading, unloading and storage charges are not “other duties and charges of any kind” within the meaning of Article II. 1 (b) of the GATT. These are charges for services rendered by port/airport authorities.

Q64. Paragraph 44 - It is stated that “Charges for loading and storage are ... not levied on the basis of value or on a flat ad valorem rate.” What amount of charges for loading, unloading and storage are actually levied? Does this statement mean that there are no charges or fees imposed on or in connection with importation or exportation?

Reply 64

Please refer to Replies 62 and 63. Loading, unloading and storage charges are fees and charges for services rendered within the meaning of Article VIII. 1 (a) of the GATT. There are no other charges imposed on or in connection with importation or exportation with reference to Article II.1(b) of the GATT.

Q65. Paragraph 44 - Can Saudi Arabia outline its internal tax regime more specifically from the perspective of national treatment.

Reply 65

Saudi Arabia does not apply any internal taxes within the meaning of Article III of the GATT. The question of national treatment or breach thereof is not involved.

Q66. Does Saudi Arabia have internal taxes or charges upon products which treat domestically produced product differently from imported product?

Reply 66

Saudi Arabia does not have internal taxes or charges upon products which treat domestically produced product differently from imported product.

Q67. Does Saudi Arabia have any charges or fees relating to importation which are charged on an ad valorem basis? Does Saudi Arabia have any charges or fees relating to importation which provide revenue to Saudi Arabia in excess of the cost of providing the service for which the charge or fee is collected?

Reply 67

Charges and fees such as loading, unloading and storage charges are levied for services rendered. These are not charged on ad Valorem basis. These charges do not provide any revenue to the Government of the Kingdom of Saudi Arabia.

Q68. Paragraph 44 - Would Saudi Arabia provide details of any legislation/regulations relating to the imposition of anti-dumping and countervailing duties? (Paragraph 44) If such a
framework does not exist how does Saudi Arabia propose to meet the GATT's requirements in respect of such measures?

Reply 68

Saudi Arabia does not at present have any legislation/regulations relating to trade remedies (anti-dumping, countervailing, and emergency relief). Should Saudi Arabia introduce trade remedies legislation/regulations after accession, the Kingdom will ensure their consistency with obligations in Article VI and XIX as well as with the Agreements on Implementation of Article VI; Subsidies and Countervailing Measures; and Safeguards.

Q69. There are no specific references made to provisions related to trade remedies. Are such provisions covered under the Customs Law?

Reply 69

See Reply 68.

(d) Taxation regime

Q70. Does Saudi Arabia accord any country or countries preferential treatment in respect of imports of goods or the ability to provide services? Does Saudi Arabia currently deny "most-favoured nation" treatment to any country? Does Saudi Arabia restrict or limit imports of any product based upon country or region of origin?

Reply 70

As was stated in the Memorandum on Foreign Trade (L/7489), Saudi Arabia extends preferential treatment to other members of the Gulf Cooperation Council in accordance with the Unified Economic Agreement of the Cooperation Council of the States of the Arab Gulf. In addition, under the auspices of the Arab League, and in conjunction with efforts to establish an Arab Common Market, Saudi Arabia has concluded bilateral trade and economic agreements with other Arab League countries, which, among other things, provides for preferences in the trade of certain goods and services. The purpose of these agreements is to facilitate and promote trade among members of the Arab League under the umbrella of the Arab League economic agreements and not to create obstacles to the trade of other countries.

Saudi Arabia applies the principal of "most-favoured nation" to all countries with which it enjoys normal diplomatic relations.

Saudi Arabia restricts or limits imports of products based upon country or region of origin when it is deemed to be in the Kingdom’s essential security interest, as allowed under Article XXI of the GATT.

Q71. Paragraph 45 - Please outline the application of income, profit, land, or other taxes to domestic and foreign individuals and companies. To what extent can such taxes be exempted or deferred based on the existence or level of exports?

Reply 71

The two principal forms of taxation in the Kingdom are the Zakat and the income tax. In general, non-Saudis business entities and professionals are subject to income tax while Saudi entities are subject
to Zakat. Any mixed entity with part Saudi and part foreign ownership pays Zakat on the Saudi-owned portion and income tax on the foreign-owned portion.

Zakat is an Islamic tax payable annually by Saudi companies and citizens. It is assessed on total capital resources, including capital, retained earnings, resources not held for liabilities and net profits but excludes amounts invested in fixed assets such as real estate. The tax rate is 2.5 per cent of liquid assets on companies and individual business activities.

Non-Saudi companies operating in Saudi Arabia and joint-venture companies having less than 25 per cent Saudi ownership are subject to income tax. Joint-venture companies that have 25 per cent or more Saudi ownership are entitled to tax holidays of up to ten years in the case of agricultural and industrial companies and five years in all other cases. After the tax holiday, foreign partners are subject to income tax. During the tax holiday, Saudi companies are required to pay Zakat and submit accounts and proceed with the usual tax filing procedures. Tax holidays start from the day of production for industrial and agricultural projects and from the date of commercial registration for the rest. Ministerial Resolution No. 3/3170 of 2.12.1413 AH provides for a ten year tax holiday on profits arising from new capital investments in existing industrial joint venture projects.

Non-Saudi individuals are obligated to pay income tax on capital investments. There are no income taxes on wages and salaries of guest workers or nationals. Transactions by non-Saudis involving the sale of such things as produce, and rental income derived from such things as equipment and property leases, are taxable.

There is no exemption or deferral based on the existence or level of exports.

Q72. Paragraph 45 - This paragraph states that there are no internal taxes in the nature of turnover tax, value added tax, excise duties or similar taxes. Are there any differences in taxation between Saudi Arabian and foreign enterprises? Is there any difference in internal tax treatment of enterprises or individuals based upon non-economic criteria?

Reply 72

There are no internal taxes. Please refer to Reply 71.

(e) Tariff preferences

Q73. Paragraph 46 - Please define the components of an import that are counted towards the 40 per cent GCC value-added necessary to receive GCC-tariff treatment.

Reply 73

Imports from GCC countries are accompanied by certificates of origin which are issued by the responsible authority in the exporting country. Animals, agricultural products and natural resources are considered domestic products if they are produced locally. (It has been assumed that domestic production of these items will add value of at least 40 per cent or more to the final production price). For industrial products, the responsible authority in the exporting country should certify that the domestic content is at least 40 per cent of the production final price. Thus all the components or the costs that enter in the process of production through its final stage could count toward the domestic contents requirement to receive the preferential tariff treatment offered by Saudi Arabia (and other GCC members) on GCC exports.
Q74. Paragraph 46 - Please define the extent of tariff preferences granted and received by Saudi Arabia under the Arab League preferential system, including, but not limited to the following information:

Please list all members of the Arab League which grant and receive preferences from Saudi Arabia.

Reply 74 (a)

All Arab League members with whom Saudi Arabia trades (Syria, Lebanon, Jordan, Yemen, Morocco, Algeria, Tunisia, Libya, Egypt, Sudan, Mauritania, Djibouti, Somalia, Kuwait, Bahrain, Qatar, Oman and the United Arab Emirates) grant or receive preferences from Saudi Arabia.

Please list all tariff lines for which Saudi Arabia grants preferential treatment and the tariff lines for which Saudi Arabia is granted tariff preferences under this system.

Reply 74 (b)

Preferential treatment covers Chapters 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 25, 26, 27, 40, 41, 43, 44, 45, 47, 50, 53, 54, 57, 73, 74, 75, 76, 77, 78, 79, 80, and 81 provided that these commodity groups are in their primary form or have been modified to make them suitable for human consumption, excluding manufactured and semi-manufactured products.

Are any of the trade preferences granted or received of a non tariff nature? If so, please describe them and list the tariff lines covered (Paragraph 46).

Reply 74 (c)

There are no trade preferences of a non-tariff nature accorded to goods under the Arab League preferential system.

Q75. Paragraph 46 - What is the status of the efforts by the Gulf Cooperation Council (GCC) to establish a common external tariff? Does the GCC plan to open the GCC trade arrangement to other interested countries?

Reply 75

The six members have decided to unify customs tariffs under a phased programme beginning with selected goods and commodities. The various governments are working to see that this programme is completed as soon as possible. At the current time, officials of the six GCC states are working on the completion of a common tariff schedule. The GCC has no plans at the present time to open the GCC trade arrangement to other interested countries.

Q76. The Unified Economic Agreement among the six Gulf Cooperation Council states specifies that local manufacturing within the GCC will be protected by a common tariff applied by all the member states. Could you give us some estimation as to when this stage of integration will be achieved?
The six members have decided to unify customs tariffs under a phased programme beginning with selected goods and commodities. The various governments are working to see that this programme is completed as soon as possible.

(f) Non-tariff measures, quotas and licensing system

Q77. Paragraph 47 - Please identify by tariff line item any imports that require authorization or import licensing and describe the process required to obtain approval.

Reply 77

Imports that require authorization or import licensing and their approval processes are:

- Horses (01.01): approval from the Chivalry Club is required.
- Livestock (Chapter 1): to be presented to the representative of quarantine to ensure they are free of diseases.
- Sowings: to be tested by the quality control lab to ensure that they are free of epidemics.
- Foodstuffs: to be tested by quality control lab to ensure that they are free of epidemics.
- Natural asphalt (27149010): a prior approval from the Ministry of Petroleum and Mineral Resources is required.
- Chemicals (Chapters 28, 29): a prior approval from the Ministry of Industry & Electricity is required.
- Pharmaceutical products (Chapter 30): a prior approval from the Ministry of Health is required.
- Perfumery (Chapter 33): to be examined by the representative of the Ministry of Commerce.
- Films (Chapter 37): to be examined by the representative of the Ministry of Information prior to release.
- Books and periodicals (Chapter 49): to be examined by the representative of the Ministry of Information.
- Wireless (radio) equipment (Chapters 27, 26, 25, 85): a prior approval from the Ministry of Interior is required.
- Antiques (Chapters 6, 2, 27): a prior approval from the Ministry of Education is required.

Q78. Paragraphs 47-50 - Please identify any other imports by tariff line item which are subject to non tariff import restrictions or requirements, describe the restrictions, and indicate how these requirements and restrictions conform to the provisions of the GATT/WTO.

Reply 78

There are no non-tariff import restrictions or requirements in Saudi Arabia.

Q79. Paragraph 47 - Please describe in some detail the approval process required for the importation of seeds, food products, livestock, books, periodicals, movies, chemicals, pharmaceuticals, wireless equipment, horses, perfumes, natural asphalt, and archaeological pieces.

Reply 79

Sowings: to be tested by the quality control lab to ensure that they are free of epidemics.
- Foodstuffs: to be tested by quality control lab to ensure that they are free of epidemics.
Livestock (Chapter 1): to be presented to the representative of quarantine to ensure they are free of diseases.

Books and periodicals (Chapter 49): To be examined by the representative of the Ministry of Information.

Films (Chapter 37): To be examined by the representative of the Ministry of Information prior to release.

Chemicals (Chapters 28, 29): A prior approval from the Ministry of Industry & Electricity is required.

Pharmaceutical products (Chapter 30): A prior approval from the Ministry of Health is required.

Wireless (radio) equipment (Chapters 27, 26, 25, 85): A prior approval from the Ministry of Interior is required.

Horses (01.01): approval from the Chivalry Club is required.

Perfumery (Chapter 33): To be examined by the representative of the Ministry of Commerce.

Natural asphalt (27149010): A prior approval from the Ministry of Petroleum and Mineral Resources is required.

Antiques (Chapters 6, 2, 27): A prior approval from the Ministry of Education is required.

Q80. Paragraph 47 - How does Saudi Arabia make these requirements and other restrictions on imports known to traders?

Reply 80

Traders can obtain detailed information on import procedures from a wide variety of sources which are publicly available such as the Implementing Regulations of the Customs Law, the Ministry responsible for overseeing the imported goods in question, appropriate employees of Saudi Arabian embassies and consulates abroad, the Saudi Arabian Chamber of Commerce, the Customs Directorate, or any one of a number of private sources.

Q81. Paragraph 47 - Would Saudi Arabia please complete the questionnaire contained in L/5640/rev.9 describing its import permit licensing regime in the context of the Agreement on Import Licensing Procedures?

Reply 81

Answers to the questions contained in L/5640/rev.9 are in Annex 16.

Q82. Paragraph 47 - Please describe more fully and explain the rational for Saudi Arabia's labelling requirements for imports, with special reference to how the requirements are applied and enforced with regard to similar domestic products. Please provide in translation the laws, decrees, and regulations governing these requirements.

Reply 82

Saudi Arabia's labelling requirements do not differentiate between imported and domestically produced products. Labelling requirements are specified in individual Saudi Arabian standards, of which there are over eight hundred for the protection of consumers. Information on labelling requirements for individual products can be obtained from SASO.

Q83. Paragraphs 48-50 - Please provide a complete list, organized by 8-digit HS number, of the products Saudi Arabia bans for importation, listing the reason and GATT/WTO justification for each item banned. Please describe the administrative procedures by which these import prohibitions are enforced.
Reply 83 (a)

Please see Table 4 in Annex 7 for a list of banned goods and their GATT justification.

Please provide the guidelines used by customs officials in determining which publications and materials are prohibited for moral or religious reasons. Is there any provision for appeal of this decision?

Reply 83 (b)

The Ministry of Information is responsible for determining which publications and materials are prohibited for moral or religious reasons. Decisions are made based on the teachings of the Holy Quran and the Sunna. In general, publications and materials are prohibited which show pornographic representations or contain other matter which is prejudicial to Islamic morals. Appeals may be made to the Ministry of Information.

Q84. Paragraphs 47-49 - No mention is made in L/7489 of Saudi Arabia’s application of the Arab League Boycott of products originating in Israel or commercially associated with Israel. Please provide the following information:

Please describe for the Working Party the nature of the restrictions as they are applied by Saudi Arabia.

Please indicate how each aspect of the boycott, i.e., primary, secondary, and tertiary, will be brought into conformity with GATT/WTO provisions, especially Articles I and XI of the GATT, at the time of Saudi Arabia’s accession.

Reply 84

Saudi Arabia applies a primary boycott on products originating in Israel. The implementation of this policy is of a political, rather than commercial, nature. Boycott is maintained for security reasons in accordance with the provisions of Article XXI of the GATT (and Article 14 of the GATS). Secondary and tertiary boycotts have been removed in law and practice.

Q85. Paragraph 49 - In addition to the import ban on narcotics, arms, and their parts and ammunition, please indicate what other health and security restrictions are applied to imports, listing tariff lines by HS eight-digit number that are affected, the nature of the restriction, and how it is enforced. Please indicate the provisions of the GATT/WTO that cover these restriction.

Reply 85

Narcotics (all kinds, forms and names) such as hashish, opium, heroin, morphine, cocaine, cannabis, marijuana and all substances for in the first table of the Ministry of Health., attached with the Ministry of Health. circular No. 234/1433/27 dated 13/05/1392 H. (Narcotics of Chapters 13, 23).

Liquors and toxicants of all kinds including those which contain alcoholic substances in any proportion; equipment used for distillation of liquors and substances solely used for liquor distillation (Chapter 22).

Medical preparations or those containing toxic substances and dangerous medicaments, subject to obtaining licence from the Ministry of Health. (Chapter 30).
Medicaments not explaining composition, ingredients and doses thereof, whether such details are shown thereon or in a leaflet therein (Chapter 30).

All kinds of fireworks, subject to licence according to the Weapons and ammunition law (Chapter 36).

Explosives, denotive materials and gunpowder of all kinds and potassium chlorates unless imported by a competent governmental agency or under licence according to the Weapons and Ammunition Law (Chapter 36).

Blank invoices bearing titles of foreign companies abroad (48.20, 49.11).

Commodities bearing the government emblem (two swords and a palm tree in between with a long stem with the leaves at the end) except under approval from the Ministry of Interior (different headings).

Publicity materials for all kinds of cigarettes (various headings).

Night binoculars which enable vision in the dark and binoculars which take photographs in the dark (90.05).

Arms of all types and their parts and ammunition, including military gear except those imported for competent governmental entities or under licence according to the arms and ammunition law (chapter 93).

Fire arms designed for shooting non-live ammunition such as signal guns and other pneumatic guns or those operated by gas or springs, etc., of a kind used for industry or sports purposes except under licence from the Ministry of Interior (Chapter 39).

Tools and machines designed for gambling excluding those for innocent amusement (Chapter 95).

Three-dimensional pictures which contradict shariah and public morality imported for the purpose of sale in commercial quantities (Chapter 95).

Articles designed for floor covering or for wearing bearing the wording of Allah or Quranic verses or prophet's sayings (various headings).

Cross and commodities bearing the cross and any pictures, inscriptions, drawings, quotations or expressions or publications of books and other printed matters, films and tapes violating the Islamic shariah or Islamic morality or the printed matter regulation (various headings).

Military badges, ranks and uniform except by permission from the military entity which will use them (various headings).

Rifles used for boys' training on shooting except under licence from the Ministry of Interior according to the arms and ammunition law (Chapter 97).

Guns causing annoying sound except under licence from the Ministry of Interior (Chapter 97).

All commodities subject to restrictions can be released upon approval from authorized departments, including foodstuffs and consumption products of all kinds of chapters (1)-(24), after being tested by the competent labs to ensure suitability for human consumption.
Please refer to Replies 77 and 79 and Annex 7.

**Q86. Paragraph 50 -** Saudi Arabia currently restricts imports of dates and long-validity pasteurized liquid milk in containers of more than one liter in order to provide protection to domestically produced products. Are these absolute bans or are imports of these products allowed up to a certain level?

**Reply 86**

While imports of long-validity pasteurized liquid milk in containers of more than one liter are prohibited, it should be noted that there is no quantitative restriction on long-validity pasteurized liquid milk in containers of one liter or less, nor is there any restriction on imports of other types of milk, such as powdered milk. Imports of dates are banned except for squ’i dates which are permitted from 22 November to 21 June.

**Q87. Paragraph 50 -** Please describe in more detail how the import restrictions on dates and long-validity pasteurized liquid milk in containers of more than one liter are administered, including but not limited to the following information:

In what quantities and under what circumstances are import licences issued for these products?

Please indicate the provisions of Saudi law that provide for these restrictions, and demonstrate how these provisions conform to the requirements of the GATT/WTO for the application of such measures.

**Reply 87**

Imports of long-validity pasteurized liquid milk in containers of more than one liter are prohibited. However, it should be noted that there is no quantitative restriction on long-validity pasteurized liquid milk in containers of one liter or less, nor is there any restriction on imports of other types of milk, such as powdered milk. Imports of dates are banned except for squ’i dates which are permitted to be imported from 22 November to 21 June.

The provisions concerning pasteurized liquid milk and dates are in conformity with the GATT and can be justified under Article XX (b) and (d).

**Q88.** Please provide details of the restrictions currently applied to the importation of dates and long-validity pasteurized liquid milk imported in containers of more than one liter (para 50).

Will Saudi Arabia provide assurances that such quantitative restrictions would be removed from accession?

**Reply 88**

Imports of long-validity pasteurized liquid milk in containers of more than one liter are prohibited. However, it should be noted that there is no quantitative restriction on long-validity pasteurized liquid milk in containers of one liter or less, nor is there any restriction on imports of other types of milk, such as powdered milk. Imports of dates are banned except for squ’i dates which are permitted to be imported from 22 November to 21 June. Saudi Arabia would consider converting the quantitative restrictions on the two agricultural items, dates and liquid milk, into tariffs, in accordance with the principle of "tariffication."
Q89. Paragraph 50 - Concerning the agricultural items referred to in Paragraph 50, and all other non-tariff measures applied to agricultural imports by Saudi Arabia, please indicate how Saudi Arabia intends to bring these measures into conformity with the WTO Agreement on Agriculture at the time of accession to the GATT/WTO?

Reply 89

Please refer to Replies 87 and 88.

Q90. Paragraphs 48-50 - Is the import of any goods other than those specifically mentioned in these paragraphs subject to quotas, licensing or other non-tariff measures? If yes please provide details of the products and the non-tariff measures applied?

Reply 90

There are some restrictions on particular imports. A list of these restrictions can be found in Chapter 7 of the Implementing Regulations of the Customs Law (see Annex 8).

Q91. Paragraphs 47-50 - Please provide a comprehensive list of non-tariff measures on the H.S. 8-digit basis with the justification under the WTO agreement.

Reply 91

Please refer to Reply 78.

Q92. Paragraph 50 - How does Saudi Arabia reconcile the statement in Paragraph 6 that "trade restrictions are limited to religious, health and security reasons" with the protective restrictions detailed in this paragraph?

Reply 92

The statement in paragraph 6 is a general statement.

(g) Customs valuation

Q93. Paragraph 51. Please provide in translation the regulations used by Saudi customs officials in applying the valuation provisions or the Customs Law to imports.

Reply 93

Article 51 of the Implementing Regulations of the Customs Law (see Annex 8) dictates the method of assessing duties. It says:

The duty will be assessed on ad valorem goods on the basis of the real price paid or agreed to be paid in the currency of the exporting country: this price will be that of the goods imported packed ready for shipment at the port of export, plus the shipping and insurance costs to the destination port of unshipping in the Kingdom of Saudi Arabia; when it is impossible to ascertain said value, evaluation of the imports shall be made on the basis of the nearest equivalent value that can be ascertained; duty on goods estimated according to weight will be levied assuming their net or gross weight as laid down in the tariff list: gross weight is the weight of the goods including all internal and external wrappers; the net weight is the weight of the goods, without
internal and external wrappings, inclusive of the materials used within the packages for folding, separation or arranging the goods.

Q94. Paragraph 51 - Please describe more fully the practice of calculating the freight charges on an import as a percentage of the f.o.b. value of the good. Please provide in translation the regulations used by customs officials to make such calculations and the level of ad valorem charge applied. Is this practice used on all imports, or is it applied regularly to any group of imports based on classification or origin?

Reply 94

Freight charges are based of actual freight invoice submitted by the importer, except for air freight where a nominal charge of SR 0.5 per kilogram is applied instead of the high air freight charges usually presented in air freight invoice. In case freight invoice is not submitted, there is a list of freight charges similar to international freight charges.

Q95. Paragraph 51 - Please describe the process for auctioning cargo in the event of unpaid fees. Is there an open auction and is the process public, are all goods advertised, does the Port authority provide details of the sale such as price and buyer?

Reply 95

Please refer to Annex 8 which contains the Implementing Regulations of the Customs Law including the section pertaining to auctioning of cargo.

Q96. Paragraph 53 - Please provide details concerning the dispute settlement process for customs valuation. How many complaints are reviewed annually? How many complaints are currently outstanding? Of the complaints received, in what percentage of cases are the valuations originally supplied by the supplier accepted through the dispute settlement procedures?

Reply 96

If the importer disputes the value of imported goods assessed by a Customs official, he may apply to Customs for a further ruling. The Customs Department will refer the matter to an internal ad hoc committee, composed of a valuation expert, tariff expert, and legal advisor, for settlement of the dispute. The number of complaints vary substantially depending on import quantities and cases where customs believes that the importer provided unrealistic invoice. In general, there are approximately thirty-six cases annually.

Q97. Paragraph 53 - Please complete the questionnaire on the application of the Agreement on the Application [sic] of Article VII of the GATT/WTO describing Saudi Arabia’s customs valuation regime in the context of the requirements of that agreement.

Reply 97

The questionnaire relates to the implementation of the provisions of the Agreement on Customs Valuation. Since Saudi Arabia is not applying the provision at present, the questionnaire does not appear to be relevant. It would become relevant after Saudi Arabia starts applying the Customs Valuation Agreement.
Q98. Paragraph 53 - Concerning the description of Saudi Arabia’s customs valuation regime in L/7489:

Please describe in more detail how the process of calculating import value when transaction value is determined not to apply as the basis for customs valuation. [sic]

Reply 98 (a)

If it is decided that the transaction value is not to be taken as a basis for the customs value, the customs port bases the value on “the nearest comparable value”. The nearest comparable value is assessed by referring to similar imported goods at similar or close time and similar quantities. If such identical or similar goods are not available, the customs refers the case to the Headquarters where a valuation committee will in turn apply the deductive valuation method based on local markets, after deducting charges and duties to reach the c.i.f. value. Competitive valuation method is not applicable in the Kingdom.

In particular, please define specifically the "price of the goods at the time they were contracted to be delivered" with regard to provisions of the Customs Valuation Agreement fixig valuation at "the time of export."

Reply 98 (b)

Nowhere does either Article VII of GATT 1947 or the WTO Agreement on the Implementation of Article VII define valuation in terms of "at ‘the time of export’." The former says that value "should be the price at which, at a time and place determined by the legislation of the country of importation…". When Saudi Arabia would apply the provisions of the Agreement on Customs Valuation, it would abide by these in its laws and regulations.

Please define specifically how values are computed "on the basis of the nearest comparable value that can be ascertained" with regard to the provisions of the Customs Valuation Agreement addressing computed and derived value.

Reply 98 (c)

Please refer to Reply 98(a).

We understand that under certain circumstances Saudi Arabia uses minimum prices in the calculation of import value. Please describe the circumstances and process of applying such minimum prices, and list, by tariff line item, any products for which this procedure is required or commonly used. Please include the minimum price applied and how it is determined.

Reply 98 (d)

Saudi Arabia applied minimum price for a number of goods but has recently abandoned such practice except for the following goods:
- Cars (78/2)
- Yeast (21/2)

Q99. Paragraph 53 - Can Saudi Arabia explain how to assess “the nearest comparable value”?
Q100. Paragraph 53 - Please describe more fully avenues of appeal for importers and exporters in cases where the valuation or duty assessment by Saudi customs officials is disputed, and provide any additional regulations or laws in translation pertaining to the appeals process.

Reply 100

If the importer disputes the value of imported goods assessed by a Customs official, he may apply to Customs for a further ruling (this applies to duty assessment as well). The Customs Department will refer the matter to an internal ad hoc committee, composed of a valuation expert, tariff expert, and legal advisor, for settlement of the dispute. If the importer and/or exporter continues to disagree with the decision, he may file a case with the Board of Grievances under the Rules and Procedures to be followed by the Board of Grievances, an (unofficial) English translation of which is reproduced in Annex 9.

Q101. Paragraph 53 - Is the "internal ad hoc committee" referred to in this paragraph independent of the Customs authority? What avenue of appeal is available to importers and exporters to a judicial authority after administrative appeals have been exhausted?

Reply 101

Please refer to Reply 100.

(h) Rules of Origin

Q102. Does Saudi Arabia have any legislation requiring that goods sold or otherwise placed in commerce in Saudi Arabia be marked with respect to country of origin?

Reply 102

Yes. Saudi Arabia requires that goods sold or otherwise placed in commerce in Saudi Arabia be marked with respect to country of origin.

Q103. Paragraph 54 - Please describe how Saudi Arabia is prepared to conform its policies in this area to the GATT and Uruguay Round agreements on Rules of Origin.

Reply 103

Saudi Arabian policies regarding Rules of Origin are currently in conformity with all applicable GATT and the Uruguay Round agreements.

Q104. Paragraph 54 - Please provide copies in translation of laws, decrees, or regulations governing the rules of origin applied in Saudi Arabia's trade regime as they are applied to both preferential, i.e., GCC and Arab League, trade and MFN trade.
For products to be considered of GCC origin, they must contain a minimum of 40 per cent GCC value added (see Reply 73 above). The Arab League agreements provide for the same value added.

Article 9 of the Agreement to Facilitate Trade and Exchange and to Organize Transit Among the Arab League states:

In order to be considered an Arab commodity for the purpose of this agreement, a commodity must satisfy the rules of origin which will be decided by the Council. The value-added arising from the production in the country of origin should not be less than 40 per cent of the final value of the product. This ratio is reduced to a minimum 20 per cent for Arab assembly industries. The Council will set a timetable for increasing these two ratios.

Article 5 (c) of the Saudi Arabia-Jordan bilateral agreement states:

Industrial products are considered of Saudi or Jordanian origin if the value of domestic raw materials and local labour is not less than 40 per cent of production costs. These products should be accompanied by a certificate of origin authenticating the ratio. The certificate should be issued by a responsible authority in the exporting country.

Article 4 of the Saudi Arabia-Tunisia bilateral agreement states:

Industrial products are considered of Saudi or Tunisian origin if the ratio of domestic raw materials and local labour in the manufactured item is not less than 40 per cent of cost of production. These products should be accompanied by a certificate of origin authenticating the ratio. The certificate should be issued by a responsible authority in the exporting country.

Article 4 of the Saudi Arabia-Syria bilateral agreement states:

An industrial product is considered of Saudi or Syrian origin if, for the purpose of this agreement, the ratio of domestic raw materials, local labour, and other local costs in the product is not less than 40 per cent.

Article 4 of the Saudi Arabia-Lebanon bilateral agreement states:

An industrial product is considered of Saudi or Lebanese origin if, for the purpose of this agreement, the ratio of domestic raw materials, local labour, and other local costs in the product is not less than 40 per cent.

Article 11 of the Saudi Arabia-Morocco bilateral agreement states:

All items that are of Moroccan origin are considered Moroccan products. All items that are of Saudi Arabian origin are considered Saudi products.

Article 1, Section 4 of the Saudi Arabia-Iraq bilateral agreement states:

An industrial product is considered of Saudi or Iraqi origin if, for the purpose of this agreement, the ratio of domestic raw materials, local labour, and other production costs in the product is not less than 40 per cent.
Article 4, Section 1 of the Saudi Arabia-Egypt bilateral agreement states:

Finished and semi-finished industrial products listed in the annexed table are considered of domestic origin in both countries if the ratio of domestic valued added is no less than 40 per cent of the final value at the completion of its production. The elements of the value-added will be agreed upon by the sub-committee which is mentioned in Article 22 of this agreement. Arab League rules [of origin] will be used as guidelines. These products must be accompanied by an origin indication which shows country of manufacturing, factory name and its address.

As the Kingdom extends MFN treatment to all imports, there are no specific rules of origin regulations for MFN trade. The importer must, however, provide to Customs a certificate of the nationality of the goods. In all cases the method for determining the origin of the good is examination of the certificate of origin.

(i) Customs formalities

Q105. Paragraph 55 - Does the Saudi Customs department only accept original customs documentation or is there consideration for faxed documents as specified under INCO? Is there a requirement that the documentation be "officially" translated? If so, what procedures/cost does this process involve?

Reply 105

Fax copies will generally be accepted for clearance of goods provided that the importer agrees to provide original documentation within a certain period of time. Exceptions to this practice usually occur when the importer has failed to meet his prior commitments. There is no requirement that the documentation be "officially" translated. However, translations are subject to verification by the proper authorities.

Q106. Paragraph 56 - Please describe more fully avenues of appeal for importers and exporters in cases where the classification of imports by Saudi customs officials is disputed, and provide any additional regulations or laws in translation pertaining to the appeals process.

Reply 106

The process for appealing rulings on classification is fully explained in paragraph 56 of the Memorandum on Foreign Trade (L/7489). When a dispute arises between the customs and importer about classification of the goods, the dispute is referred to the Tariff Committee of the Headquarters of customs which is composed of four members of the senior customs officials and a representative from the customs part, when necessary. Resolutions of this committee are taken by majority of opinions. In certain cases, the opinion of the World Customs Organization, Brussels, is sought for guidance. Under certain circumstances, administrative actions can be appealed to the Board of Grievances (see Annex 9).

Q107. Paragraph 56 - Is the "Classifications Committee" referred to in this paragraph independent of the Customs authority? What avenue of available to importers and exporters to a judicial authority after administrative appeals have been exhausted?

Reply 107

The "Classifications Committee" is not independent of the Customs authority. Refer to Reply 106 regarding appeals of administrative actions.
(j) Standards and certification

Q108. Paragraph 57 - Please provide details on the process by which SASO circulates draft standards to the world market for comment prior to finalization of the standard. Please provide details as to how such comments are incorporated into the final standard.

Reply 108

The standard practice of SASO is to distribute draft standards to all the standard organizations in countries which are interested in receiving such draft standards. Recipients are given three months to respond to the draft standards. This process is generally repeated until SASO decides to issue the standards in their final form.

A technical committee within SASO is given responsibility to analyze all comments it receives on draft standards. The technical committee meets in open session to discuss the comments. Comments are incorporated based on the technical committee’s deliberations. The technical committee either reissues the draft standard or sends its recommendation to the SASO Board of Directors which can accept or reject the recommendation.

Q109. Paragraph 57 - What difference exists in the treatment of imported and domestic products with respect to technical and other standards. It is noted with respect to medicines and medical equipment that health standard certification must be renewed every two years. Is this applicable to both domestic and imported products?

Reply 109

There is no difference in the treatment of imported and domestic products with respect to technical and other standards. This is true with regard to health standard certification as well.

Q110. Paragraph 57 - Would Saudi Arabia please complete the questionnaire provided for members of the Agreement on Technical Barriers to Trade describing how the domestic standards regime is applied to imports and indicating how Saudi Arabia intends to implement the Agreement at the time of accession?

Reply 110

As Saudi Arabia is not a signatory to the Agreement on Technical Barriers to Trade nor was it a party to the negotiations, it was not provided with the aforementioned questionnaire. It should be mentioned that Saudi Arabia’s standards regime is consistent with the Agreement on Technical Barriers to Trade.

Q111. Paragraph 57 - Please provide in translation all relevant laws, decrees and regulations governing the standards-setting process in Saudi Arabia and how it is applied to imports.

Reply 111

Please refer to Annex 10, which contains an (unofficial) English translation of Royal Decree M/10 of 3.3.92 (H) and of the Council of Ministers Resolution No. 172 of 25.2.1392 H which establishes the Saudi Arabia Standards Organization and provides it with its regulatory powers. With regard to imports, the Implementing Regulations of the Customs Law (see Annex 8) provide the Customs Directorate with the authority to examine imports and to restrict the import of goods which do not meet Saudi standards.
Q112. Paragraph 57-59 - Would Saudi Arabia provide an indication of the publications (for example government gazettes) that clearly and comprehensively provide up-to-date information on Saudi regulations governing standards and certification procedures?

Reply 112

Government regulations governing standards and certification procedures can be found in the Um Al-Qura, the official government gazette. In addition, the Saudi Arabian Standards Organization publishes, from time to time, updates on the list of standards and the certification procedures for standards.

Q113. Paragraph 57 - Does Saudi Arabia maintain dispute settlement procedures for resolving problems related to food standards? If so, please describe them.

Reply 113

If there is a problem relating to any standard, the Saudi Arabian government allows for comments to be submitted, either in writing or orally, and without discrimination, to a panel of experts. These comments will be discussed upon request and both the comments and discussions will be taken into account in rendering any necessary decision. The panel may also consult relevant international bodies, at the request of either party to a dispute, or on its own initiative.

Q114. Paragraph 57 - Are standards developed for each individual product imported into Saudi Arabia? If so, please provide clarification on how the import of similar but different products are handled when no specific standard exists.

Reply 114

Standards are developed for a variety of commodities and products, whether they be imported or produced domestically, that could generally be considered to belong to an eight-digit harmonized code category (although an individual standard could cover different eight-digit harmonized code products or a group of products at a six, or possibly a four-digit harmonized code level). Not all products have had standards specified, in which case they are not subject to any specific standard requirement.

Q115. Paragraph 57 - Please provide translations of Saudi Arabia’s shelf-life standards. Please explain in some detail the short shelf-life regulations pertaining to baby foods, eggs, canned fruits and vegetables, and other processed food products.

Reply 115

Please refer to Saudi Arabian Standards Organization standards 457 and 702 in Annex 10 with regard to the first part of the question. With regard to the second part of the question, please refer to Reply 116.

Q116. Paragraph 57 - Please describe the scientific basis for the application of these regulations, including but not limited to the following information:

How does Saudi Arabia assess the appropriate level of risk when determining shelf-life requirements for a non-perishable product?
Each food product has a time period through which it remains fit for human consumption. After that it becomes unacceptable to the consumer because of changes in its organoleptic or chemical properties or in its nutritive value or its functional properties or which makes it unfit for human consumption. Food liability to alteration depends upon many intermingled agents the most important of which are:

- Nature of the food product and its moisture content and its other constituents such as proteins, fats, vitamins, etc.;
- Method and type of packaging; and
- Storage, transportation and handling conditions.

The Saudi Arabian Standards Organization prepares standards for expiration of all food products based on scientific references, research, special studies, and expiration periods applied in some other countries. It takes into consideration the comments of government authorities in the Kingdom, national and foreign companies, as well as the transportation, storage and handling methods, and the climatic conditions in the Kingdom. Please refer to Annex 10 for (unofficial) English translations of the standards related to shelf life.

**Does Saudi Arabia intend to harmonize its shelf-life standards with international norms?**

**Reply 116(b)**

Saudi Arabia harmonizes all its standards on as wide a basis as possible. However, its standards may differ from others when it determines the relevant international standard, guideline, or recommendation is not sufficient to achieve the appropriate level of protection which will ensure the health and safety of the residents of Saudi Arabia.

Q117. Paragraph 58 - Please elaborate on how Saudi Arabia applies standards and measures to "take into account the harsh environment". What are Saudi Arabians chief concerns regarding standards for imports of automobiles, cigarettes, and baby formula?

**Reply 117**

The Saudi Arabian climate is among the harshest in the world. In the summer, average temperatures in the coastal regions range from 38(C to 49(C and the humidity can exceed 90 per cent. In the interior, temperatures can reach 54(C. Such climatic conditions are extremely hard on products susceptible to deterioration or spoilage such as tires and foodstuffs. Periodically high dusty atmospheric conditions are also a climatic phenomenon. In order to ensure the health and safety of the residents of Saudi Arabia, the government is therefore very conservative in its application of standards on a number of products.

Its chief concerns regarding automobiles are:

- Safety (proper mirrors, windshields, brakes, doors, safety belts, warning lights and sounds, turn signals, fire resistant interior materials, head restraints, shock absorbing steering column, impact resistance);
- Suitability for dusty atmospheric conditions, high ambient temperatures and uneven roads (especially for the radiator, air filter, battery, tires, and suspension system);
- Suitability for domestic gasoline/diesel oil with respect to lead content and octane rating; and
Exhaust emissions.

Its chief concerns regarding cigarettes are:

- nicotine content;
- tar content; and
- presence of acknowledgment of the health hazards related to smoking.

Its chief concerns regarding baby formula are:

- presence of acknowledgment of the superiority of breast feeding;
- presence of instructions for appropriate preparation and warning of health hazard of improper use;
- proper labelling (ingredients, chemical composition, storage conditions required, batch number, date of production, and expiration date); and
- time period for which it remains fit for consumption (18 months from date of production).

Q118. Paragraph 59 - What are the necessary procedures for obtaining a certificate to import medicines and medical equipment? Are certificates or other permits required for the importation of any other goods, such as tires, motor vehicles, chemicals, etc.?

Reply 118

Conditions governing import of goods into Saudi Arabia with regard to standards and certification, in force at the time, have to be fulfilled for all goods requiring prior approval. Details of specific conditions for individual product are available upon request from the Saudi Arabian Standards Organization.

(k) Sanitary and phytosanitary measures

Q119. Paragraph 60 - Please indicate precisely how Saudi Arabia is prepared to apply the provisions of the WTO Agreement on Sanitary and Phytosanitary Measures.

Reply 119

Saudi Arabia’s current rules and regulations are consistent with the WTO Agreement on Sanitary and Phytosanitary Measures.

Q120. Paragraph 60 - Does Saudi Arabia intend to harmonize sanitary and phytosanitary standards with internationally accepted guidelines (Codex Alimentarius)?

Reply 120

Saudi Arabia harmonizes its sanitary and phytosanitary standards with internationally accepted guidelines wherever possible. However, a standard set by the Kingdom may differ from a standard associated with an "internationally accepted guideline" when the authorities determine the relevant international standard, guideline, or recommendation is not sufficient to achieve the appropriate level of protection which will ensure the health and well being of the humans, animals, and plant life within Saudi Arabia.
Q121. Paragraph 60 - Is Saudi Arabia's use and enforcement of sanitary and phytosanitary measures scientifically based? Please elaborate on the required product-quality testing for farm products.

Reply 121

All of the Kingdom’s sanitary and phytosanitary standards are scientifically based. There are over 125 different standards related to various “farm products” and testing methodology for these products. If there is a concern about the scientific basis for standards related to any specific “farm product,” Saudi Arabia would be glad to address the issue. Alternatively, any specific standard can be obtained from the Saudi Arabian Standards Organization. A catalogue of the standards can be found in Annex 10.

Q122. Paragraph 60 - Please provide translations of laws, regulations and directives setting health and sanitation standards for imported foods.

Reply 122

Please refer to Annex 10, which contains (unofficial) English translations of Royal Decree M/10 of 3.3.92 (AH) and of the Council of Ministers Resolution 172 of 25.2.92 (AH), as well as Annex 15, which contains a catalogue of Saudi standards issued by the Saudi Arabian Standards Organization. There are some 285 different standards related to food and agricultural products. Any specific standard can be obtained from the Saudi Arabian Standards Organization. It should be noted that Saudi standards are applicable to all foodstuffs, not just imported foodstuffs.

Q123. Paragraph 60 - Please provide a complete list of imported products that are highly restricted or outright banned for animal or plant health reasons, and provide the corresponding justification for these measures.

Reply 123

There are no products that are highly restricted or outright banned for animal or plant health reasons.

Q124. Paragraph 60 - Please describe the administrative and judicial avenues of appeal for importers and exporters in the application of sanitary and phytosanitary requirements to imports.

Reply 124

If there is a problem relating to the application of any standard, the Saudi Arabian government allows for comments to be submitted, either in writing or orally, and without discrimination, to a panel of experts. These comments will be discussed upon request and both the comments and discussions will be taken into account in rendering any necessary decision. The panel may also consult relevant international bodies, at the request of either party to a dispute, or on its own initiative. If the importer and/or exporter continues to disagree with the decision, he may file a case with the Board of Grievances under the Rules and Procedures to be followed by the Board of Grievances (see Annex 9).

Q125. Paragraph 60-62 - What international scientific standards does Saudi Arabia use when applying sanitary and phytosanitary measures? Can Saudi Arabia give an assurance that its quarantine and phytosanitary measure regime would be consistent with the SPS agreement?
Saudi Arabia is a member of the Codex Alimentarius Commission and the International Office of Epizootics. It works with these two bodies, as well as with the Food and Agriculture Organization and the World Health Organization in establishing and applying sanitary and phytosanitary measures. Of course the harsh climate in Saudi Arabia requires especially strict standards. Saudi Arabia will follow the standards and disciplines of the SPS Agreement upon becoming a member of the WTO, when the SPS Agreement would become applicable.

Q126. Paragraph 62 - This paragraph indicates that importers of goods not satisfying sanitary and phytosanitary requirements have the option of re-exporting their goods out of the port area. Please provide details as to how often such re-exportation takes place. What is the treatment of such goods regarding port handling and other charges?

Reply 126

Paragraph 4 of Article 26 of the Customs Law indicates that if owner of commodities entering the country wants to re-export them before leaving the customs and before paying customs duties and other charges, he can do so after paying warehouse, loading and unloading chargers, provided that the commodities are not food, cloth, medical, or construction items, the commodities are not desirable and do not satisfy the importer's order, loading or unloading was made by mistake, and/or after arrival, defects, damages, or other reason make the commodities not suitable for marketing.

In any of these cases, the importer requests a re-exportation indicating type and value of the shipment and freight permit. The customs officials allow export if there are no violations.

With regard to the second part of the question, according to the Implementing Regulations of the Customs Law, warehouse charges "shall not be levied in respect of the imported goods where a dispute has arisen between Customs and the interested party" (Article 64). Also, according to Article 68, "goods incoming from abroad into the Customs storage, the import of which has been banned by an order of the local authority, the owner thereof shall re-export them...in which case they will be exonerated from warehouse charges." There is no provision for exemption from port handling and supervision charges.

2. Export Regulations
(a) Customs tariff nomenclature, types of duties, etc.

Q127. Paragraph 63 - Can Saudi Arabia explain the reasons for the imposition of export duty on untanned hides and skins?

Reply 127

The export duty on untanned hides and skins is imposed to ensure the availability of untanned hides and skins for the domestic processing industry.

Q128. Paragraph 63 - Please indicate the ad valorem equivalent, on average, of the export duty on untanned hides and skins.

Reply 128

The equivalent ad valorem export tariff on untanned hides and skins in 1991 was 20.7 per cent.
Export licensing system

Q129. Paragraph 65 - This paragraph indicates that the Saudi Arabian government exercises restrictions on exports to prevent goods benefiting from export subsidies from leaving the Kingdom. Saudi Arabia exports agricultural products such as wheat. Does it not at the same time provide guaranteed wheat prices, subsidize agriculture machinery and subsidize water rates for wheat production?

Reply 129

The information of Paragraph 65 is about domestic subsidies, not export subsidies. Subsidies provided to farmers are not export subsidies. The provision of assistance in the agriculture sector and the purchase of wheat at prices higher than those prevailing in the world market is not in any way contingent upon the export of any products that are produced. In any case, the current agriculture subsidy policy is under review.

Q130. Paragraph 65 - Would Saudi Arabia provide details of restrictions and controls that prevent subsidized goods from leaving the Kingdom.

Reply 130

Export of subsidized goods by individuals is considered smuggling and punishable under the law either by imprisonment or fines or both. Under the Implementing Regulations of the Customs Law, the Customs Department is vested with the right to search every person, motor car or passenger vehicle, lorry or anything else which passes through its gate or from the Customs jurisdiction or crosses the Customs line. Customs is also vested with power to do the same at sea on commercial ships, barges, boats and other seaworthy vessels within the Kingdom's jurisdiction. Withdrawal of goods of whatever kind which cross the Customs line or the Customs jurisdiction must hold a legal authorization to that effect. After being completed by the interested party, the application for legal authorization shall be presented to the Director of Customs for approval of the export. Items which are concealed with a view to avoid the restrictions imposed on exports of subsidized goods are liable to confiscation.

Q131. Paragraph 65 - Would Saudi Arabia please provide details of the operations of the Grain Silos and Flour Mills Organization (GSFMO)? Does Saudi Arabia subsidize its wheat exports? What criteria are used to approve exports? Does the GSFMO purchase domestic wheat and barley at guaranteed prices? Are these acquisition prices lower or higher than the Saudi export prices?

Reply 131

The Grain Silos and Flour Mills Organization was established by a Royal Decree in 1392 (H) when the Kingdom was highly dependent on imported foodstuffs, particularly grains, due to limited local production. The objectives of the GSFMO were stated as follows: (1) to form an integral industry of grain storage, flour production and processing animal feed; (2) to establish any other relevant food industries; (3) to market its products inside and outside the Kingdom; (4) to purchase grains and create a convenient reserve stock to face emergency circumstances; and (5) to meet the goals of the approved agricultural policy.

In order to achieve the above goals, the role of the GSFMO was stated as follows: (1) to establish silos projects in the midst of production areas to help farmers in marketing their crops and facilitate transporting their crops to various markets; (2) to create a stable market with fixed prices announced in advance in order to safeguard the farmers from price fluctuations and merchants' exploitation.
Saudi Arabia does not confer an export subsidy on wheat. The GSFMO prices guarantee is available for all grain offered irrespective of where it is marketed. The GSFMO is compensated by the Government for any shortfall resulting from sales (Domestic and Export) at prices below the guaranteed purchase price. The GSFMO operations and financing are thus similar to those of typical agricultural marketing boards in developed countries.

The Kingdom donates a large amount of wheat to poor countries. Domestic wheat and barley is purchased at fixed prices which can vary from year to year. In general, acquisition prices have been higher than the prices received for Saudi wheat in export markets. However, this can change depending on changes in the government purchase price and the price for wheat in international markets. The guaranteed prices for 1995 has been reduced from 2.5 SR per Kg to 1.5 SR.

Q132. Paragraph 65 - What criteria do the Ministry of Petroleum and the Saudi Agricultural Bank apply when approving exports?

Reply 132

The Ministry of Petroleum has given oil companies operating in the Kingdom the right to export oil and oil products.

The Saudi Agricultural Bank does not approve agriculture exports. However, it requires that subsidies on imported agricultural tools and equipment be repaid prior to their (re)export.

Q133. Paragraph 65 - This section provides examples of goods whose export is restricted or prohibited. Please list the products subject to these restrictions, by HS eight-digit number, describing the process of obtaining export licences or permits for required products and citing the provisions of the GATT/WTO that justify the restrictions.

Reply 133

There are no other restricted or prohibited export goods other than those stated in Paragraph 64 and 65 of L/7489. Justifications for such practice can also be found in the mentioned paragraphs.

3. Export incentives, including subsidies

Q134. Paragraph 67 - Does Saudi Arabia plan on establishing an export credit agency or begin using export subsidies to promote, for example, the diversification of its economy?

Reply 134

Saudi Arabia does not currently plan on establishing an export credit agency or to begin using export subsidies.

Q135. Paragraph 67 - Concerning the export incentive schemes referred to in these paragraphs, do any of the credit schemes provide export credits at rates below the rates which the credit organization has to pay for the funds? Are these credit organizations self supporting, i.e., do they earn a profit or are they subsidized?
None of the export credit programmes provide credit at rates below the cost of the funds. All export credit programmes are self supporting.

Q136. Paragraph 67 - What incentives are used to encourage or support industries either for import substitution or in the export sector? How does the Government determine which sectors to be supported?

Reply 136

Incentives provided to industry are spelled out in The Law for the Protection and Encouragement of National Industry an (unofficial) English translation of which is reproduced in Annex 3. Decisions on extending incentives are made on a case by case basis by the Ministry of Industry and Electricity, in view of the development needs of the Kingdom of Saudi Arabia as defined in the extant development plan and the particulars of the relevant situation.

Q137. Paragraph 67 - Saudi Arabia’s price for energy and petroleum products is far below world market prices. Please indicate why this would not constitute a subsidy of the Kingdom’s exports?

Reply 137

The prices of energy and petroleum products is not in any way contingent upon export performance and, hence, can not be considered an export subsidy. Furthermore, the price of energy and petroleum products is available at the same level to all users: industrial, household, or otherwise. The government looks upon energy and petroleum products as a resource which should be shared to the greatest extent possible with all the citizens of the Kingdom. The most efficient way to implement this policy is to distribute energy and energy products at the lowest appropriate cost. The price of energy and petroleum products is not a subsidy in terms of Articles 1 and 2 of the Agreement on Subsidies and Countervailing Measures.

Q138. Paragraph 68 - Please describe in more detail the Islamic profit system (murabaha) referred to in this paragraph.

Reply 138

Murabaha, derived from the Arabic word ribh, meaning profit or gain, is a sale in excess of the first price whereby the buyer and seller agree upon an already defined profit. It is a trust sale involving a sale transaction based upon revealing the price of the commodity as paid by the seller. A Murabaha contract is concluded only after adding a specified percentage or definite sum to the revealed price.

Q139. Paragraphs 67-70 - Does Saudi Arabia provide any indirect assistance to exports other than that mentioned in these paragraphs? Is information on the operations of the three regional export credit programmes readily available? For example by annual reports?

Reply 139

Saudi Arabia promotes goods produced in the Kingdom through its participation in international trade fairs.
Yes, information on the operations of the three regional export credit programmes is readily available by requesting such information directly from the Islamic Development Bank, Arab Monetary Fund, and/or the Inter-Arab Investment Guarantee Corporation.

Q140. Paragraph 68-70 - Could Saudi Arabia provide further information on the Intra-Arab Trade Finance programme and the trade credit programmes of the Islamic Development Bank? With respect to the latter, what types of goods and services can credits be used for? To which criteria must an enterprise conform in order to benefit from such programmes?

Reply 140

Inter-Arab Trade Finance Programme

The purpose of the Programme is to promote inter-Arab trade.

- The resources available to the Programme shall be used to refinance inter-Arab trade in accordance with the programme's Articles of Association.

- The Programme shall provide re-financing to the National Agencies designated by the Arab countries.

- Credit operation shall be effected through:

  A line of credit agreement with the National Agencies to purchase financial papers issued by these Agencies or to rediscount such instruments that have been discounted by the Agencies in conjunction with operations to finance eligible trade transactions in accordance with the Articles of Association.

  The execution of any other operation that the Programme may decide to undertake.

- The resources of the Programme shall consist of its capital; reserves; deposits of financial institutions and banking institutions; borrowing from financial markets and any other sources authorized by the General Assembly of the Programme.

- The borrowing of the Programme shall be within the limits set by the General Assembly by Special Majority. The Administration Committee shall determine the appropriate procedures, conditions, and means that shall govern the Programme's borrowing. The Committee shall also determine the procedures for accepting deposits from financial and banking institutions.

- The Programme charges interest on credit extended at a rate equivalent to the LIBOR plus 0.5 per cent. The Administration Committee will be permitted to alter the interest rate when deemed necessary.

- The Programme may levy commitment fees on undisbursed amounts of credits extended to National Agencies. The commitment fee is 0.75 per cent per annum.
Islamic Development Bank Foreign Trade Financing Operation

The Foreign Trade Financing Operation provides short term financing in order to enable a member country to import some needed developmental inputs, preferably from another member country. For this purpose and in order to conform to Shariah, the Bank purchases the goods and resells them to the recipient member country with a reasonable mark-up and deferred payment arrangements.

The supply of commodities involved in Foreign Trade Financing is usually made through international bidding, including member countries. However, the recipient member country may import on its own will and directly from another member country.

The duration of the deferred payment involved is about 9 to 12 months. In exceptional cases it can be extended to 18 months as from the date of the corresponding disbursement.

The mark-up on sale to be recovered by the Bank, if calculated on a yearly basis, will be about 9 per cent of the total purchase price as actually disbursed by the Bank.

The facility offered by the Islamic Development Bank is to be utilized mainly for the importation of development goods such as fertilizers, refined petroleum products, fuel oil, crude oil, industrial raw materials, industrial intermediate goods, and construction material.

Within the limits of short term financing and goods with development bias, it is up to the member country to suggest the commodity and the Bank is flexible in its consideration with regard to the eligibility of the commodity involved. There is no standard list of approved commodities as this would introduce rigidity and restrict the scope of the Foreign Trade Financing operations. Depending on the availability of funds and the Bank’s experience to promote larger deposits, the scheme may include in due course some essential consumer goods, specifically food items.

Member countries of the Islamic Development Bank apply for the foreign trade financing. Therefore, it is up to each individual country to decide which enterprises benefit from the programme. Applications from member countries for utilization of the foreign trade financing facility should indicate the type of commodities involved, the traditional sources of supply, quantities, technical specifications, amounts in US dollars, and periods of deliveries.

Access to the Inter-Arab Trade Finance Programme of the Arab Monetary Fund is limited to exporters and importers in Arab countries dealing in goods eligible for refinancing by the Programme. Eligible goods include goods produced or manufactured domestically from indigenous Arab raw materials and/or other factors of production and goods in which the value added in an Arab country amounts to at least 40 per cent.

Q141. Paragraph 71 - Please provide further clarification as to whether or not Saudi Arabia subsidizes agricultural exports. How would Saudi Arabia classify payments to producers of wheat and dairy products?

Reply 141

Saudi Arabia does not subsidize agricultural exports. Subsidies provided are production subsidies and are not contingent upon export performance. Please refer to Reply 131.
Q142. Paragraph 72 - This paragraph indicates that "goods in transit" receive duty-free treatment and are allowed to be transported throughout the Kingdom without discrimination. Please provide details as to the nature and extent of "goods in transit" in Saudi Arabia, particularly how such arrangement can be made given that there are no transit facilities for cargo or passengers at Saudi ports or airports and no free trade zones.

Reply 142

Goods in transit are handled through regular customs facilities. Details of how such transactions are performed and regulated can be found in Chapter 17 of the Implementing Regulations of the Customs Law (see Annex 8). There are no detailed statistics compiled on the specific nature and extent of "goods in transit." Free trade zones are not necessary for transit facilities as is the practice and experiences of many other countries.

IV. OTHER POLICIES AFFECTING FOREIGN TRADE

1. Industrial policy

Q143. One of the objectives of the Fifth Development Plan is to maximize the domestic transformation of oil derivatives and petrochemicals. We understand that the domestic industries are allowed to buy crude oil with a 30% discount off the world market price. Is this policy meant to be continued upon the accession and on what GATT basis?

Reply 143

The price Saudi Aramco charges for its products is a matter of negotiation between Saudi Aramco and its individual customers, taking into consideration costs of shipping, insurance, ...etc. Some of these prices are under long-term contracts that will only be subject to change at the end of the contract. In any case, pricing policy within the Kingdom of Saudi Arabia will be consistent with the Kingdom's obligations under the GATT/WTO. Please refer to Reply 137 for further details.

Q144. Paragraph 73 - Please describe the measures used to encourage "maximization of the domestically produced raw materials and intermediate products, particularly oil derivatives and petrochemicals, including, but not limited to, the following information:

What are the levels of domestic production and consumption of butane and MTBE in Saudi Arabia?

Reply 144 (a)

The government of Saudi Arabia does not collect production and consumption data for butane and MTBE.

Please clarify the policy of the Saudi Arabian government on foreign investment in the petrochemical sector and on feed stock pricing, particularly for propane, butane, and naphtha.
Reply 144 (b)

The policy of the Saudi Arabian government on foreign investment in the petrochemical sector is based on the globalization and integration of the industry. The Kingdom's experiences in joint ventures with foreign partners has become a benchmark for successful global cooperation in producing and marketing of petrochemicals. Foreign partners have access to feedstocks and energy resources as well as other facilities and advantages. Feedstock pricing, particularly propane, butane, and naphtha is based on international prices with necessary adjustments for domestic users. These adjustments basically involve operational, storage and terminalling costs, as well as costs exclusively associated with gas exports to world markets.

Please provide a copy in translation of the decree on the feed stocks policy. Can the Saudi Arabia Government provide a guarantee as to how long the policies of the feed stocks decree will be in force?

Reply 144 (c)

The Council of Ministers issued a resolution in its session of December 6, 1992 regarding the pricing of liquid gas--butane, propane, and natural gasoline-- for national industries. Please refer to Reply 144(b) for details. There was no time limit mentioned in the resolution. Please refer to Replies 137 and 143 for further details.

Does the Government of Saudi Arabia provide butane or other feed stocks for the production of exported MTBE at prices lower than otherwise found in the domestic market?

Reply 144 (d)

The liquid gases utilized by manufacturers of MTBE are provided under the same pricing policy as liquid gases utilized by all other domestic industries. All domestic users pay the same price for butane and other feed stocks.

Would Saudi Arabia sell butane to third-party buyers for export at prices equal to those charged to domestic MTBE producers?

Reply 144 (e)

Please refer to Reply 144(d)

Does Saudi Arabia intend to adopt policies in the future to encourage increased production and exports of MTBE?

Reply 144 (f)

Saudi Arabia intends to adopt and follow policies which encourage development of industries in which it enjoys a comparative advantage and which will further the development of the country. Production and export decisions are in general based on supply and demand criteria and are within specific control of producing companies.

What incentives does Arabia provide or intend to provide to encourage investment in facilities used to produce petrochemicals such as MTBE and methanol?
Reply 144 (g)

The incentives provided to encourage investment in facilities used to produce petrochemicals are the same incentives generally available to all industries deemed to be eligible for such incentives. Please refer to Reply 146.

Please detail any plans to subsidize or assist in any way the creation of a Saudi Arabian soda ash industry.

Reply 144 (h)

The creation of a soda ash industry in Saudi Arabia will be supported using the same incentives generally available to all industries deemed to be eligible for such incentives. Please refer to Reply 146.

Q145. Paragraph 73 - What criteria will Saudi Arabia use to determine when it is "economic" to encourage import substitution in an industry? What measures does Saudi Arabia contemplate to implement this policy, taking into consideration the provisions of the GATT/WTO? To what extent will these measures apply to foreign invested firms?

Reply 145

Under the Law for the Protection and Encouragement of National Industry, the Ministry of Industry shall make recommendations to the Council of Ministers about taking measures deemed appropriate for the protection of national industry based on the local production's sufficiency, both quality and quantity wise, as well as the interest of the consumer. This policy is consistent with the GATT. It applies equally to wholly Saudi-owned, joint venture, and wholly foreign owned firms.

Q146. Paragraph 73 - The Ministry of Industry and Electricity is described in this section as currently encouraging import-substitution industries and export-oriented industries. What specific form does this encouragement take? Are these measures available to foreign invested firms?

Reply 146

The incentives provided to encourage investment in industries deemed to be eligible for such incentives include lease of land at a nominal fee; loans by the Saudi Industrial Development Fund; customs duty exemptions, upon approval, for raw, process and packaging materials; assistance in the selection of industrial projects, the preparation of their economic feasibility studies and their evaluation; provision of organizational, operational, technical and managerial assistance; provision of rental accommodations; and tax holidays for certain foreign investments. Reference is also made to Reply 155, 174 and 175.

The only restriction on foreign investors access to these measures is with regard to their access to funds from the Saudi Industrial Development Fund. Companies with foreign shareholders are eligible for a loan of up to 50 per cent of the project cost if the Saudi nationals hold 50 per cent of the shares. If the Saudi share is less than 50 per cent, then the financing will be granted at a proportionally reduced level.

Q147. Paragraph 73 - Please outline the respective roles to be assigned to market forces and to the Saudi Arabian Government in the implementation of the import substitution initiative.
As explained in the Memorandum on Foreign Trade (L/7489), the Saudi Arabian government accords to the free market economy a primary role in the Kingdom and provides the private sector with abundant opportunities to participate in the country's development process. When the government believes it necessary to provide incentives or implement measures that it will be in the best developmental interest of the country, it will do so, within the context of its recognition of the primacy of market forces. This approach is followed with regard to measures designed to encourage import substitution industries. First, such measures are implemented only when it is determined economic to do so, given the particulars of the relevant industry and the interests of consumers. Second, some measures are intended to be temporary; loans must be repaid and protective duties—which are relatively low in any case—are subject to reduction. Third, measures, such as provision of land at a nominal rental fee, only provide infrastructural assistance beyond which the industries themselves are beholden to market forces.

Q148. Paragraph 73 - Please elaborate on what would be considered "adequate means and incentives" for encouraging export-oriented industries. What role would export subsidies, tax exemptions, interest-free loans, and subsidized land and equipment play in this export initiative?

Reply 148

"Adequate means and incentives" refers to those measures which are provided to encourage investment in industries deemed to be eligible for such incentives include lease of land at a nominal fee; loans by the Saudi Industrial Development Fund; customs duty exemptions, upon approval, for raw, process and packaging materials; assistance in the selection of industrial projects, the preparation of their economic feasibility studies and their evaluation; provision of organizational, operational, technical and managerial assistance; provision of rental accommodations; and tax holidays for certain foreign investments. The term was used to show that export-oriented industries would be eligible for the same generally available privileges offered to any industry which benefited from the Law for the Protection and Encouragement of National Industry. Saudi Arabia does not subsidize exports.

Q149. Paragraph 73 - Please elaborate on how Saudi Arabia plans to encourage industrial cooperation among the Gulf countries. Would Saudi Arabia be prepared to include non-Gulf firms in this initiative on a non-discriminatory basis?

Reply 149

One of the objectives of the Gulf Cooperation Council is the coordination of developmental efforts in each of the six members so as to avoid duplication and encourage efficiency and economy of scale under the umbrella of the Unified Economic Agreement. A number of initiatives have been undertaken with the goal of facilitating coordination and cooperation policies pertaining to Gulf industrial development.

Ministerial Resolution No. 152 of 20.8.1409 (AH) approved the "Rules for Coordination and Encouragement of the Establishment of Industrial Projects in the Gulf Arab States Cooperation Council," an (unofficial) English translation of which is reproduced in Annex 3. These rules specify guidelines for coordination and encouragement of the establishment of industrial projects within the GCC states having a minimum capital cost of SR 20 million, or equivalent in the currencies of the Council States. Some of the important rules are listed below:
The project must have industrial licence from the relevant authority having jurisdiction to do so.

The authority which is vested with the power to issue industrial licences, will take the following into consideration:

- technical, financial and economical advantages of the project.
- concordance of the project with the principles and objectives provided for in the consolidated strategy for the industrial development of the Council States.

Another major vehicle is the Gulf Organization for Industrial Consulting (GOIC), whose establishment was agreed to in 1976. Among the most important activities of the GOIC are:

- promotion of joint industrial projects among the member states;
- development of a data bank linked to the member states so as to serve as a regional information network;
- offering a wide range of consultancy services to the member states;
- organizing seminars, symposia, conferences, training courses; and
- issuing several regular and occasional publications.

In addition, industrial cooperation has been encouraged by the establishment of the free trade area, the sanctioning of ownership of shares of certain joint stock companies as GCC nationals, on a national treatment basis, and the implementation of various joint ventures.

Non-Gulf firms are free to participate in all industrial cooperative efforts in Saudi Arabia within the context of Saudi Arabia’s Investment of Foreign Capital Regulation and other applicable laws.

Q150. Paragraph 74 - The Law on the Protection and Encouragement of National Industry provides a number of the incentives described in this paragraph. Are there any additional incentives provided under this law or any other Saudi decree, law, or regulation?

Reply 150

The laws relating to incentives for industry are The Saudi Industrial Development Fund Law and The Law for the Protection and Encouragement of National Industry, (unofficial) English translations of which are reproduced in Annex 3. They cover all incentives.

Q151. Paragraph 74 - Are any of the benefits of the Law for the Protection and Encouragement of National Industry available to enterprises wholly or partially owned by foreign investors?

Reply 151

The Law for the Protection and Encouragement of National Industry makes no distinction between enterprises by nationality of ownership. The only incentive mentioned by the Law for the Protection and Encouragement of National Industry which distinguishes between foreign and national investors is the incentive regarding access to the Saudi Industrial Development Fund. Please refer to Reply 146.

Q152. Paragraph 74 - Is Saudi Arabia prepared to change its Law for the Protection and Encouragement of National Industry to conform to GATT/WTO provisions relating to subsidies?
The Law for the Protection and Encouragement of National Industry is fully consistent with all applicable provisions of the GATT/WTO.

Q153. Paragraph 74 - What other laws provide incentives for industrial development? If so, would Saudi Arabia please describe their provisions and provide translations of these laws?

Reply 153

Please see Reply 150.

Q154. Paragraph 74 - Please provide full details of all laws related to incentives for industry including The Law for the Protection and Encouragement of National Industry.

Reply 154

The laws relating to incentives for industry are The Saudi Industrial Development Fund Law and The Law for the Protection and Encouragement of National Industry. Unofficial English translations are reproduced in Annex 3.

Q155. Paragraph 74 - Please provide full details of funds provided to "licensed" industrial establishments under the Law, including land, interest free loans, and other incentives.

Please provide details of the programme criteria carried out by the Ministry of Industry and Electricity for establishment of industry in the eight specified industrial cities.

Reply 155

Generally, land is provided to industrial establishments under three different circumstances. First, the Royal Commission at Jubail and Yanbu provides land to industrial establishments at the annual rental fee of SR 0.08 per square meter for a thirty year lease. Second, the eight industrial cities provide land to approved industrial establishments at an annual rental of SR 0.08 per square meter for a twenty-five year lease. Third, municipalities may provide land for industrial establishments at a rate which is negotiated between the municipality and the industry. Loans are provided to industrial establishments by the Saudi Industrial Development Fund for which they are charged administrative fees—generally 2.5 per cent of the loan value per annum—and service charges. Other incentives provided to industrial establishments include customs duty exemptions, upon approval, for raw, process and packaging materials; assistance in the selection of industrial projects, the preparation of their economic feasibility studies and their evaluation; provision of organizational, operational, technical and managerial assistance; provision of rental accommodations; and subsidies for training Saudi employees.

The only criteria that the Ministry of Industry and Electricity uses in approving the establishment of an industry in an industrial city is that the industrial establishment must provide a feasibility study which shows that the establishment will be profitable. There are no trade related requirements.

Q156. Paragraph 75 - Please provide details on the criteria required by the Ministry of Industry and Electricity for products to qualify for duty-exemption under the Law for the Protection and Encouragement of National Industry.
The Law for the Protection and Encouragement of National Industry provides for custom duty-exemption to the local industries in the following cases:

- Machinery, tools, packaging materials and spare parts for newly established industry and for the extension of industries.

- Raw and processing materials used by the local factories. Exemptions may occur on a case-by-case basis.

In order to obtain custom duty exemption, local industrialist establishments apply, on a prescribed form, to the Protection Department at the Ministry of Industry and Electricity. The Ministry approves duty exemption on a case by case basis, depending on the nature of material, machinery and tools etc. There is no trade related criteria.

Q157. Paragraph 75 - Please provide a complete list and description of the goods imported for qualified industries which are exempt from customs duties under the Law for the Protection and Encouragement of National Industry. Please identify the industries qualifying for the favourable customs rules. Are these exemptions implemented on a most-favoured-nation basis?

Reply 157

Please refer to Reply 156. All industries are eligible for favourable customs treatment. Customs exemptions are implemented on a most-favoured nation basis.

Q158. Paragraph 76 - This paragraph indicates that the Ministry of Industry and Electricity may recommend the imposition of protective tariffs and other forms of assistance. Please list the forms of assistance provided for under this law?

Reply 158

Please refer to Reply 146.

Q159. Paragraph 76 - Please provide details on any recommendations made by the Ministry of Industry and Electricity under the Law for the Protection and Encouragement of National Industry to impose protective tariffs on similar foreign products in addition to recommendations on other forms of assistance to industrial establishments.

Reply 159

Article 7 of the Law for the Protection and Encouragement of National Industry states that measures such as the imposition of the 20 per cent protective tariff must take into consideration the sufficiency, both quantity and quality wise, of the relevant domestically produced product, as well as the interest of the consumer. Every request is looked at on a case-by-case basis and any number of special circumstances could influence the recommendation. No details are available on recommendations.

Q160. Paragraph 76 - Please give recent examples of domestic industries the Ministry of Industry and Electricity decided to assist through the imposition of protective tariffs.
The last time protective tariffs were granted was in 1988. At that time, protective tariffs were instituted for steel pipes, barbed and fencing wires, lamp posts, construction steel, and all kinds of soap. Those domestic industries which manufactured these items were assisted by the introduction of these protective tariffs.

Q161. Paragraph 77 - The Government of Saudi Arabia states that "It welcomes the inflow of foreign capital and expertise, particularly in joint ventures with Saudi Arabian businessmen". Could the government provide more information with regard to its law and regulations on foreign joint ventures? Are other types of commercial establishment by foreign individuals or enterprises permitted (i.e., are there any market access or national treatment restrictions on the establishment/ acquisition or operation of foreign firms in Saudi Arabia)?

Reply 161(a)

There is no law that specifically covers foreign joint ventures. The Investment of Foreign Capital Regulation covers foreign investment in general, including foreign capital in joint ventures (see Annex 3).

It is our understanding that the government encourages foreign investment via joint ventures with local companies and that it is illegal for foreigners to conduct business entirely on their own behalf within Saudi Arabia. Also, it is our understanding that there is no minimum level of equity foreign companies must meet to set up a joint venture, at least 25% Saudi participation is required in order to qualify for tax and other benefits. In addition, although there is no formal legal impediment to foreign equity holdings in excess of 75%, the Foreign Capital Investment Committee is unlikely to approve such projects. Is this understanding correct?

Reply 161(b)

The government does encourage foreign investment via joint ventures but Saudi regulations do not require local participation, except as noted in Reply 164.

Under the Investment of Foreign Capital Regulation, at least 25 per cent Saudi participation is required in order to qualify for tax exemptions.

The decision to provide a licence for the investment of foreign capital is made on the basis of the facts appropriate to that particular case. The only conditions in the Investment of Foreign Capital Regulation are that the capital be invested in development enterprises, other than extraction of petroleum and mining, and that the foreign capital be accompanied by foreign technical expertise.

Q162. Paragraph 77 - Please provide details of criteria used by the Foreign Capital Investment Committee to approve projects involving foreign investment.

Reply 162

The decision to provide a licence for the investment of foreign capital is made on the basis of the facts appropriate to that particular case. The only conditions in the Investment of Foreign Capital Regulation are that the capital be invested in development enterprises, other than extraction of petroleum and mining, and that the foreign capital be accompanied by foreign technical expertise.
Q163. Paragraph 77 - What criteria and process does the Foreign Capital Investment Committee employ in approving projects involving foreign investment? Can you provide examples of proposals that have been accepted and/or rejected in recent years? Is a separate procedure required to obtain approval for non-industrial foreign investments? If so, please describe it.

Reply 163

The decision to provide a licence for the investment of foreign capital is made on the basis of the facts appropriate to that particular case. The two general criteria listed in the Investment of Foreign Capital Regulation are that the capital be invested in development enterprises, other than extraction of petroleum and mining, and that the foreign capital be accompanied by foreign technical expertise. A list of the licences granted to foreign investments from 1.1.1414 until 13.3.1415 (AH) by company, sector, and foreign investor, is provided in Table 2 of Annex 4. As a general rule, Saudi Arabia does not disclose proposals that have been rejected. The Investment of Foreign Capital Regulation which govern foreign investment approval procedures covers both industrial and non-industrial investments.

Q164. Paragraph 77 - Please list any sectors or activities in which foreign investment or activity is prohibited or restricted.

Reply 164

Foreigners are prohibited from participating in services such as civilian security guards, commercial agents, customs clearing agents, transaction follow-up clerks to government departments, and real estate agents. In addition, foreign investment is prohibited in security underwriting and commodity brokerage services, including currency exchange operations, as well as in technical institutes; and, a foreign accountant, lawyer or pharmacist must work out of the office of a Saudi licensed accountant, lawyer, or pharmacist, respectively. Other professional service suppliers must have a contract before being allowed to establish a commercial presence. In addition, there are various sectors reserved to the state such as basic telecommunications, railroads, mass transit, postal service, public administration, and public broadcasting.

Q165. Paragraph 77 - The Foreign Capital Investment Committee apparently will not licence a second joint venture in a specific industry sector until the Committee agrees that the first venture is "established". Is this true? If so, does this practice delay industrial and commercial activities in the sector for considerable periods?

Reply 165

This is not true. An investor, however, must show that he is serious about the project by successfully establishing it, whether in the same sector or in another one.

Q166. Are any sectors open to foreigners only if they form a joint venture with Saudi Arabian companies?

Reply 166

Yes. For example, foreign participation in the maritime carriage sector is limited to joint ventures.

Q167. Paragraph 78 - Please provide details of the Foreign Capital Investment Regulations.
Please refer to Annex 3 for an (unofficial) English translation of the Investment of Foreign Capital Regulation.

Q168. Paragraph 78 - Are any of the exemptions provided for by the Foreign Capital Investment Regulations dependent on the existence or a certain level of exports?

Reply 168

No.

Q169. Paragraph 78 - In what circumstances is preference given to domestic interests (or joint ventures involving domestic interests) in the areas of taxation, soft loans, customs duties, land and other forms of assistance?. Does Saudi Arabia consider this to be consistent with GATT/WTO rules?

Reply 169

In the area of taxation, non-Saudi business entities are subject to income tax while Saudi entities are subject to Zakat. The former is income based while the latter is a wealth-based. Thus, there is no automatic preference given to domestic interests in the area of taxation. In areas where the government provides assistance in the form of soft loans, customs duty exemptions, and land at a nominal rent, there is no specific regulation stating that domestic interests (or joint ventures involving domestic interests) are given preference. Rather, foreign capital, whether in a joint venture or wholly owned, must be approved by the Foreign Capital Investment Committee before it can be eligible for such programmes. With regard to loans from the Saudi Industrial Development Fund, companies with foreign shareholders are eligible for a loan of up to 50 per cent of the project cost if the Saudi nationals hold 50 per cent of the shares. If the Saudi share is less than 50 per cent, then the financing will be granted at a proportionally reduced level. Saudi Arabia considers this to be consistent with GATT.

Q170. Paragraph 79 - Please provide information on the Saudi Industrial Development Fund and details on the nature and extent of loans to industrial establishments. Of the 1,216 industrial establishments benefiting from the Fund, please provide a breakdown of the fund by industry sectors and description of establishments receiving funds.

Reply 170


Q171. Paragraph 79 - Please describe how the soft loans provided to industry by the Saudi Industrial Development Fund (SIDF) conform or will be changed to conform to the provisions of the GATT/WTO, including the Agreement on Subsidies and Countervailing Measures. Are completely foreign-owned firms able to receive these loans in a nondiscriminatory manner?

Reply 171

The loan programme conducted by the Saudi Industrial Development Fund is entirely consistent with the GATT and the WTO Agreement on Subsidies and Countervailing Measures. These loans
are not contingent upon export performance nor are they contingent upon the use of domestic over imported goods. Companies with foreign shareholders are eligible for a loan of up to 50 per cent of the project cost if the Saudi nationals hold 50 per cent of the shares. If the Saudi share is less than 50 per cent, then the financing will be granted at a proportionally reduced level.

Q172. Paragraph 79 - Under what terms and conditions can firms wholly or partially owned by foreign investors receive assistance from the Saudi Industrial Development Fund?

Reply 172

Please refer to Reply 171.

Q173. Paragraphs 79-80 - Concerning the SIDF, what criteria are used to determine eligibility for a loan?

Reply 173

The decision to provide a loan is made on the basis of the facts appropriate to that particular case within the parameters of the Saudi Industrial Development Fund Law.

Article 2 of the Law states that the Fund shall provide medium or long term loans to (1) new industrial enterprises that will be established in the Kingdom and (2) existing private industrial enterprises for the extension of their activities or the replacement of their equipment and introduction of modern methods thereto.

Article 4 of the Law states that the Fund shall carry out a full evaluation of the economic benefits of the enterprise required to be financed. It shall take into consideration the soundness of its management in order to ascertain the benefit of the industrial enterprise from economic, financial and technical aspects.

Article 4 also states that when examining the enterprises requiring financing from it, the Fund shall see whether the financing required for the whole of the enterprise has been effected reasonably and whether the volume of the Fund’s aid represents a reasonable percentage of the total financing needs of the enterprise.

In addition, Article 4 states that the Fund shall obtain sufficient financial guarantees, from the owners of industrial enterprises financed by it, commensurate with the volume of the financing given by the Fund.

Q174. Paragraph 80 - Please provide details of the nature and extent of assistance to industry provided by the Royal Commission for Jubail and Yanbu.

Reply 174

In Jubail Industrial City, the following infrastructure has been constructed to assist industrial establishments:

Availability of:
- power: 230kv, 115 kv, and 34.5 kv; 3-phase, 60 hz;
- natural gas;
- telephone, telex, pager system and data transmission;
- potable water;
- fire water;
seawater for industrial cooling;  
sanitary waste collection and treatment;  
solid waste collection and disposal;  
storm water disposal;

Deepwater Seaport  
Integrated Road Network  
Airport  
Above ground corridors for pipelines and conveyor systems between plants and the port

In Yanbu Industrial City, the following infrastructure has been constructed to assist industrial establishments:

Availability of:
-power: 115 kv, 34.5 kv, and 13.8 kv; 3-phase, 60 hz; 
telephone, telex, pager system and data transmission;  
potable water;  
fire water;  
industrial wastewater collection and treatment;  
seawater for industrial cooling;  
sanitary waste collection and treatment;  
solid waste collection and disposal;  
storm water disposal;

Deepwater Seaport  
Integrated Road Network  
Airport

In addition, the Royal Commission assists in the following areas:

- The development of improved city governments and other institutions to deliver urban services and manage local development.

- The maintenance of an information system in the Commission’s Investment Promotion Department that provides information to potential private investors and encourages both Saudi and international investors to visit or write for complete information in support of investment planning.

Q175. Paragraph 80 - Would Saudi Arabia please provide more information on the role played by the Royal Commission for Jubail and Yanbu in industrial development? Can details be provided on its "duties and objectives" that extend beyond infrastructure and environmental protection?

Reply 175

Saudi Arabia’s economic growth in past decades relied almost entirely upon crude oil exports. In order to encourage diversification of the Kingdom’s economy, Saudi Arabia embarked upon a programme of industrialization to develop other products in addition to crude oil. The Royal Commission for Jubail and Yanbu was created as a primary means for carrying out this mission. It was thought at the time that the concentration of the government’s efforts to encourage industrial development in a limited number of locations would result in the most productive and efficient use of the government’s limited resources. The Royal Commission has concentrated on building physical infrastructure such
as ports, airports, roads and utilities needed by the industries in Jubail and Yanbu. Please refer to Reply 174 for more details.

Q176. Paragraph 80 - Is the Royal Commission for Jubail and Yanbu concerned only with the provision of general infrastructure support or is support provided to specific firms or industrial sectors?

Reply 176

The Royal Commission has concentrated on building physical infrastructure such as ports, airports, roads and utilities needed by the industries in Jubail and Yanbu. It has also played a significant role in protecting the environment in the area.

Support is provided to individual firms and industrial sectors only to the extent that such firms and sectors take advantage of the generally, nation-wide available programmes.

Q177. Paragraphs 79-80 - Besides those incentives provided in the Law for the Protection and Encouragement of National Industry and the Foreign Capital Investment Regulations, please describe any other forms of assistance which the government provides to industry, identifying those programmes which are available to domestic to wholly or partly foreign-owned industries [sic].

Reply 177

Measures which are provided to encourage investment in industries deemed to be eligible for such incentives include lease of land at a nominal fee; loans by the Saudi Industrial Development Fund; customs duty exemptions, upon approval, for raw, process and packaging materials; assistance in the selection of industrial projects, the preparation of their economic feasibility studies and their evaluation; provision of organizational, operational, technical and managerial assistance; provision of rental accommodations; subsidies for training Saudi employees; and tax holidays for certain foreign investments. As stated in the Memorandum on Foreign Trade (L/7489) and in Reply 176, the Royal Commission for Jubail and Yanbu also provides assistance to industry. Saudi Arabia also promotes industrial goods produced in the Kingdom through its participation in international trade fairs. The only programme where there is a restriction based on foreign ownership is the provision of loans under the Saudi Industrial Development Fund. Companies with foreign shareholders are eligible for a loan of up to 50 per cent of the project cost if the Saudi nationals hold 50 per cent of the shares. If the Saudi share is less than 50 per cent, then the financing will be granted at a proportionally reduced level.

2. Agricultural policy

Q178. Paragraph 81 - Are there any restrictions on foreign use or ownership of land for agricultural, industrial, commercial or other purposes?

Reply 178

Ownership of land by non-Saudis is governed by the Law of Appropriation of Real Property in the Kingdom of Saudi Arabia. In general, a non-Saudi national may not, other than by succession, acquire the right of ownership to real property within the Kingdom of Saudi Arabia. However, there are exceptions as follows:
Subject to a licence issued by the Ministry of Foreign Affairs, diplomatic missions may on the basis of reciprocity possess the official residence of the mission or the residence of the ambassador; international organizations may, in conformity with the provisions of their agreement, appropriate their official residence(s).

A non-Saudi may, subject to the terms and conditions of the Law of Distribution of Uncultivated Lands, acquire the right to own agricultural land, upon the motion of the Minister of Agriculture and Water after consulting the Minister of Interior.

Foreign establishments authorized to carry on their activities in the Kingdom of Saudi Arabia under the Investment of Foreign Capital Regulation may own the real property required to carry on their licensed activities commensurate with such activities, including the real property to accommodate the employees of the establishment concerned, provided a licence is obtained.

A non-Saudi national may, in the foregoing cases, own real property for his residence or for exploitation, provided, upon the motion of the Minister of Interior, the Royal Assent is given.

Q179. Paragraph 81 - Please give details of nature and extent of subsidized agricultural inputs, and of guaranteed purchase prices. Does the operation of these programmes require the restriction or limitation of imports of certain agricultural products?

Reply 179

Agricultural subsidies include the following government payments:

- 50 per cent of the price fixed by the Ministry of Agriculture and Water for irrigation engines and pumps;
- 45 per cent of the price fixed by the Ministry of Agriculture and Water for farm machinery such as tractors;
- 30 per cent of the cost of poultry and dairy farms equipment;
- Cost of air transport for importing cows (50 or more);
- Saudi Riyals 100 per ton for animal feed;
- Saudi Riyals 50 per palm tree, subject to a minimum of 30 trees and certain planting conditions;
- Saudi Riyals 2,000 per ton for potato seed.

In addition, the Grain Silos and Flour Mills Organization sells improved wheat and barley seed for about Saudi Riyals 1800-1900 per ton.

Purchase prices for wheat are currently fixed at SR1.5 per kilogram for large agricultural companies and SR2 per kilogram for other producers. The purchase price for barley is currently fixed at SR1 per kilogram.

Q180. Paragraph 81 - Recent IMF data (IMF DOC SM/93/78 Table 4) indicates that agricultural subsidies actually paid considerably exceeded the budget projected therefor. Is this support system likely to be revised? If so, how?
Reply 180

As mentioned in the Memorandum on Foreign Trade (L/7489), the system of support is currently under review by a Ministerial Committee. It would be premature to comment on any possible revisions. Please refer to Reply 181.

Q181. Paragraph 81 - A Ministerial Committee is currently reviewing the system of government support to the agriculture sector. When is this review expected to be completed? Can the Saudi authorities provide any indication of the review findings to date?

Reply 181

There is no set timetable for the completion of the review of the system of support by the Ministerial Committee. Any conclusions reached by the committee will be released following the completion of its work.

Q182. Paragraph 81 - Whilst appreciating that the system of support to the agricultural sector is under review, can Saudi Arabia provide more detail on the level and type of support given, in particular to wheat, barley and dairy products? When will the outcomes of this review be known and will such outcomes include a commitment to reduce domestic support in accordance with the Agreement on Agriculture?

Reply 182

Please refer to Replies 179, 180, and 181. When Saudi Arabia becomes a member of the WTO, it would accept and implement the obligations under the Agreement on Agriculture including domestic support commitments.

Q183. Paragraph 81 - Please elaborate on the status of the review of the system of support for agriculture and provide any recommendations resulting from that review. Please also describe in detail the policies and practices regarding the granting of subsidized inputs and the guaranteeing of purchase prices.

Reply 183

Please refer to Reply 182.

The Kingdom’s agriculture policy is implemented on the basis of several objectives, including:

- The diversification of the Saudi economy;
- The achievement of higher growth rates in other sectors of the economy through the expansion of forward and backward linkages with other sectors, such as food processing industries, manufacturing of agricultural inputs and other agricultural services;
- Combating desertification and enhancing environmental equilibrium;
- Raising the income level and welfare of rural inhabitants, thereby minimizing migration to the urban areas, and contributing to the achievement of regional population balance; and
- Contributing to the security of the nation’s food supply.
Q184. Paragraph 81 - Which sectors currently benefit from subsidies? In which cases are purchase prices guaranteed? Presuming that some of this supported produce is exported, how does Saudi Arabia reconcile this practice with the statement in paragraph 71?

Reply 184

Please refer to reply 179. The GSFMO guaranteed purchase prices for wheat and barley are offered irrespective of where the grain is marketed. Government payments to GSFMO to cover the general shortfall between GSFMO sales realizations and payments to farmers are not related to export volume. No export subsidy is conferred.

Q185. Paragraph 81 - Does the Saudi Arabian government support agricultural producers by subsidizing water and irrigation equipment? Which other production subsidies does the Saudi government provide to its agricultural producers?

Reply 185

The Saudi Arabian government subsidizes 50 per cent of the price fixed by the Ministry of Agriculture and Water for irrigation engines and pumps. Regarding other production subsidies, see Reply 183.

Q186. Paragraph 81 - Can Saudi Arabia provide data detailing the quantities and types of agricultural assistance distributed by the government in recent years?

Reply 186

Please refer to Tables 4 and 5 in Annex 4.

Q187. Could Saudi Arabia provide details of their current consumption levels of dairy products? What percentage of domestic consumption is made up of imported dairy products? Does Saudi Arabia subsidize the export of milk and milk products?

Reply 187

Data on consumption levels of dairy products is generally not available. However, using some trade data as well as some published production data, and assuming inventories do not change, we can make the following extremely tentative consumption estimates for fresh milk, butter and ghee for the year 1991:

<table>
<thead>
<tr>
<th></th>
<th>Fresh Milk (Tons)</th>
<th>Butter &amp; Ghee (Tons)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Production:</td>
<td>284,000</td>
<td>866</td>
</tr>
<tr>
<td>Imports:</td>
<td>47,008</td>
<td>26,203</td>
</tr>
<tr>
<td>Less Exports plus Re-exports:</td>
<td>31,579</td>
<td>283</td>
</tr>
<tr>
<td>Total domestic consumption:</td>
<td>299,429</td>
<td>26,786</td>
</tr>
</tbody>
</table>

Based on the data above, imports of fresh milk accounted for 16 per cent of domestic consumption of fresh milk in 1991, and imports of butter and ghee accounted for 98 per cent of domestic consumption of butter and ghee. Data on other dairy products is unavailable.
Saudi Arabia does not subsidize the exports of milk and milk products.

Q188. Paragraph 82 - Please further describe the loans provided by the Saudi Agricultural Bank, including an explanation or the establishment of interest rates charged.

Reply 188

Short-term loans are extended for a period not exceeding one year and relate to seasonal crop production and marketing thereof. This type of loan is intended to cover the costs of seasonal agricultural production such as ploughing charges, seeds, seedlings, chemical fertilizers, and labour costs.

Medium-term loans are extended for a period not exceeding 10 years. These loans are extended to provide financing for engines, pumps, irrigation equipment, machinery, drilling of wells, construction of watering facilities, water collection pools, water reservoirs, rooms for machinery and workers, pipes bleachers and green houses in addition to costs of shoots and nursery plants, manure and fertilizers, levelling costs, fishing gear and bee-keeping requirements. This type of loans also includes the financing of new specialized agricultural projects or expansion of existing ones such as broilers, layers, dairy, green houses, animal feed projects, and other agricultural products as well as projects for raising and fattening calves and sheep.

Long-term loans are extended for a period not to exceed 25 years and cover fallow land reclamation of large areas.

As is true with all the specialized credit institutions, the Saudi Agricultural Bank does not charge interest on loans. Minimal fees are charged to ensure the seriousness of applicants. The loan programme is operated out of a revolving fund which was established by a capital subscription from the Ministry of Finance and National Economy.

Q189. Do the operations of the Saudi Agricultural Bank entail restriction of the activities of private or foreign banks in the agricultural sector?

Reply 189

The government does not provide the Saudi Agricultural Bank with a monopoly over the provision of any financial service to the agricultural sector. There are no restrictions on other banks to provide financial service to the agricultural sector.

Q190. Paragraph 82 - Please provide details on Saudi Agricultural Bank short, medium and long term loans. What rate of interest are being charged on loans as described? Does the government subsidize these loans? What would be the comparable commercial rates in Saudi Arabia for such loans? What specific criteria must be met in order to qualify for these loans?

Reply 190

Please refer to Reply 188.

Since the inception of the bank in 1384 (1962), the aggregate value of total loans amounted to SR 26.503 billion (US$ 7.1 billion). Of these, short-terms loans totalled SR 282.93 millions (US$ 75.45 million) and medium and long-term loans totalled SR 26,220.6 millions (US$ 7.0 billion). A total of 358,019 farmers benefited from bank loans facilities.
As is true with all the specialized credit institutions, the Saudi Agricultural Bank does not charge interest on loans. Minimal fees are charged to ensure the seriousness of applicants.

The loan programme is operated out of a revolving fund which was established by a capital subscription from the Ministry of Finance and National Economy. At the current time the Bank’s costs for providing loans are entirely covered by its operating revenues.

It is virtually impossible to say what a “comparable commercial loan” would cost. First, rates charged for loans vary depending on the circumstances of each particular loan so it is very difficult to make a generic statement comparing loan charges which differ widely in conditions. Second, in the vast majority of cases, the purpose of the loans made by the Agriculture Bank differ from the purpose of the loans made by commercial banks thus making a comparison imperfect.

The first condition for qualifying for a loan is that the applicant must have a guarantee by one or more of the following:

- mortgage of fixed assets;
- gold or jewellery;
- unconditional and irrevocable bank guarantee issued by a commercial bank operating in Saudi Arabia which is acceptable to the Agricultural Bank as being in sound financial position;
- personal Guarantee by one or more persons acceptable to the Bank and whom the Bank considers financially able.

One or more types of guarantees may be accepted for one loan as follows:

1. A personal guarantee is accepted if the loan is less than or equal to three million Saudi Riyals.
2. Loans over three million Saudi Riyals should be guaranteed by a real estate or a bank guarantee.

Second, along with his loan application, the farmer must attach any required documents, e.g. an ownership deed, lease contract, or a permit to drill a well.

Third, an investigator inspects the farm and an economic study is prepared. The study includes: a complete description of the project, the purpose of the project, a time schedule of execution, the location of the project, its production capacity, possible expansion, experience and efficiency of the promoters, whether the needed expertise is available locally or will be imported, and finally the markets where the products will be sold. Attached should be the ownership deed, licences and quotations from local or foreign suppliers, and the approval of the Ministry of Agriculture or Municipality as the case may be.

5. Foreign and domestic investment policy

Q191. Paragraph 86 - The government states that it "encourages foreign capital to invest in the Kingdom in order to support the inflow of technology and expertise..." Could the Government clarify the general policies and principles which apply with respect to the approval of new investments? Does the provision of technology by an investor qualify it for approval under foreign investment laws? Is technology transfer a condition for investment approval in all or certain cases?
The Investment of Foreign Capital Regulation covers foreign investment in general, including foreign capital in joint ventures (see Annex 3). Under the code, investment of foreign capital is subject to the grant of a licence issued by the Ministry of Industry and Electricity upon the recommendation of an interagency committee, and the proposed investment must satisfy two conditions: (1) that the foreign capital is to be invested in development enterprises (not including enterprises for the extraction of petroleum and minerals, and (2) it must be accompanied by foreign technical expertise. The Ministry of Industry and Electricity is responsible for issuing an order, upon the motion of an interagency committee, determining the development enterprises in conformity with the Development Plan.

The provision of technology does not in and of itself qualify foreign capital for approval under the Investment of Foreign Capital Regulation. The foreign capital must also be invested in what are determined to be development enterprises.

The conditions that foreign capital be accompanied by foreign technical expertise aims at encouraging technology transfer to the Kingdom. Technology transfer is not a restriction on foreign investment. In fact, the Kingdom encourages the inflow of foreign capital by all means.

Q192. Paragraph 86 - The government states that "foreign investment is governed by Foreign Capital Investment Regulations and enjoys national treatment". Could the government be more specific with regard to the basis for approval of projects which are consistent with the nation's development plans?

Reply 192 (a)

In accordance with the Investment of Foreign Capital Regulation, The Ministry of Industry and Electricity, upon the motion of the inter-Ministerial Investments Committee, has issued a Ministerial Order (Number 952 of 1400) determining that the following groups of enterprises are considered development enterprises for the purposes of the Investment of Foreign Capital Regulation:

- Productive industrial development projects
- Productive agricultural development projects
- Health development projects
- Services
- Contracting

With regard to the basis for approval, each particular proposal is examined with regard to its developmental and technological merit, its potential contribution to the Kingdom, and its consistency with the Development Plan in place at the time. Because the circumstances for each proposal differ, it is impossible to be more specific.

It is our understanding that although the Saudi government welcomes foreign investment, it is extremely rare for the government to award a licence to any 100% foreign-owned operation. In fact, in many industrial, service and commercial sectors, government authorities seem to have increased their scrutiny of new foreign-investment proposals. Is this understanding correct?

Reply 192 (b)

Of the 1354 licences issued for foreign capital investment in Saudi Arabia, 137 have been for enterprises wholly owned by foreign entities. The authorities apply the Investment of Foreign Capital...
Regulation in a firm and consistent manner and in accordance with the development plans of the Kingdom. Of course, in view of the Kingdom’s development over the past thirty years, an investment that would have been considered to be consistent with the Kingdom’s development needs three decades ago, may no longer be viewed in the same way.

Q193. Paragraph 86 - This indicates that foreign investment enjoys “national treatment”. How is this statement reconciled with the paragraph on government procurement (Paragraph 87) which states that wholly foreign-owned firms are given lowest priority for contracts?

Reply 193

The second sentence of Paragraph 86 should be read to mean that foreign investment is given national treatment within the context of the Investment of Foreign Capital Regulation, not the Government Procurement Law.

Q194. Paragraph 86 - Please provide an English translation of Saudi Arabia’s Foreign Capital Investment Regulations.

Reply 194

An (unofficial) English translation of the Investment of Foreign Capital Regulation is reproduced in Annex 3.

Q195. Paragraph 86 - Please describe in more detail how Saudi Arabia’s Foreign Capital Investment Regulations conform or will be changed to conform to the Uruguay Round Agreement on Trade-Related Investment Measures. In particular, is Saudi Arabia prepared to change the practice of the Federal Capital Investment Committee (FCIC) of requiring a minimum level of domestic ownership for FCIC licences?

Reply 195

The Investment of Foreign Capital Regulation is fully consistent with all applicable GATT regulations and with the Uruguay Round Agreement on Trade-Related Investment Measures. A minimum level of foreign ownership is not required for a licence to be granted under the Investment of Foreign Capital Regulation. Moreover, even if there were such a requirement, neither the GATT nor the Uruguay Round Agreement on Trade-Related Investment Measures prohibit requirements regarding the level of foreign ownership. Saudi Arabia does not apply any TRIMs prohibited by the Uruguay Round Agreement on Trade-Related Investment Measures.

Q196. Paragraph 86 - Please provide in translation a copy of the Companies regulations Law and describe the process for a wholly foreign-owned company of obtaining licences to form branch offices.

Reply 196

An (unofficial) English translation of the Companies Law is reproduced in Annex 12. Under Article 228 of the Law, domestic and foreign companies must obtain a licence from the Ministry of Commerce before establishing a branch, agency, or representative office. Ministerial Order No. 1502 of 8.3.1400 AH, an (unofficial) English translation of which is also reproduced in Annex 12, describes the process for a wholly foreign-owned company to obtain a licence to establish an office in the Kingdom. For companies that do not fall within the purview of Ministerial Order No. 1502 of 8.3.1400 AH, the process would be that which is required by the Foreign Capital Investment Regulation, namely,
an application to the Foreign Capital Investment Committee under the chairmanship of the Ministry of Industry and Electricity.

Q197. Paragraph 86 - Saudi Arabia's accession to the GATT and the WTO will open all of Saudi Arabia's financial market practices to the scrutiny of the contracting parties. Within the Annex on Financial Services Section 5 (a)(xi) these services are defined to include, "participation in issue of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such matters. What does the Government of Saudi Arabia plan to do in terms of liberalizing its stock market and making it open to non-Saudi investors?

Reply 197

Saudi Arabia has no plans at the present time to change its regulations concerning participation of foreigners in the securities market. Share trading in Saudi Arabia is restricted to Saudi nationals. Non-Saudi GCC nationals are allowed to participate in the share market but only to the extent to which the original allocation of shares was subscribed by non-Saudi GCC nationals. There are non-GCC nationals who hold shares of joint stock companies which are traded in the share market but these non-GCC nationals must receive permission from concerned authorities, such as the Saudi Arabian Monetary Agency and the Ministry of Commerce, prior to selling their shares.

198. Paragraph 86 - What, if any, restrictions exist on the domestic production of tobacco products? Is their production a state monopoly?

Reply 198

Production of tobacco and tobacco products is banned in Saudi Arabia.

Q199. Foreign investment is, in practical terms, banned in exploration and extraction of hydrocarbons. Is the Government planning to take any liberalization measures in this field?

Reply 199

The government has no plans at this time to change its current policy regarding foreign investment in the petroleum sector.

Q200. Paragraph 86 - Can Saudi Arabia confirm that there are no measures or requirements which are inconsistent with the TRIMs Agreement, and in particular, such measures as listed in the Annex thereto?

Reply 200

Saudi Arabia can confirm that it does not apply any measures or requirements which are inconsistent with the TRIMs Agreement including such measures as listed in the Annex thereto.

6. Government procurement

Q201. Paragraph 87 - Could a copy of the Government Purchases Law be provided to the members of the Working Party?

Q202. Paragraph 87 - Please provide an English translation of the Procurement of Government Purchases law.

Reply 202

See Reply 201.

Q203. Paragraph 87 - Does the Saudi Arabian government publish notice of its government procurement requirements for suppliers?

Reply 203

The government publishes notice of its procurement requirements via tender invitations. Notices and advertisements inviting tenders shall be inserted at least twice in the Official Gazette (Um al-Qura') and two other Saudi Arabian newspapers or sent by official letter to the persons who are invited to tender. The first notice or advertisement shall appear at least one month prior to the date fixed for tendering save when the law provides otherwise.

Q204. Paragraphs 87-89. Please provide the following information concerning Saudi Arabia's government procurement practices:

Please specify in detail the most significant preference practices in the Saudi government procurement system and the major procuring entities in the following categories: (1) central government; (2) subcentral government; and (3) government-owned enterprises.

Reply 204 (a)

The two most significant preference practices in the Saudi government procurement system are:

- The stipulation that contractors carrying out public works contracts must give at least 30 per cent of the work to Saudi individuals or companies which are registered in Saudi Arabia and are wholly owned by Saudi nationals; and

- The requirement that qualified Saudi nationals and wholly Saudi-owned firms be given priority for contracts, followed by mixed Saudi-foreign establishments, and finally, wholly-foreign owned firms.

Among the major procuring entities in the central government are: The Ministry of Health, the Ministry of Defense, the National Guard, the Ministry of Communications, the Ministry of Post, Telephone and Telegraph, the Grain Silos and Flour Mills Organization, and the General Organization of Desalination. Among the major procuring entities in the subcentral government are the emirates of Riyadh, Jeddah, Makkah, and Medina, and the Dammam Municipality as well as the Riyadh Water Department, the Eastern Water Department and the Western Water Department. Among the major procuring entities that could be classified as government-owned enterprises or largely government-owned enterprises are Saudi Aramco, Saudia Airlines, and the Eastern, Central, Western, and Southern Electricity Companies.
What types of offsets are required by Saudi government entities in their procurement activities?

Reply 204 (b)

Offset arrangements are negotiated on a case-by-case basis. However, as is the case in the licensing of foreign investment, schemes which involve technology transfer, train Saudi nationals in technical and managerial skills, and further the economic diversification objectives of the Kingdom are encouraged.

Please specify how foreign suppliers are required to contribute to local development as a condition for being awarded procurement contracts.

Reply 204 (c)

Ministerial Resolution No. 124 of 29.5.1403 AH states that:

- All non-Saudi contractors must assign not less than 30 per cent of the works included in their contract to wholly owned Saudi companies;
- All contractors are obliged to purchase the tools and equipment which they procure for the performance of their contracts from the Saudi agents for these tools and equipment in Saudi Arabia;
- Contractors must obtain the following services from local Saudi establishments:
  - transportation services for goods and services within Saudi Arabia, if the contractor will not perform this service by himself directly by equipment owned by him and with personnel directly working for him;
  - insurance services;
  - banking services;
  - services for the leasing and purchase of land and buildings;
  - catering services and supply of foodstuffs.
- The above conditions must be included in the contracts concluded with foreign contractors.

Q205. Are there any plans and if so within which time frame to amend government procurement regulations which establish priority to Saudi nationals and companies over the mixed and wholly foreign owned firms?

Reply 205

There are no plans at this time to amend the government procurement regulations.

Q206. Paragraph 87-89 - Would Saudi Arabia provide more detail on the standard rules for government purchases? Can the application of quality preference be explained in more detail? Does Saudi Arabia intend to negotiate accession to the Government Procurement code?

Reply 206

For details on the standard rules for government purchases, please see the Government Purchases Law, an (unofficial) English translation of which is reproduced in Annex 11.
The Ministry of Industry and Electricity is vested with the power to prepare lists of products of local industry which are suitable for Government purchases after ascertaining their quality, the suitability of prices and the availability of quantities of such products.

No, Saudi Arabia does not intend to negotiate accession to the Agreement on Government Procurement. Joining this Agreement is optional under the GATT and under the Agreement establishing the WTO. The Agreement on Government Procurement is one of the plurilateral agreements, acceptance of which is not a necessary condition for joining the GATT/WTO.

Q207. Paragraphs 87-89 - The United States believes that all countries that are in the process of acceding to the GATT/WTO and that have substantial values of government procurement should simultaneously accede to the GATT/WTO Government Procurement Code.

Is Saudi Arabia prepared to begin the accession process for the Procurement Code?

If so, please specify the major areas of government procurement that Saudi Arabia would be prepared to cover through negotiations to accede to the Procurement Code.

What areas would Saudi Arabia seek to exclude from coverage? How would Code accession affect existing preference programmes and other discriminatory procurement practices?

Reply 207

Saudi Arabia does not plan to become a party to the Agreement on Government Procurement.

Q208. Paragraph 87 - Does Saudi Arabia plan to become a signatory to the Agreement on Government Procurement?

Reply 208

No, Saudi Arabia does not intend to negotiate accession to the Government Procurement Code.

Q209. Paragraph 87 - Does Saudi Arabia intend to accede to the Government Procurement Code?

Reply 209

Saudi Arabia does not plan to become a party to the Agreement on Government Procurement.

Q210. Paragraph 88 - Could a copy of Ministers Resolution 124 of the year 1403 (H) be provided to the members of the Working Party?

Reply 210

An (unofficial) English translation of Ministers Resolution 124 of the year 1403 (H) can be found in Annex 11.

Q211. Paragraph 89 - Could a copy of Standard Rules for Government Purchases be provided to the members of the Working Party?
An (unofficial) English translation of the Standard Rules for Government Purchases can be found in Annex 11.

Q212. Paragraph 89 - Please provide an English translation of the "Standard Rules for Government Purchases."

Reply 212

See Reply 211.

7. State trading enterprises

Q213. Paragraph 90 - This paragraph indicates that State Trading Enterprises make purchases solely in accordance with commercial considerations. Please provide details of the procurement procedure followed by these enterprises as well as the percentage of their procurement internationally tendered.

Reply 213

The State Trading Enterprises make their sales and purchases in the same manner as private enterprises, using different modalities depending on different situations. Sales and purchases may sometimes be made by inviting bids and tenders and sometimes by private negotiations. Statistics and percentages of the modes of sales and purchases are not available.

Q214. Paragraph 90 - It is stated that "state trading enterprises make purchases or sales solely in accordance with commercial considerations and act in a manner consistent with the general principles of non-discriminatory treatment." Does this mean that foreign service suppliers are allowed to sell services to state trading enterprises?

Reply 214

Foreign service suppliers are allowed to sell services to state trading enterprises in the same manner that they are allowed to sell services to non-state trading enterprises.

Q215. Paragraph 90 - In this paragraph Saudi Arabia states that its state-trading enterprises trade solely in accordance with commercial considerations and in a non-discriminatory manner, i.e. in accordance with GATT Article XVII. How does Saudi Arabia reconcile this statement with the operations of the GSFMO?

Reply 215

The GSFMO is an agricultural marketing board similar to those established in a number of developed countries. The purpose of the GSFMO is to encourage domestic grain production by providing silo capacity and offering a uniform guaranteed price to producers. To avoid abuse of the guaranteed price, imports are controlled. The GSFMO sells in the domestic and the case of wheat export markets. Typically of marketing boards, it only exports wheat surplus to domestic demand. Portion of the wheat available for export is donated as aid. In its commercial export sales the GSFMO operates solely in accordance with commercial considerations and in a non-discriminatory manner.
Q216. Paragraph 90 - Are Saudi Aramco and GSFM0 the only Saudi Arabian state enterprises that engage in international trade? If not, please list all firms and enterprises in Saudi Arabia where the Saudi government owns 25 per cent or more of the equity or interest.

Reply 216

Saudi Aramco and the GSFM0 are the only wholly government-owned entities which export goods. There are a number of wholly-government owned entities which import goods, such as various government departments, but in no case are such imports purchased by the government entity for resale on the domestic market.

Q217. Paragraph 90 - Can Saudi Arabia provide details of any other state-trading enterprises involved in the export and import of goods other than Saudi Aramco and the GSFM0?

Reply 217

Please refer to Reply 216.

Q218. Paragraph 91 - Concerning Saudi Aramco, please provide the following information:

Please define the term "goods and services related to the oil industry" in relation to Saudi Aramco's state trading activities. Does the state monopoly extend to the marketing of all down-stream products of crude petroleum and the by-products of its extraction?

Reply 218 (a)

The statement that "Saudi Aramco is responsible for all exports and imports of goods and services related to the oil industry" refers to its dominant position in the Kingdom as producer and marketer of both crude oil and a variety of downstream products. With the exception of two small operations in the former Neutral Zone, Saudi Aramco produces and markets all crude oil produced in Saudi Arabia. In addition, Saudi Aramco is sole owner and operator of four refineries and joint venture partner in three others. There is one other small refinery in the former Neutral Zone which is not associated with Saudi Aramco. There are also several lube oil plants which are not associated with Saudi Aramco. With regard to exports, Saudi Aramco has authority over the marketing of products produced at its facilities.

Please describe how the Saudi government markets, domestically and internationally, the products subject to state trading.

Reply 218 (b)

The Saudi government itself does not market any oil or oil products. Rather, Saudi Aramco is responsible for sales of crude oil to both domestic refineries, joint venture refineries abroad, and other foreign purchasers. Saudi Aramco is also responsible for the marketing of the output of the domestic refineries and shares in the marketing of the output from the three "export" refineries with the joint venture partners.

Q219. Paragraph 92 - In respect of the Grain Silos and Flour Mills organization: How are the fixed prices referred to in this paragraph determined and how often are they reviewed? Are these prices comparable to world prices? Do these prices constitute a guaranteed price support system?
Fixed prices are determined on the basis of what price is needed to encourage the farmer to build, maintain, and/or expand his operation. The fiscal consequences are also considered. The fixed prices are reviewed annually.

The prices offered to farmers for their crops of wheat and barley are generally higher than those witnessed on the world market.

To the extent that the farmers know what price they can expect to receive a certain amount of their wheat and barley, then such a programme can be considered to be a "guaranteed price support system."

Q220. Paragraph 92 - Concerning GSFMO, please provide the following information:

Please provide a list of the products exclusively controlled by the Grain Silos and Flour Mills Organization, and describe in detail how they are traded, domestically and internationally.

Reply 220 (a)

There are no products exclusively controlled by the GSFMO. However, the GSFMO is the only entity which is allowed to import and export wheat, wheat flour and fodder. In addition to its international trading activities, GSFMO is involved in the domestic storage, purchase and sale of wheat and wheat products, barley, and fodder for livestock and poultry.

Please describe further how GSFMO makes purchases and sales "solely in accordance with commercial considerations" when it also operates with fixed domestic prices.

Reply 220 (b)

The statement quoted in the question refers to purchases or sales involving either imports or exports, i.e. those purchases and sales which fall within the purview of Article XVII of the GATT.

Please describe in detail how GSFMO conforms to the provisions of the GATT/WTO, including but not restricted to Article XVII of the GATT.

Reply 220 (c)

In accordance with Article XVII of the GATT, the GSFMO:

- acts in a manner consistent with the general principles of non-discriminatory treatment (paragraph 1 (a));
- makes any purchases or sales involving either imports or exports solely in accordance with commercial considerations, including price, quality, availability, marketability, transportation and other considerations of purchase or sale (paragraph 1(b));
- affords the enterprises of other countries adequate opportunity, in accordance with customary business practice, to compete for participation in such purchases or sales (paragraph 1 (b)); and
- does not prevent any enterprise under its jurisdiction for acting in accordance with the principles of sub-paragraphs (a) and (b) of paragraph 1 of Article XVII.
Does Saudi Arabia intend to apply the GATT Government Procurement Code to Saudi Aramco and GSFMO since they are owned by the Government?

Reply 220 (d)

See Reply 207.

Q221. Paragraph 92 - Please provide a complete listing of all State Trading Enterprises or enterprises with exclusive or special privileges within the meaning of GATT Article XVII along with a statistical indication for a recent representative period of the percentage of imports and exports (by both volume and value) handled by such enterprises.

Reply 221

As stated in the Memorandum on Foreign Trade (L/7489), the two state-trading enterprises are Saudi Aramco and the Grain Silos and Flour Mills Organization. Neither organization maintains statistics on the amount or value of foreign goods purchased. With regard to exports, the most recent foreign trade statistics show the following data on exports of oil and wheat.

<table>
<thead>
<tr>
<th>Year</th>
<th>Value (percent of total)</th>
<th>Volume</th>
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<tbody>
<tr>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td>SR 163,490 million (91%)</td>
<td>358 million MT</td>
</tr>
<tr>
<td></td>
<td>SR 174,244 million (93%)</td>
<td>373 million MT</td>
</tr>
<tr>
<td></td>
<td>SR 144,636 million (91%)</td>
<td>359 million MT</td>
</tr>
</tbody>
</table>

Wheat

<table>
<thead>
<tr>
<th>Year</th>
<th>Value (percent of total)</th>
<th>Volume</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>SR 318 million (0.2%)</td>
<td>951 thousand MT</td>
</tr>
<tr>
<td></td>
<td>SR 528 million (0.3%)</td>
<td>1,181 thousand MT</td>
</tr>
<tr>
<td></td>
<td>SR 674 million (0.4%)</td>
<td>1,569 thousand MT</td>
</tr>
</tbody>
</table>

In the case of oil, Saudi Aramco is responsible for the export of over 95 per cent of crude oil by both value and volume. Over the period 1986-1991, Saudi Aramco was responsible for about 50 per cent of the exports of refined products. In the case of wheat, the Grain Silos and Flour Mills Organization is responsible for all wheat exports.

Q222. Paragraphs 90-92 - Are there any governmental or non-governmental enterprises, other than Saudi Aramco and GSFMO, which would fall into the scope of Article 17 of the GATT 1994 and Understanding on the Interpretation thereof?

Reply 222

Please refer to Reply 216.

Q223. Paragraph 92 - What products imported or exported by state enterprises will be notified to the GATT under Article XVII:4(a)?
Reply 223

Upon becoming a member of the GATT, Saudi Arabia will meet Article XVII notification requirements.

Q224. Paragraphs 90-92 - Please describe in detail any dual pricing arrangements involving differential pricing in sales by state enterprises to domestic versus foreign entities.

Reply 224

Sales by state enterprises, whether it be GSFMO or Saudi Aramco, are generally made at fixed prices but are subject to change. The prices of products sold to domestic entities have been lower than the prices for products sold to export markets. However, this can change depending on changes in the government sale price and the price for the product in international markets. A current exception to this generality would be applicable to sales of liquid gases.

8. **Subsidy policy**

Q225. Paragraph 94 - This paragraph outlines the four main functions intended to be served by the use of subsidies in Saudi Arabia. Could the Saudi authorities provide additional information on the subsidies in effect for basic foodstuffs and how these are targeted to assist those in most need?

Reply 225

There are price controls for certain types of bread, a staple for those most in need. This is made possible by subsidizing the sale of flour through the Grain Silos and Flour Mills Organization.

Q226. Paragraph 94 - Would Saudi Arabia provide more details of their subsidy policy? In what way do these subsidies impact on imports and exports?

Reply 226

In the past, the use of direct and indirect subsidies had four main functions. First, they were used to protect citizens from fluctuations in the prices of basic foods and essential items. Second, they were a means for distributing the benefits of the country’s increased wealth. Third, they were applied to assist the destitute, families with special needs, and for students and other deserving groups. Fourth, they were used to assist in diversifying the country’s economic base and promote self-sufficiency in grain production as a national security measure.

Over time, the usefulness of some subsidies has declined and there has been a need to rationalize the provision of others. As a result, under the sixth development plan the government will continue to review the system of subsidies granted by the government for goods and services in order to suggest means of rationalizing consumption thereof without jeopardizing the status of the low income strata of society. Also it will ensure that all government departments which administer public services make economic efficiency fundamental to the function of these services by adopting two basic principles: (1) the cost of producing such services to the Saudi community should be reduced; and (2) the prices of such services should not be less than production costs, except in rare cases -- and with the provision that they should be periodically reviewed.

Subsidies in Saudi Arabia have the same general impact on imports and exports as they do in every other country in the world, that is they can lead to higher or lower imports -- or higher or
lower exports -- depending upon the particular circumstances and variables involved. For example, subsidizing the purchase of agricultural machinery leads to higher imports of this machinery since the vast majority of such machinery is imported. On the other hand, the same subsidy could cause lower imports of agricultural produce since a more mechanized farm can produce more agricultural products that might otherwise be imported.

Q227. Paragraph 94 - Is Saudi Arabia committed to reducing the level of subsidy provided to grain, dairy and other agricultural producers upon its accession to the GATT/WTO? Please specify how?

Reply 227

Saudi Arabia will take whatever actions are necessary to ensure its compliance with its international obligations whether it be through Royal Decree or Ministerial Resolution, or through administrative actions.

11. Preferential trade arrangements or other special trade arrangements and agreements

Q228. Paragraph 96 - Will Saudi Arabia’s participate in the review of its preferential trade arrangements under Article XXIV of the GATT?

Reply 228

Upon its accession to the GATT, Saudi Arabia will comply with all applicable GATT articles and decisions.

12. Protection of intellectual property rights

Q229. Paragraph 97 - Could copies of The Trademarks Law, The Patents of Invention Law, Commercial Agencies Regulations and The Law for the Protection of Copyrights (Copyright Law) be provided to the members of the Working Party?

Reply 229

Please refer to Annexes 13 and 14 for (unofficial) English language translations of The Trademarks Law, The Patents of Invention Law, Commercial Agencies Regulations, and The Law for the Protection of Copyrights (Copyright Law) can be found in Annexes 13 and 14.

Q230. Paragraphs 97-99 - Are there any restrictions in Saudi law or practice on the licensing of intellectual property, on either domestic or foreign nationals?

Reply 230

Please refer to the Trade Marks Law, the Patents of Inventions Law, and the Copyright Law, (unofficial) English translations of which are reproduced in Annexes 13. Saudi Arabia extends national treatment to foreigners with regard to intellectual property rights.
Q231. Paragraphs 97-99 - Concerning protection of trademarks in Saudi Arabia:

To what extent do well-known marks receive protection under the existing law, and future amendments, if any? What is the definition and scope of protection of a well-known mark?

Reply 231 (a)

Articles 1 and 2 of the Trade Marks Law define which marks are or are not deemed to be trade marks for purposes of eligibility to register the mark with the Ministry of Trade.

To what extent does a well-known mark that is not registered in Saudi Arabia receive protection? What specific rights does the owner of an unregistered mark have in Saudi Arabia?

Reply 231 (b)

Saudi Arabian trademark law provides for the refusal or cancellation, and the prohibition of the use, of a trade mark which constitutes a reproduction of the registration of a trade mark which has an international reputation.

What is the role of the Trademark Registrar in infringement actions? Is his approval opinion required?

Reply 231 (c)

Under Article 55 of the Trade Marks Law, the proprietor of a mark may institute infringement actions at any time, pursuant to a petition to which is attached an official certificate purporting to the registration of the mark. The registrar maintains a register in which are entered all registered trade marks, notices of assignments and transmissions thereof, licences to use the mark, as well as the renewal or deletions thereof.

What are the grounds on which the registrar may refuse to register a mark?

Reply 231 (d)

Article 2 of the Trade Marks Law lists a variety of reasons why an application for a trade mark would be rejected. In addition, an application can be rejected for failing to meet any of the terms and conditions provided for in the Trade Marks Law and the Implementing Regulations.

Are there minimum/maximum limits on penalties for trademark infringement?

Reply 231 (e)

Please refer to Part VIII of the Trade Marks Law for information on offenses and penalties.

Does registration of a mark satisfy notice of the exclusive right of the right holder to potential infringers? Does a right holder have to give actual notice to an infringer before the infringer is liable, or is registration of the mark sufficient?
Under Article 25 of the Trade Marks Law, the person who has registered a mark shall be deemed to be the sole owner thereof. The owner of the mark need not give actual notice of the exclusive right of the right holder to potential infringers prior to initiating a civil or criminal case or any other actions which would bar others from using the mark or nearly similar representations.

**To what extent are the owners of foreign trademarks subject to restrictions on the use and registration of their marks in Saudi Arabia? Does Saudi Arabia have any laws, other than trademark laws, that restrict the use of trademarks?**

Foreigners normally resident in the Kingdom who are licensed to carry on a commercial act or trade activity and foreigners belonging to a state which deals with the Kingdom on a reciprocal basis are allowed to register trade marks. All persons who have registered a trade mark in Saudi Arabia are treated equally under the Trade Marks Law and its Implementing Regulations.

In addition to the Trade Marks Law, the Kingdom has the Law to Combat Commercial Fraud. The law protects consumers from being deceived as to, among other things, the nature, type or origin of commodities. These regulations can be used to prevent the sale of counterfeit goods or of goods being passed off as goods manufactured by another entity.

**Does Saudi law allow for registration of identical or similar marks for the same or related goods to different parties?**

Under Article 25 of the Trade Marks Law, the person who has registered a mark shall be deemed to be the sole owner thereof. The Law does not allow for different parties to register identical or similar marks.

**Is the recordation of an assignment mandatory? If so, what are the ramifications of not recording an assignment?**

Transmission of ownership or a pledge must be advertised and inscribed in the register maintained by the Trade Marks Office. Failure to do so would result in loss of all appropriate rights and privileges under the Trade Marks Law.

**To what extent are decisions of the trademark registrar appealable to a court of law?**

Decisions of the trademark registrar are appealable to the Board of Grievances.

**Q232. Paragraphs 97-99 - What form of protection does Saudi Arabia now provide for industrial designs? Does it expect to make any modifications to its laws to implement the industrial design provisions of TRIPs?**
Rights relating to industrial designs are covered by the Copyright Law, an (unofficial) English translation of which is reproduced in Annex 13. Saudi Arabia does not anticipate making any modifications of its laws regarding intellectual property rights at the present time. Upon its accession to the WTO, Saudi Arabia will take whatever actions are necessary to ensure its compliance with its obligations.

Q233. Paragraphs 97-99 - Does Saudi Arabia now protect layout designs? Are there any changes necessary to implement TRIPs? (Including obligations on compulsory licensing, border control and royalties) In what form is this protection provided?

Reply 233

Rights relating to layout-design (topographies) would be covered by the Patents of Inventions Law. There are no changes needed to Saudi law to implement the WTO Agreement on Trade Related Intellectual Property Rights. Protection for layout designs would be handled in the context of the Patent of Inventions Law, the Law to Combat Commercial Fraud, and the Customs Law.

Q234. Paragraphs 97-99 - Please provide the following additional information concerning the protection of patent rights in Saudi Arabia:

Does Saudi Arabia’s patent law provide all the rights listed in Article 28 of TRIPs with respect to product and process patents? If not, what rights is not available?

Reply 234 (a)

With regard to process patents, the Patents of Inventions Law does not currently prevent third parties not having the owner’s consent from the act of using the process itself.

What subject matter is now excluded from patentability under Saudi law?

Reply 234 (b)

Please refer to Articles 4 through 10 of the Patent of Inventions Law (see Annex 13).

Are there any restrictions on a patent owner’s rights to assign, transfer, licence rights under a patent?

Reply 234 (c)

Articles 29 to 33 of the Patents of Inventions Law covers assignment and transfer of patents and the licensing of rights under a patent. Basically there are no restrictions but there are registration and fee requirements.

Under what conditions may compulsory licences, including those for use by the Government or third parties authorized by the government, be granted under Saudi’s patent law? Will modifications be needed to implement the provisions outlined in Article 31 of TRIPs?
Please refer to Articles 34 through 43 of the Patents of Inventions Law for the conditions under which compulsory licences may be granted. The provisions of the Patents of Inventions Law pertaining to compulsory licences is fully consistent with Articles 30 and 31 of the WTO Agreement on Trade-Related Intellectual Property Rights.

What is the size of Saudi Arabia's examining core in its Patent Office?

There are seven examiners in the Patent Office.

What are the number of applications submitted each year to Saudi Arabia's patent office? What is the average pendency period for an application?

PATENT APPLICATIONS

<table>
<thead>
<tr>
<th>Period</th>
<th>Applications Filed</th>
<th>Companies</th>
<th>Individuals</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.5.1410-30.4.1411</td>
<td>416</td>
<td>374</td>
<td>42</td>
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<tr>
<td>1.5.1411-30.4.1412</td>
<td>508</td>
<td>446</td>
<td>52</td>
</tr>
</tbody>
</table>

There have not been any patents issued to date.

How many patents have been issued to date? In what technological categories?

See Reply 234(f).

How long has the patent office been in force?

King Abdulaziz City for Science and Technology, which is responsible for implementing the Patents of Inventions Law, began the process of developing the Law in 1985. The Law itself was enacted in 1989, at which time patent application forms and related forms began to be issued.

What opportunity exists under Saudi law for judicial review of a decision to revoke a patent as required by Article 32 of TRIPs?

Under Article 49 of the Patents of Inventions Law, a commission is vested with the power to hear all disputes and contests of the decisions issued in respect of patents. The commission is composed of three lawyers and two technicians. Members are nominated by the President of the King Abdulaziz City of Science and Technology and confirmed by the Council of Ministers.
Q235. Paragraphs 97-99 - Please provide the following additional information concerning the protection of copyrights in Saudi Arabia:

What is the average time frame for litigations of copyright infringement suits?

Reply 235 (a)

The time frame for litigations of copyright infringement suits depends on the seriousness of the case. Generally, it takes from three to six months on average.

How are sound recordings, data base compilations, computer software and literary works each protected?

Reply 235 (b)

Sound recordings, data base compilations (whether in machine readable form or other form), computer software, and literary works are protected under the Copyright Law, an (unofficial) English translation of which is reproduced in Annex 13.

Saudi Arabia was to join UCC effective July 13. Has UCC taken effect?

Reply 235 (c)

The Kingdom's enrolment in the Paris-based Universal Copyright Convention (UCC) took effect as of July 13, 1994.

What enforcement actions are being taken to ensure that all works, including US works and sound recordings, are protected under UCC?

Reply 235 (d)

The Ministry of Information has issued circulars to various entities including government offices, retail outlets, computer software shops and computer games outlets, reminding them of the Kingdom's accession to the Universal Copyright Convention and the protection accorded to foreign works under the Convention. The circular also pointed out the necessity of not using or selling pirated works.

What changes in Saudi Arabia's copyright laws need to be made to meet the requirements of the Berne Convention and when will these changes be made?

Reply 235 (e)

Please refer to Reply 232.

Does Saudi law currently provide for the requirements of Articles 11 and 14 of TRIPs?

Reply 235 (f)

Saudi law does not currently provide for the term of protection to performers and producers of phonograms as stipulated under Article 14 paragraph 5.

What is the scope of compulsory licensing of copyrightable works? Under what conditions would compulsory licences be granted?
There is no provision in the Copyright Law for compulsory licensing per se. However Articles 8 through 12 and Article 15 of the Law define the special circumstances under which authors' rights are not protected.

Q236. Describe Saudi Arabia's current legislation with regard to copyright and related rights, trademark rights, rights relating to geographical indications, rights to industrial designs, patent rights, rights relating to layout-designs (topographies) of integrated circuits, and rights relating to the protection of undisclosed information. Please also describe any legislation regarding these areas which is now planned or awaiting enactment.

Reply 236

Trademark rights and rights relating to geographical indications are covered by the Trade Marks Law. Copyright and related rights and rights relating to industrial designs are covered by the Copyright of the Author Law and the Royal Decree No. M/12 of 1414 on Saudi Arabia's adherence to the Universal Copyright Convention. Patent rights and rights relating to design (topographies) of integrated circuits are covered by the Patents of Inventions Law. Rights relating to the protection of undisclosed information are covered by Islamic Shariah and the Companies Law. There is currently no additional legislation regarding these areas which is now planned or awaiting enactment. However, Saudi Arabia may in the future adopt additional legislation in these areas in accordance with the Kingdom's policies and interests.

Q237. With regard to each category of intellectual property rights detailed above, describe the basis on which foreigners have access to the facilities offered by the domestic regime.

Reply 237

With regard to trademark rights and rights relating to geographical indications, foreigners are entitled to register trade marks if they (1) normally reside in the Kingdom and are licensed to carry on a commercial act or trade activity; or (2) belong to a state which deals with the Kingdom on a reciprocal basis. Regarding copyright matters, foreigners and foreign works are provided the same protection as nationals and national works under the Universal Copyright Convention. The Patents of Inventions Law does not differentiate between foreign and national patent applicants. With regard to the protection of undisclosed information, foreigners and nationals are not differentiated under the Islamic Shariah and the Companies Law.

Q238. Are there any categories of intellectual property in respect of which Saudi Arabia does not accord treatment to foreigners no less favourable than that accorded to Saudi nationals.

Reply 238

As mentioned in the previous question, foreigners are allowed to register trade marks only if (1) they normally reside in the Kingdom and are licensed to carry on a commercial act or trade activity; or (2) they belong to a state which deals with the Kingdom on a reciprocal basis.

Q239. With regard to each category of intellectual property rights detailed above, does Saudi Arabia grant to the nationals of any country an advantage, favour, privilege,
or immunity which Saudi Arabia does not grant to nationals of other foreign countries? If so, please describe and indicate on what basis the nationals of one or more countries are more favoured than the nationals of other countries.

Reply 239

There are no categories of intellectual property rights in which Saudi Arabia grants to the nationals of any foreign country with which it enjoys normal diplomatic relations an advantage, favour, privilege, or immunity which it does not grant to any other foreign country with which it enjoys normal diplomatic relations.

Q240. With regard to each category of intellectual property rights detailed above, describe civil, criminal and administrative procedures for the enforcement of intellectual property rights.

Reply 240

Please refer to Replies 241, 242, and 243.

Q241. With regard to the enforcement of each category of intellectual property rights detailed above, describe any intellectual property subject matter in relation to which Saudi Arabia does not now accord to foreign right holders treatment no less favourable than Saudi Arabia accords to its own nationals.

Reply 241

With regard to enforcement, there are no categories of intellectual property rights where Saudi Arabia accords to foreign right holders treatment less favourable than Saudi Arabia accords to its own nationals.

Q242. With regard to the enforcement of each category of intellectual property rights detailed above, describe any intellectual property subject matter in relation to which Saudi Arabia accords to foreign right holders from one or more countries access to rights and remedies denied to foreign right holders from other countries. If such differential treatment exists, please describe the basis on which such more-favoured treatment is currently offered.

Reply 242

There are no categories of intellectual property rights in which Saudi Arabia accords to foreign right holders from one or more countries with which it enjoys normal diplomatic relations access to rights and remedies denied to foreign right holders from other countries with which it enjoys normal diplomatic relations.

Q243. Paragraphs 97-99 - What is the judicial system in place now for the enforcement of intellectual property rights, both civil and criminal?

Reply 243

For trademark violations, the Board of Grievances has the power to adjudge all civil and criminal cases. An administrative procedure initiated by filing a complaint with the department of internal trade (DIT) at the Commerce Ministry is an alternative to a judicial proceeding in the Board of Grievances.
The DIT can request the infringer to stop selling infringing products and the DIT can bring a criminal action before the Board of Grievances.

For patent violations, a commission, composed of three lawyers and two technicians, is vested with the power to hear all disputes and contests of the decisions issued in respect of the patents; it also has the power to hear the criminal cases which result from the violation of the Patents of Inventions Law and its implementing regulations. An appeal against the decision of the commission can be made to the Board of Grievances.

With regard to copyright violations, a commission composed of not less than three members, one of whom must be a legal consultant, has been given the authority to hear alleged infringements of either a civil or criminal nature. Appeals of administrative decisions can, under certain circumstances, be made to the Board of Grievances.

In addition, under the Implementing Regulations to the Commercial Fraud Law, an Adjudication Commission has been given the authority to hear alleged violations of the law of either a civil or criminal nature. Appeals of administrative decisions can, under certain circumstances, be made to the Board of Grievances.

Q244. Paragraphs 97-99 - Does Saudi Arabia provide the full ranges of relief required by TRIPs, including injunctive relief, damages, seizure and destruction of infringing goods, provisional relief, border relief and criminal sanctions? In each case, indicate under what law such protection is provided, and whether amendments will be required to fully implement Articles 41-61 of TRIPs?

Reply 244

Saudi Arabia provides the full range of relief required by the WTO Agreement on Trade Related Intellectual Property Rights. Part VI of the Copyright of Authors Law allows for injunctive relief, damages, seizure and destruction of infringing goods, provisional relief and criminal sanctions—consistent with the WTO Agreement on Trade Related Intellectual Property Rights—for violations involving copyrights. Part VIII of the Trade Marks Law and Article 45 of the implementing regulations allows for injunctive relief, damages, seizure and destruction of infringing goods, border relief, provisional relief and criminal sanctions—consistent with the WTO Agreement on Trade Related Intellectual Property Rights—for violations involving trade marks. Articles 22 and 47 of the Patents of Inventions Law allows for injunctive relief, damages, seizure and destruction of infringing goods, border relief, provisional relief, and criminal sanctions—consistent with the WTO Agreement on Trade Related Intellectual Property Rights—for violations involving patents. In addition, border relief is provided for under the Customs Law.

Q245. Paragraphs 97-99 - What steps will Saudi Arabia take in regard to obligations under the TRIPS agreement relating to enforcement of intellectual property rights in Saudi Arabia?

Reply 245

Saudi Arabia will take all necessary steps to conform to its international obligations and responsibilities.

Q246. Paragraphs 97-99 - Please describe, in detail, how Saudi Arabia’s laws and regulations conform with the WTO Agreement on the Trade Related Aspects of the Protection of Intellectual Property Rights (TRIPs), with specific reference to provisions that do not meet TRIPs’ standards.
Please refer to Replies 229-245.

Q247. Paragraphs 97-99 - Can Saudi Arabia explain the consistency of the laws related to protection of intellectual property rights with the TRIPs Agreement?

Reply 247

Please refer to Reply 246.

Q248. Paragraphs 97-99 - How and within what time frame would Saudi Arabia propose to implement its obligations under the agreement on trade related aspects of intellectual property rights (TRIPS)?

Reply 248

Upon becoming a member of the WTO, Saudi Arabia would assume the obligations under the various Agreements, including the TRIPS Agreement. It would implement and apply the provisions of the TRIPS Agreement in accordance with paragraph 2 of Article 65 of the TRIPS Agreement.

Q249. Paragraphs 97-99 - Does Saudi Arabia now protect trade secrets? If so, in what form? Are changes necessary to implement the TRIPs obligations?

Reply 249

Rights relating to the protection of undisclosed information are covered by Allah’s Shariah and the Companies Law. Saudi Arabia does not see the need to make any modifications of its laws regarding protection of undisclosed information.

Q250. Paragraphs 97-99 - Does Saudi Arabia have any laws that would fall into the anticompetitive practices provisions of Article 40 of TRIPs? If so, please describe these provisions.

Reply 250

Article 38 of the Trade Marks Law states that “the licence contract may not impose on the beneficiary such restrictions which are not consequent upon the rights vested by the registration of the mark or which are not necessary to safeguard such rights.” In addition, it should be noted that inasmuch as one of the conditions for approval of foreign capital investment in Saudi Arabia is that the investment be accompanied by foreign technical expertise, practices which would restrict the transfer of this technology could be deemed to be in violation of the Investment of Foreign Capital Regulation.

Q251. Paragraphs 97-99 - What changes does Saudi Arabia contemplate in its laws to bring its practices in this areas into conformity with TRIPs provisions prior to accession to the GATT/WTO?

Reply 251

Please refer to Reply 248.

Q252. Paragraphs 97-99 - We note that, with the exception of the Universal Copyright Convention, Saudi Arabia is not a party to any of the multilateral intellectual property conventions
under WIPO. In view of this, does Saudi Arabia consider the current domestic legal framework to be sufficient for the adequate and effective protection of intellectual property rights? How does Saudi Arabia propose to cover any deficiencies?

Reply 252

First, it should be stated that Saudi Arabia is a member of the World Intellectual Property Organization and supports its objectives. Second, Saudi Arabia believes its current domestic legal framework is sufficient given the country’s extant laws, level of development and national development policies. Any changes will be made commensurate with the Kingdom’s national interest and international obligations.

Q253. Paragraphs 97-99 - Does Saudi Arabia intend to become a party to any of the WIPO sponsored intellectual property conventions?

Reply 253

With the exception of those intentions that have already been made known or put into effect, Saudi Arabia has, at this time, no plans to become a party to any additional agreements, unions, or conventions. However, in accordance with the nation’s policies and interests, Saudi Arabia may in the future announce its intention to become a party to an agreement, union, or convention of which it is not now a member.

Q254. Paragraph 99 - What plans does Saudi Arabia have to accede to the Berne Convention?

Reply 254

Please refer to Reply 253.

V. INSTITUTIONAL BASE FOR TRADE RELATIONS WITH THIRD COUNTRIES

Q255. Does Saudi Arabia intend to invoke non-application of the GATT or WTO, e.g., in the area of most-favoured-nation treatment, with respect to any country upon its accession?

Reply 255

It would be premature to discuss invocation of Article XXXV of the GATT. Saudi Arabia will take any action to protect its national interests and, at the same time, fulfil its international obligations.

Q256. Paragraph 100 - Please explain the specific results from “rationalization and unification of the various customs regimes” and “the coordination of external trade policies” as stated in this paragraph.

Reply 256

In 1994, the six-members of the Gulf Cooperation Council decided to unify customs tariffs under a phased programme beginning with selected goods and commodities. An office has been established to supervise the working toward unification of tariff rates and schedules under the phased plan.
Coordination of external trade policies is an ongoing process carried out through multilateral and bilateral discussions at various levels, including ministerial meetings and meetings among the six heads-of-state. One manifestation of the results of this coordination is the occurrence of bilateral meetings between the Gulf Cooperation Council members—as a group—and other countries and entities such as the United States, Japan, and the European Union. Another is the strong position the members have taken against the discriminatory nature of various petroleum taxation policies.

Q257. Paragraph 101 - Are there any items exceptional to the duty free entry from the GCC members even if they satisfy the 40% local-value-addition requirement?

Reply 257

No.

Q258. Paragraph 101 - Can Saudi Arabia explain the consistency of the free trade area referred to in Paragraph 101 with Article 24 of the GATT?

Reply 258

Saudi Arabia’s application of the Gulf Cooperation Council free trade area meets all the requirements of Article XXIV of the GATT. In accordance with paragraph 5(b) of Article XXIV, the duties and other regulations of commerce maintained by the Kingdom are not higher or more restrictive than the corresponding duties and other regulations of commerce existing prior to the formation of the free-trade area. In addition, in accordance with paragraph 8(b), the free-trade area has eliminated duties and other restrictive regulations of commerce on substantially all trade between the six Gulf Cooperation Council members in products originating in the member states.

Q259. Paragraphs 100-102 - Can Saudi Arabia explain the differences between the free trade area among the GCC members and the Arab Common Market?

Reply 259

The free trade area among the GCC members is a fully operational and comprehensive free trade agreement covering trade in goods and services as well as capital and labour movements. The Arab Common Market, on the other hand, has not been fully formed. As stated in the Saudi Arabia Memorandum on the Foreign Trade Regime (L/7489), the Arab League, of which Saudi Arabia is a member, is working toward the creation of an Arab Common Market. The bilateral trade and tariff conventions among Arab states are an integral part of this effort.

Q260. Paragraph 102 - What efforts are to be made to realize the purpose of the Arab Common Market, that is, "not to create obstacles to the trade of other countries"?

Reply 260

In 1981, the Arab League members—including Saudi Arabia—signed the Agreement Facilitating and Developing Trade Among Arab Countries with the objective of forming a common market for all member countries and to improve integration of the Arab countries’ economies. The agreement allows for tariff and non-tariff concessions among the member countries, especially on raw and semi-manufactured products.

Consistent with the objectives of the 1981 agreement, Saudi Arabia has signed and/or renewed a number of trade and tariff agreements with fellow Arab countries. These agreements include the
Unified Economic Agreement of the Gulf Cooperation Council countries as well as bilateral agreements with Morocco, Egypt, Iraq, Syria, Algeria, Tunisia, Jordan, Lebanon, and Yemen. The agreement with Egypt is the newest, having been signed in 1991. The bilateral agreements are periodically reviewed and updated.

The statement that the purpose of the Arab Common Market is "...not to create obstacles to the trade of other countries," was made to assure the Members that, in accordance with GATT Article XXIV, paragraph (4), the Kingdom recognizes the purpose of the Arab Common Market is to "facilitate trade between the constituent territories and not to raise barriers to the trade of other contracting parties with such territories."

Q261. Paragraphs 100-103 - Do any of Saudi Arabia's bilateral or multilateral trade and economic agreements make provisions for either market access or national treatment for foreign service suppliers?

Reply 261

Please refer to Reply 34.

VI. LAWS AND LEGAL ACTS
1. Laws and legal acts regulating the activity of the customs authority

Q262. Paragraphs 107-109. This section mentions that the Council of Ministers is officially responsible for any change in the tariff rate, including the adoption of tariffs for the protection of domestic industries, and that the Customs Department of the Ministry of Finance and Natural Economy administers the Customs Law.

What provision exists in Saudi Arabia's trade policy and legal structure to apply safeguard actions, or other temporary forms of tariff or nontariff protection for domestic production from dumped or subsidized imports?

Reply 262 (a)

Saudi Arabia does not at present have any legislation/regulations specifically referring to the imposition of anti-dumping and countervailing duties. However, under Article 7 of the Law for the Protection and Encouragement of National Industry, the Council of Ministers are empowered with the ability to take such measures deemed appropriate for the protection of local production, in accordance with the stipulations of the Law and of other valid laws. Please refer to Reply 68.

Is Saudi Arabia prepared to enact new laws or regulations to ensure that the tariff and nontariff regulation of imports and exports is conducted in accordance with GATT/WTO provisions?

Reply 262 (b)

Saudi Arabia is prepared to take all actions necessary to ensure its compliance with its international obligations and commitments.
2. **Laws and legal acts relating to non-tariff regulations**

Q263. Could copies of The Customs Laws and the Investment of Foreign Capital Regulation be provided to members of the Working Party? (Paragraph 87)

Reply 263

Copies of the Customs Regulations and the Investment of Foreign Capital Regulation can be found in Annexes 8 and 3, respectively.

4. **Other laws dealing with trade issues**

Q264. Paragraph 112(g) - Please describe the Commercial Agencies Regulations and how they relate to Saudi Arabia's foreign trade policy.

Reply 264

The Commercial Agencies Regulations of the Kingdom govern the relationships between firms that have product lines that are sold or serviced in the Kingdom and the domestic distributor. All persons carrying on the activities of a commercial agent must be registered with the Ministry of Commerce and registration is restricted to Saudi nationals. The regulations are not a foreign trade policy tool. Rather, they were implemented to protect the interests of consumers and commercial agents in Saudi Arabia, as well as the interests of foreign and domestic suppliers. An (unofficial) English translation of the Commercial Agencies Regulations is reproduced in Annex 14.

Q265. Paragraph 112(g) - Does Saudi Arabia allow entities other than Saudi nationals and Saudi companies to import goods? If not, please provide the following additional information:

Please provide details and English translations of regulations requiring agent distributor arrangements for exports to Saudi Arabia (e.g., Saudi Commercial Agency Regulations).

Please indicate in detail the justification for a mandatory import agent system in light of the provisions of Article III of the GATT.

Is Saudi Arabia prepared to allow foreign individuals and firms this ability on a non-discriminatory basis in the context of its accession to the GATT/WTO?

Reply 265 (a)

There are entities other than Saudi nationals and Saudi companies which can import goods.

Please provide the following additional information on the Saudi trade regime:

Please elaborate in much detail on the commercial dispute resolution system in Saudi Arabia, making references to pretrial discovery; penalties imposed on defendants for failure to appear at hearings; availability of published opinions of the Grievance Board, Sharia courts and other commercial tribunals; and penalties or measures imposed on entities—especially government agencies—that do not implement judgments passed by the commercial dispute resolution system.

Please elaborate in good detail on what arbitration or dispute settlement procedures are in place to resolve disputes involving foreign investment and disputes between foreign investors and the government.

Procedures regarding arbitration are contained in the Law of Arbitration and the Implementing Regulations to the Law of Arbitration, (unofficial) English translations of which are reproduced in Annex 15. Disputes involving foreign investments and government departments would generally be handled through administrative actions within the concerned department. In addition, a foreign investor may file a case with the Board of Grievances under the Ministerial Order No. 190 of 16.11.1409 AH Concerning Rules and Procedures to be Followed by the Board of Grievances (see Annex 9).

5. Roles and responsibilities of various government agencies

Q266. Paragraph 115 - Could further details be provided concerning the commercial disputes court mechanism accessed through the Ministry of Commerce.

Reply 266

There is no mention in paragraph 115 of a commercial disputes court mechanism. The commercial disputes court was superseded by the Law of Arbitration, a copy of which is reproduced in Annex 15.

Q267. Will Saudi Arabia give an indication of the review mechanisms that may be available to trading entities should they wish to appeal against certain provisions of the Saudi foreign trade regime.

Reply 267

Within each concerned Ministry and Department, i.e. the Ministry of Finance and National Economy, Ministry of Commerce, Customs General Department, etc., there are designated bodies for the purpose of review of decisions/orders of the officials regarding the application of the foreign trade regime. If a trading entity is still not satisfied, it can make an appeal to the Minister for redress of its grievances.

Q268. Paragraph 120 - Please describe in detail the role of the Council of Chambers of Commerce and the various Chambers of Commerce in Saudi Arabia in the administration of "import agency" requirements. What other roles do the Chambers fill in the administration of Saudi trade policy? Who is eligible to join the Chambers? What is the composition of the Council of Chambers of Commerce and what is the Saudi government’s involvement in its composition or operations?
Reply 268

There are no such thing as “import agency” requirements in Saudi Arabia. Rather, there are commercial agency requirements. The commercial agent has to be registered with the Chamber of Commerce. The Chamber of Commerce also certifies papers, documents, and certificates required by different government regulations from commercial agents.

With respect to trade policy, the Chamber of Commerce does the following:

- provides statistical information and prepares economic studies;
- presents suggestions to protect domestic traders and industries from foreign competition;
- represents the private sector in joint commissions;
- represents the private sector in discussions with the government;
- supports public relations and cooperation on behalf of the private sector;
- organizes trade fairs, exhibitions, and conferences;
- encourages investment; and
- solves disputes through arbitration.

Any person or firm which is registered with the Chamber of Commerce can be a member of the Chamber of Commerce.

Each regional Chamber of Commerce elects two-thirds of its Board of Directors. The Minister of Commerce validates the election results and, in consultation with the Minister of Industry and Electricity, appoints the remaining one-third. The Council of Chambers of Commerce is formed from the head of each regional Chamber of Commerce and one elected member from each regional Chamber of Commerce.

VII. PUBLICATIONS

Q269. Does Saudi Arabia have an official publication for the notification of laws, regulations, decrees, etc., concerning trade prior to their implementation? If not, will Saudi Arabia take measures to institute transparency measures consistent with Article X of the GATT and the other notification and publication requirements of the GATT and the Agreement establishing the WTO and its annexes?

Reply 269

Saudi Arabia’s practice concerning publication of trade laws, regulations and decrees is fully consistent with GATT requirements. The Um al-Qura is the official publication for the notification of laws, regulations and decrees. Regulations, laws and decrees of concern to the contracting parties to the GATT/WTO will not take effect before they are officially published in the Um al-Qura.