

III. TRADE POLICIES AND PRACTICES BY MEASURE

(1) INTRODUCTION

1. Guyana has significantly liberalized its trade regime in the last decade, but certain important distortions remain. Market access has in general been enhanced under the process of progressive liberalization in CARICOM. However, domestic legislation has been only partly amended to implement Guyana's commitments under the different WTO Agreements.

2. Guyana has bound its whole tariff in the WTO at a general ceiling binding of 50% for non-agricultural products (with some exceptions) and at 100% for all agricultural products. Guyana applies Phase IV of CARICOM's Common External Tariff (CET), with a maximum tariff of 20% for industrial products and 40% for agricultural goods, with a number of exceptions. The average tariff is 12.1%, and almost two thirds of tariff lines are subject to duties of 10% or less but a limited number of products, mainly agricultural goods, alcoholic and other beverages, and tobacco, face duties as high as 100%. Guyana grants duty-free access on imports from other CARICOM countries, provided they meet CARICOM rules of origin. There are a small number of exceptions (ginger, curry, beer, spirits, etc.), which are subject to tariffs between 5% and 10%. Guyana also grants tariff preferences to a limited number of products originating in Colombia under the CARICOM-Colombia Trade and Economic Cooperation Agreement, and will do the same with goods from Cuba and the Dominican Republic once pending CARICOM agreements with those countries enter into force.

3. Guyana, like other CARICOM members, may grant full import duty exemption on the goods in its Conditional Duty Exemption List. Guyana also applies a number of schemes that provide for import duty relief. These relief schemes, and in general the wide scope of CET exceptions, reduce the degree of predictability and transparency of the applied tariff, and in some cases may be introducing elements of discrimination among importers. Most items are subject to a 30% consumption tax rate, although some may be subject to lower rates and a few to higher ones (up to 128%).

4. Guyana enacted the GATT Customs Valuation Agreement (CVA) with effect from 1 January 1991 and operationalized the system in 1993. The authorities report that the procedures laid out in the CVA are followed, and that customs valuation has been based increasingly on invoice prices, although reference prices may be used occasionally.

5. Guyana applies import-licensing requirements on a relatively large number of products. Both automatic and non-automatic licensing is used. The products under licensing requirements are not subject to quotas, nor to tariff quotas, neither of which is used by Guyana. Guyana maintains some 235 national standards, approximately half of which have been adapted from international standards. A number of sanitary and phytosanitary requirements are applied on imports.

6. Export taxes remain listed in the Customs Act (Cap. 82:01), and are applied principally to primary products. The general rate is 1.5%, but other rates are set for nine products. The majority of products are exempted from export duty as indicated in Part IV (Exemption from Export Duties of Customs) of the Customs Tariff. In practice, export taxes contribute relatively little to overall government revenue. A number of products are subject to export licensing.

7. Guyana applies various incentive schemes; some of the incentives are applied across-the-board and their availability is based on meeting some specific criteria, such as local-value-added content, on or making certain investments. Guyana also offers several sector-specific programmes. In this respect, tax and tariff incentive programmes are available to promote trade and investment in tourism, fisheries, mining, forestry, manufacturing, and agriculture. An export allowance is granted

as a percentage of export profits, varying between 25% and 75%, for non-traditional exports outside of CARICOM. Domestic and foreign investors are treated identically with respect to these incentives.

8. Guyana is not a party to the WTO Agreement on Government Procurement. Government involvement in the economy remains relatively large and many public-sector managed projects are financed by international agencies, thus procurement is especially important in Guyana. In the past, procurement has been riddled with weaknesses and lack of transparency. In 1996, with the help of the UNDP, the Government of Guyana set up the Central Tender Board Secretariat to improve the administration and management of the procurement system. New government procurement legislation, to modernize and make more transparent the procurement process, was assented to but not enacted in 2002. In consultation with the World Bank, the Government of Guyana substantially revised that legislation. As of June 2003, the National Assembly was concluding action on the revised proposal. The new law prescribes the general use of public tendering and acknowledges the prevalence of international commitments. However, the draft law grants the right to apply preferences to domestic suppliers. According to the authorities, the aim of the new law is to "promote competition among suppliers and fairness and transparency in public procurement."¹

9. Guyana has not yet amended its intellectual property rights legislation to comply with the provisions of the TRIPS Agreement. Existing legislation pre-dates independence, and still grants preferential treatment to registration of rights in the United Kingdom. The terms and scope of protection are, in general, less favourable than those in the TRIPS Agreement. A draft Copyright Bill, notified to the WTO, is expected to be implemented in the near future, and to be followed later by new legislation in other intellectual property areas.

(2) MEASURES DIRECTLY AFFECTING IMPORTS

(i) Procedures

10. The main legislation regulating import procedures is the Trade Act (Cap.91:01), a 1959 statute from the period of Guyana's colonial relationship with the United Kingdom. In early 2003, CARICOM was reviewing model legislation for the updating and harmonization of customs legislation in the region. The collection of customs duties and other customs procedures are governed by the Customs Act of 1952, as amended (Cap. 82:01).

11. Customs clearance involves various steps (Box III.1). Importers must prepare a customs declaration form, which can be undertaken on their behalf by a licensed customs broker. Customs must be provided with a copy of this form upon importation, together with supporting documents, such as an invoice from the supplier, a bill of lading, and/or a licence and, when requested a certificate of origin. Taxes must be paid before delivery of the goods. Customs inspections are carried out at the port of entry before the goods are cleared for delivery.

12. All shipments are inspected, both imports and exports. Guyana does not utilize preshipment inspection services. In April 1996, Guyana introduced the computerized customs system, ASYCUDA. Guyana is currently engaged in discussions with international agencies concerning implementation of the advanced ASYCUDA system, and in early 2003 the Government announced plans to review the operations of ASYCUDA, together with other steps intended to improve the operation of the Guyana Revenue Authority.²

¹ Ministry of Finance (2003a).

² Ministry of Finance (2002a).

Box III.1: Customs clearance process for imports

1. Obtain a Customs registration number and, if required, an import licence.
2. To clear imported goods, a broker or the importer (if it is acting on its own behalf) must complete form C72 in quadruplicate and submit it to Customs, along with the original supplier invoice, bill of lading, and insurance form (if insured).
3. This file of forms is routed to the Classification section where the accuracy of the classification of goods in the documents is verified.
4. The file is then delivered to the computer/processing section, where it is checked for completeness and accuracy and the data is entered. If everything is in order, an Assessment Notice indicating the amount of taxes to pay is issued to the broker and Customs cashier, along with the C72 form.
 - (a) For commercial goods, except duty-free items, if a customs officer believes the invoice value is not correct or the importer has a history of under-invoicing, the file may be routed to the valuation section. Here, the file is reviewed for accuracy and if the officer feels that the invoice is undervalued, the values may be increased for tax-computation purposes.
 - (b) If revalued, the file is returned to the broker, who makes the necessary recalculations on form C72 and resubmits it. The file then goes to the Computer/Processing section again for entry and the issuance of an Assessment Notice. This retracing of steps may add another one to two days to the clearance process.
5. The broker takes the notice to the cashier and pays the indicated amount, receiving a copy of the C72 form as a receipt. Twice a day, the original, paid-for C72s are picked up from the cashier and delivered to the Quality Review section at Customs House.
6. The Quality Review section then verifies, once more, the classifications used and the calculations.
 - (a) If an error is found, Quality Review will revalue and issue a new voucher.
 - (b) The broker must return to the cashier with the new voucher, pay the cashier, and return to Quality Review with a receipt and the C72. These side steps can add a half to one full day to the process.
7. If everything is in order, the file is delivered to the wharf or other point of entry; this takes another half-day. A broker takes the approved forms to the point of entry where it is matched with the original delivered from the inspection unit. The goods are then located and a physical inspection occurs. This inspection is usually based on a sampling, unless some discrepancies are found, in which case, all goods may be inspected. Deliveries are made two to three times a day from the Quality Review section to the wharf or other point of entry.
8. After the inspection, the broker takes the bill of lading to the port agent, who provides a cart note for permission to take the goods out.
9. The broker takes the goods.

Source: Adapted from GO-INVEST, Customs and Trade Administration, 22 June 2001.

13. The Customs Act contains provisions for the temporary entry of goods, as well as provisions to regulate or, in certain circumstances, prohibit the entry of imports as defined in the relevant Act or Regulation. With respect to temporary entry, goods are allowed for three months. Upon written request to the Commissioner, a three-month extension can be granted; in such cases a deposit is required (either in cash or bond security) equivalent to one and half times the duty. The deposit is refunded upon exportation of the goods within the prescribed time, failing which the deposit is taken into revenue. The authorities report that goods are generally cleared within seven days. Claims with respect to customs procedures, duties assessed, and other issues may be addressed to the Customs Tariff Tribunal. According to the authorities, as of June 2003 two cases were pending before the Tribunal, and seven cases were completed in 2002.

(ii) Tariffs

(a) Structure

14. Guyana grants at least MFN treatment to all its trading partners. Guyana applies the CARICOM Common External Tariff (CET), with some exceptions. The schedule is based on the

Harmonized Commodity Description and Coding System 1996 with effect from 30 April 1999. The tariff, as applied in 2003, comprises 6,397 tariff lines at the seven-digit level. All duties are *ad valorem*. The tariff generally applies rates of 0, 5, 10, 15, 20, 25, 30, and 35% for industrial goods; a rate of 40% applies only to agricultural products subject to the CET. Exceptions to the CET in accordance with Lists A and C of the CARICOM Common External Tariff (Table III.1) are in place for a limited number of products and are subject to rates ranging between 45% and 100%.

Table III.1
Lists of exceptions to the CET

List A	A list of items on which suspension of the rates of duty in the Schedule of Rates under Article 32 of the Common Market Annex has been granted to Member States for an indefinite period subject to review by Council, with the rates to be applied by Member States.
List B ^a	A list of items on which suspension of the rates of duty in the Schedule of Rates under Article 32 of the Common Market Annex has been granted to Dominica, Antigua and Barbuda, Saint Lucia, St. Kitts and Nevis, other OECS Member States, and Belize for the periods set down in the List with the minimum rates to be applied by those Member States.
List C	A list of items in respect of which minimum rates of duty have been agreed by Council, with the actual rates of duty to be applied by individual Member States.
List D ^a	Additional items in respect of which suspension of the rates of duty in the Schedule of Rates under Article 32 of the Common Market Annex has been granted to St. Kitts and Nevis, other OECS Member States, and Belize, with the actual rates which will be applied by those Member States.

a Guyana applies CET rates on products included in this list in its tariff schedule.

Source: CARICOM Secretariat.

15. Products in List A may be imported at tariff rates lower than the CET. In the case of Guyana, only packaging materials and powdered milk are below the agreed CET rate. With respect to List C, Member States are free to apply the CET rate or higher on imported products. CARICOM's List C contains 209 tariff lines; these are mainly alcoholic beverages, tobacco, oil products, jewellery, electrical appliances, and motor vehicles. Rates applied on these products are generally higher than CET rates for revenue purposes. The rates are incorporated directly into the Guyana Customs Tariff.

16. The structure of the tariff in Guyana, as in all CARICOM countries, is based on the concept of the economic use of the goods, differentiating between inputs and final goods. Inputs are identified as primary, intermediate, or capital goods, while for final goods a distinction is drawn between the basic and non-basic categories. Certain foodstuffs and other supplies are classified as basic, while all other final goods are non-basic. In addition, the structure distinguishes between "competing" goods (for which regional production or immediate production potential from existing capacity amounts to over 75% of regional demand) and "non-competing" goods (Table III.2). "Like goods" from third countries are considered to be competing. In Phase IV of the CET, tariffs for final competing goods were harmonized with those applied on non-competing goods.

Table III.2
Structure of tariff rates, Phases I and IV of the CET schedule of reductions
(Per cent)

	Group A (Non-competing)	Group B (Competing)	Group C (Competing)	Group D Non-basic, non-competing)
Inputs				
Primary	0-5	30/10	n.a.	n.a.
Intermediate	10/0-5	30/15	n.a.	n.a.
Capital	10/0-5	20/10	n.a.	n.a.
Final goods	(basic category) 20	(basic category) 30/20	45/20	30/20

n.a. Not applicable.

Note: The first rate (when applicable) on the table corresponds to Phase I of the CET Schedule of reductions; the second rate to Phase IV. Products in Lists A and C are excluded.

Source: CARICOM Secretariat.

(b) Average tariff and tariff range

17. The simple average MFN tariff in 2003 was 12.1%. The average MFN tariff for agricultural products (WTO definition) was 21.6%; the average tariff for non-agricultural products was 10.3% (Table III.3). By WTO product category, the highest average tariffs are applied on beverages and spirits, and tobacco products. By HS section, the highest tariff rates are levied on arms and ammunition; precious stones; live animals; food preparations; and fats and oils.

Table III.3
Guyana Tariff Analysis summary table, 2003

By WTO product category			MFN applied tariff				Bound tariff
Code	Description	No. of lines	Average	Minimum	Maximum	CV	Average
0	All products	6,397	12.1	0.0	100.0	1.1	58.0
1	HS 01-24	1,091	23.8	0.0	100.0	0.9	92.9
2	HS 25-97	5,306	9.7	0.0	70.0	0.9	50.8
3	WTO agriculture	1,026	21.6	0.0	100.0	1.0	100.0
4	- Animals and products thereof	147	25.4	0.0	45.0	0.7	100.0
5	- Dairy products	24	14.2	0.0	40.0	1.0	100.0
6	- Coffee and tea, cocoa, sugar, etc.	172	19.1	0.0	100.0	0.8	100.0
7	- Cut flowers, plants	56	10.6	0.0	40.0	1.3	100.0
8	- Fruit and vegetables	254	25.5	0.0	40.0	0.6	100.0
9	- Grains	29	16.0	0.0	40.0	0.8	100.0
10	- Oil seeds, fats and oils and their products	95	16.6	0.0	40.0	1.1	100.0
11	- Beverages and spirits	83	49.3	5.0	100.0	0.8	100.0
12	- Tobacco	10	71.5	5.0	100.0	0.6	100.0
13	- Other agricultural products n.e.s.	156	5.8	0.0	40.0	1.1	100.0
14	WTO non-agriculture (incl. petroleum)	5,371	10.3	0.0	70.0	0.9	50.0
15	- WTO non-agriculture (excl. petroleum)	5,332	10.3	0.0	70.0	0.9	50.0
16	- - Fish and fishery products	155	27.7	0.0	40.0	0.6	50.0
17	- - Mineral products, precious stones, and precious metals	411	11.7	0.0	60.0	1.2	50.0
18	- - Metals	715	7.1	0.0	20.0	0.7	50.0
19	- - Chemicals and photographic supplies	1,001	7.5	0.0	40.0	0.7	50.0
20	- - Leather, rubber, footwear, and travel goods	171	10.8	0.0	30.0	0.7	50.0
21	- - Wood, pulp, paper, and furniture	315	9.7	0.0	20.0	0.7	50.0
22	- - Textile and clothing	950	11.7	0.0	50.0	0.6	50.0
23	- - Transport equipment	228	12.4	0.0	45.0	1.1	50.0
24	- - Non-electric machinery	594	6.5	0.0	30.0	0.8	50.0
25	- - Electric machinery	271	9.9	0.0	45.0	0.8	50.0
26	- - Non-agriculture articles n.e.s.	521	15.3	0.0	70.0	0.9	50.0
27	- Petroleum	39	10.4	0.0	25.0	0.9	50.0
by ISIC code							
1	Agriculture, hunting, forestry, & fishing	428	21.7	0.0	50.0	0.8	89.1
2	Mining and quarrying	116	8.8	0.0	50.0	1.4	50.0
3	Manufacturing	5,852	11.5	0.0	100.0	1.1	55.9
31	- - Manufacturing (excluding food processing)	5,149	9.8	0.0	70.0	0.9	50.8
4	Electrical energy	1	0.0	0.0	0.0		50.0
by HS Section							
01	Live animals and products	309	26.2	0.0	45.0	0.7	78.6
02	Vegetable products	401	19.8	0.0	40.0	0.9	100.0
03	Fats and oils	53	25.7	5.0	40.0	0.7	97.2
04	Prepared food, etc.	328	26.0	0.0	100.0	1.1	97.0
05	Minerals	202	7.4	0.0	25.0	0.8	50.0
06	Chemical and products	939	7.0	0.0	40.0	0.8	52.3

Table III.3 (cont'd)

By WTO product category			MFN applied tariff				Bound tariff
Code	Description	No. of lines	Average	Minimum	Maximum	CV	Average
07	Plastics and rubber	236	9.1	0.0	30.0	0.7	50.0
08	Hides and skins	85	10.4	5.0	20.0	0.7	62.4
09	Wood and articles	122	10.0	0.0	20.0	0.6	50.0
10	Pulp, paper, etc.	170	8.2	0.0	20.0	0.8	50.0
11	Textile and articles	936	11.4	0.0	50.0	0.7	51.4
12	Footwear, headgear	67	16.0	0.0	20.0	0.4	50.0
13	Articles of stone	196	10.3	0.0	25.0	0.7	50.0
14	Precious stones, etc.	61	30.3	0.0	60.0	0.8	50.0
15	Base metals and products	709	7.5	0.0	20.0	0.7	50.0
16	Machinery	898	7.9	0.0	45.0	0.9	50.0
17	Transport equipment	238	12.2	0.0	45.0	1.1	50.0
18	Precision equipment	248	13.9	0.0	50.0	1.1	50.0
19	Arms and ammunition	20	42.5	0.0	70.0	0.7	50.0
20	Miscellaneous manufacturing	171	15.3	0.0	20.0	0.4	50.0
21	Works of art, etc.	8	20.0	20.0	20.0	0.0	50.0

CV: Coefficient of Variation.

Source: WTO Secretariat estimates, based on data provided by the Government of Guyana.

18. A flat tariff rate of 45% is applied to imports for non-commercial purposes that are liable to duty, contained in passengers' baggage or imported in gift parcels sent by sea, air or parcel post and not exceeding in value the equivalent of US\$100 provided that such imports are occasional (Annex II of Guyana's Tariff Schedule). The rate is applicable only if there are at least three different items of goods classified in different tariff headings. Wines and spirits, tobacco products, and jewellery are excluded from this provision, and are subject to their normal tariff rates. Imports below US\$100 from CARICOM countries are not subject to duties. Purchases made via electronic commerce are subject to normal tariff rates.

19. Duty-free treatment is accorded on 5.4% of tariff lines for MFN imports; 60.2% of lines are subject to rates of 5% or 10%; 24.8% to rates of 15% or 20%; 7.4% to rates between 25% and 40%; and 2.3% of the lines to rates between 45% and 100%, with 0.6% at 100%. The number of duty-free lines could in practice be higher, due to the List of Conditional Duty Exemptions to the CET (see below).

20. As a result of liberalization, tariffs have been losing importance as a source of government revenue. The authorities reported that revenue accruing from customs duties in FY2001 was G\$3.6 billion (US\$19.1 million), about 20.3% of total government revenue, and around 3.3% of the value of imports; in FY2002, revenue accruing from customs duties was G\$3.4 billion (US\$17.8 million), about 18.6% of total government revenue, and around 3.2% of the value of imports. As the average tariff is 12.1% this may indicate that relatively high rates of taxation on trade could be encouraging various forms of evasion. According to the National Development Strategy, these include the pursuit of exemptions, and negotiations between importer and customs officer on which duty category is applicable.³ Also, the Guyana Revenue Authority has noted in its official report that large amounts of revenue are lost through various malpractices by importers, including false documentation, under-invoicing and under-valuation of imports, and collusion.⁴

³ National Development Strategy (2000), p. 31.

⁴ Guyana Revenue Authority (2001).

(c) Tariff bindings

21. Guyana has bound its whole tariff in the WTO. Like most other CARICOM countries, it has a general ceiling binding of 50% for manufactures (with some exceptions) and 100% for all agricultural products.⁵ Guyana's average bound rate is 58%, (Table III.3). In general, applied rates are all well below their bindings; however, there seems to be an exception in the case of arms and ammunitions, where applied rates are 70% and bound rates are 50%. Although applied rates across CARICOM countries are quite similar, bound rates can sometimes differ. For example, individual countries can have below-ceiling bindings for specific items.

22. Guyana also bound other duties and charges applied on imports at 40% for agricultural products, and at 30% for non-agricultural products, with exceptions in each case.⁶ For agricultural products, Guyana's exceptions to the ceiling binding of other duties and charges include wine (HS22.04), undenatured ethyl alcohol (22.07 and 22.08), cigars and cheroots (24.02), bound at 50%, and other manufactured tobacco products (24.03), bound at 85%. For non-agricultural products, the only exception is certain petroleum products (27.09), for which other duties and charges on imports were bound at 50%.

(d) Tariff escalation

23. The CET's structure is designed to provide positive effective protection to competing final goods, with imports of non-competing inputs entering at the lowest rates. In this respect, imports of semi-processed products face tariffs below the general average; the group as a whole is subject to an average tariff of 6.1%. Imports of fully processed products pay an average 13.8% tariff. Although raw materials are subject to an even higher average tariff (17.6%), this is due to the 40% rate applied on some agricultural products destined for final consumption and competing with local production. Significant tariff escalation is apparent in food and beverages, textiles and clothing, chemicals, wood products, paper, non-metallic minerals, and fabricated metal products (Chart III.1).

(e) Tariff concessions and exemptions

24. CARICOM members may maintain tariffs at rates below the CET for goods included in the List of Conditional Duty Exemptions to the CET. The list also states the purposes for which these goods may be admitted into the importing member state free of import duty or at a rate lower than the CET. In the case of Guyana, the List of Conditional Duty Exemptions is included in Annex II to the Customs Act (Section B-Full Exemption). The first part of the schedule contains a list of 78 materials (not classified by HS heading), which may be subject to full tariff exemption for approved industry and agricultural purposes. The second part of the schedule contains exemptions for other approved purposes (government use, for schools, hospitals, broadcasting, etc.).

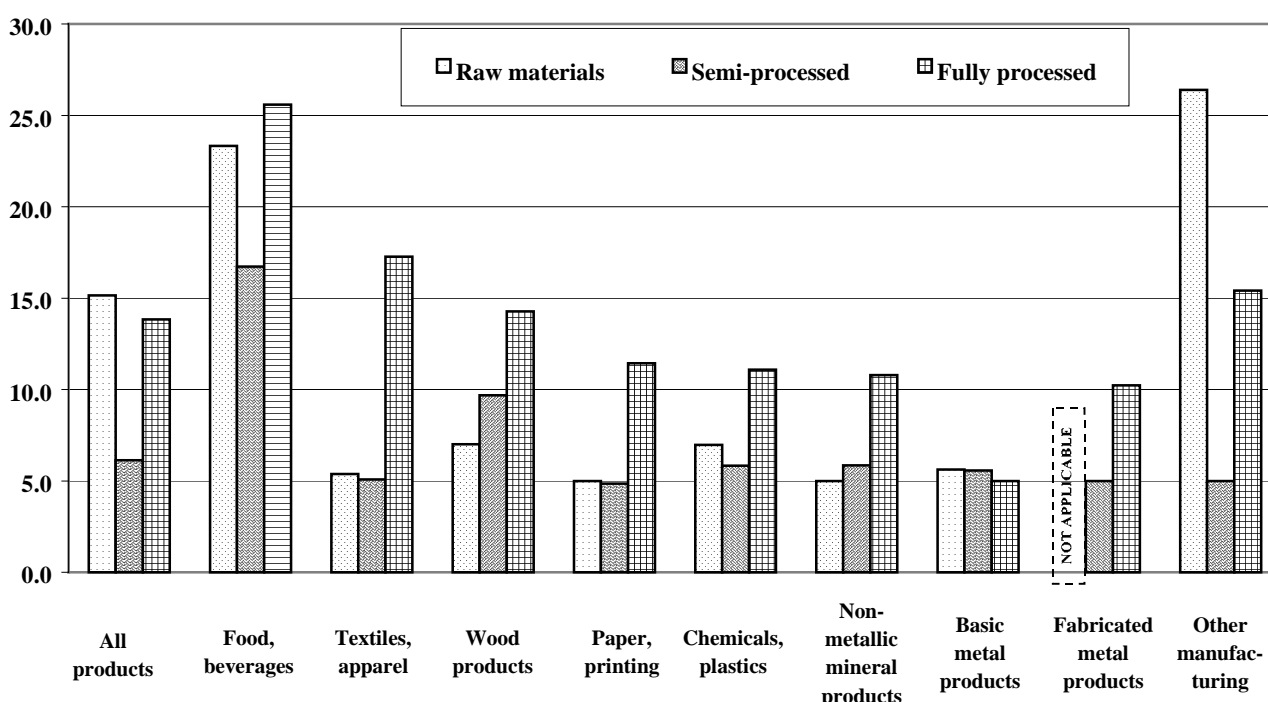
25. Guyana, like other CARICOM members, is free to grant or deny full exemption to the goods on this list. Exemptions for approved purposes are divided into two parts, referred to as "approved industries, agriculture" and "other approved industry" (mostly manufactures). Customs approves the exemption for manufacturers registered under the Consumption Tax Act. For other industries and for other approved purposes, approval must first be obtained from the Ministry of Finance before the exemptions are granted by Customs. These exemptions are contingent upon the product not being on the List of Items Ineligible for Duty Exemptions (see below). The authorities noted that approximately 30% of imports benefited from schedule exemptions in 2002.

⁵ Schedule CXII. Guyana's exceptions to the tariff ceiling binding for non-agricultural products are certain articles of jewellery and imitation jewellery (HS71.13 and 7117.00), bound at 70%.

⁶ Schedule CXII.

Chart III.1
Tariff escalation by ISIC 2-digit, 2002

Per cent



Source : WTO Secretariat estimates, based on data provided by Guyana.

26. A number of products are not eligible for duty exemptions; these are enumerated in the List of Items Ineligible for Duty Exemption. Incentive programmes may not grant concessional access for these goods. The List of Ineligible Commodities has two parts. Part I lists products for which exemptions may not be granted for agriculture and industry purposes, but could proceed for "other approved purposes." This section includes a number of vegetables, fruit, sugar, fat, cattle feed, cement, lime, aluminium ore and concentrate, lubricating oil, hydrogen, oxygen and other gases, paint, enamel, varnish, tyres, wood, PVC pipes, and some construction materials. Part II lists products that are generally not eligible for CET exemption, such as meat products, some types of prepared food, toothpaste, perfumes, candles, a range of textile and clothing products, electrical appliances, etc. In general, these are goods produced in the CARICOM region.

27. A number of products have partial exemptions from import duties. For these products, which are not classified by HS heading, an alternative rate is used in place of the CET. Pipes and fittings, other than of iron and steel, for the main distribution lines, to be used exclusively for the conveyance of water and the disposal of sewage, face an 11% tariff; consumable metallurgical chemicals and reagents, when imported by a mining company for use in the exploration and extraction of minerals, face an 8% tariff; explosives, when imported by a mining company for use in the exploration and extraction of minerals, are subject to a 5% tariff; protective clothing and equipment imported by industrial concerns pay a 13% tariff; uninsulated wire cables and ropes of iron and steel for industrial use are subject to an 11% tariff; and saccharin and other artificial sweeteners in tablets not exceeding one grain face a 15% tariff rate.

28. Several of the investment, production, and export promotion schemes implemented by the Government of Guyana contain elements of duty relief, such as those included in the Industries Aid and Encouragement Act (section(4)(ii)). Importers and other enterprises in Guyana often obtain exemptions from taxation, either for specific transactions or on a longer-term, contractual basis. The wide scope of the CET exceptions has been noted in a CARICOM Secretariat report.⁷ This practice has also come under criticism from domestic observers, both for the amount of revenue that is forgone and the non-transparent means by which such treatment is often pursued and granted. The National Development Strategy notes that the pattern of exemptions could create distortions in a trade-based economy and discourages efficiency.⁸

(f) Tariff preferences

29. Guyana grants duty-free access on imports from other CARICOM countries, provided that they meet the CARICOM rules of origin criteria. There is however a list of exceptions for a number of products originating in CARICOM countries that face tariffs between 5% and 30% (Table III.4). These products (ginger, curry, beer, spirits, etc.) represent a small percentage of all tariff lines, and the average tariff applied on CARICOM imports is just 0.1% (Table AIII.1).

30. Some of the trade agreements that Guyana has entered into in recent years, either on its own or as part of CARICOM, also provide for reduced-duty or duty-free treatment of certain imports. The agreement with Colombia is the only one that provides for reduction of Guyana's duties and has been put into effect. As a consequence, imports from Colombia enter Guyana at an average rate of 11.6%, slightly below the MFN rate. Preferences granted to Colombia are in general small and limited to certain products; the main ones are chemicals, tanning products, and some other manufactures. CARICOM agreements with the Dominican Republic and Cuba are still pending ratification.

Table III.4
Import duties applied by Guyana on certain imports from CARICOM partners

Tariff heading	Description of goods	Rate of duty	Unit (S)
09.10	Ginger, saffron, turmeric (curcuma), thyme, bay leaves, curry and other spices	30%	Kg.
0910.50	Curry	30%	Kg. and litre
22.03	Beer made from malt	30%	Kg. and litre
2203.001	Beer	30%	Kg. and litre
2203.002	Stout	30%	Kg. and litre
2203.009	Other	30%	Kg. and litre
22.04	Wine of fresh grapes, including fortified wines, grape must other than that of heading No. 20.09	5%	Kg. and litre
2204.29	Other wine; grape must with fermentation prevented or arrested by the addition of alcohol. Other	5%	Kg. and litre
22.06	Other fermented beverages (for example, cider perry, mead)	5%	Kg. and litre
2207.10	Undenatured ethyl alcohol of an alcoholic strength by volume of 80% vol. or higher	5%	Kg. and litre
2207.20	Ethyl alcohol and other spirits, denatured of any strength	5%	Kg. and litre
2208.201	Brandy, in bottles of a strength not exceeding 46% vol.	25%	Kg. and litre
2208.209	Other	25%	Kg. and litre
2208.301	Whiskies: In bottles of a strength not exceeding 46% vol.	20%	Kg. and litre
2208.309	Whiskies: Other	25%	Kg. and litre
2208.41	Rum and Tafia: In bottles of strength not exceeding 46% vol.	20%	Kg. and litre
2208.409	Other rum	20%	Kg. and litre

Table III.4 (cont'd)

⁷ Caribbean Community Secretariat (2000), p. 22.

⁸ Government of Guyana (2001b), p. 27.

Tariff heading	Description of goods	Rate of duty	Unit (S)
2208.501	Gin and Geneva: in bottles of a strength not exceeding 46% vol.	20%	Kg. and litre
2208.509	Other	20%	Kg. and litre
2208.60	Vodka	20%	Kg. and litre
2208.70	Liqueurs and cordials		
	A – Crème de Menthe liqueur	20%	Kg. and litre
	B – Cherry Brandy Liqueur	10%	Kg. and litre
	C – Crème de Cacao liqueur	30%	Kg. and litre
	D – Pimm's No. 1 Cup	30%	Kg. and litre
	E – Other cordials and liqueurs	20%	Kg. and litre
2208.901	Aromatic bitters used as a flavouring agent for food and beverages	20%	Kg. and litre
2208.902	Other aromatic bitters	20%	Kg. and litre
2208.909	Other	20%	Kg. and litre
2209.00	Vinegar and substitutes for vinegar obtained from acetic acid	5%	Kg. and litre
3003.909	Medicaments (excluding goods of Heading No. 30.02, 30.05 or 30.06) consisting of two or more constituents, which have been mixed together for therapeutic or prophylactic uses, not put up in measured doses or in the form or packing for retail sale. Other	5%	Kg. and litre
3004.909	Medicaments (excluding goods of Heading No. 30.02, 30.05 or 30.06) consisting of mixed unmixing products for therapeutic or prophylactic uses, put up in measured doses or in forms or packing for retail sale. Other. Other spirituous medicinal compounds	5%	Kg. and litre
	A – Containing alcohol (essence etc)	20%	Kg. and litre
	B – Other	Free	Kg. and litre
33.03	Perfumes and toilet waters		
3303.001	Bay rum (not exceeding 105 degrees)	5%	Kg. and litre
3303.09	Other	10%	Kg. and litre
	A – Lime rum and similar preparations (not exceeding 105 degrees)		
	B – Other perfumed spirits		
36.05	Matches, other than pyrotechnic articles of Heading No. 36.04	5%	Kg. and litre

Source: Laws of Guyana – Customs Cap. 82:01.

(iii) Other charges affecting imports

31. The consumption tax (C-tax) is applied to imports and domestic goods, as prescribed in the Consumption Tax Act (Cap. 80:02). It is administered by the Customs and Trade Administration of the Guyana Revenue Authority. For imports, the C-tax is assessed on the customs value of the goods plus the customs duty, and is collected at the moment of importation. Like in other countries, this system creates a wedge between tax paid by imports and the tax paid on domestically produced goods.

32. The rates applied vary over time and by sector: the schedule is amended regularly. It can be difficult to keep up to date and to get accurate information on these ad hoc amendments.⁹ The most recent general revision was in 1994, when six rates were set: (a) diesel oil is subject to a rate of 20%; (b) most items such as food and furniture are subject to a rate of 30%; (c) alcoholic drinks are subject to a rate of 50%; (d) manufactured tobacco and tobacco substitutes are subject to a rate of 85%; (e) cigars, cheroots, cigarettes are subject to a rate of 128%; and (f) all items not otherwise specified in the schedule are subject to a rate of 10%. Other duties and charges were bound by Guyana in the WTO, at 30% for non-agricultural products and 40% for agricultural goods, with some exceptions. The only exception in this list is for cigars, cheroots, cigarettes for which the bound rate of other duties and charges is 50%, and which is greatly exceeded by the applied consumption tax (128%).

⁹ Ram and McRae (2001), p. 27.

33. The Government is studying a number of tax reform initiatives aimed at broadening the tax base and reducing revenue leakage.¹⁰ In early 2003, the Government announced that, mindful of the shortcomings of the consumption tax, it intended to introduce a value-added tax by 2006 and would start the necessary preparations immediately. Guyana is seeking technical assistance in this area.¹¹

34. In some cases, C-tax exemptions are granted for specific purposes, which may include local-content requirements. For example, bags imported or produced locally, otherwise subject to a 30% consumption tax, are exempt when used for packaging local produce (e.g. shrimps, fish, etc.) or manufactures.

35. Since 1995 Guyana has imposed a levy of G\$10 on every unit of imported non-returnable metal, plastic, glass, or cardboard container of any alcoholic or non-alcoholic beverage.

(iv) Tariff quotas and quantitative restrictions

36. Guyana does not apply tariff quotas on imports from any source.

37. As a more-developed country (MDC) within CARICOM, in general Guyana may not apply quantitative restrictions.

(v) Customs valuation

38. In 1998, the Government of Guyana informed the WTO that it wished to delay application of the WTO Agreement on Customs Valuation, and to reserve its right under the provisions concerning special and differential treatment for developing country Members under the WTO Agreement, pursuant to the provisions of Articles 20.1 and 20.1 paragraphs 2, 3, and 4 of Annex III of the Agreement.¹² Up to early 2003, Guyana had not made any notification under Article 22 of the Agreement on Implementation of Article VII of the GATT 1994.

39. The authorities note, however, that the Customs and Trade Administration of the Guyana Revenue Authority has used the GATT/WTO Agreement on Customs Valuation since 1993, and continues to do so. Customs valuation regulations are included in Schedule V of the Customs Act (Cap 82:01). Customs valuation is based on invoice or purchase prices. In cases of doubt, Customs may require further information, and may use other methods of valuation, in the order prescribed by the WTO Agreement on Customs Valuation. Although the Fifth Schedule of Guyana's Customs Act includes provisions for the use of computed value as a method of valuation, the authorities have noted that in practice this method is rarely, if ever, used; according to the Customs and Trade Administration, it is difficult to obtain information on the process of manufacturing or fabrication.

40. Guyana does not use minimum prices for customs valuations purposes; they are forbidden under Guyana's laws. Guyana uses references such as catalogues, price lists, the Internet, or previous invoices to determine whether or not the declared value is acceptable. The list of reference prices is not published; the authorities report that it is maintained and revised very often by Customs for use in cases of suspected fraudulent invoices and of failure to present invoices. Customs maintains a customs valuation exchange rate with which it conducts valuations. The rate of exchange is adjusted and published at the end of every month to take effect from the beginning of the next month. The rate is determined on the Bank of Guyana rate. The authorities note that the purpose of this measure is to ensure that the correct exchange rate is used for valuation purposes.

¹⁰ Ministry of Finance (2003b).

¹¹ Ministry of Finance (2003a), p. 48.

¹² WTO document WT/LET/226, 12 June 1998.

(vi) Rules of origin

41. Guyana applies only preferential rules of origin, which are those of the CARICOM. However, Guyana has not notified any preferential or non-preferential rules of origin to the WTO. CARICOM rules of origin are based on the Harmonized System of tariff classification. These rules are spelled out in Article 14 of the Treaty of Chaguaramas, and are included in the Fourth Schedule of Part IV of Guyana's Customs Act. Goods are treated as being of Common Market origin if: (a) they have been wholly produced within the Common Market; or (b) they have been produced within the Common Market wholly or partly from materials imported from third countries, provided a substantial transformation has taken place within the Common Market (Table III.5). The substantial transformation may be achieved by change of tariff heading, or may be defined specifically for each tariff heading in Part A of the List in Schedule II of the CARICOM Treaty.

Table III.5
CARICOM rules of origin

Product	Rules of origin
A range of: meat products; fish; vegetables (frozen, preserved, or dried); fruits (frozen, preserved, or dried) and nuts; products of milling industry; oil seeds; vegetables materials; cocoa beans; sugar; molasses	Wholly produced
A range of: oils; animal products; sugar confectionery; vegetable, fruit, and nut preparations; mineral waters; liqueurs and other spirituous beverages; vinegar; wood, wood products, and carpentry work; wicker work; ceramic products; articles of cement; articles of plaster; articles of glass; jewellery; gold and silver in semi-manufactured forms; steel products	Produced from regional materials
A range of chemical products included in HS Chapters 28-39	Produced by chemical transformation
A range of plastics products	Non-regional material content must not exceed 10% of export price of finished product
Articles of apparel, clothing, accessories and other articles of furskin (HS 43.03)	Produced from materials not included in HS 43.03 and not being furskins assembled in plates, crosses, or similar forms
Dyed or printed fabrics	Value of extra-regional materials must not exceed 30% of the export price of the finished product
A group of products including: paper products; a range of products included in HS Chapters 73-96: copper, nickel and aluminium and articles thereof; lead, tin and zinc and articles thereof; other base metals; miscellaneous articles of base metal; tools; machinery and mechanical appliances; boilers; electrical machinery and parts; railway or tramway locomotives and parts thereof; vehicles other than railway and tramway locomotives and parts thereof; aircraft and parts thereof; ships and boats and floating structures; optical, photographic, cinematographic, measuring, checking, medical or surgical instruments and apparatus and parts and accessories thereof; clocks and watches; musical instruments; furniture; arms and ammunitions; toys; miscellaneous articles	Value of extra-regional materials must not exceed 50% of the export price of the finished product

Source: CARICOM Secretariat, "List of Conditions to be complied with as provided under Article 14 of the Annex to the Treaty and the rules regarding Common Market origin", Schedule II, 1 January 1998; and Guyana Customs Act (Cap.82:01).

(vii) Import prohibitions, restrictions, and licensing**(a) Import prohibitions and restrictions**

42. The importation of counterfeit or substandard coins is prohibited, as is the importation of food unfit for consumption; indecent articles; infected cattle; and matches containing white and yellow phosphorus.¹³ A number of other products (arms and ammunition, tobacco, and spirits, etc.) face import restrictions (Table III.6). The authorities note that some of these restrictions date from the 1950s and, although they are still on the books, they are not enforced in practice.

¹³ Customs Act, Second Schedule Imports, Prohibited and Restricted Imports, Part I.

Table III.6
Prohibited and restricted imports

Product	Reason for restriction
1. Import prohibitions	
Counterfeit and substandard coins	Public order
Food, unfit for human consumption	Public health reasons
Indecent printed articles	Public morality reasons
Infected cattle, sheep or other animals, or their carcasses, hides, skins, horns, hoofs, and other parts	To prevent the introduction or spread of any communicable disease
Matches containing white and yellow phosphorus	Technical regulation (due to health problems)
2. Restricted imports	
Arms and ammunition, except with the written permission of the Commissioner of Police	Public safety
Cocaine, heroin, cannabis, cannabis indica, choras, and preparations thereof, except under licence of the Chief Medical Officer	Public health
Imitation banknotes	Public order
Spirits and wine, unless in aircraft or in ships of 27.3 tonnes burden at least, and in casks or other vessels of 41 litres at least, or in glass or stone bottles packed in cases, or in demijohn, each case of demijohn containing not less than 41 litres	Technical regulation
Tobacco, cigars, cigarillos or cigarettes, unless in aircraft, or in ships of 90.1 tonne burden at least and in whole and complete packages each containing not less than 0.9 kg. net weight (manufacturer excepted)	Technical regulation
Goods not bearing a trade mark, a name, and an indication of origin	Trade marks legislation
Prepared opium	Public health
Shaving brushes manufactured in or exported from Japan	Technical regulation (due to past cases of lockjaw)
Fictitious stamps	Public order
Tobacco extracts, essence, or concentrates	Public health
Exotic fish, except with licence by the Chief Agricultural Officer	Sanitary reasons (to protect local fish from imported diseases)
Cinematographic films, unless Minister responsible for public order and morality, issues to the importer a certificate of importation	Public order and morality
Printed matter considered by the Minister responsible for public safety and order to be prejudicial to the defence of Guyana, public safety or order	Public safety and order

Source: Prepared by WTO Secretariat, based on information contained in the Second Schedule of Guyana's Customs Act.

(b) Import licensing

43. Guyana applies import licensing requirements on a number of products. The import licensing system is regulated by the Trade Act (Cap. 91:01) amended by Ministerial Orders No. 34 of 1993 (Gazetted on 18 December 1993) and No. 4 of 1996 (Gazetted on 24 February 1996), and was notified to the WTO in 2002.¹⁴ The system is regulated and may be amended only by authority of a Ministerial Order issued for that purpose under the Trade Act. The licensing system applies to goods originating in and coming from all countries except CARICOM. The Third Schedule of the Trade Act establishes the list of goods subject to import licensing. The authorities note that the licensing system is in the process of being reviewed, and that the revision is expected to be concluded by end 2003. The revision is likely to result in the elimination of a number of products from the list goods subject to import licensing.

44. The import licensing system is administered by the Ministry of Tourism, Industry, and Commerce; however, applications for some products may require the prior clearance of other agencies. For example, approval must be obtained from the Ministry of Health before importing certain medical products, while imports of weapons require the approval of the Commissioner of

¹⁴ WTO documents G/LIC/N/1/GUY/1, 10 April 2002, and G/LIC/N/3/GUY/1, 12 April 2002.

Police (Table III.7). Licensing is automatic once the necessary approvals are obtained. The only quantitative restrictions are imposed under the terms of the P.L.480 wheat agreement with the United States (III(3)(iii)).

45. The current list of items subject to import licensing includes some important products of national industries (e.g., rice and cane sugar), some of the most significant imports (e.g., petroleum and by-products, wheat flour, and fertilizers), and other goods for which there are special considerations of health and safety (e.g. medical drugs, explosives, and weapons).¹⁵ Licensing also applies to fresh, frozen, and chilled meat; fruit; toiletries; and aircraft (Table AIII.2). Tariffs applied on imports subject to licensing requirements vary considerably (Table III.7).

46. Products under import licensing restriction are not subject to quotas. Licences are issued to importers regardless of whether they are producers of like products; any importer is eligible for a licence, subject to the requirements. The granting of licences is not dependent on prior utilization; there is no regulation or restriction regarding the utilization or non-utilization of licences. Licences can be requested or granted at any period during the year. There are no laid down criteria based on performance or quotas. There are no bilateral quotas or export restraint arrangements. Export permits from exporting countries are not required; similarly, no licences are issued on condition that goods should be exported and not sold in the domestic market. The authorities note that applications for licences are processed within two working days. Under certain circumstances, a licence can be granted immediately on request (e.g. for exports of diamonds where security considerations require a rapid processing of documentation, or in the case of perishable items). An importer should have a licence prior to the arrival of any of the products covered under the Third Schedule of the Trade Act. The approved import licence, or a certified copy of it, must be submitted upon actual importation. Applicants are informed in writing if an application is refused.

Table III.7
Products subject to import licensing by HS heading and agencies involved in the approval process

Generic product description and tariff headings	Tariff range (%)	Responsible agencies
Meat products: 02.01, 02.02, 02.03, 02.04, 02.06, 02.07, 02.08	5-40	Ministry of Health
Live plants and flowers; coconuts: 06.01-04, 0801.10	0- 40	Ministry of Agriculture
Fruits: 08.03, 08.04, 08.05, 08.06, 08.07, 08.08, 08.10	15-40	Ministry of Agriculture
Rice: 10.06	0-25	Guyana Rice Development Board
Wheat or meslin flour: 11.01	5-25	None
Cane or beet sugar, sucrose in solid form: 17.01	30-40	Guyana Sugar Corporation
Petroleum oils, other than crude: 27.10	0-20	None
Fluorine, chlorine, bromine, and iodine; hydrogen chloride; chlorosulphuric acid., sulphuric acid: 28.01, 28.06, 28.07	0-5	Ministry of Health
Nitric acid and other inorganic acids: 28.08-11	5-15	Ministry of Health & Commissioner of Police
Organs; blood; medicaments and other pharmaceuticals: 30.01-6.	0-15	Ministry of Health
Fertilizers: 31.01, 31.02, 31.03, 31.04, 31.05, 38.08	0-20	Ministry of Health & Ministry of Agriculture
Perfumes, toiletries, soap, etc: 33.03-07, 34.02	5-20	Ministry of Health
Prepared explosives and safety valves: 36.02, 36.03	5	Commissioner of Police
Cinematographic film: 37.06	10	Ministry of Culture, Youth & Sports
Transmission apparatus, radios, etc.: 85.25, 85.26, 85.27	5-20	Ministry of Works and Communications & National Frequency Management Unit
Aircraft (other): 88.02	5	Civil Aviation Authority
Military weapons, other than revolvers, pistols: 93.01	20	Commissioner of Police
Revolvers and pistols, firearms, grenades, etc: 93.02- 93.07	0-70	Ministry of Home Affairs & Commissioner of Police
Fats and oils: Ex 15.01-10, Ex 15.12-20, Ex 15.22	5-40	Ministry of Health

Source: *Official Gazette*, Legal Supplement-B, 24 February 1996, Order No. 4 of 1996 made under the Trade Act (Cap. 91:01).

¹⁵ WTO document G/LIC/N/3/GUY/1, 12 April 2002.

47. Most licences are valid for six months from the date of issue, with the exception of those issued for chicken and firearms, which are per shipment. At the expiry of the six-month period the validity can be extended for another six months on request. There is no penalty for non-utilization of a licence or a portion of it. Licences are not transferable between importers.

(viii) Contingency measures

(a) Anti-dumping and countervailing measures

48. Guyana did not modify or introduce any legislation to implement the WTO Agreement on Anti-Dumping Practices (ADP), or the WTO Agreement on Subsidies and Countervailing Measures (SCM). The country's domestic legislation does not currently provide for anti-dumping actions. Initial work was done on anti-dumping legislation in mid 2003; the authorities expect that this will result in the creation of a body to deal with contingency measures.

49. Anti-dumping and countervailing duty provisions exist at the CARICOM level. The terms of CARICOM establish anti-dumping and countervailing duty disciplines for trade among the member States. Articles 96 through 116 of the Treaty of Chaguaramas provide rules for subsidies and countervailing duties; Articles 125 through 133 relate to anti-dumping actions. Guyana has never invoked these provisions. Amendments to CARICOM legislation on anti-dumping and contingency measures are contained in Protocol VIII Amending the Treaty Establishing the Caribbean Community, which includes definitions and guidelines for the determination of dumping and subsidies. Many of the provisions of Protocol VIII follow the WTO ADP, and SCM Agreements, but their scope is regional, referring only to actions by CARICOM members.

50. Article 30 of Protocol VIII allows a CARICOM member to take action against dumped imports if such imports cause injury or pose a serious threat of injury to its domestic industry. A preliminary investigation must be conducted by the authority of the aggrieved country or by the COTED. If this investigation provides evidence of dumped imports, and that such imports seriously threaten or have injured a domestic industry, the aggrieved country may submit a request for consultations to the competent authority of the exporting member; the request must be notified to the COTED. Participation in the consultations is open to exporters of the investigated country, the government of the exporting country, and producers of the like product in the importing member State. If these consultations fail to provide the requested information, the competent authority of the aggrieved member may impose provisional measures and may refer the request for investigation to the COTED, which will conduct a process that follows closely the provisions of the WTO ADP Agreement. Final duties may be imposed after the COTED is satisfied of the existence of dumped imports and of injury or the threat of serious injury from dumped imports, and authorizes the aggrieved member State to take anti-dumping action.

51. Protocol VIII it is not yet in force, awaiting signature by Belize and Suriname. The eventual adoption of Protocol VIII does not necessarily mean that CARICOM members will be obliged to establish their own units for the investigation and prosecution of anti-dumping cases, since the Protocol allows any country to rely upon the COTED to conduct all stages of an anti-dumping investigation. Articles 129 and 131 of the Revised Treaty of Chaguaramas allow for member States either to investigate charges of anti-dumping against other member States under their own legislation, or to request COTED to investigate for them under Part 5 of the Treaty. This approach would provide the country with defense against unfair trade practices without requiring substantial new budgetary outlays for personnel, training, and travel. Guyana chose to establish its own investigative unit.

(b) Safeguards

52. Guyana has no safeguards law of its own; due to the characteristics of its legal system, this implies that the provisions of the WTO Agreement on Safeguards are not part of domestic legislation. Reflecting this, Guyana has never invoked the provisions of the Agreement.

53. Guyana follows the rules for the application of safeguards within the CARICOM area provided by Articles 28 and 29 of the CARICOM Treaty. Article 28 permits a member to introduce quantitative restrictions on imports for the purpose of safeguarding its balance of payments. Article 29 allows quantitative restrictions if a particular sector experiences serious difficulties due to an increase in imports from other CARICOM members as a result of the establishment of the Common Market. The application of these safeguard measures does not require approval by the CARICOM Council but renewal beyond an 18-month period must be approved by the Council by majority vote. Also, a member State seeking to apply these safeguard measures is required to provide full information to the Council to ensure transparency and the right of the other members to comment.

54. CARICOM's free-trade agreements with Colombia, Cuba, and the Dominican Republic also allow the application of temporary bilateral safeguards in the form of a suspension of tariff preferences.

(ix) Standards and technical regulations

55. Standards are developed for the different sectors of the economy by the Guyana National Bureau of Standards (GNBS), as mandated by the Standards Act of 1984 (Cap. 90:16) and its amendment of 1997. These standards are issued to the relevant regulatory bodies, such as the Food and Drugs Department and the Environment Protection Agency, among others, for implementation and enforcement. Standards may also be developed by other bodies. The GNBS regulates some categories of goods through its Standards Compliance Programme. Labelling and packaging requirements are being monitored, based on mandatory standards for goods falling under the purview of the GNBS. The GNBS no longer conducts port-of-entry inspections of goods.¹⁶ Point-of-sale inspections are carried out intensively both on imported and locally manufactured goods, and necessary regulatory actions are taken.

56. Under the procedures for the development of standards, a request is submitted to the GNBS, which will then submit a proposal to the National Standards Council (NSC) for approval. When the proposal is approved it is assigned to the relevant technical committee. There are 15 technical committees and associated subcommittees/working groups to work on various subject areas. A working draft is prepared by the technical secretary, which is reviewed and deliberated on by committee members. The standard then goes for public comments for a period of three months. Notices are published in newspapers and copies are circulated to interested stakeholders. The committee reviews any comments received and prepares a final draft, which is submitted to the NSC for approval. Once approved, the standard is edited and a GYS number is assigned. It is then published and made available for sale. If the standard is intended to be mandatory, a copy is sent to the Minister of Tourism, Industry, and Commerce for approval by Cabinet. Once approved by Cabinet, it is published in the *Official Gazette* and the public is informed.

57. The GNBS is presently helping industries to improve competitiveness by offering technical assistance in the implementation of the ISO 9001:2000 (quality management systems) and ISO 14001 (environmental management systems). The bureau is also developing a standard on guidelines for good management practices for micro and small enterprises.

¹⁶ Guyana National Bureau of Standards (2001), p. 16.

58. Since 1994, 235 national standards have been developed, adopted, or adapted, of which about half were adapted from international standards. In some cases, Guyana has adopted CARICOM standards: for example, Guyana's standard on rice specification, analysis, and testing is adopted from a CARICOM standard. Guyana hopes to upgrade its membership in the International Standards Organization from subscriber to correspondent member.

59. The GNBS Engineering/Metrology and Standards Compliance Department monitors 19 categories of goods imported into Guyana. Monitoring applies to: domestic electrical appliances, tyres, textiles, garments, footwear, PVC pipes, scales, weights and measures, paints and paint products, animal feeds, furniture, gas stoves, cigarettes, safety matches, seat belts, fluorescent lamp ballasts, measuring tapes and rules, fertilizers, electricity and water meters, and safety helmets. This has resulted in the issuance of 14 technical regulations (Table III.8). In addition to implementing general principles, these standards relate to the labelling of specified products (i.e. footwear, cigarettes, furniture, animal feed, and household electrical appliances) and to specifications and storage for tyres and related items. Other products monitored by the GNBS must comply with the definition of the terms used in the labelling standard. Officials report that specific product standards (including labelling) are being developed or at the stage of being recommended to be made mandatory.

Table III.8
Technical regulations in place

A.	Used by the Engineering/ Metrology and Standards Compliance Department of the GNBS to monitor 19 categories of goods imported into Guyana
1.	GYS 9 - 1: 1994 Specification for labelling of commodities - Part 1: General principles
2.	GYS 9 - 2: 1994 Specification for labelling of commodities - Part 2: Labelling of pre-packaged goods
3.	GYS 9 - 3: 1997 Specification for labelling of commodities - Part 3: Labelling of cigarettes
4.	GYS 9 - 4: 1997 Specification for labelling of commodities - Part 4: Labelling of footwear
5.	GYS 9 - 5: 1997 Specification for labelling of commodities - Part 5: Labelling of furniture
6.	GYS 9 - 6: 1997 Specification for labelling of commodities - Part 6: Labelling of animal feed
7.	GYS 9 - 7: 1998 Specification for labelling of commodities - Part 7: Labelling of household electrical appliances
8.	GYS 9 - 8: 1998 Specification for labelling of commodities - Part 8
9.	GYS 9 - 9: 2000 Specification for labelling of commodities - Part 9: Labelling of pre-packaged foods
10.	GYS 28: 1997 Specification for safety matches
11.	GYS 66: 1997 Definition of terms used in the pneumatic tyre industry
12.	GYS 67: 1997 Specification for pneumatic passenger car tyres (First Revision, 2001)
13.	GYS 170: 1998 General requirements for the operation of a laboratory
14.	GCP 4: 1997 Code of practice for the storage of tyres, inner tubes and flaps
B.	Other products monitored by the GNBS must comply with GYS 9 - 1: 1994 (general) and GYS 66: 1997 (definition of the terms used in the labelling standards)
C.	The regulatory agency, Food and Drugs Department, enforces GYS 9 - 8: 1998: Specification for labelling of commodities and GYS 9 - 9: 2002: Specification for labelling of commodities - part 9: Labelling of pre-packaged foods

Source: Information provided by the authorities of Guyana.

60. The GNBS does not have any testing facilities; it uses the services of foreign bodies such as the U.S. Food and Drugs Administration, and the Institute of Applied Science and Technology for these purposes. While inspection and testing operations are carried out, the authorities acknowledge that there is no proof that they are being conducted under international guidelines, and whether their results would be accepted as credible in an export market. The GNBS is striving to coordinate the establishment and maintenance of a National Conformity Assessment System in Guyana in order to facilitate trade. The authorities acknowledge that Guyana, as a signatory to the CARICOM agreements, and as a WTO Member, needs to take urgent steps to put in place a recognized system for conformity assessment. They recognized that steps must be taken to equip agencies such as the GNBS, the Ministry of Health's Food and Drug Analysis Department, and other inspection, testing,

and certification bodies with the necessary training, skills, technology, testing, and calibration facilities to assist local manufacturers to provide assurance to overseas customers of conformity with standards.

61. The GNBS is the WTO enquiry point for standards and standard-related matters under the Technical Barriers to Trade Agreement. As of early 2003, no notification with respect to technical regulations had been made, but the authorities noted that this requirement would be met from mid 2003, commencing with the notification of the 14 mandatory standards.

62. The Pesticides and Toxic Chemicals Control Board, under the Ministry of Agriculture, is responsible for making arrangements and providing facilities for controlling the manufacture, import, transport, storage, sale, use, and advertisement of pesticides and toxic chemicals. The Board has just been established (mid 2003) and is in the process of getting organized.

(x) Environmental protection

63. In 1996 the Government enacted the Environmental Protection Act, which provides for the management, conservation, protection, and improvement of the environment; prevention or control of pollution; assessment of the impact of economic development on the environment; sustainable use of natural resources; and other related matters. The Environmental Protection Agency was established to implement the stipulations and provisions of this Act.

(xi) Sanitary and phytosanitary measures

64. The Ministry of Agriculture is responsible for sanitary and phytosanitary (SPS) measures, as well as the national notification authority under the WTO SPS Agreement.¹⁷

65. The Food and Drugs Act (1971) (Cap. 34:03) generally prohibits the sale of harmful, unfit, adulterated, or unsanitary food, as well as unsanitary or adulterated drugs or cosmetics and injurious devices, and regulates the advertising of these goods. The Ministry of Health administers this law, which establishes procedures for the development of standards and for their enforcement. Section 32(2) provides generally that "no article of food, drug, cosmetic, or device shall be imported into Guyana unless the article wholly conforms to the law of the country in which it was manufactured or produced and is accompanied by a certificate in prescribed form and manner that the article does not contravene any known requirement of the law of that country and that its sale therein would not constitute a contravention of the law thereof." Section 22 authorizes inspectors to "examine any customs entries of food, drugs, cosmetics or devices imported into Guyana and to take samples thereof and to submit the samples to an analyst for analysis or examination."

66. In accordance with the Food and Drugs Act, the importation of livestock and other animals, including domestic pets and plant materials into Guyana, is subject to an import permit from the Animal Services Division (animals) or the Plant Quarantine Section (plant materials) of the Ministry of Agriculture. The permit specifies the conditions that must be met in the exporting country before importation is allowed into Guyana. A number of animal and vegetable products are also subject to import licensing (Table AIII.2).

67. According to the authorities, the Plant Health Unit is currently reviewing draft legislation from the Food and Agriculture Organization (FAO) on SPS documentation. The same unit has been implementing some of the FAO International Standards for Phytosanitary Measures (ISPMs) in areas such as farm certification, export certification, pest risk analysis, surveys, and surveillance. In 2003,

¹⁷ WTO document G/SPS/NNA/4, 30 October 2002.

the Government announced plans to update the veterinary health legislation to bring it into compliance with internationally accepted standards.¹⁸

(3) MEASURES DIRECTLY AFFECTING EXPORTS

(i) Procedures

68. All exporters must be registered with the Guyana Revenue Authority regardless of nationality. Exporters are required to make declarations to Customs prior to exporting goods, and to have them examined before shipping. The New Guyana Marketing Corporation has a one-stop brokerage desk to prepare export documents for its clients, which are small exporters of agricultural products.

(ii) Export taxes, charges, and levies

69. Export taxes are applied to almost all exported products, apart from manufactured goods. Unless otherwise specified, a general rate of 1.5% is applied (Table III.9). Both the general and the specific export taxes are aimed at mineral, fishery, and agricultural products; manufactures are generally not subject to these taxes. Numerous exceptions and waivers are provided both to the general 1.5% tax and to the 10% tax on shrimp; moreover, as provided under the Treaty of Chaguaramas, all exports to other CARICOM countries are exempt from taxes.

70. Export taxes no longer make a significant contribution to government revenue. In 2000, for example, export duties yielded just G\$7.3 million. This amounted to a tiny fraction of the G\$19.1 billion in collections by the Customs and Trade Administration, and an even smaller share of the total G\$38 billion government revenue.¹⁹ Under the Export and Import (Special Provisions) Act of 1986 (Cap. 91:11) export and import taxes can be required in specified foreign currencies under certain circumstances. The National Development Strategy called for the repeal of export taxes.²⁰

71. In principle, a levy on rice exported to the European Union is currently in effect; it is set at 65% of the difference between the price of rice in the EU and the world price. In practice, this levy is not collected. Rice exports are also subject to a commission, which is used to finance the operations of the Guyana Rice Development Board. The fee is set at US\$2.50 per tonne for rice by-products, US\$3 per tonne for broken rice, and US\$6 per tonne for whole grain rice. A sugar levy was enacted (Cap. 83:01) in 1974, but has not been collected since 2001.

Table III.9
Export duties

Items	Unit	Rate	Waivers and exemptions
1. Precious stones other than cut and polished precious stones	metric carat	G\$3.00	-
2. Bauxite, calcined	tonne	G\$0.45	-
3. Bauxite, other	tonne	G\$0.45	-
4. Unrefined cane sugar (tariff heading 17.01)	tonne	G\$1.00	-
5. Greenheart, round piling, and hewn	m ³	G\$0.29	-
6. Greenheart, sawn	m ³	G\$5.09	-

Table III.9 (cont'd)

¹⁸ Ministry of Finance (2003a), p. 25.

¹⁹ Guyana Revenue Authority (2001), p. 9.

²⁰ Government of Guyana (2001b), p. 41.

Items	Unit	Rate	Waivers and exemptions
7. Aquarium fish	value	5%	-
8. Shrimp	value	10%	Export duties on all seafood have been waived by the Ministry of Finance
9. Molasses	100 litre	G\$1.00	-
10. Manufactured articles, not otherwise specified	-	Free	-
11. All other articles, not otherwise specified	value	1.5%	Exemptions are provided for raw gold, cut or uncut polished precious stones, agricultural products and their by-products, goods entered for re-exportation or exported on drawback, samples, exhibition goods, seafood, household furniture, alumina, manganese, and exports to CARICOM countries

Source: Customs Act, Fifth Schedule of the Tariff Part IV; and information provided by the authorities.

(iii) Export prohibitions, restrictions, and licensing

72. A number of items are subject to export licensing including: poultry feed; rice bran; rice chips, rice dust, rice stock feed; wheat flour, wheat bran, wheat middlings, and wheat screenings; beet sugar and cane sugar in solid form; fertilizers; hides and skins; feathers, bird skins with feathers, prepared feathers, ornamental feathers, and other feather articles; gold; jewellery of precious metal or rolled precious metal; copper waste and scrap; and arms and ammunition.

73. Under the Guyana Timber Export Act of 1973 (Cap. 67:03), the Guyana Timber Export Commission has the authority to restrict exports of wood products. Crab wood and locust wood species are subject to quantitative restriction on exports, owing to the needs of local furniture manufacturers. All wood and wood products are to be approved by the Commission before an exporter is permitted to commence any loading of these products for export. With respect to logs, the Forestry Commission determines whether exports are permitted.

74. Wheat-related products are subject to export restrictions established in an agreement with the United States. All of Guyana's wheat is imported, and the majority is provided by the United States on concessional terms under the P.L.480 "Food for Progress" programme. The most recent agreement provided for the donation of 25,000 tonnes of wheat during U.S. fiscal year 2002.²¹ Among the stipulations made in the bilateral agreement were the requirements that: the sponsor take all possible measures to ensure that total commercial imports from the United States and other countries will equal at least 17,200 tonnes; and that Guyana will prohibit exports during the period of the agreement of wheat and products made from wheat (i.e., wheat flour, rolled wheat, semolina, farina, bran, or bulgar).²²

(iv) Duty and tax concessions

75. An export allowance is granted for non-traditional exports outside of CARICOM. For purposes of this allowance, "traditional" products that are ineligible for the allowance are defined to include not only rice, sugar, and bauxite, but also gold, diamonds, timber, petroleum, lumber, shrimp, molasses, and rum. The allowance is granted as a percentage of export profits, varying between 25% and 75%. This implies a reduction in the level of profits that are taxable, such that an export

²¹ In April 2003, the United States announced that Guyana would not be allocated any P.L.480 wheat during U.S. fiscal year 2003 (1 October 2002-30 September 2003), due to urgent needs in other parts of the world. The Government of the United States also indicated a desire to resume these shipments early in the next fiscal year.

²² The requirements are stated in Part I, Paragraph F(1) of the agreement for fiscal year 2002, with the quantity stated in Part II, Item IV; and in Part II, Item V, respectively.

allowance of 35% on a G\$100 profit earned in the exportation of non-traditional goods will be taxed as if the profit were G\$65. The export allowance is calibrated according to the share of sales that are exported. In order to qualify, at least 10% of sales must be exported. For an enterprise exporting 10% to 21% of sales, the export allowance is set at 25%. This rises to 35% for those exporting more than 21% but not more than 31%, and proceeds thereafter in further 10% increments. The highest level of allowance is granted for enterprises exporting more than 61% of sales, which receive an export allowance of 75%. In mid 2003, discussions were taking place with respect to the possible creation of free-trade zones.

(v) Export operations of state enterprises

76. The Guyana Sugar Corporation (GUYSUCO), the state sugar monopoly, engages in the export of sugar. Any person or business wishing to export sugar must first seek the approval of this entity. The Guyana Gold Board exports gold, and also approves the export of gold for a few authorized gold dealers. The Board buys and exports the gold from the small miners. The authorized gold exporters are licensed to buy gold from miners. The customs documents for these exports must be endorsed with an approval stamp and authorized signature from the Board. Although the Guyana Forestry Commission does not engage in direct exports of any wood product, it monitors all such operations, and must approve the shipment of all wood and wood products.

(vi) Export finance, insurance, and guarantees

77. There is no government institution in Guyana providing export finance, insurance, or guarantee services. The authorities note that exporters in the traditional sectors have their own financing mechanisms; other exporters often use overdrafts as export credits.

(vii) Export promotion and marketing assistance

78. Since 2001 GO-INVEST has been in charge of export-promotion activities (Chapter II(5)(i)). The New Guyana Marketing Corporation (NGMC) also promotes trade. GO-INVEST is responsible for the promotion of non-agricultural sectors, while NGMC assists exporters in non-traditional sectors. These bodies are devoted primarily to aiding their clients through the facilitation of procedural matters (e.g., documentation and applications), the provision of legal and market information, acting as matchmakers, etc. Neither these agencies nor other bodies provide funding or other forms of direct assistance.

(4) MEASURES AFFECTING PRODUCTION AND TRADE

(i) Legal framework for businesses inc. registration and licensing

79. The legal framework for the conduct and regulation of business in Guyana is an amalgam of traditions, laws, constitutional principles, and practices from successive periods of the country's political history. Some are carryovers from the period of Dutch and British colonial status, others date from the period of the "co-operative republic" in the 1970s and early 1980s, and still others reflect the political and economic reforms that have been under way since the late 1980s. Some of those reforms have been undertaken on a strictly domestic basis, while others are part of the CSME process in CARICOM.

80. The Companies Act of 1995 sets the procedures for the incorporation of companies, including provisions with respect to corporate powers and capacities, the distribution and transfer of shares, the

management of the corporation, the rights of shareholders, accounts and records, liquidation, etc.²³ The law provides special rules for external companies, which are defined as any incorporated or unincorporated body formed under the laws of a country other than Guyana. External companies must be registered under the Act. Once registered, external companies may be licensed by the President to hold land.

81. Guyana is currently developing a new investment code: consultations between the Office of the President and the private sector were still being conducted in mid 2003. The code is expected to provide a more transparent and streamlined process for the approval of investments and the extension of incentives. The plan also envisions the establishment of export-promotion zones, a stock exchange, the expansion of micro-credit for micro-enterprises, and a mechanism for the restructuring of companies in distress.

82. The principal laws on taxation are the Tax Act of 1939 (Cap. 80:01) and the Income Tax Act of 1929 (Cap. 81:01), both of which have been amended frequently, and the Corporation Tax Act of 1970 (Cap. 81:03). Corporate income taxes provide 18% of government revenue. Tax rates are set at 45% on chargeable profits for commercial companies and 35% for non-commercial companies. Commercial companies include commission agencies, telecommunication companies, businesses that are licensed or authorized to carry on banking business, and certain insurance businesses. Companies are also subject to a minimum tax, vehicle and property taxes, capital taxes, and other charges. Sole trader business entities are not deemed to be companies, however, and are subject to the rates of tax applicable to individuals.

83. The Foreign Judgments (Reciprocal Enforcement) Act of 1961 (Cap. 7:04) provides for the enforcement in Guyana of judgments reached in foreign countries, and *vice versa*, when provided for in reciprocal agreements.

(ii) Incentives

84. Guyana applies a number of incentive schemes; some are applied across-the-board and are contingent on an investor meeting specific criteria or making certain investments. The incentives, include benefits for industrial estates, accelerated depreciation, flat business tax rate, export allowances, loss carryforward, construction allowance, and research and development allowances. Guyana also offers several sector-specific programmes. In this respect, tax and tariff incentive programmes are available to promote trade and investment in tourism, fisheries, mining, forestry, manufacturing, and agriculture (Table III.10). Locals and foreigners are treated alike with respect to these incentives.

85. Similarly, an export allowance is granted for non-traditional exports outside of CARICOM, as described in section ((3)(iv) above).

²³ Cap. 89:01. See also the Public Corporations Act of 1988 (Cap. 19:05), the Co-operative Societies Act of 1948 (Cap. 88:01), the Industrial and Provident Societies Act of 1931 (Cap. 88:02), and the Partnership Act of 1900 (Cap.89:02).

Table III.10
Incentives available to branches of industry

Sector	Available incentives
General	<p>Tax holidays for pioneering activities</p> <p>Zero-rate on custom duty and consumption tax for most items of plant, machinery, and equipment</p> <p>Zero-rate on custom duty and consumption tax on raw materials for registered companies</p> <p>Unlimited loss carry over from previous years</p> <p>Accelerated depreciation on plant and equipment</p> <p>Export allowance for non-traditional exports outside of CARICOM, granted as a percentage of export profits, varying between 25 and 75%</p>
Agri-business	<p>Waivers of duty and consumption tax on a wide range of machinery and equipment for land preparation and cultivation</p> <p>Duty and consumption tax waivers on a wide range of agro-processing equipment</p> <p>Duty-free importation on a wide range of agro-chemicals</p> <p>Allowances for expenditure incurred in development and cultivation purposes</p>
Manufacturing	<p>Duty and consumption tax rate of zero on a wide range of process machinery and equipment, including packaging equipment</p> <p>Exemption on a wide range of auxiliary plant equipment such as boilers and fork lifts</p> <p>Exemption from duty and consumption tax on vehicles imported exclusively for the business</p> <p>Exemption from import duty and consumption tax on packaging materials for manufacturers registered under the Consumption Tax Act</p> <p>Duty and consumption tax rate of zero on most raw materials for companies registered under the Consumption Tax Act</p> <p>Waiver of 30% consumption tax on power generators</p>
Tourism	<p>Companies are eligible once every five years for a package of incentives. This comprises mainly duty and consumption tax waivers on basic furnishing, plant equipment, and building materials. Concessions are limited to 25% of the value of the investment. Any of the otherwise eligible items that are manufactured locally and available will not qualify for the exemption</p>
Fisheries	<p>Exemption from import duty on trawlers, fishing vessels, and a wide range of fishing equipment</p> <p>Exemption from duty and consumption tax on fish and seafood processing equipment, blast freezers and other refrigeration equipment used in fish and seafood processing, packaging material and other inputs required for processing, and refrigerated vehicles</p> <p>Waiver of 30 % consumption tax on power generators</p>
Forestry	<p>Exemption from duty and consumption tax on equipment used in logging and land development</p> <p>Duty and tax exemptions on outboard engines up to 75hp; over 75hp, 5% duty</p> <p>Waiver of 30% consumption tax on power generators</p>
Mining	<p>Exemption from duty and consumption tax on a range of mining equipment, equipment used for land clearing, and certain outboard engines</p> <p>Preferential consumption tax rate of 10% on aviation fuel</p> <p>For large-scale mining, waiver of duty and consumption tax on fuel, machinery, and equipment spares, and on vehicles imported exclusively for the business</p>
Housing	<p>Duty and tax exemption on selected items of building materials</p>
Aviation	<p>Preferential consumption tax rate of 10%</p>
Informatics	<p>Waivers of duty and consumption tax on machinery and equipment</p> <p>Tax holidays</p>
Regional	<p>In addition to the incentives available elsewhere in Guyana, projects in Linden, Ituni, and Kwakwani are eligible for</p> <p>Waiver of duty and consumption tax on all imported plant, machinery and equipment</p> <p>Waiver of duty and consumption tax on all imported spares</p> <p>Waiver of duty, consumption tax, and purchase tax on all vehicles imported exclusively for the business manufacturing and agricultural entities only</p>

Source: WTO Secretariat, adapted from Guyana Office for Investment, *Guyana: Quick Reference Guide to Investment*.

86. The In-Aid-of-Industry-Act (Cap. 81:02) provides for the acceleration of depreciation on specific capital expenditures to specific industries. The rates depend on the nature of the expenditure incurred. On plant and machinery, for example, an initial allowance of 40% is provided, followed by an annual allowance of 20%. This means that such expenditures are fully depreciated by the end of

the third year after the initial expenditure. Under the Industries Aid and Encouragement Act (Cap. 95:01), the Minister of Finance has the authority to grant a licence to import prescribed items duty-free for the purpose of establishing a new industry or developing an existing one. The license may be valid for up to five years (ten for mining), and applies for the importation of reconditioned or rehabilitated machinery, plant, and appliances, excluding replacements. The items listed as exempt under the Act include: machinery and appliances; launches, tugs, barges, and pontoons; trucks, lorries, and wagons for transporting materials exclusively within the curtilage of the factory, mill or mine; building materials for the construction of premises to be used in the operation; building materials for the construction of store houses for items imported under the Act; building materials for tourist hotels of not less than 30 beds (if in municipal area) or 20 beds (if outside a municipal area), and approved furniture; and building materials for the construction of employee housing and township services, where justified.

87. Guyana also offers duty-free imports and tax holidays to investors on request. In the case of duty-free imports, the process begins with a letter to the Secretary to the Treasury. The applicant must attach a pro-forma invoice for the items to be imported, indication of the end market, expected sales price, and calculation of the value added in Guyana. A key factor in the determination of duty-free status and consumption tax waiver is the creation of value added. The authorities note that blanket approvals are not given, but that each import consignment is reviewed individually. When granted, the duty and consumption tax is often waived completely or lowered, based on the industry and item. The approval process can take some time; however, the Office of the Secretary to the Treasury has a target of a seven-day turnaround.

88. Tax holidays must be approved by the President and, as a result, the approval process is longer. The authorities note that tax holidays are less likely to be granted than duty-free status or a consumption tax waiver. Tax holidays generally range up to ten years but may be longer, depending on the nature of the business. Value added and the nature of the business are two key considerations in extending a tax holiday, as well as the impact on government revenue.

89. The Government is considering expanding the array of incentives. In a 4 May 2001 address to the National Parliament, President Bharrat Jagdeo outlined a new set of strategic incentives aimed at attracting new local and foreign investment. In the 2002 Budget Speech, the Government noted that it would support investment activities that enhance the value added of the sector or industry, including agro-processing, eco-tourism, garment manufacturing, jewellery, and information technology.²⁴ For 2002 the Government allocated G\$350 million for economic ventures and G\$200 million for the development of industrial estates in support of the private sector. In early 2003 the Government announced plans to introduce the Guyana Small Business Act to allow small businesses to enjoy concessions and incentives that are not currently available to them.²⁵ In May 2003, the public consultations over the content of that Act were completed. As of June 2003, the authorities expect the legislation to be introduced in the National Assembly shortly.

90. An IMF study shows that the overall average effective rates of tax assessable and tax paid in 1998 were 19% and 9.9%, respectively.²⁶ The same analysis noted that the exemptions and incentives are designed purportedly to promote multiple (but conflicting) domestic objectives, and that they may be self-defeating due to their lack of transparency and the arbitrariness in their implementation. Similarly, the World Bank has argued that there is room for a more systemic improvement in the investment climate, and that progress in private-sector activity will require a harmonization of tax

²⁴ Ministry of Finance (2002a), p. 49.

²⁵ Ministry of Finance (2002a).

²⁶ Faria, Adair, and St. Louis (2000), p. 20.

incentives across investor types, a stronger emphasis on rules-based rather than ad-hoc tax policies, and an acceleration of privatization along with strengthening of the regulatory framework.²⁷

91. The system of remissions and exemptions has also been criticized domestically. The Guyana Manufacturers' Association (GMA), for example, considers that these elements of the tax system distort allocative efficiency, lack transparency, lead to considerable uncertainty, and because of the narrowing of the tax base, require high rates, which in turn lead to evasion and calls for further exemptions.²⁸

92. The Government announced plans in early 2003 to revamp the system of incentives. It will seek to enshrine, as far as possible, the incentives regime into law, through amendments to the Customs Act, the Financial Administration and Audit Act, and the Income Tax Act, to enhance transparency and administrative efficiency.²⁹

93. The Ministry of Tourism, Industry, and Commerce promotes the establishment of industrial estates (Chapter II(5)(iii)). Benefits granted in industrial estates are: priority consideration by Government in order to fast-track industrial development; 99-year leases with the option to renew or buy at the lease expiry date (only 25-year leases were previously available); a 75% reduction in the cost of developed land; an incentive regime (under review in June 2003) to encourage investment; an official, controlled, and protected status as a manufacturing and agro-processing zone; environmental protection by the Environmental Protection Agency; health and safety standards enforced by Central Board of Health; building standards enforced by the Central Housing and Planning Authority; and estates zoned in conformity with environmental protection regulations. Sectors represented in the industrial estates as of June 2003 included agri-processing, printing, pharmaceuticals and chemicals, wood processing, garments and textiles, cement and concrete blocks, and electronics assembly. In early 2003 the Government announced plans to introduce legislation for the development of industry and the development and management of industrial estates in an Industrial Development Authority Act, and a Free Zone Act.³⁰

94. Some initiatives under consideration could add to the number of enterprises that are granted special tax status. In the 2002 Budget Speech the Government announced plans to enhance the contribution of the tourism sector through incentives that include an increase in the remission of import duties and the consumption tax, equivalent to 50% of the value of the investment, for the expansion of existing and construction of new hotels.³¹ The same speech noted plans to develop garment-manufacturing parks in strategic locations to stimulate production and export, but did not specify whether this would entail special tax or tariff treatment. The National Poverty Reduction Strategy proposes that the Government develop garment-manufacturing parks in strategic locations to stimulate production of manufactured goods.³² The Ministry of Tourism, Industry, and Commerce is interested in establishing a free port in Lethem and special zones in Georgetown and regions 1, 2, 3, 4, 5, 6, 9, and 10. Similarly, the National Development Strategy proposed that export-promotion zones be established to promote efficient production, economic diversification, the expansion of employment, the provision of foreign exchange, and investment and technological transfer.³³ The

²⁷ World Bank (2001).

²⁸ Ram and McRae (2001a), p. 3.

²⁹ Ministry of Finance (2002a), p. 49.

³⁰ Ministry of Finance (2003a), p. 36.

³¹ Ministry of Finance (2002a), p. 50.

³² Government of Guyana (2002), p. 30.

³³ Government of Guyana (2001b), p. 35.

same document called for targeted waivers of import duties and consumption taxes, such as a five-year waiver for the sugar industry.³⁴

(iii) Government procurement

95. The purchase of goods and services by the Government in 2001 reached G\$8.8 billion (some US\$49.4 million), or 7.9% of GDP. Capital expenditure was about twice that amount. According to the authorities, the vast majority of government procurement in Guyana is done publicly.

96. Guyana is not a party to the WTO Plurilateral Agreement on Government Procurement. Guyana introduced modern, up-to-date legislation on Government Procurement in 2003. The Bill aims to replace the Central Tender Board (CTB), which operates within the Financial (Amendment) Regulations Act of 1958. The laws governing the tendering system were outdated and the CTB was understaffed, and had insufficient equipment and operational manuals. As a result, evaluation and approval of tenders was slow. In addition, the tendering system lacked transparency and accountability, and the tendering process was inefficient. This was partly because the domestic contracting industry did not have sufficient capacity, and most procurement was too small to attract bids from regional and international contractors. Consequently, some tenders did not receive offers, contractors took too long to complete projects, and the quality of some completed projects was below standard.

97. The draft Procurement Act establishes the National Tender and Procurement Administration (NTPA), a subsidiary body of the Ministry of Finance. The NTPA is to be managed by a National Board comprised of seven members from both the public and private sectors, as the body in charge of regulating the procurement process. The National Board will function through a Secretariat created for this purpose: it will be in charge of establishing regional tender boards, and may also create district tender boards. Each Ministry must create a ministerial tender board; other government agencies may create departmental tender boards; each ministerial tender board must nominate evaluators to serve on evaluation committees.

98. Public enterprises may conduct procurement in accordance with their own rules and regulations, but these must be approved by the National Board.

99. The draft Procurement Act specifies that procurement must, in general, be conducted by means of public tendering. Procurement can take place through two-stage tendering when it is not feasible to formulate specifications for the goods, services, or construction procured; and for research and development and defence and national security purposes, prior approval of the National Board. The Act allows for the use of selective tendering subject to the prior approval of the National Board: when the goods, services, or construction are available from a limited number of suppliers or contractors; when the time and cost of evaluating offers from a large number of suppliers is disproportionate to the value of the procurement; under emergency conditions; and when procurement from a particular supplier is necessary. The Act also allows procurement to take place by the means of a request for quotations in the case of readily available goods, if the value of the contract is less than the value of the procurement specified by the National Board. Subject to the approval of the National Board, an agency may engage in single-source procurement when the goods and construction are available from a single supplier, or a single supplier has the exclusive rights with respect to the goods and procurement and no reasonable alternative exists; or when services are highly specialized and available from only one source. Single-sourcing is also allowed in cases of urgency, national catastrophe, to follow up a previous procurement through additional supplies, and for research, development, national defence, and security purposes.

³⁴ Government of Guyana (2001b), p. 107.

100. Tendering is to be publicly advertised. In the case of international tendering, an invitation to tender or pre-qualify, which is mandatory for public tendering, must be advertised in at least one international newspaper of wide circulation. Tenders must be submitted in English and evaluated by an evaluation committee, within 14 days for domestic-only tenders, and within 30 days for international tenders. Tenders must be evaluated in accordance with price and other criteria, but the law allows for a margin of preference for domestic suppliers in the case of goods and services, and for domestic constructors. The margin of preference is to be determined for each tender.

101. Suppliers may request a review of a tendering process by the National Board, which may order the payment of compensation, or may cancel a procurement process. A decision by the Board can be appealed to the Public Procurement Commission or to the High Court. The procedures established in 1984 were still in effect as of June 2003, but these are to be rewritten following approval of the new Act.

(iv) Role of state-owned enterprises

102. Guyana has not notified any state trading enterprise within the meaning of Article XVII of the GATT 1994. A number of state-owned enterprises, however, play a major role in the economy.

103. Only the Guyana Sugar Corporation (GUYSUCO), the state-owned sugar firm, may import or export sugar. Private manufacturers may import refined sugar under licence. Banks DIH and Demerara Distillers, Ltd., both of which are beverage producers, have licences to import refined sugar.

104. The Guyana Energy Authority (GEA) regulates imports of all petroleum products other than those required by the bauxite industry, and also engages in some imports on behalf of the electrical utility. Retailers of petroleum products are free to set prices.

105. The Guyana Gold Board controls the purchase and export of gold from Guyana. Its activities are regulated by the Guyana Gold Board Act (1981), which requires that all gold be sold to the Board unless otherwise authorized. The regulations issued in 1998 provide rules for private exports.³⁵

106. The "New" Guyana Marketing Corporation (NGMC) is a government agency charged with promoting the development and exportation of non-traditional agricultural commodities. It is mandated to expand the market for local agricultural produce locally, regionally, and extra-regionally. The NGMC provides information and technical support services to farmers, processors, potential exporters, exporters, and investors (Chapter IV(2)(ii)).

(v) Competition policy and regulatory issues

107. Guyana does not have a full-fledged competition law, although the Civil Law Act (Cap. 6:01) prohibits monopolies. This prohibition does not apply in the cases of electricity and telecommunications. CARICOM is working to establish a regional fair trading commission, and has distributed a model law on competition policy based on Jamaica's legislation.³⁶ That model law has been sent out to stakeholders in Guyana for their consideration. The Government has committed to developing a competition law based on this model during 2003. A competition commission would be created as a result of the law.

³⁵ *Official Gazette*, 31 December 1998, "Regulations Made Under the Guyana Gold Board Act 1981", pages B227-B231.

³⁶ Lee (2002).

108. The authorities report that price controls have been removed from virtually all items. Telecommunication tariffs are regulated by the Public Utilities Commission. Water and electricity tariffs are regulated by the companies themselves.

(vi) Intellectual property rights

(a) Overview

109. Guyana notified its intellectual property rights legislation to the WTO in September 2002.³⁷ One of the laws, the Copyright Bill, is still under consideration by the National Assembly (mid 2003). In addition to enacting a new copyright law, Guyana is also seeking to improve its intellectual property enforcement through a review of the current legal framework. These efforts have been promoted through technical assistance from the World Intellectual Property Organization (WIPO), the Inter-American Development Bank, and the Commonwealth.

110. Guyana is a member of WIPO; it has adhered to the Convention Establishing the World Intellectual Property Organization (1970) since 25 October 1994. At the same time Guyana became a signatory to the Paris Convention for the Protection of Industrial Property, Stockholm Text (1883), and the Berne Convention for the Protection of Literary and Artistic Works, Paris Text (1886). Guyana is currently considering adherence to the Patent Cooperation Treaty. Guyana is not a contracting state to most other instruments administered by WIPO, including the International Convention for the Protection of Performers, Producers of Phonograms, and Broadcasting Organizations (Rome Convention), the Madrid Agreement Concerning the International Registration of Marks, the Patent Law Treaty, and the Trademark Law Treaty.

111. Guyana is in the process of updating its legislation on intellectual property rights to comply with the provisions of the TRIPS Agreement. The authorities note that a draft Copyright Bill was formulated in 1999, with technical assistance from WIPO. The provisions of the Bill are inspired by the main international agreements affecting copyright, including the copyright section of the TRIPS Agreement (see below). The drafting process of a new Industrial Property Bill has not yet been completed.

112. The Deeds Registry, under the Ministry of Legal Affairs, has direct responsibility for the implementation of Guyana's intellectual property legislation. The Registry is responsible for processing applications, as well as other administrative works related to intellectual property protection. The authorities note that Guyana is currently working to modernize the technical and administrative infrastructure of the Deeds Registry and upgrade the services it provides in its offices in Georgetown and New Amsterdam. The Government, with financing and technical support from the Multilateral Investment Fund (MIF) of the Inter-American Development Bank (IADB), initiated in 2000 a project to strengthen the system of intellectual property rights, which includes a review of the current legal framework, and an institutional strengthening of the Deeds Registry. Guyana is also benefiting from a regional project for the implementation of WTO commitments in the Caribbean Community (CARICOM), with technical assistance from the Inter-American Development Bank (IADB).

(b) Trade marks

113. Trade marks legislation is contained in the Trade Marks Act, 1956 (Cap. 90:01).³⁸ Trade marks must be registered to be granted protection. The law establishes a register of trade marks and

³⁷ WTO document IP/N/1/GUY/1, 4 December 2002.

³⁸ Notified in WTO document IP/N/1/GUY/I/1, 10 December 2002.

provides the rules and procedures for the filing of trade marks. Trade marks are protected for periods of seven years (a period of ten years is prescribed under the TRIPS Agreement), renewable. The law provides for the recognition of trade marks granted in the United Kingdom. There were 678 applications in 1999 (578 granted), 524 in 2000 (301 granted), and 573 in 2001 (354 granted). All of the trade marks granted in these three years were to residents of Guyana.

114. Trade mark protection may be withdrawn after five consecutive years of non-use. Current legislation protects marks for goods, but not for services. The use of the trade mark is limited to the proprietor; the trade mark cannot be transferred.

(c) Patents and industrial designs

115. Patent legislation in Guyana is the Patents and Designs Act of 1938, as amended (Cap. 90:03). It provides for a patent term of 16 years from the date on which a complete specification has been filed; the protection period prescribed by the TRIPS Agreement is 20 years. Patent owners may petition for extensions of five or, in exceptional cases, ten years. The law also establishes procedures and provides for provisional application, restoration, revocation, and the recovery of damages. The law specifies that the granting of patents is intended not only to encourage invention, but also to secure the commercial application of inventions in Guyana without delay. According to the authorities, there were eight patent applications in 1999 (four granted), 11 in 2000 (two granted), seven in 2001 (none granted), and 12 in 2002 (two granted).

116. Although the term foreign work is not defined in the Act, the legislation affords protection to patents and designs registered in the United Kingdom. The law allows any grantee of the patent in the United Kingdom or any person deriving right from such grantee to apply within three years from the date of the issue of the patent to have that patent registered in Guyana.

117. Patents are registered with the Patent Office, situated with the Deeds Registry. Exclusions from patentability are limited to errors or problems in the specification of the patentable product. The legislation does not provide for the exclusion of inventions from patentability based on public order or morality, nor does it exclude from patentability diagnostic, therapeutic, and surgical methods, or plants, animals, and essentially biological processes. The Act does not provide protection to rightholders against the importation or the offer for sale of a patented invention.

118. According to the Patents and Designs Act, patents are available for all categories of products providing they satisfy the definition of invention: "any manner of new manufacture the subject of letters patent and grant of privilege...". Pharmaceutical products are patentable but are considered processes. Patentability applies only to the process to produce the pharmaceutical (or prepared food) product; the substances that compose the products are excluded from patentability. An application for a patent may be made by the first inventor, who must give a complete specification of the issue to be patented within 12 months from the date of application. From this date, the Patent Office starts an examination. Oppositions to the registration of a patent may be submitted within two months of the date of advertisement of a complete specification. Between the date the complete specification is accepted and the patent issued, the applicant has the same rights as if the patent had been granted.

119. The Patent Act contains provisions with respect to "licences of right" and compulsory licensing, which generally entails the consent of the patent holder. Licences of right are granted to any person after the patentee has requested the words "licences of right" to be endorsed on his patent. Compulsory licensing may occur only if there has been an abuse of monopoly rights, or for state purposes. With respect to the former, the Act allows any person to present a claim to the Registry, at least three years after the granting of a patent, alleging that there has been an abuse of monopoly

rights (if the patent is not being worked commercially in Guyana; if the commercial use of the patent is being prevented by the importation of the patented article by the patentee; if the demand for the patented article in Guyana is not being met on reasonable terms; if by refusing to grant a licence on the patented product, trade activities in Guyana are hindered; if any trade or industry in Guyana is harmed by the terms of the patent; or if the existence of the patent has prejudiced unfairly the trade of the materials used in the patented good). Compulsory licensing may occur for State use of the patent, in cases of war, or if any government agency had already been using the patented goods before the patent was granted. Compulsory licensees are expressly prohibited from importing into Guyana goods that would be an infringement of the patent if made by persons other than the patentee or those claiming under him. The authorities note that there is no actual practice or usage with regard to compulsory licence provisions contained in the Patents Act. They also note that there are no provisions to prevent parallel imports.

120. Industrial designs are protected by Section 2 of the Patents and Designs Act (Cap. 90:03). The registered proprietor of the design is granted copyright in the design for five years from the date of registration, renewable for up to two five year periods. The current legislation does not protect rightholders of a design against imports of articles bearing embodied or copied design. The compulsory licence provisions applicable to patents may also be used for industrial designs.

(d) Copyright

121. Guyana has been attempting since 1999 to enact a new Copyright Bill that is consistent with the principal international agreements affecting copyright, including the TRIPS Agreement.³⁹ The authorities expect the draft Copyright Bill to be passed in the National Assembly in the near future.⁴⁰ In the meantime, the law on copyright currently in force is substantially the Copyright Act 1956 (U.K.) as provided in the Copyrights (British Guiana) Order 1966 N° 79.

122. In accordance with the 1956 Act, copyright protection with respect to sound recordings, cinematography, television broadcasts, sound broadcasts, and literary, dramatic, and musical works is for a period of 50 years from the end of the calendar year in which it was first published; protection for published editions of works is 25 years.

123. The Copyright (British Guiana) Order 1966 extended the provisions of the Copyright Act 1956 (U.K.) with certain exceptions and modifications to form part of the law of the then-British Guiana. The Order also extended the Copyright (International Conventions) Order 1964, the Copyright (International Organisations) Order 1957 and the Copyright (Broadcasting Organisation) Order 1961. The extension of these Orders affords protection in Guyana to works originating in countries party to international copyright conventions, to works produced by certain international organizations, and to lawfully authorized broadcasts originating in other Commonwealth countries.

124. The draft Copyright Bill 1999 essentially follows the TRIPS Agreement. The Bill offers protection to original literary, dramatic, musical, artistic works, sound recordings, films, broadcasts, cable programmes, and typographical arrangements of published editions. Compilations of data or other material and computer programs are also protected under the Bill as literary works. The protection period is life plus 50 years. The Bill contains provisions dealing with the ownership and assignment of copyright, and specifies the acts that are copyright infringements, as well as the remedies available. The Bill also contains provisions with respect to the licensing of protected works, including compulsory licensing, deals with the establishment, and jurisdiction of the Copyright

³⁹ WTO document IP/N/1/GUY/C/1, 10 December 2002.

⁴⁰ WTO document IP/C/W/381, 13 November 2002, (Responses from Guyana to questions posed by Canada, the European Communities and their member States, Japan, Switzerland, and the United States), p. 4.

Tribunal, and contains provisions that confer rights in performances. The Bill grants the producers of phonograms the right to authorize or prohibit the direct or indirect reproduction of their phonograms, and the producers of phonograms the right to authorize or prohibit the commercial rental to the public of originals or copies of their phonograms.

(e) Other forms of intellectual property

125. Guyana's current laws do not provide for the protection of layout-design of integrated circuits, or for the protection of new plant varieties. There is no legislation available with respect to geographical indications; protection is granted through trade marks legislation. A report comparing the existing legislation in Guyana and the requirements set out by the United Nations Convention on Biological Diversity of 1992 concluded that the scope of Guyana's legislation was inadequate and outdated and did not promote the conservation and sustainable use of biodiversity.⁴¹

(f) Enforcement of intellectual property rights

126. The different laws currently governing intellectual property contain provisions for civil remedies to be applied in the enforcement of intellectual property protection. Civil remedies available to rights-holders include damages, injunction, and accounts. There is currently no legislation authorizing judges to issue cease-and-desist orders in case of infringement of intellectual property rights, nor to order the payment of the right-holder's expenses by the infringer nor to indemnify a defendant in the event of abuse by the plaintiff. The draft Copyright Bill authorizes judges to order search and seizure of infringing goods; it also introduces criminal liability and penalties, and creates a Copyright Tribunal. No information is available with respect to border enforcement for trade mark counterfeiting and copyright piracy.

⁴¹ Barton Scotland (1994), p. 1.