

WORKING PARTY ON THE ACCESSION OF ARMENIA

ELEMENTS OF A DRAFT REPORT

I. Introduction

1. At its meeting on 17 December 1993, the Council of Representatives established a Working Party to examine the application of the Government of Armenia to accede to the General Agreement on Tariffs and Trade (GATT 1947) under Article XXXIII, and to submit to the Council recommendations which might include a draft Protocol of Accession. In a communication dated 31 January 1995 (WT/L/25), the Government of Armenia applied for accession to the Agreement Establishing the World Trade Organization (WTO) pursuant to Article XII of the WTO Agreement. Following Armenia's application and having regard to the Decision adopted by the General Council on 31 January 1995 (WT/GC/M/1), the Working Party on the Accession of Armenia to the GATT 1947 was transformed into a WTO Accession Working Party. The terms of reference of the Working Party were also contained in document WT/L/25.

2. The Working Party met on ... under the Chairmanship of H.E. Mr. D. Kenyon (Australia).

Information

3. The Working Party had before it, to serve as a basis for its discussions, a Memorandum on the Foreign Trade Regime of Armenia (WT/ACC/ARM/1), and the questions submitted by Members on the Armenian foreign trade regime together with the replies of the Armenian authorities thereto (WT/ACC/ARM/2 and Corr.1; and WT/ACC/ARM/5). In addition the representative of Armenian made available to the Working Party the following material:

- Decree of the Government of the Republic of Armenia No. 40 of 13 February 1993, "Additional Measures on State Regulation of International Economic Activities";
- Resolution No. 31 of 21 February 1995, "On Regulation Regarding the Establishment, Registration, Licence and Suspension of Activities of Banks and Their Branches and Agencies and Those of Foreign Banks Operating in the Republic of Armenia";
- Law on Amendments and Additions to the Republic of Armenia Law on the "Value-Added Tax" of 10 December 1994;
- Law of the Republic of Armenia on Property Tax;

- Law on Making Amendments in the Republic of Armenia Law on Excise Tax of 30 November 1994;
- Law on Pledge Collateral;
- Law on Bankruptcy of Enterprises and Individual Entrepreneurs of 15 June 1995;
- Law on Making Amendments in the Republic of Armenia Law on Corporation Tax of 19 December 1994;
- Draft Law on Standardization and Certification;
- Law on Patents of 21 August 1993;
- Law on Income Tax of 8 February 1995;
- Law on Land Tax of 27 April 1994;
- Law on State Agrarian Inspections;
- Statute of the Peasant and Collective Peasant Farms of 22 January 1991;
- The Land Code of 29 January 1991;
- Supreme Council Resolution on the Maximum Sizes of the Land Lots in Property of the Peasant and Peasant Collective Farms;
- Resolution No. 581 of 16 December 1994, "On Corroboration of the Temporary Regulations for Auditing Activities in the Republic of Armenia";
- Government Decision of 17 January 1995, "On the Procedure of Granting Licences for Importation and Exportation of Goods (Works, Services) in the Republic of Armenia";
- Government Resolution No. 67 of 8 February 1995, "On the State Procurement Order of 1995 of the Republic of Armenia";
- Government Resolution No. 4 of 19 August 1995, "On Confirmation of the Temporary Regulations for Trademarks and Service Marks";
- Government Resolution No. 606 of 29 December 1994, "On Rates of the Excise Tax";
- Government Resolution No. 88 of 23 February 1994, "On the Order of Submitting Statistical Reports Regarding the Importation and Exportation of Services in the Republic of Armenia";
- Council of Ministers Resolution No. 161 of 5 March 1991, "On the Order of Exercising Diverse Types of Economic Activities on the Territory of the Republic of Armenia";
- Decree of the Government of the Republic of Armenia No. 124 of 29 December 1995 On Non-Tariff Regulation of the Commodities (Operations, Services) Import and Export in the Republic of Armenia;
- Statement of the Central Bank of the Republic of Armenia on Joining to Article VIII of the IMF Agreement;
- The Law of the Republic of Armenia of 30 June 1996, "On Central Bank of Armenia";
- The Law of the Republic of Armenia of 30 June 1996, "On Banks and Banking";
- The Law of the Republic of Armenia of 10 June 1996, "On Bankruptcy of Banks";
- Decree of the Government of the Republic of Armenia No. 124 of 29 December 1995, "On Non-Tariff Regulation of the Commodities (Operations, Services) Import and Export in the Republic of Armenia";
- Amendments to the Law, "On Privatization and Denationalization of State-Owned Enterprises and Unfinished Construction Sites";
- List 2 of the Resolution of the Government of the Republic of Armenia No. 415 of 1995, "On Types of Activities that are Subject to Licensing in the Territory of the Republic of Armenia";
- Statute of the Ministry of Economy of the Republic of Armenia of 20 June 1996, "On Issuing Inferences on Minimal Pricing of Exports of Products from Ferrous and Non-Ferrous Metals Not Produced in Armenia, As Well As Their Scrap";
- Statute of the Ministry of Health of the Republic of Armenia of 20 June 1996, "On Issuing Inferences on Import and Export of Pharmaceuticals into and from the Republic of Armenia";
- Statute of the Ministry of Environment Protection and Mineral Resources of the Republic of Armenia of 20 June 1996, "On Issuing Inferences on Export of Wild Animals and Plants Included in the Red Book (Endangered Species Listing) of the Republic of Armenia";

- Statute of the Ministry of Agriculture and Food of the Republic of Armenia of 20 June 1996 On Issuing Inferences on Import of Plant Protection Agents into the Republic of Armenia.
- Decree of the Ministry of Health of the Republic of Armenia, "On Regulation of Pharmaceutical Activity and Ensuring the Quality of Drugs and Medical Facilities";
- Programme of the Government of the Republic of Armenia, "On Privatization of State Enterprises and Unfinished Construction sites of the Republic of Armenia for 1996-1997"; and
- Amendment of 1 May 1996 to Annex No. 1 to Decree of the Government of the Republic of Armenia No. 615 of 6 December 1993, "On Determining the Customs Duties".

Introductory statements

4. In an introductory statement, the representative of Armenia said that since declaring independence from the former Soviet Union in 1991, Armenia had vigorously pursued free market reforms within a democratic framework, notwithstanding acute political and economic difficulties. Economic decline had been reflected in sharp reductions in output, falling incomes, reduced trade flows, severe shortages of energy, and scarcity of food and other consumer goods.

5. Despite this adversity, the Government had persevered with the economic reform programme, placing particular emphasis on liberalization, stabilization, and economic restructuring. Most agricultural land was privatized shortly after independence and privatization in other sectors was moving ahead. Demonopolization and deregulation had removed barriers to private sector participation in all but a few areas of economic activity. Price controls were only applied to a limited number of essential goods and services, and were being phased out. Foreign investment was encouraged. On the macroeconomic side, stabilization policy was a government priority, given the challenge of the difficult budgetary position, combined with the need to contain inflationary pressures and maintain exchange rate stability. The Government had successfully brought monthly inflation down to a single digit level, from the triple-digit levels prevailing at the end of 1993. The Government was strongly committed to securing a sound and stable macroeconomic framework for future economic growth and development.

6. Fuller integration into the world economy, and continuing diversification of Armenia's economic relations with other countries, were central planks of the Government's reform efforts. The Government of Armenia believed that these objectives could only be attained through open trade policies that emphasized specialization on the basis of international comparative advantage. It was for this reason that the Government of Armenia attached priority to its accession to the World Trade Organization, and wished to complete negotiations for membership at the earliest opportunity.

7. The Working Party welcomed Armenia's application for accession to the Agreement Establishing the WTO. Several members of the Working Party acknowledged that Armenia had undergone a rapid process concerning reform and trade liberalization which, notwithstanding internal and external difficulties, appeared to be succeeding in permitting economic growth. These members expressed support for Armenia's integration into the multilateral trading system and indicated their readiness to pursue the negotiations in earnest.

II. Economic Policies

- Foreign exchange and payments

8. In response to questions from members of the Working Party concerning Armenia's foreign currency reserves and the convertibility of the dram, the representative of Armenia noted that foreign exchange reserves had risen from 0.7 months of import cover in 1994 to 1.5 months in 1995, and were projected to rise to 2.3 months of import cover by the end of 1996. All foreign currency surrender requirements had been eliminated and the dram was freely convertible. There were no restrictions on the holding of foreign currency accounts. All bilateral clearing arrangements based on barter had been eliminated.

- State ownership and privatization

9. In response to requests for information concerning the privatization of State owned assets, the representative of Armenia noted that a Privatization Programme was adopted in January 1994. All natural and legal persons are entitled to participate in the privatization programme. That programme envisaged that privatization would take three years, with one third of State-owned productive assets being privatized each year. Those targets proved over-ambitious, and privatization was now expected to continue at least until the end of 1997. At the beginning of the programme, the State owned an estimated 5,000 small enterprises and about 2,000 medium- to large-scale enterprises. Privatization of small-scale enterprises was well under way. By the beginning of March 1996, 2187 small enterprises had been privatized. Privatization of medium- to large-scale enterprises was also well under way, although the ambitious end-1995 target of 900 enterprises privatized will be achievable only in 1996. By the beginning of March 1996, 365 enterprises had been offered for sale. The target of the 1996-97 programme was the privatization of 3809 entities, of which 195 are in industry, 22 in transportation, 82 in construction, 3 in telecommunications, 70 in agriculture, 3 in the material and technical (logistic) supply sector, 1763 in the distribution sector, 760 in the household services sector, 191 in the public

utilities sector, 236 in the social sector, 5 in automobile maintenance, 16 in the natural deposits sector, and 66 enterprises and 395 unfinished units of housing construction in the Yerevan Municipality.

10. The representative of Armenia added that the Government continued to seek ways of accelerating the privatization programme. The time limit had been shortened to one month for the initiation of second-stage and third-stage actions for enterprises which had not been sold in previous attempts. In addition, mandatory liquidation followed for any enterprises that thereafter remained unsold. The Government was now entitled to sell a portion of enterprises for money alone (rather than money and vouchers). The Government had greater flexibility in developing methods for privatizing more complex entities, such as utilities. The responsibilities and structure of the Privatization Commission have been streamlined, and information publication requirements simplified. The centralized share registry has also been made operational.

11. In response to a further question, the representative of Armenia stated that Armenia had privatized almost 90 per cent of agricultural land and made land titles freely transferable. The small share of land still in State hands is reserve land and land used for certain kinds of agricultural support activities described in paragraph ... below. The Government of Armenia did not have a timetable for the privatization of agricultural land still in State hands.

- **Pricing policies**

12. In response to requests for an update on the progress of price reform, the representative of Armenia stated that since 1995, almost all government-mandated price controls had been removed. The only domestic prices that were still subject to control were those for irrigation, urban electrical transport, electricity, hot water, gas, heating, sewage services, garbage collection, rent in State-owned housing, and telephone services. Those prices were still subject to control because State-owned enterprises were the exclusive or dominant suppliers. All administered prices were adjusted on a regular basis to maintain their real value. The only remaining direct price control was on flour (through the setting of maximum profit margins for flour mills). Minimum export prices were in place for ferrous and non-ferrous metal scrap, but only for the purpose of calculating the corporate tax liabilities of enterprises dealing in these scrap metals.

13. The representative of Armenia added that subsidies on bread, municipal electric transport and garbage collection, and cross-subsidies on water and sewerage had been eliminated. The subsidies on district heating and hot water (the only remaining consumer subsidies) were under review. In the

case of district heating, which less than one-third of households actually receive, the issue of provision of targeted heating subsidies to vulnerable groups would be resolved as part of the overall reform of social assistance.

14. Some members of the Working Party requested that the Government of Armenia enter a commitment that as of the date of accession to the WTO, the only price controls on goods and services in force in Armenia would be those listed in Annex ... to the Protocol of Accession. Some members of the Working Party also requested that the Government of Armenia enter a commitment that all price controls in force at the date of its accession, or any price controls introduced in the future would be applied consistently with the requirements of the WTO Agreement. In addition, any application of price controls would take account of the obligation in Article III.9 of the GATT 1994, and that the Government of Armenia would publish the goods and services subject to price controls in its official newspaper.

III. Framework For Making and Enforcing Policies

- Powers of executive, legislative and judiciary, administration of policies on WTO related issues

15. The representative of Armenia said that the executive branch of Government in the Republic of Armenia comprises the President of the Republic, the Prime Minister and Ministers. The President of the Republic is the highest executive authority. The Prime Minister is appointed by the President of the Republic. The Prime Minister recommended the appointment of Ministers, which must be approved by the President. The Prime Minister was responsible for the day-to-day running of the government, and presides over the Cabinet. The President of the Republic was elected by popular vote every five years. With the exception of fiscal matters, the President was empowered to make and sign decrees without the authorization of Parliament. Resolutions were generally signed by the Prime Minister and the responsible Minister, and may require presidential approval. Administrative Orders were signed by Ministers. Any Decree or Resolution with fiscal implications, such as changes in tariff rates, must be approved by the Parliamentary Permanent Financial Credit, Budgetary and Economic Commission, which is presided over by a Member of Parliament.

16. The representative of Armenia also said that the legislature of the Republic of Armenia is the National Assembly, or Parliament, which comprised 190 deputies. Deputies were elected by popular vote every four years. The National Assembly, under the authority and guidance of its Chairman, was responsible for approving all laws and inter-governmental agreements.

17. The representative of Armenia said that in conformity with the Constitution of the Republic of Armenia, the judiciary was independent of the executive and legislative branches. The Courts of general competence are the Tribunal Courts of first instance, the review courts and the Supreme Court. Appeals are heard by the Supreme Court, and the Supreme Court also acted as a Court of original jurisdiction in certain matters. The guarantor of the independence of judicial bodies was the President of the Republic, who was Head of the Council of Justice. The Minister of Justice and the Procurator General were the Deputy Heads. The Constitutional Court, comprising nine members, was responsible, among other things, for ensuring the constitutionality of decisions of the National Assembly, decrees of the President, resolutions of the Government, and treaties entered into by the Republic of Armenia.

18. The representative of Armenia said that a system of State arbitration or economic Courts existed in parallel to the national Courts system. Disputes under this system were resolved on an informal basis through binding arbitration. The jurisdiction of the economic Courts covered disputes between juridical persons in the Republic of Armenia, although when a dispute involved a foreigner from outside the Commonwealth of Independent States (juridical or natural person) the case was heard in the national Courts and not in the economic Courts system.

19. The representative of Armenia added that the Ministry of the Economy had primary responsibility in most aspects of policy affecting international trade in goods and services. The Ministry of Finance had overall responsibility for fiscal policy, but tariffs were proposed by the Ministry of the Economy. All fiscal policy must be approved by the Parliamentary Permanent Financial Credit, Budgetary and Economic Commission. The Central Bank was responsible for monetary policy, exchange rate policy and the banking system. The Armenian Patent Office was responsible for industrial property protection matters, and the Armenian National Copyright Agency for copyright protection.

20. The representative of Armenia said that in matters of policy affecting trade in goods and services, the central government retained full authority. In this context, the representative of Armenia noted that following signature and ratification of the WTO Agreement, the WTO Agreement would become domestic law in Armenia and would have priority over all other domestic laws.

IV. Policies Affecting Trade in Goods**- Market Access Negotiations**

21. Armenia undertook negotiations on market access in goods with interested members of the Working Party. The Schedule of Concessions and Commitments resulting from those negotiations is Annex I to the Appendix of the Draft Protocol of Accession of Armenia.

- Import regulations

22. The representative of Armenia informed the Working Party that with certain exceptions necessary to safeguard human, animal and plant health and the environment, any person could engage in the importation of goods into Armenia. Enterprises or sole entrepreneurs engaging in trading must be registered in the State Register of enterprises.

- The customs tariff

23. The representative of Armenia stated that the Law on Tariffs and the Customs Code, approved by Parliament in August 1993, provides legislative authority for setting tariffs and dealing with customs matters. Alterations to the Tariff were required to be approved by the Parliamentary Permanent Financial Credit, Budgetary and Economic Commission. Decree No. 615 issued by the Government in December 1993 introduced new customs duties, and these were further modified by Decree No. 224 issued in May 1994 and by Decree No. 39 issued in January 1995. Armenia had used the Harmonized System of Commodity Classification since 1991.

24. The representative of Armenia said that customs tariffs were expressed in *ad valorem* terms and levied on c.i.f. values. Only 132 items were identified in Armenia's tariff schedule because nearly all product categories identified at the two-digit level on the Harmonized System carried the same rate of duty. In response to questions from Working Party members concerning the possibility of disaggregating the tariff to the four or greater digit level, the representative of Armenia responded that if it proved necessary the Government of Armenia would disaggregate its tariff schedule from its present two digit HS level. There were five tariff rates - zero, 5 per cent, 10 per cent, 30 per cent, and 50 per cent. More than 90 per cent of the items in the tariff schedule were subject to duty rates of zero (86 items) or 10 per cent (36 items). Only five items were subject to a 30 per cent rate (certain luxury foods, certain confectionery, fur clothing, furs, and gaming machines). Only two luxury products (caviar and pet foods) were subject to a 50 per cent rate. After taking account of tariff exemptions

(e.g. for humanitarian supplies) and zero-rated items, the weighted average tariff was well below 5 per cent. Tariff revenue accounted for about 2 per cent of the Government's total tax collections in 1994. Tariff rates changes were recommended by the Government, but as a fiscal measure, they were required to be confirmed by the Parliamentary Permanent Financial Credit, Budgetary and Economic Commission.

25. Following negotiations with members of the Working Party and further amendments to Armenia's tariff, the representative of Armenia informed the Working Party that there were now only two rates of duty applied; zero and 10 per cent. In particular, the Government of Armenia would impose a ceiling tariff binding at a uniform ad valorem rate of 15 per cent for both industrial and agricultural products; and to bind at a level of 0 per cent the import tariff for the following product groups:

agricultural equipment (CN code: 8432-8434, ex8701.90) applied 0%, except 8701.90 - 10%;

construction equipment (CN code: 8425, 8426, 8428-8430, ex8431, 8479.10, 8701.30, 8704.10) applied 0%, except 8701.30 - 10%;

medical equipment (CN code: 2844.40, 3822, 8419.20, ex8419.90, ex8543.80, 8713, 8714.20, 9018, 9019, 9021, 9022.11, 9022.19, 9022.21, ex9025.11, 9402) applied 0%, except 3822, ex8543.80, 8714.20 - 10%;

pharmaceuticals (CN code: 2936, 2937, 2939, 2941, 30) applied 0%;

paper (CN code: 47, 48) applied 0%;

steel and articles of steel (CN code: 7206.10, 7207-7229, 7301, 7302 excluding 7302.30.00, 7303-7306, ex7307.22, ex7307.92, 7308, 7312-7314, 7317) applied 0%;

distilled spirits (CN code: 2208.30) applied 10%;

non-ferrous metals (CN code: 74-80) applied 0% of which 7417, 7418, 7615, 7616 - 10%;

scientific instruments (CN code: 90011000-90015000, 90019040-90019060, 90019080, 90019090, 90021140, 90021180Y, 90021180Z, 90021900, 90022040, 90022080, 90029020, 90029040, 90029070, 90029090Y, 90029090Z, 90031100, 90031900, 90039000, 90041000, 90049000, 9018.90, 9023, 9024, 902520, 90252040, 90252080, 902580, 90258010-90258050, 902590, 90259000, 9026, 90261020, 90261040, 90261060, 90262040, 90262080, 90268020, 90268040, 90268060, 90269020, 90269040, 90269060, 9027, 90271020, 90271040, 90271060, 90272040, 90272080, 90273040, 90273080, 90274000, 90275040, 90275080, 90278040, 90278080, 90279020, 90279040, 90279060, 90279080, 9028, 9030, 9030.39, 9031, 9032) applied 0%; and,

wood and articles of wood (CN code: 44) applied 0%, except 4414, 4419, 4420, 4421 - 10%;

26. He further added that for chemical products, according to the rates determined in the chemicals harmonization list, Armenia's applied tariffs were currently below the harmonization levels. The rates

would either remain the same or would be further reduced. The Government of Armenia would also bind import tariffs for the following product groups:

inorganic chemicals (CN code: 28) - 5.5% (applied 0%);

organic chemicals (CN code: 2901-2902) - 0% (applied 0%), (CN code: 2903-2915 excluding 2905.43 and 2905.44) - 5.5% (applied 0%), (CN code: 2916-2942) - 6.5% (applied 0%);

pharmaceutical products (CN code: 30) - 0% (applied 0%);

fertilizers (CN code: 31) - 6.5% (applied 0%);

tanning and dyeing extracts (CN code: 32) - 6.5% (applied 0%);

essential oils and resinoids (CN code: 33 excluding 3301) - 6.5% (applied 0%, except 3303-3306-10%);

soap, washing preparations, candles and similar articles (CN code: 34) - 6.5% (applied 10%, except 3401, 3402, 3406 - 0%);

albuminoidal substances (CN code: 35 excluding 3501-3505) - 6.5% (applied 0%);

explosives (CN code: 36) - 6.5% (applied 0%, except 3604 - 10%);

photographic or cinematographic goods (CN code: 37) - 6.5% (applied 10%);

miscellaneous chemical products (CN code: 38) - 6.5% (applied 10%); and

plastics and articles thereof (CN code: 39) - 6.5% (applied 0%, except 3924 - 10%).

27. Concerning products related to trade in civil aircraft, the representative of Armenia stated that the Government of Armenia would bind its tariffs at a level of 0 per cent for the following product groups: 391721-391723, 391729, 391731, 391733, 391739, 391740, 400829, 400950, 401130, 401210, 401220, 401610, 401693, 401699, 401700, 450490, 482390, 681290, 681310, 681390, 700721, 730431, 730439, 730441, 730449, 730451, 730459, 730490, 730630, 730640, 730650, 730660, 731210, 731290, 732290, 732410, 732490, 732620, 741300, 760810, 760820, 810890, 830210, 830220, 830242, 830249, 830260, 830710, 830790, 840710, 840890, 840910, 841111, 841112, 841121, 841122, 841181, 841182, 841191, 841199, 841210, 841221, 841229, 841231, 841239, 841280, 841290, 841319, 841320, 841330, 841350, 841360, 841370, 841381, 841391, 841410, 841420, 841430, 841451, 841459, 841480, 841490, 841581-841583, 841590, 841810, 841830, 841840, 841861, 841869, 841950, 841981, 841990, 842119, 842121, 842123, 842129, 842131, 842139, 842410, 842511, 842519, 842531, 842539, 842542, 842549, 842699, 842810, 842820, 842833, 842839, 842890, 847110, 847120, 847191-847193, 847989, 847990, 848310, 848330, 848340, 848350, 848360, 848390, 848410, 848490, 850120, 850131-850134, 850140, 850151-850153, 850161-850163, 850211-850213, 850220, 850230, 850240, 850410, 850431-850433, 850440, 850450, 850710, 850720, 850730, 850740, 850780, 850790, 851031, 851110, 851120, 851130, 851140, 851150, 851180, 851680, 851810, 851821, 851822, 851829, 851830, 851840, 851850, 852090, 852110, 852290, 852510, 852520, 852610, 852691, 852692,

852790, 852910, 852990, 853120, 853180, 853910, 854380, 854390, 854430, 880110, 880190, 880211, 880212, 880220, 880230, 880240, 880310, 880320, 880330, 880390, 880520, 900190, 900290, 901410, 901420, 901490, 902000, 902511, 902519, 902520, 902580, 902590, 902610, 902620, 902680, 902690, 902910, 902920, 902990, 903010, 903020, 903031, 903039, 903040, 903081, 903089, 903090, 903180, 903190, 903210, 903220, 903281, 903289, 903290, 910400, 910990, 940110, 940320, 940370, 940510, 940560, 940592, 940599 (applied 0%, except 450490, 681290, 681390, 851031, 851810, 851821, 851822, 851829, 851830, 851840, 851850, 852090, 852110, 852290, 852790, 852910, 852990, 910400, 940110, 940320, 940370, 940510, 940560, 940592, 940599 - 10%).

28. The representative of Armenia stated that the rates of customs duty would not be increased beyond levels bound in Armenia's WTO Schedule of Concessions which is annexed to the Protocol of Accession of Armenia. The Working Party took note of that commitment.

- **Other duties and charges levied on imports**

29. The representative of Armenia informed the Working Party that there were no other duties and charges levied on imports except the fees for services rendered by Customs agencies described in paragraphs ... below.

- **Tariff rate quotas, tariff exemptions**

30. The representative of Armenia stated that Armenia did not apply any import quotas, including tariff rate quotas. The representative of Armenia confirmed that his Government had no plans to introduce import quotas, including tariff rate quotas. If any such quotas were to be introduced they would be consistent with the relevant WTO provisions, such as Articles XX and XXI of the GATT 1994. The representative of Armenia confirmed that Armenia would abide by Article VIII of the GATT 1994 and by the Agreement on Import Licensing Procedures in order to simplify procedures for imports and exports.

31. The representative of Armenia said that tariff exemptions were granted in respect of the following: essential equipment imported by foreign enterprises and joint ventures (with at least 30 per cent foreign ownership), vehicles imported for Government use, humanitarian supplies, foreign currency and bonds, prosthetic and orthopaedic equipment, goods imported for duty-free shops, livestock, meat, fish, shellfish, milk and milk products, vegetables, coffee, tea, spices, fruits, animal and plant fats

and oils, sugar and candies, mineral fuel and bitumens, leather, silk, wool, cotton and other textile threads, synthetic thread, glass and non-decorative glass products, aluminum, lead, zinc, pewter and objects made of these metals, tractors, flying apparatus, goods in transit, temporary imports, and any other instances foreseen in international agreements, including free trade agreements. Natural persons were entitled to a duty-free import allowance on new goods up to a value of one thousand US dollars.

- **Customs fees and charges for services rendered**

32. In response to questions from Working Party members about Armenia's system of customs fees, the representative of Armenia stated that a customs fee of 0.15 per cent was charged on imported goods. The 0.15 per cent tax was calculated on the c.i.f. value plus applicable customs duty. No customs fee was charged on importations by the Armenian Government, on clearing operations made on the basis of international agreements, on temporary imports, on imports of raw materials for construction under bilateral inter-republican contracts, on goods imported directly through the State budget, and on humanitarian aid. Imports subject to clearing arrangements under inter-republican contracts signed with countries of the Former Soviet Union (FSU) had previously been exempted from the customs fee, but this exemption had been discontinued, and FSU countries were no longer exempted from the customs fee. No other import charges or fees are levied. Under an amendment to Decree No. 615 of 6 December 1993, which entered into force on 1 May 1996, the customs user fee was increased from 0.15 per cent to 0.3 per cent. In 1995, approximately US\$1 million was collected as customs charges. This revenue was used for the development of the customs administration in Armenia. Among the main items of expenditure were construction and repair of facilities and equipment (US\$480,000), computer procurement (US\$82,500), procurement and maintenance of vehicles (US\$80,000), procurement of uniforms (US\$55,000), and remuneration (US\$220,000).

33. Some members of the Working Party asked whether the 0.3 per cent fee was consistent with the requirements of Article VIII of the GATT 1994, in particular, whether the fee represented the cost of the services rendered. The representative of Armenia replied that in view of the requirement in Article VIII of GATT 1994 that fees for services rendered correspond to the cost of the services rendered, and in view of the practical difficulties of structuring the Armenian customs fee in terms of actual costs incurred for rendering customs services, the Government of Armenia had determined that the best course of action would be to bind the customs fee of 0.3 per cent as an "extra duty or charge" under Article II.1(b) in the schedule of concessions.

34. Some members of the Working Party stated that the customs fee was not the type of fee contemplated by Article II.1(b), and that the fee should either be brought into conformity with Article VIII or be eliminated. The representative of Armenia stated that Armenia would not seek to bind the customs fee under Article II.1(b). Rather, it would introduce a maximum and minimum amount payable on any given import or export transaction, and then either charge that amount, or the 0.3 per cent ad valorem fee if the calculated amount fell between the minimum and maximum rates. In this fashion, Armenia intended to ensure that the customs fee approximates the cost of services rendered. This arrangement would be introduced by the end of the first quarter of 1997. The representative of Armenia requested a transition period of five years from the date of WTO accession to bring its customs user fee fully into conformity with Article VIII of GATT 1994. The transition period was required so that Armenia could modernize its customs service, and use the revenue collected from the customs fee during the five-year grace period for this purpose.

35. Some members of the Working Party stated that a five year transition period to bring the fee into conformity with Article VIII was not appropriate. Armenia should conform with the requirements of Article VIII from the date of its accession, and from that time the proceeds of the fee should only be used for the operation of customs clearance facilities and total annual revenues from the fee should not exceed the cost of customs clearance of the imported goods. Following accession, information on the method of calculation of the fee and the cost of provision of customs clearance facilities should be provided to WTO Members upon request.

- **Application of internal taxes to imports**

36. The representative of Armenia informed the Working Party that Armenia's tax system had been completely overhauled since 1992, as part of the Government's overall policy of economic transformation towards a market economy. Armenia had two other indirect taxes which were applied to both imports and domestic production - a value-added tax and an excise tax. Direct taxes included personal income tax, an enterprise profits tax, land tax, and a State enterprises fixed assets, citizens' buildings and transportation devices tax. Other taxes, which raised very modest sums of revenue included a few State and local taxes and fees, some professional operating fees, and an environmental tax on pollution and natural resource use.

- **Value Added Tax**

37. The representative of Armenia said that the value-added tax (VAT) was imposed pursuant to the Law on Value Added Tax. The VAT was charged on imports and domestic output at the rate of 20 per cent. Imports from the FSU were zero-rated. Exports outside the FSU were also zero-rated, while exports to FSU countries were liable to pay the tax. In response to questions concerning the zero-rating of VAT, the representative of Armenia stated that it applied equally to imports and domestically produced goods. Tax credits were available on VAT paid in other States of the FSU, and on amortizable assets. Goods and services exempted from VAT included urban electrical transport, medicines and drugs, rents, insurance reinsurance and banking activities, certain kinds of entertainment, products and services imported as humanitarian aid and for charitable purposes, bread, milk, yogurt, children's food, clothing, and footwear, butter, sugar, margarine, wheat, cheese, milk, and vegetable oils. Goods subject to price controls were also exempted, except for cigarettes. The full list of VAT exemptions was provided to the Working Party in the Law on Value Added Tax.

- **Excise Tax**

38. In response to questions concerning the excise tax, the representative of Armenia added that the Law on Excise Taxes imposed excise tax on domestic and imported goods. Like the VAT, the tax was collected on imports by the customs authorities, and on local production by the Tax Inspectorate. No excise taxes were levied on imports from within the FSU or on exports to any destination. Excise taxes were applied on imports at the import duty-inclusive price by the customs authorities on the basis of the customs value approved or determined for import duty purposes. Excise taxes were collected at the retail stage on domestically produced goods. The representative of Armenia said that the dutiable value was the retail price plus the amount of excise (i.e. cost + profit + excise).

39. The excise taxes were as follows:

HS Number	Product Description	Ad valorem duty on domestic products	Ad valorem duty on imports
2208 10 - 2208 90 2209	Strong alcohol	50	75
2203 00	Beer	50	75
2204 10 - 2204 30 2205 10 - 2205 90	Grape wine	25	50
1604 30	Caviar	50	50

HS Number	Product Description	Ad valorem duty on domestic products	Ad valorem duty on imports
2402 10 - 2402 90	Tobacco products	50	50
7113, 7114, 7115, 7116, 7117	Jewellery	25	25
4301, 4302, 4303, 4304	Furs, natural leather garments	25	25
8703 10 - 8703 90	Passenger vehicles	0	15
4011 10	Tires for passenger vehicles	25	25
6911 10 - 6911 90 7013 31	Glass crystal and china	25	25
5702 10 - 5702 99	Hand-woven carpets	50	50
2710 00	Gasoline	25	25

40. The representative of Armenia stated that the Armenian Government recognized that it was a violation of the national treatment principle for excise taxes on domestic products to be lower than on imports of the same or a like product. Armenia would equalize excise taxes on domestic goods and imports of the same or like products as part of the accession commitments.

41. Some members of the Working Party noted that the non-application of these taxes to imports from FSU States may be seen to give rise to discrimination against products from non-FSU countries. The representative of Armenia stated that these arrangements did not violate the national treatment principle. In response to further questions, the representative of Armenia stated that the Government of Armenia recognized, however, that this mixed application of the origin and destination principles with respect to taxes on the same goods from different sources was likely to infringe the most-favoured-nation (m.f.n.) principle. While it may be possible to defend this departure from m.f.n. in terms of Article XXIV of GATT 1994, by virtue of the existence of free trade agreements with other CIS countries, the representative of Armenia stated that Armenia wished to switch to the destination principle of taxation with respect to imports from all sources. Armenia was therefore attempting to persuade its CIS trading partners of the desirability of charging these taxes at destination and not origin.

42. The representative of Armenia stated that Armenia would apply the destination principle instead of the origin principle to VAT and excise taxes from the date of accession to the WTO. [The Working Party took note of this commitment.]

- **Income Tax**

43. The representative Armenia stated that the Law on Personal Income Tax unified personal tax rates with the rates of the enterprise profits tax. Personal income tax was determined by how many multiples of the minimum wage an individual's income equalled. Minimum wages were set by Presidential Decree. Incomes of two times the minimum wage or less were tax-exempt. Tax brackets were then defined in terms of multiples of ten above the minimum wage. Thus, for an income from two up to ten times greater than the minimum wage, the tax rate was 12 per cent, for multiples of the minimum wage between ten and twenty times the rate was 18 per cent, for multiples from twenty to forty times the rate was 25 per cent, and for multiples above forty times the rate was 30 per cent. Other exemptions from income tax were receipts from the sale of private property, any income received by pensioners, invalids, veterans, and handicapped individuals, social security recipients, alimony payments, students' stipends, and military service pay.

44. The representative of Armenia added that the system for levying income tax in the agricultural sector was different. Private farmers paid a fixed share of their income, currently set at 15 per cent. The few remaining State farms pay a fixed share of their profits. In the event of adverse agricultural circumstances, the Government may reduce these liabilities, or exempt farmers altogether from taxation. In response to questions from Working Party members, the representative of Armenia said that no differentiation was made between enterprises on the basis of ownership in relation to taxation in the agricultural sector. Both State farms and private farms paid the same taxes, which is established at the rate of 15 per cent of calculated net income determined by the cadastre value of the land. The different system of taxation for the agricultural sector reflected the desire to impose a lesser tax burden on the sector. As long as farmers did not derive more than 25 per cent of their incomes from non-agricultural sources, they were exempt from income tax. In accordance with the Law on Peasant and Collective Farms, farmers in mountainous, remote or abandoned countryside areas may be granted tax relief. At present, tax exemptions are being granted to farmers in border areas affected by the conflict with Azerbaijan.

- **Enterprise Profit Tax**

45. The representative of Armenia stated that the enterprise profits tax was imposed on all juridical persons operating in Armenia, including foreign enterprises. Corporate taxes were charged at the same

rates as personal income taxes - 12 per cent, 18 per cent, 25 per cent and 30 per cent. The standard rates schedule for all enterprises, whether local or foreign, and including banks and insurance companies were 12 per cent for annual profits of up to 72,000 drams, 18 per cent for the next bracket up to 144,000 drams, 25 per cent for the bracket up to 216,000 drams, and 30 per cent for more than 216,000 drams. The possibility of establishing a single corporate tax rate was under consideration. Dividend income from company dividends paid out of after-tax profits were not taxed. New enterprises, excluding State enterprises, were exempted from profits tax for the first two years of their operation. Joint ventures may be able to secure additional tax credits for a period of seven years, depending on the share of foreign capital in the enterprise. Tax holidays were granted to promote entrepreneurship and business activity in the country. The exemption applied equally to domestic enterprises, joint ventures and foreign enterprises. The credits were set at 50 per cent if foreign capital comprises half or more of total share capital and is not less than US\$ 100,000, and at 30 per cent if foreign capital accounts for 30 per cent to 50 per cent of the total (with a minimum investment of US\$ 40,000 to US\$ 100,000).

46. The representative of Armenia added that the Law on Property Tax replaced the fixed assets tax. The tax applied to: (i) the assets of all enterprises as defined in the Law on Enterprises and Entrepreneurial Activities, unless particular assets are the subject of a specific exemption by the Government; (ii) houses and other dwellings in Armenia belonging to citizens and non-citizens, or leased by them; (iii) cattle; and (iv) certain vehicles. A range of assets and persons were exempted from the tax, as indicated in Article 9 and Article 10 of the Law. Exemptions were also foreseen, inter alia, certain re-investment and re-tooling expenditures, research and development expenditures (on 50 per cent of expenditures), expenditure on environmental protection (on 30 per cent of expenditure), profits used to cover losses of joint ventures with foreign participation and foreign enterprises during the previous five years, and any enterprise carrying out reconstruction activity in the earthquake region.

47. The representative of Armenia stated that the State enterprise fixed asset tax aimed to ensure that State enterprises would be liable for some minimum amount of tax. The tax was imposed by the law "On Property Tax". For the enterprises covered by this law, the fixed asset tax will be replaced by the property tax, and for individuals the tax will be levied on property valued at more than 850 times the minimum wage.

- **Non-tariff measures and import licensing**

48. The representative of Armenia stated that pursuant to Decree No. 17 of January 1995, most imports were free of any prohibitions or quotas. The import prohibitions were imposed for health, security and environmental reasons. The items affected were all kinds of weapons, components used in the production of weapons, explosives, nuclear materials, poisons, narcotics, strong psychotropic substances, devices for use in opium smoking and pornographic material. The Government had no plans to eliminate those restrictions.

49. The representative of Armenia stated that the following imports were subject to licensing:

	HS number
Pharmaceutical products, medicines	05.10, 12.11, 29.38, 29.41, 30.03, 30.04, and 30.13.02
Raw materials for pharmaceutical production	05.00; 12.11; 13.02; 29.38
Agricultural chemicals	38.08
Rare wild animals and plants included in the Red Book of the Republic of Armenia	

The Red Book of the Republic of Armenia contained a list of rare animals and plants. Any restrictions imposed on these items are more likely to affect exports from Armenia. The Red Book identifies approximately one hundred rare animals and birds, and 390 rare plants, in respect of which licences would be required.

50. In response to questions concerning the importation of pharmaceutical products and medicines, the representative of Armenia stated that these imports had to be authorized by the Ministry of Health. The importation of agricultural chemicals (HS heading 38.08) was required to be authorized by the Ministry of Agriculture. The Ministry of Economy issued licences for the importation of rare wild animals and plants listed in the Red Book on the basis of a recommendation of the Ministry of Nature and Environment. Those licensing arrangements were not administered in a restrictive fashion, they were administered to protect health and the environment. He further noted that Decree No. 17, which spelt out the licensing regulations on imports and exports, provided in paragraph 8 that the licensing requirement did not apply to enterprises with at least 30 per cent foreign capital that engaged in the

importation of raw materials for the production of commodities. He added that there was no statutory requirement to apply a licensing regime. The designation of products subject to licence was at the discretion of the Executive to remove or add items from the list of those subject to licensing.

51. The representative of Armenia further stated that any person, firms and institutions wishing to apply for an import licence may do so provided they are registered as a juridical person or a sole entrepreneur undertaking a business activity in Armenia. Registration as a juridical person or sole entrepreneur was an automatic procedure, subject to no restrictions. Licences applications were required to be determined within ten days of receipt of an application. In response to questions from some members regarding whether licences could be issued more quickly, the representative of Armenia stated that since the ten-day stipulation was a maximum period, in practice licences could be obtained within a shorter time period. If goods arrived without a licence, they could only be cleared through customs upon production of the necessary import licence.

52. The representative of Armenia said that a licence would be withheld if a proposed importation involved a product not included on the approved list maintained by the Ministry of Health. The same considerations apply in the case of licence approvals granted by the Ministry of Agriculture. In addition, paragraph 9 of Decision No. 17 stipulated that an import licence may be denied where an importation would: (i) be contrary to an intergovernmental agreement; (ii) result in unfair competition as defined under Armenian legislation; (iii) be based on incorrect information; or (iv) involve any other case, as defined in the legislation of Armenia. Points (ii) and (iv) above have not been used as grounds for denying a licence, since no underlying legislation requiring such actions has been developed. Importers were entitled to make representations to the respective licensing authorities upon rejection of an import licence. Importers were also entitled to make representations through the courts if they are dissatisfied with an administrative decision involving refusal to grant a licence.

53. The representative of Armenia added that a prospective importer of a product subject to licensing was required to submit an import licence application form, together with a certificate of origin, a proforma invoice or other agreement indicating the nature of the product, its price and the terms and conditions of the proposed transaction, and a certificate of quality. Import clearance of licensed imports required the original copy of the import licence, a certificate of origin, and the final invoice. An administrative charge was payable for an import licence, which in mid-1995 was 540 Drams (approximately US\$1.30).

54. The representative of Armenia further noted that no deposit or advance was payable upon issuance of import licences. No limitations exist in relation to the period of the year during which a licence application and/or an importation may be made. The period of validity of a licence is a maximum of one year. Licences may be re-issued after this period, but not extended. If a licence is issued for less than the maximum period of one year, then such a licence can be extended automatically up to the maximum permitted period. No penalties exist for the non-utilization of licences. However, licences were not transferable among importers.

55. The representative of Armenia added that foreign exchange was automatically provided for goods to be imported. An import licence does not have to be presented in order to obtain foreign exchange. Foreign exchange is always available to cover licences issued, unless foreign exchange is in general short supply. This, however, is unlikely to occur in view of Armenia's liberalized foreign exchange markets. No formalities need to be fulfilled in order to obtain foreign exchange.

- **Minimum import prices**

56. The representative of Armenia noted that Armenia did not maintain a system of minimum import prices.

- **Customs valuation**

57. Some members of the Working Party referred to the Agreement on Customs Valuation and to certain inconsistencies of the Customs Regulations of Armenia in respect of customs valuation. These members requested more detailed explanations with regard to the implementation by Armenia of specific provisions of the Customs Valuation Agreement, in particular Articles 7, 8, 10, 11 and 12 thereof.

58. The representative of Armenia informed the Working Party that Armenia's system of customs valuation was based on the transaction value. The Customs Valuation Regulations were contained in a Government Order attached to Decree No. 615 (December 1993). The Regulations were consistent with the provisions of the Agreement on Implementation of Article VII of the GATT 1994. The Regulation Order provided for the same six methods of valuation laid out in the Agreement on Implementation of Article VII of the GATT 1994, and stipulated that the first method (transaction

value) should generally be used. Armenia was a member of the World Customs Organization. He added that Decree No. 615 contained many detailed provisions relating to the valuation of goods by the Customs. In response to questions from some members of the Working Party concerning Armenia's sales between related persons, the representative of Armenia stated that the fact that sales took place between related persons would not, of itself, prevent use of the transaction value, unless it was determined that the declared invoice value did not represent the price actually paid or payable for goods. Paragraph 8 of Decree No. 615 permitted importers to seek a written explanation of any rejection by the customs authorities of a declared invoice value as the price actually paid or payable in respect of an import transaction between related parties. In response to questions concerning the obligation contained in Article 1.2(b) of the Agreement on Implementation of Article VII of the GATT 1994, the representative of Armenia stated that Decree No. 615 did not contain a provision giving effect to Article 1.2(b) of the Agreement on Implementation of Article VII of the GATT 1994. In response to further questions he stated that Decree No. 615 provided that damaged goods were valued taking into account the effects of the damage, and duties were charged on the assessed value. No duties were payable on lost goods. In response to further questions, the representative of Armenia stated that no provision had been made in Decree No. 615 for the reversal of the order of application of the valuation methods specified in Articles 5 and 6 of the WTO customs valuation agreement. Paragraph 24 of Decree No. 615 provided for the circumstances envisaged in Article 5.2 of the WTO customs valuation agreement. There are no cases so far in which the provisions of Article 5.2 have been implemented. Article 6.2 of the Agreement, dealing with access to information possessed by residents of other countries in the context of determining computed values had not been implemented by Decree No. 615.

59. The representative of Armenia said that in relation to Article 7 of the Customs Valuation Agreement, paragraphs 27 and 28 of Decree No. 615 provided for the determination of customs values when none of the other five methods available can be applied. Paragraph 27 of Decree No. 615 required that the customs authorities make available relevant information when the value was determined by any method other than one of the five available. In relation to the prohibitions found in Article 7.2, paragraph 28 of Decree No. 615 stated that neither retail prices in the domestic market, nor the prices of locally produced goods, nor export prices to third countries, nor any other price determined at will or on an inexact basis, may be used for customs valuation purposes when none of the five available valuation methods are applicable. In response to concerns raised by some members of the Working Party that Decree No. 615 was insufficiently precise, the representative of Armenia stated that paragraph 28 of Decree No. 615 referring to the determination of prices at will or on an inexact basis

is intended to rule out the use of minimum customs values, arbitrary or fictitious values, or computed values not using the provisions of the Agreement. The Government of Armenia recognized, however, that Decree No. 615 lacks specificity in certain key areas, and was committed to remedying this situation.

60. The representative of Armenia said that in relation to Article 8 of the Customs Valuation Agreement, paragraph 12 of Decree No. 615 required that the transaction value applied for customs duty purposes should include all the additional costs referred to in Article 8.2 of the WTO Customs Valuation Agreement. In response to questions concerning the rate of exchange applied by the Customs, the representative of Armenia stated that the exchange rate used was derived from the daily foreign exchange auctions held by the Central Bank of Armenia. The Central Bank announced exchange rates daily and these rates are published in the press, as required by Article 9.1 of the Customs Valuation Agreement. Confidentiality, was assured by paragraph 5 of Decree No. 615. In response to questions concerning the mechanisms for protection of confidential information, the representative of Armenia stated that paragraph 5 of Decree No. 615 provided that confidential information shall only be used for customs purposes and not divulged to third parties except by prior consent. This met the obligation contained in Article 10 of the Customs Valuation Agreement.

61. In response to requests for a detailed description of the process for review of Customs valuation decisions, the representative of Armenia said that in relation to Article 11 of the Customs Valuation Agreement, paragraph 9 of Decree No. 615 provided for administrative appeal of a customs decision to a higher customs authority. Legal persons (firms or sole entrepreneurs) could make judicial appeals to a special arbitration authority in cases involving valuation decisions. That arbitration was binding. The special arbitration authority was the same as the national courts. Special economic courts will come into existence as the provisions of the new Constitution are implemented. In cases involving any matter other than valuation, legal persons could appeal to the civil courts. Natural persons could only make appeals to the civil courts.

62. The representative of Armenia said that as required by Article 12 of the Customs Valuation Agreement, relevant national laws, regulations, decisions and rulings were published in the Bulletin of Decrees of the Government of Armenia or in the Manual of the Supreme Council of the Republic of Armenia. In relation to the obligation contained in Article 13 (last sentence) of the Customs Valuation Agreement, when the customs value of goods cannot be immediately determined, importers were entitled to remove their goods from customs control upon payment of provisional duties based on the assessment

of the customs authorities. The importer then had three months in which to challenge the assessment. Alternatively, an importer could provisionally clear goods against a bank guarantee valid for one month. If a valuation issue was not settled within one month, a further two-month period was provided for an importer to challenge an assessment, against provisional payment of the assessment made by the customs authorities. The duty assessment, whether adjusted or not from the original assessment of the customs authorities, became final after the three-month period. Paragraph 8 of Decree No. 615 provides that an importer is entitled, within seven days of a written request, to receive a written explanation of a valuation decision of the customs authorities. The interpretative notes of the WTO Agreement on Customs Valuation had not been systematically included in Decree No. 615.

63. Following questions and comments from Working Party members reflecting concerns about the need for improvements to Decree No. 615, the representative of Armenia stated that the WTO Agreement would be adopted as an integral part of Armenia's national law after Armenia's WTO accession. Therefore, all necessary consequent changes will also have to be made in national legislation and regulations. As far as customs valuation is concerned, Armenia intends to ensure that the necessary legal basis is in place to implement the Agreement fully by the first quarter of 1997, or the date of accession to the WTO, whichever was the earlier. In addition, the representative of Armenia stated that his Government would adopt the "Decision of 24 September 1984 on the Valuation of Carrier Media Bearing Software for Data Processing Equipment" by the end of 1997. The representative of Armenia stated that the Government of Armenia would ensure that all relevant laws would be in full conformity with the other requirements of the Agreement on Implementation of Article VII of the GATT 1994 at the time of accession. [The Working Party took note of these commitments.]

- **Other customs formalities**

- **Rules of origin**

64. The representative of Armenia stated that the rules of origin applied by Armenia followed the principles stated in the Agreement on Rules of Origin. Origin rules were defined in terms of wholly originating products, a change in the tariff classification of the good, processing criteria, and the value-added criterion. The choice of approach for determining origin depends on the product concerned and any relevant international agreement in respect of which origin rules are being applied. However, with the exception of wholly originating products, the change in tariff heading criterion (at 4-digit level in the HS classification) is used unless an alternative is stipulated. The customs authorities are entitled

to require origin certificates in respect of: (i) goods subject to quantitative limitation; (ii) imports under preferential trading arrangements; (iii) for the protection of the environment, public health and safety and national security; and (iv) in situations where the authorities consider that inadequate information as to origin has been supplied. Certificates of origin must be signed by suppliers and verified by the relevant national certifying body.

65. The representative of Armenia stated that the Government of Armenia would bring all its laws into conformity with the requirements of the Agreement on Rules of Origin from the date of its accession to the WTO. [The Working Party took note of this commitment.]

- **Pre-shipment inspection**

66. In response to questions, the representative of Armenia stated that Armenia did not at present employ the services of any pre-shipment inspection companies.

- **Anti-dumping, countervailing and safeguards regimes**

67. In response to questions, the representative of Armenia stated that Armenia did not, at present, have an anti-dumping, countervailing or safeguards regime. The representative of Armenia stated that if any of these policy instruments were introduced in the future, they would be fully consistent with the relevant WTO provisions. [The Working Party took note of this commitment.]

- **Export regulations**

- **Export licensing system**

68. The representative of Armenia stated that the Decree of the Government of the Republic of Armenia No. 17 of 17 January 1995 On Licensing and/allocation of Import and Export of Commodities (Jobs/Services) regulated Armenia's export licensing regime. Export licences were required for textiles (to the European Union only), for medicines, and for certain live animals and plants. The export licences on textiles were required pursuant to an agreement with the European Union, but no restrictions on these exports were currently in place. The licences for medicines, live animals and plants were generally not restrictive - rather, they were designed to ensure public health and safety. Enterprises with foreign participation of at least 30 per cent of share capital were exempted from export licensing requirements,

except those relating to textile exports to the European Union. Export prohibitions apply to used machinery, weapons, components for manufacturing weapons, explosives, nuclear materials, certain works of art of national or historic interest, poisons, narcotics, strong psychotropic substances, devices for opium smoking, and confidential information whose dissemination could hurt the national interest. All other products may be freely exported from Armenia. The system applied to exports to all destinations, except in the case of the licensing requirement for exports of textiles and clothing to the European Union. The licensing requirements were not intended to restrict the quantity or value of exports. Rather, they were intended to protect the national interest and human, animal or plant life or health, and the environment. The representative of Armenia stated that the Government did not consider that at this time, a better way existed of achieving these objectives.

69. The representative of Armenia noted that Armenia's export licensing system closely paralleled the import licensing system. As on the import side, pharmaceuticals and rare animals and plants were subject to non-restrictive licensing, designed to protect health and the environment. In addition, exports of textiles and clothing to the European Union were subject to licensing under a bilateral agreement with the European Union, and licences are also required for exports of rare objects or artifacts considered part of the national patrimony. The licensing of textile and clothing exports to the European Union allowed these items to be monitored, but they are not currently subject to restrictions of any kind.

70. The representative of Armenia said that Armenia maintained export licensing requirements on the following items:

	HS number
Pharmaceutical products	29.41; 30.00
Raw materials for pharmaceutical production	
Textiles and clothing to European Union	05.00; 12.11; 13.02; 29.38
Objects considered part of the national patrimony	
Rare wild animals and plants included in the	
Red Book of the Republic of Armenia	

The Red Book of the Republic of Armenia identifies approximately one hundred rare animals and birds, and 390 rare plants in respect of which licences would be required and whose exportation may be controlled.

71. The representative of Armenia said that the Ministry of Economy issued licences for pharmaceutical products and raw materials used in their production on the basis of recommendations by the Ministry of Health. The Ministry of Economy issued licences for the exportation of rare wild animals and plants listed in the Red Book on the basis of a recommendation of the Ministry of Nature and Environment. In the case of textile and clothing exports to the European Union, the Ministry of Economy had exclusive responsibility for issuing export licences. Exports of objects considered of interest to the national patrimony must be authorized by the Ministry of Culture. Export licences could be denied where an exportation would: (i) be contrary to an intergovernmental agreement; (ii) result in unfair competition as defined under Armenian legislation; (iii) be based on incorrect information; or (iv) involve any other case, as defined in the legislation of Armenia. Points (ii) and (iv) above have not been used as grounds for denying a licence, since no underlying legislation requiring such actions has been developed. In the case of textiles and clothing, the Ministry of the Economy may deny an export licence to an applicant in respect of exports to the European Union if exports of the items concerned were to exceed a certain quantitative limitation. Since this has not occurred so far, Armenia has not developed any mechanisms for administering export quotas.

72. Any persons, firms and institutions wishing to apply for an export licence may do so provided they are registered as a juridical person or a sole entrepreneur undertaking a business activity in Armenia. A prospective exporter of a product subject to licensing must submit an export licence application form, together with a certificate of origin, a proforma invoice or other agreement indicating the nature of the product, its price and the terms and conditions of the proposed transaction, and a certificate of quality. Licences must be granted within ten days of receipt of an application. Since the ten-day stipulation is a maximum period, in practice licences may be obtained within a shorter period. An export licence will generally not be granted immediately upon request, but in practice the necessary procedures may be completed within a day or two. The fee for an export licence was 540 Drams (approximately US\$1.30) in mid-1995. The period of validity of a licence is a maximum of one year. Licences may be re-issued after this period, but not extended. If a licence is issued for less than the maximum period of one year, then such a licence can be extended automatically up to the maximum permitted period. No penalties exist for the non-utilization of licences. Licences are not transferable among exporters. A licence application and/or an exportation could be made at any time during the year.

- **Other measures**

73. The representative of Armenia noted that in order to prevent exports at artificially low prices, or the under-invoicing of exports, the Ministry of the Economy had established a list of “minimum” prices each month for a list of selected commodities. With effect from 1 January 1995, this list only covered ferrous and non-ferrous metals. If an exporter declared the value of commodities destined for export at less than the minimum established price, an amount equal to the difference was payable before the exportation is authorized. The minimum prices for most of the controlled items are established with reference to quotations on the London Metal Exchange, less a discount of 20-30 per cent.

- **Export subsidies**

74. The representative of Armenia stated that Armenia did not offer any export incentives or export subsidies of any kind at the present time, nor did Armenia have any duty drawback or temporary admission arrangements in respect of dutiable imports used in export production. The Government believed that export expansion was vital to Armenia’s future economic viability. For this reason, consideration was being given to various ways of stimulating exports, particularly through promotional activities. The Government did not, however, intend to rely on export subsidies as part of an export expansion programme.

75. The representative of Armenia stated that the Government of Armenia would ensure that any export subsidy programme was fully in conformity with the requirements of the Agreement on Subsidies and Countervailing Measures upon Armenia's accession to the WTO. [The Working Party took note of this commitment.]

- **Internal policies affecting trade in goods**

- **Industrial policy, including subsidies**

76. The representative of Armenia stated that Armenia’s industrial policy aimed to ensure more efficient use of domestic resources within a market-oriented framework. A central policy objective affecting industry was privatization which had so far only touched a small share of the manufacturing sector. He stated that the Government estimated that approximately 95 per cent of industrial output emanated from the public sector. In response to questions the representative of Armenia stated that

pending completion of the privatization programme, the Government required State-owned enterprises to operate according to market principles. Enterprises in Armenia were required to acquire their inputs on the open market. Most firms had not yet put proper market-economy accounting systems into use, but they were developing them. In response to requests for information concerning the payment of direct subsidies, the representative of Armenia stated that since the beginning of 1995, almost no direct subsidies had been granted to industry. In previous years direct subsidies had been provided on a fairly large scale via concessionary credits to firms. He further noted that the Government in general did not retain production subsidies in the industrial sector, and no indirect subsidies were applied on water and electricity supplies in the agricultural sector.

77. The representative of Armenia said that the only beneficiaries of direct subsidies in 1995 were the firms engaged in the production of strategic (military) equipment, for whom subsidies are to be granted for further construction and the equipping of plant. The beneficiary firms do not export their products. Any remaining indirect subsidies that might arise as a result of clearing arrangements were disappearing because of the contraction (and eventual elimination) of inter-governmental clearing contracts. Moreover, procurement via State orders, which could also entail indirect subsidies, was being replaced by competitive tendering procedures.

78. The representative of Armenia further added that because the continuing reform of policies might indirectly confer subsidies on industries, the Government also maintained a substantially deregulated business environment which, when combined with the Government's open investment policies, meant that there were effectively no barriers to market contestability. Firms were free to enter and exit sectors on the basis of their own market-based decisions. Additional measures designed to safeguard and strengthen this business environment were the establishment of anti-monopoly and bankruptcy laws. The relevant statutes were under preparation.

79. The representative of Armenia stated that the Government of Armenia would ensure that its subsidy regime was in full conformity with the Agreement on Subsidies and Countervailing Measures from the date of its accession to the WTO. [The Working Party took note of this commitment.]

- **Technical barriers to trade/Sanitary and phytosanitary measures**

80. The representative of Armenia noted that Armenia was in the process of developing its standards system. A National Certification System had been created. Its primary purpose was to protect consumers and the environment, and to promote the quality reputation of Armenian products in foreign markets. The National Certification Body, ArmStateStandard, was responsible for defining standards and accrediting standards certification bodies and laboratories within the framework of the National Certification System.

81. The representative of Armenia added that ArmStateStandard cooperated with the Ministries of Health, Agriculture and Food in matters relating to sanitary and phytosanitary measures. Compulsory standards exist for a range of foodstuffs, electrical goods, alcoholic and non-alcoholic beverages, tobacco products, and children's clothes. However, Armenia had not so far developed any separate policies or provisions dealing with sanitary and phytosanitary measures. ArmStateStandard was under the jurisdiction of the Ministry of the Economy. It was presided over by the State Chief Inspector, whose rights and obligations were contained in Article 27 of the draft law. ArmStateStandard was a collegial body that takes decisions by majority vote. Compulsory certification for the products concerned was the responsibility of ArmStateStandard although this body was empowered to appoint another third party to undertake certification work. ArmStateStandard was cooperating with standards organizations in other countries and was an observer in the International Standards Organization. As necessary, standards would be adapted to international norms, and new standards would be based on ISO 9000. The relevant laws regulating Armenia's technical certification system are the Law on Standardization and Certification and the Law on Identity of Measurements. Both these laws were still in draft form and under the consideration of Parliament. The Law on Standards defines the rights and obligations of ArmStateStandard, and of the producers and importers of goods subject to certification. The certification system in Armenia is coordinated by the GOST standards, Series 5. The certification system was based on the requirements of ISO/IEC 2,25,28,40. Work was also proceeding on the development of an Armenian Certificate of Quality, which would be granted to producers who comply with specified standards. New legislation was being drafted to replace the pre-independence statute.

82. In response to questions concerning the procedure for obtaining a certificate of quality for tobacco and spirits, the representative of Armenia stated that certificates of quality for tobacco and spirits were issued by ArmStateStandard. The certificates were subject to periodic renewal on the basis of a technical

examination of the products concerned. The relevant certificates must be produced at the time of importation. The criteria for issuing certificates are specified in the relevant technical standards. ArmStateStandard published a monthly journal called Hayast which provides current information on issues relating to standardization and certification. The enquiry points were not yet fully operational due to a lack of appropriate facilities and personnel. It is estimated that they may take four to five years to become fully operational. ArmStateStandard was the only body responsible for notifications. ArmStateStandard had signed cooperation agreements with counterpart bodies in the Russian Federation, Ukraine, Belarus, Georgia and Turkmenistan. These were Agreements on Product Certificates, Quality Promotion Systems, Certification Bodies and Mutual Recognition of Accredited Testing Laboratories. The purpose of those agreements was to harmonize standards and procedures, and to allow for mutual recognition of testing and certification. A similar agreement had been signed between ArmStateStandard and the Standards Institute of the Islamic Republic of Iran.

83. The representative of Armenia stated that if Armenia decides to adopt separate machinery or policies relating to sanitary and phytosanitary measures this will be done in full conformity with the Agreement on Application of Sanitary and Phytosanitary Measures.

84. Some members of the Working Party noted that Armenia did not have in place the procedural guarantees needed to ensure that the new requirements did not act as barriers to trade. Armenia should ensure that its technical regulations, standards, certification and labelling requirements were not applied in an arbitrary manner in a way that acts as a disguised restriction on international trade.

85. In response, the representative of Armenia stated that all relevant laws relating to Technical Barriers to Trade and Sanitary and Phytosanitary Measures would be brought into conformity with the requirements of the Agreements on Technical Barriers to Trade and Sanitary and Phytosanitary Measures by the date of Armenia's accession to the WTO. [The Working Party took note of these commitments.]

- **Trade-Related Investment Measures (TRIMs)**

86. The representative of Armenia stated that the 1994 Law on Foreign Investments regulated Armenia's policies towards foreign investment. The Law was designed to attract investment from foreign sources. It provided guarantees against nationalization and provided that confiscation could only take

place following a judicial decision. In the unlikely event of confiscation, full compensation would be payable. Foreign investors were indemnified against damages resulting from illegal actions by Government, or from the improper performance by Government of its obligations (as determined in a Court of Law). The Law also guaranteed investors the right to repatriate profits and assets without hindrance. In the event that foreign investment legislation was changed after an investment has occurred, the investor concerned was entitled to an exemption from any less favourable provisions during a five-year period.

87. The representative of Armenia further noted that in particular, foreign enterprises or joint ventures comprising at least 30 per cent of invested capital, all profits were free of taxes for two years, and after that profits tax was charged at 70 per cent of the full rate. For enterprises with at least 50 per cent foreign ownership, profits taxes were charged at only 50 per cent of the full rate after the initial grace period. Enterprises with any foreign ownership at all were entitled to indefinite duty-free treatment on all their imports of capital equipment and recurrent inputs. In addition, foreign enterprises (defined as those with at least 30 per cent foreign ownership) were also entitled to certain exemptions from import and export licensing requirements. Foreign investors were free to choose their own insurers. No investment performance requirements are maintained. There were no requirements for foreign investors to export a certain amount of product, and the Government did not intend to introduce any such requirements. Foreign investors received full national treatment (or better). The representative of Armenia stated that any restrictions on investment were generally applied on a non-discriminatory basis as between national and foreign investors. In response to questions he noted that under Armenia's Constitution, no legal persons could own land. For foreign investors, ownership rights were restricted to property and assets on the land, and the land itself could only be rented. The acquisition of ownership rights in respect of other natural assets would be regulated by a Law on Concessions, which was still under discussion.

- **State-trading enterprises**

88. In response to questions the representative of Armenia stated that the State monopoly over foreign trade of the Former Soviet Union was abolished in 1989, and was replaced by a registration requirement for the conduct of such activity. By a decree of the President of the Republic of 4 January 1992 entitled "On Foreign Economic Activity," all enterprises registered and operating in

the territory of Armenia, regardless of their form of ownership, had the right to conduct foreign economic activity, and are not subject to any additional registration requirements.

89. In response to requests for information on enterprises engaged in State trading in the Republic of Armenia, the representative of Armenia stated that based on the definition of State trading set out in the Interpretation of Article XVII of the General Agreement on Tariffs and Trade 1994, Armenia maintained no State trading enterprises. Armenia maintained no law, regulation or measure that granted exclusive or special rights or privileges to any enterprise, in the exercise of which such enterprises might influence through their purchases or sales the level or direction of imports or exports. Given the absence of State trading in Armenia, the questionnaire on State trading has not been completed.

90. The representative of Armenia stated however that Resolution 161 of March 1991, as amended by Resolution 415 of June 1995, reserved certain activities exclusively to the State and required that certain other activities were licensed by the authorities. List 1 attached to Resolution 161 identified eight types of activities that were reserved exclusively for the State. These were: (i) the sale and purchase of weapons, armaments, narcotics, explosives, radioactive materials and other strong substances; (ii) the production and repair of weapons, armaments and explosives; (iii) the preparation of drugs, narcotics, poisonous and strongly acting substances; (iv) the conducting of court examinations; (v) the diagnosis of the psychical state of citizens; (vi) patenting and conferring copyright; (vii) the issuing of money and preparation of State medals; and storage, preservation and utilization of gold and other precious metals and substances of military significance. All these reserved activities involved the State in the exercise of its unique responsibilities, including the preservation of national security, public order, and the health and safety of the population. List 2 of Resolution 415 indicated those activities that require prior authorization and the body responsible for providing the authorization. As with the items on List 1, few involved manufacturing activity. All the items on List 2 were controlled for similar reasons to those items in List 1. Licensing of economic activities included under List 2 is non-restrictive in the sense that licensing decisions are not motivated by trade protection considerations. In response to questions from Working Party members, the representative of Armenia stated that the coverage of these reservation powers was under review. No State monopoly existed in respect of the production of pharmaceuticals. However, both State and private enterprises required licences from the Ministry of Health in order to produce pharmaceuticals.

91. In response to questions whether Armenia intended to report its State monopoly of natural gas distribution under Article XVII, the representative of Armenia replied that Armgas had not been granted exclusive or special rights or privileges in the market for natural gas distribution. Armgas was State-owned and the Government had determined that this enterprise would be the only State-owned enterprise to distribute gas. But this does not prevent any other entity with majority private ownership from purchasing gas or from involvement in gas distribution. In light of this situation, the Government of Armenia did not believe it was required to notify Armgas under Article XVII.

92. The representative of Armenia said that no State or private enterprises operating in Armenia had exclusive or special rights or privileges granted by the Government of Armenia to conduct international trade in goods or services. However, he noted that a low-interest loan had been granted to the State enterprise Hayhatsahatik (ArmCereal) in February 1996 to acquire and stockpile wheat from the European Union Counterpart joint assistance wheat fund.

93. Some members of the Working Party noted that certain telecoms enterprises appeared to be engaged in State trading pursuant to Article XVII of the GATT 1994.

- **Free zones, special economic zones**

94. The representative of Armenia stated that Armenia did not maintain any free trade zones in which special duty privileges of any kind were granted. Armenia had, however, established a Frontier Trade Area in the Meghri Region, on the border with Iran. The zone was established to promote trade between Armenia and Iran. Under the arrangement, Armenian enterprises were encouraged to establish a presence in the border area and Iranian enterprises were encouraged to do the same on their side of the frontier. Forty citizens from each country were entitled to enter each other's zones in order to explore business and trading opportunities, but no special customs régime or privileged duty treatment was associated with any exchanges agreed on the basis of these contacts.

- **Government procurement**

95. The representative of Armenia informed the Working Party that when government entities wished to procure goods, they could do so either through an entity called Armcontract, under the Ministry of Material Resources, or directly from the marketplace. Under the new approach to procurement

introduced in 1995, Armcontract enjoys no special rights or privileges. Armcontract can participate in procurement activities under the common rules. Entities authorized to procure could decide to use the services of Armcontract, could procure on their own behalf, or could use any other procurement agent. These purchases, which were given effect through State Orders, were financed directly from the budget, and involved the acquisition of goods and services by government entities for their own consumption (i.e. not for resale or use as inputs into production). In the past, these arrangements had sometimes involved implicit subsidy elements for the suppliers concerned, since prices under State Orders had not necessarily corresponded to market prices. As markets developed, however, and more competition occurred, both among Armenian enterprises and with imports, subsidized procurement was becoming a less frequent occurrence.

96. The representative of Armenia said that with effect from 1995, State Orders in excess of US\$ 50,000 for items including: electric energy, various health services training and education, geological exploration, television broadcasting, water supplies and sewerage were subject to competitive tender. In response to questions, the representative of Armenia stated that tender announcements are made in official periodicals of the Government of Armenia. The main criteria for selecting bids included the prices, the quality of the products or services offered, conditions of payment, and terms and conditions of delivery. Foreign enterprises received equal treatment to Armenian enterprises. The tenders were administered by the Ministries and Departments concerned, or by their representatives. Procurement decisions following the evaluation of bids required approval from the Ministry of the Economy. Approval by the Ministry of the Economy was a pre-requisite of the provision of funds for procurement by the Ministry of Finance. A further law regulating government procurement was under preparation.

97. In response to questions from members of the Working Party, the representative of Armenia stated that the Government of Armenia had decided commence negotiations to join the Agreement on Government Procurement from the date of accession. [The Working Party took note of this commitment.]

- **Transit**

98. The representative of Armenia stated that Armenia permitted the unimpeded and tax-free transit of goods through its territory, with the exception of those goods whose importation is prohibited, i.e.

weapons, components used in the production of weapons, explosives, nuclear materials, poisons, narcotics, strong psychotropic substances, devices for use in opium smoking, and pornographic material. These items would only be able to transit Armenian territory with the explicit consent of the Government of Armenia. Transit goods remain under customs supervision while they are on Armenian territory. Armenia was party to a plurilateral agreement on transit trade within the framework of the CIS Treaty on Economic Union. This agreement provided that signatories should not tax or impede transit trade through their territories. Armenia has also signed a bilateral agreement on this subject with Georgia. Similar agreements with Iran and the Ukraine are under consideration.

- **Agricultural policy**

99. The representative of Armenia said that as in the case of industry, the Government of Armenia does not maintain State planning of any kind in the agricultural sector. The situation in the agricultural sector is also similar to industry in respect of subsidies. The past practice of supplying concessionary credits has been discontinued, and farmers no longer receive any direct subsidies. Indirect subsidies are also minimal, with electricity supply prices perhaps representing the most significant remaining element. In contrast to the slow pace in industry, Armenia has privatized almost 90 per cent of agricultural land, and made land titles freely transferable.

100. The representative of Armenia added that as far as inputs are concerned, two large State enterprises are dominant suppliers of agricultural services and inputs such as seeds and fertilizers. These enterprises have recently been transformed into stock companies in preparation for privatization. The enterprises accept payment in kind on the basis of pre-negotiated contracts, and they are required to be self-financing. There is nothing to stop other suppliers entering the market. Nevertheless, the predominance of these firms, together with the fact that they receive at least some of the payment for their services in kind, means that competition remains somewhat constrained in both input and output markets. The Government regards this as a transient phenomenon, since the conditions are expected to develop in which more firms become involved in these activities. Moreover, the State-owned enterprises involved are due for privatization. A Law on Agricultural Policy is being prepared. Among other things, it will confine the role of the Government in the sector to the provision of training, technical support, and extension services.

101. The representative of Armenia said that the Government of Armenia does not maintain any direct subsidies to the agricultural sector. Indirectly, however, farmers have benefited from the Government's policy of charging only variable costs on water and electricity supplies. These policies have applied to all users of electricity and water. However, full cost pricing (cost recovery pricing) was introduced for electricity in 1995, and for water during the course of 1996. Since then, no direct or indirect subsidies are provided to the agricultural sector. The value of the indirect water and electricity subsidies to farmers has not been calculated by the authorities. In addition, the Government supports a limited range of activities dedicated to training farmers in improved agricultural techniques, to upgrading seed and livestock quality, and to providing technical advice and extension services. These services are available to all farmers and involve very modest budgetary outlays.

102. The representative of Armenia further stated that the Government of Armenia paid no export subsidies on exports of agricultural products. Accordingly the Government of Armenia would bind its agricultural export subsidies at zero level in the relevant part of the Schedule of Concessions on Goods.

V. Trade Related Intellectual Property Rights (TRIPS)

103. The representative of Armenia stated that the first step in the direction of intellectual property protection was the establishment of the Armenian Patent Office in 1992. Since December 1992, it has been possible to file applications for patents in respect of inventions, and as from August 1993, to register utility models and industrial designs. During 1993-4, the Armenian Patent Office received some 400 applications for inventions from Armenians and over 100 applications from foreigners. An applicant not a national of Armenia and not domiciled in Armenia must conduct his affairs through a patent attorney registered with the Armenian Patent Office.

- Industrial property protection

104. In response to requests for information concerning the intellectual property policy of the Government of Armenia, the representative of Armenia stated that the Government of Armenia was currently engaged in a substantial programme of legislative reform. A draft Law on Trade Marks, Service Marks and Appellations of Origin is currently under consideration in the Armenian Parliament. The provisions of the proposed statute are fully consistent with international norms in this area. A

distinctive feature of the statute is the legal equality it establishes between trade marks and service marks. During 1993-4, the Armenian Patent Office received some 3,000 applications for trade marks, service marks and appellations of origin from foreign applicants. Registration of these applications will begin after the adoption of the draft law, which is expected in early 1995.

- **Responsible agencies for policy formulation and implementation**

105. The representative of Armenia said that policy formulation and implementation in the area of industrial property (patents, utility models, industrial designs, trademarks, trade names, and appellations of origin) is the responsibility of the Armenian Patent Office. The Patent Office is responsible for approving industrial property right applications, maintains a State Register of industrial property rights, issues an official bulletin reflecting its decisions, and cooperates with homologue foreign institutions and international organizations. The Patent Office is also responsible for the regime covering trademarks.

- **Participation in international intellectual property agreements**

106. The representative of Armenia stated that on 22 April 1993, Armenia deposited a declaration of continued application of the Convention Establishing the World Intellectual Property Organization (WIPO). On 17 May 1994, Armenia also deposited a declaration of continued application of the Paris Convention for the Protection of Industrial Property, Madrid Agreement Concerning the International Registration of Marks and the Patent Cooperation Treaty.

- **Application of national and m.f.n. treatment to foreign nationals**

107. Some members of the Working Party noted that although the representative of Armenia had stated that foreigners enjoy national treatment in both civil and criminal procedures before the courts, its replies to questions concerning administrative review proceedings, dealing with the powers of judicial branches of government, suggested that the jurisdiction of economic courts was not available to foreigners from outside the CIS. The representative of Armenia stated that all citizens enjoy equal rights under the law, for example, the Law on Patents provided that all foreigners enjoyed the same rights as nationals of Armenia in relation to all patent matters, including protection of patents and legal remedies against infringement. Resolution No. 4 of 19 August 1995 "On Confirmation of the Temporary Regulations for Trademarks and Service Marks" similarly envisages full national and most-favoured-nation treatment

for foreigners. This was also the case in respect of the Law on Copyright, and any future laws and regulations adopted in the sphere of intellectual property protection.

- **Fees and taxes**

108. The representative of Armenia stated that fees were payable upon the filing of an application and the granting of a patent. Similar arrangements are in place for trademarks and service marks. Fees will also be chargeable under the legislation to be developed on trademarks and copyright. All fees were set so as to cover costs of the services provided, and the granting and protection of intellectual property rights is not subject to taxation.

- **Substantive standards of protection, including procedures for the acquisition and maintenance of intellectual property rights**

- **Copyright protection**

109. The representative of Armenia said that the National Copyright Agency was established in 1993. More than 2,000 authors, theatre and concert organizations are registered with the agency. The National Copyright Agency registered copyrights, assisted individuals to secure copyrights, provided advisory services, and collected and paid royalties due to authors and their successors in title.

110. The representative of Armenia added that the representative of Armenia added that a draft Law on Copyright had been prepared in the early 1990s and submitted to the National Assembly for its consideration. After examination of the proposed legislation, however, it was felt that its provisions were inadequate for a modern system of copyright protection. New legislation is therefore under preparation. The new version of the draft Law on Copyright was subject to a first reading by the National Assembly in February 1996. It was expected that the draft will become law before the end of 1996. Neighbouring rights, computer programs and compilations of data are also to be protected. The draft Law on Copyright also provided protection for the property rights of the phonogram and videogram producers, as well as of broadcasting and TELEVISION stations. The Law had been drafted in accordance with the provisions of the Bern Convention on this subject.

- **Trademarks, including service marks**

111. The representative of Armenia informed the Working Party that pending the finalization and adoption of the Law on Trademarks, Service Marks and Appellations of Origin, Resolution No. 4 of 19 August 1995 "On Confirmation of the Temporary Regulations for Trademarks and Service Marks" has been introduced. This resolution sets out the terms and conditions of trademark protection, the kinds of trademarks that may not be registered, the procedures for registering trademarks, the rights of appeal against decisions relating to trademarks, the circumstances in which trademarks may be used, and the documentary requirements for registering a trademark. Trademark protection is granted for 10 years, renewable for successive periods of 10 years. Provisions of the temporary regulation on trademarks and service marks contained in Resolution No. 4 of 19 August 1995 were in full conformity with Articles 15, 16.1, and 17 to 21 of the TRIPS Agreement. As regards the provisions of Article 16.2 and Article 16.3 of the TRIPS Agreement, these will be taken into account in the above-mentioned new draft Law on Trademarks, Service Marks and Appellations of Origin.

112. The representative of Armenia stated that the new draft Law on Trademarks, Service Marks and Appellations of Origin would be adopted within eighteen months of Armenia's accession to the WTO. [The Working Party took note of this commitment.]

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

113. Some members of the Working Party asked how Armenia would protect geographical indications under the Law on Trade Marks, Service Marks, and Appellations of Origin, and whether that legislation would be in conformity with Articles 22 to 24 of the TRIPS Agreement. The representative of Armenia stated that geographical indications were not explicitly mentioned in Resolution No. 4 of 19 August 1995, so protection for this kind of property would not be provided until the Law on Trademarks, Service Marks and Appellations of Origin becomes operative. The representative of Armenia stated that the provisions of the new draft Law on Trade Marks, Service Marks, and Appellations of Origin would be in conformity with Articles 22 to 24 of the TRIPS Agreement. The relevant provisions in the draft law had been developed in compliance with the provisions of the Paris Convention (Articles 1(2), 10, 10ter, 10bis, 6quinquies B.3), the Madrid Agreement on the Repression of False or Deceptive Indications of Source on Goods (Articles 1(1), 1(2)), and the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (Articles 2(1), 2(2), 3, 6).

- **Industrial designs**

114. The representative of Armenia stated that industrial designs were protected under Article 7 of the Law on Patents. Article 7 was consistent with Articles 25 and 26 of the TRIPS Agreement. In response to requests for information concerning the specific protection for textile designs, provided for in Article 25(2) of the TRIPS Agreement, the representative of Armenia stated that although textile designs were not explicitly mentioned in Article 8 of the Law on Patents, they were nevertheless covered under that provision.

- **Patents**

115. The representative of Armenia stated that the Law on Patents had been adopted in August 1993. Under the law, patents are granted for inventions, utility models and industrial designs. The term of patent protection is 20 years for inventions, 15 years for utility models, and 10 years for industrial designs. These periods are counted from the date of filing. Patents were granted subject to the requirements that the object of the patent is new, that it was suitable for industrial application, and that no conflict arose with respect to public order and security, good morals and law. Where a patentee fails to exploit the patented object within four years from the date the patent was secured, any party interested in the use of the invention, utility model or industrial design may request that a compulsory licence be issued. As far as patents for inventions are concerned, the law provides for the so-called "differed examination" for a three-year period. A full examination of a patent application is carried out as a rule only upon request and payment of a fee by the applicant or any other interested party. Some members of the Working Party asked whether Armenia's Law on Patents was in full conformity with Article 27 to 34 of the TRIPS Agreement, and requested further information on the conformity of Armenia's system of compulsory licensing. The representative of Armenia stated that the Law on Patents was in conformity with Articles 27 to 34 of the TRIPS Agreement.

116. The representative of Armenia said that the owner of a patent for invention or an industrial design patent granted by the Patent Office of the Soviet Union and still in force may file with the Armenian Patent Office for an Armenian patent at any time during the validity of the inventor's certificate or industrial design certificate, but such filing must occur before 30 June 1995. Some idea of the potential volume of such filings is given by the fact that in the ten-year period to 1990, residents of Armenia registered 6,000 inventions with the Patent Office of the Soviet Union. The Law on Patents

specified the nature of patentable material, the conditions for patentability, the rights of patent holders, the conditions of compulsory licensing, the procedures for granting patents, and dispute settlement.

- **Plant variety protection**

117. The representative of Armenia stated that Armenia currently had no laws dealing with plant variety protection. In response, some members of the Working Party asked how it was proposed plant varieties would be protected in the future. The representative of Armenia stated that legislation to cover the protection of plant varieties is being drafted. It was intended that this legislation will enter into force within eighteen months of Armenia's accession to the WTO. [The Working Party took note of this commitment.]

- **Layout designs of integrated circuits**

118. In response to questions concerning the system for protection of lay-out designs of integrated circuits, the representative of Armenia stated that Armenia did not yet have legislative protection for this kind of intellectual property. It is intended that legislation to cover layout designs of integrated circuits would enter into force within two years of Armenia's accession to WTO.

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

119. In response to requests for information concerning the protection of trade secrets and undisclosed information in Armenia, notably in view of Article 39 of the TRIPS Agreement, the representative of Armenia stated that Armenia had not yet developed provisions for the protection of trade secrets and undisclosed information. Legislation to cover the protection of undisclosed information was under preparation. It is intended that this legislation will enter into force within two years of Armenia's accession to the WTO.

- **Measures to control abuse of intellectual property rights**

120. In response to a question, the representative of Armenia stated that legislation regulating unfair competition was still under preparation.

121. The representative of Armenia also stated that compulsory licensing was provided for under the Law on Patents. In cases involving national security, public order or emergencies, the Government can insist on compulsory licensing, provided the patent holder has not worked the patent within four years of registration. Article 16 of the Law on Patents stated that in the interests of national defence, protection of public order or in an emergency situation, the Government could permit a third party to work a patent without the agreement of the patent holder, while obliging such licensee to provide compensatory remuneration to the patent holder. Any dispute over the amount of compensation had to be settled in the courts. A compulsory licence could only be obtained if a patent has not been worked within four years and after an attempt has been made to sign a licence agreement with the patent holder. A licence could not be awarded to a third party if the owner of a patent could establish that the failure to work the patent was attributable to factors beyond the owner's control. Similarly, under the resolution on trademarks, trademark protection can be nullified by a court decision if a trademark has not been used within five years of the date of registration of the trademark or the date of application for registration. A trademark owner has the right to defend the non-use of a trademark, and block a decision to remove the property right if the reasons for not using the trademark were beyond the control of the owner.

- **Enforcement**

- **Civil judicial procedures and remedies**

122. The representative of Armenia stated that civil Court procedures were always available to deal with legal matters relating to intellectual property protection. The courts were empowered to order the payment of damages and court expenses. The other remedies envisioned in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) are also within the decision-making authority of Armenian courts. In response to questions concerning foreigners' rights to enforce intellectual property rights, and whether the remedies, procedures and penalties were in conformity with Article 42 to 49 of the TRIPS Agreement, the representative of Armenia stated that the civil courts in Armenia were fully empowered to provide the remedies referred to in Articles 42 to 48 of the TRIPS Agreement. Civil remedies could not be ordered as a result of administrative procedures. Foreigners enjoyed the same rights as Armenian nationals in this area. Remedies against criminal behaviour are available under Armenia's courts and penal system. Foreigners have the same access to these remedies as Armenian nationals. The Government was considering the amendment of existing legislation and introduction of additional legislation containing remedies that are framed in more specific terms for

the enforcement of intellectual property rights. Such legislation is under preparation in the Ministry of Justice and is expected to be adopted within two years of Armenia's accession to the WTO.

123. Some members of the Working Party asked whether Armenian judicial authorities had the authority to order injunctions or provisional measures against infringements of intellectual property rights, as provided for in Articles 44 and 50 of the TRIPS Agreement, and whether administrative authorities enjoyed similar authority. In response the representative of Armenia stated that the judicial authorities had the power to order injunctions or provisional measures. Article 33 of the Law on Patents indicated the areas in which remedies may be sought through the courts in the area of patent protection. Paragraph 36 of Resolution No. 4 of 1995 provides similar provision in the case of trademarks and trade secrets.

- **Provisional measures**

124. The representative of Armenia stated that the civil Courts also have the necessary authority to take the provisional measures envisioned in Article 50 of the TRIPS Agreement.

- **Administrative procedures and remedies**

125. The representative of Armenia stated that civil remedies could not be ordered as a result of administrative procedures in Armenia.

- **Special border measures**

126. Members asked whether Armenia had a system of border enforcement against intellectual property rights infringements in accordance with Articles 51 to 60 of the TRIPS Agreement. The representative of Armenia replied that although no explicit provisions had so far been developed in this area, the judicial authorities were empowered to take the kinds of measures envisioned in Articles 51 to 60 of the TRIPS Agreement. In addition, the Customs authorities are empowered to prevent the importation into Armenia of counterfeit trademark or pirated copyright goods.

- **Criminal procedures**

127. The representative of Armenia stated that at present, criminal procedures existed for copyright infringement involving scientific knowledge, literature, music and art. Penalties that could be imposed included imprisonment for two years or a maximum fine of three hundred drams. In addition, the Ministry of Justice is developing new civil, criminal and administrative procedures and remedies. The latter will be in conformity with the provisions of Part III of the TRIPS Agreement. The relevant legislation will enter into force within two years of Armenia's accession to the WTO.

- **Laws, decrees, regulations and other legal acts relating to the above**

128. Some members of the Working Party requested clarification of the status of the draft Law on Trade Marks, Service Marks and Appellations of Origin been adopted by the Parliament, and whether the legislation was in full conformity with Articles 15 to 21 of the Agreement on Trade-Related Aspects of Intellectual Property Rights. The representative of Armenia replied that pending the approval of the Draft Law on Trade Marks, Service Marks and Appellations of Origin a temporary regulation, contained in Resolution No. 4 of 19 August 1995, was in force. That regulation was in full conformity with Articles 15 to 21 of the TRIPS Agreement, including the rights specified in Article 16.

- **Statistical data on applications for and grants of intellectual property rights, as well as any statistical data on their enforcement**

129. In response to requests for information concerning the numbers of patent applications filed in Armenia, the representative of Armenia stated that since the beginning of 1993, 408 patent applications had been filed with the Patent Office. In 207 cases a provisional patent was granted, in 59 cases a patent was refused or the application withdrawn, and 142 applications were under examination.

130. In response to questions regarding when Armenia would be in position to fully implement the WTO provisions on TRIPS, the representative of Armenia stated that due to the need to embark upon a significant legislative programme to encompass all the intellectual property rights covered by the TRIPS Agreement, Armenia would require a transition period of three years following its WTO accession. Some members of the Working Party stated that since 1992, Armenia had had bilateral commitments for the protection of intellectual property rights. Armenia should accelerate its legislative

process to ensure the full implementation of the TRIPS Agreement from the date of its accession to the WTO. In response the representative of Armenia stated that the Government of Armenia would bring all other relevant laws into conformity with the TRIPS Agreement within six months of its accession to the WTO. [The Working Party took note of this commitment.]

VI. Policies Affecting Trade in Services

- General

131. In response to questions, the representative of Armenia informed members of the Working Party that Armenian laws and regulations, and the policy framework did not generally distinguish between trade in goods and trade in services. The rights to trade were enshrined in the Law on Enterprises and Entrepreneurial Activities. All enterprises must be registered and the register is open to public scrutiny. These requirements apply to all juridical persons, whether they are corporations or sole entrepreneurs.

132. In reply to requests for an explanation of the Government of Armenia's understanding of the different modes of supply, the representative of Armenia noted that in terms of the modes of supply identified in the General Agreement on Trade in Services (GATS), the Law on Enterprises and Entrepreneurial Activities was relevant for enterprises selling services across frontiers (mode 1), for service supply through commercial presence (mode 3), and for natural persons who are independent service suppliers (mode 4). Consumption abroad (mode 3) was not covered in this context. Armenia had not developed any policies that restricted the consumption of services abroad. Moreover, Armenian nationals and residents were at liberty to travel abroad and consume services within foreign jurisdictions if they so wish

133. As far as commercial presence (mode 3) and natural persons who are independent service suppliers (excluding that part of mode 4 dealing with employees of service suppliers) are concerned, the Law on Foreign Investments covered investment in both goods and services. The law established the legal framework for all types of investment involving foreign capital, including joint ventures and wholly-owned enterprises and subsidiaries, whether the foreign investor is an individual or an enterprise. No restrictions were imposed on the temporary presence of natural persons in Armenia, whether as employees of foreign service suppliers or as independent suppliers of services. In the latter case, however, the service supplier would be required to register in Armenia as a business or sole entrepreneur.

134. The Government of Armenia submitted a Draft Schedule of Specific Commitments in Services in document WT/SPEC/42. Armenia's Schedule of Specific Commitments in Services is annexed to the Draft Protocol of Accession.

- **Banking services**

135. The representative of Armenia stated that the Central Bank of Armenia was responsible for regulating the banking sector. The Central Bank granted licences for the establishment of commercial banks and their activities, and set and monitored prudential requirements. Resolution No. 31 of February 1995 established the Central Bank's authority in this area. Banks could be joint-stock or cooperative banks and could be resident or non-resident. Banks could be local if their statutory capital was owned by residents of Armenia, foreign if their capital was owned by non-residents, and joint-venture if ownership was mixed between resident and non-resident owners. An individual shareholding in a bank could not exceed 35 per cent of the statutory capital, except in the case of non-resident shareholders, when a special resolution was passed by the Board of the Central Bank.

136. The representative of Armenia said that the Central Bank was required to consider a licence application within one month. A licence could be refused if the required documents did not conform with statutory requirements, if the bank would be unable to meet the necessary prudential standards, or if the qualifications of the proposed top management were inappropriate. Licences could be subsequently withdrawn if initial declarations proved false, if banking activity was not commenced within one year of a licence being granted, if initial capital was not been paid up within one year, if activities were carried out outside the authorized sphere of activities, or if a bank failed to abide by Central Bank regulations.

137. The representative of Armenia further noted that areas of authorized activity for resident banks were making loans, maintaining accounts, issuing, buying and selling shares, bonds, promissory notes, letters of credit, cheques and credit cards, factoring, foreign currency transactions, consulting services, and transactions involving precious stones, metals and other valuables. Banks were explicitly forbidden from dealing in insurance. Non-resident, or offshore banks, were only entitled to offer foreign-exchange related services, and required special authorization from the Central Bank to service residents of Armenia or to engage in dram operations.

138. In reply to questions seeking more information on requirements for resident banks, the representative of Armenia stated that prudential requirements for resident banks were defined in Resolution No. 78 of April 1995. They related to minimum statutory capital, a capital to assets ratio, a liquidity ratio, the maximum exposure to a single borrower, the ration between household deposits and total capital, and a minimum reserve requirement with the Central Bank. The minimum statutory capital was currently US\$100,000, but this requirement would rise to US\$1,000,000 by the year 2000. The capital to assets ratio was 6 per cent, and would rise to 10 per cent by mid-1996. The liquidity ratio (liquid to total assets) was 20 per cent, but would rise to 35 per cent by mid-1996. The maximum exposure to a single borrower in relation to the total capital of the bank was 50 per cent, but this would be lowered to 20 per cent by mid-1996. The ratio of household deposits to the bank's capital was nine to one. The minimum reserve requirement with the Central Bank was 15 per cent.

139. The representative of Armenia said that forty-four resident commercial banks were operating in Armenia, most of them being joint-stock companies. Fifteen banks had closed in the last two years, either voluntarily, or upon the insistence of the Central Bank. There are five branches of Russian banks operating in Armenia as non-resident banks. There are four foreign non-resident banks operating in Armenia and one foreign resident bank. The Government of Armenia was seeking to strengthen the financial system by ensuring that resident banks are viable. Mergers among small banks were encouraged, and standards are gradually being raised through more stringent prudential requirements. No barriers existed to the establishment of foreign-owned resident banks, provided they meet the Central Bank's licensing and prudential requirements. Non-resident banks, however, only enjoy limited access to the banking market.

- **Insurance services**

140. The representative of Armenia informed members of the Working Party that the insurance industry in Armenia was supervised by the Ministry of Finance, which also defined regulations governing the industry. All regulatory authority relating to insurance rested with the Central Government. The m.f.n. principle applies to this sector. In the Government of Armenia's opinion, the sector was under-regulated and would be subject to further legislative attention in the near future. Work was proceeding in the Ministry of Finance on a law on insurance. During the last five years, the Ministry of Finance had issued 71 licences to insurance providers in Armenia. Of these, three had subsequently ceased operations. Three insurance companies had foreign equity participation (two Russian and one

Swedish). So far, insurance companies had not specialized, although this could change in the future. While Armenian nationals faced no restrictions in purchasing insurance abroad, and foreign insurance companies could advertise their services in Armenia, insurance providers were required to be established and licensed in Armenia if they wished to sell insurance on Armenian territory. There were no restrictions upon foreign enterprises wishing to become established in this manner, provided that they met the necessary regulatory requirements.

141. Some members of the Working Party asked for confirmation that cross-border supply and consumption abroad of insurance activities was permitted particularly as regards maritime, air and transport insurance, as well as reinsurance. The representative of Armenia stated that consumption abroad of insurance was not subject to any restriction, but a prerequisite for the sale of insurance within Armenia was that the seller of insurance be registered as a juridical person.

- **Telecommunications**

142. The representative of Armenia informed members of the Working Party that the Ministry of Telecommunications was responsible for policy and regulation in the telecommunications sector. The State telephone company, Armentelecom, is responsible for all other telecommunication services throughout Armenia, both local and long-distance. No barriers to entry exist in these sectors of the market. In view of the poor state of Armenia's telecommunications infrastructure, the Government had decided to tender for a foreign partner in a joint venture that would have monopoly rights to supply certain basic telecommunication services in return for explicit commitments on infrastructure development. The tender was won by a United States' company and the resultant joint-venture company, Armentel, was established on 1 July 1995. The Government of Armenia holds 51 per cent of the equity and the foreign partner holds 49 per cent. The services which have been reserved exclusively for Armentel are international basic telecommunications services, all wire-based services in Municipal Yerevan, and cellular telephony services in Yerevan. The contract has a duration of 20 years, but can be rescinded if the foreign partner does not deliver on the stipulated infrastructure development commitments within the agreed time-frame. Armentel will lease lines for the provision of value-added services by other suppliers, and may subcontract various services to interested parties.

- **Professional services**
 - **Accounting and auditing services**

143. The representative of Armenia responded to questions from some members of the Working Party in relation to the accounting and auditing services sector, by stating that accountancy and auditing services were regulated by the Ministry of Finance, on the basis of a temporary Resolution No. 581 of 1994, pending the establishment of a law on auditing. A State enterprise, Finaudit, was responsible for auditing government departments that spend money from the budget. Finaudit could also offer auditing services to the public sector in general or the private sector, but in competition with other auditing enterprises. In the private sector, domestic and foreign auditors were at liberty to establish operations domestically, subject to meeting Armenia's regulations and passing an examination. Successful candidates were provided with a certificate that allows them to be licensed and to offer auditing services. Some 15 foreign individuals currently held licences. The Ministry of Finance was responsible for this licensing process, except in the case of auditors of banks, who were required to obtain a certificate from the Central Bank.

- **Legal services**

144. In reply to requests for more information concerning the legal services sector, the representative of Armenia informed members of the Working Party that the main lawyers' organization in Armenia was the Collegia of Attorneys, which was in the process of becoming independent of the Ministry of Justice. It represented about 250 lawyers who practised in court and it had offices all over the country. The Collegia was seeking to expand its role and its membership. Membership of the Collegia was not obligatory for practising lawyers, but all practising lawyers must be licensed by the Ministry of Justice, whether they were involved in court representation or acting in an advisory role. Apart from the general legal basis for activities provided by the Law on Enterprises and Entrepreneurial Activities, no other legislation has been established in this sphere. A less active, but more widely representative body, was the Lawyers Association of Armenia. Its membership was approximately 5,000 individuals. The Association encompassed a broad range of law-related professions, including attorneys, judges, academics and students. Approximately 50 law offices operated in Armenia, most of which are registered as sole entrepreneurs.

- **Judicial, arbitral or administrative tribunals or procedures providing for the review of, or remedies in relation to, administrative decisions affecting trade in services**

145. In response to requests for clarification of the judicial, arbitral or administrative tribunals providing for review of decisions affecting trade in services, the representative of Armenia explained that Armenian Court system could be used for litigation (regular courts) and arbitration (arbitral courts). Service suppliers with grievances relating to administrative decisions would not normally seek remedies through litigation or arbitration, until they had exhausted their right to appeal to the administrative organ directly responsible for the decision in respect of which they had a grievance.

- **Provisions, including those in international agreements, concerning qualification requirements and procedures, technical standards and licensing and/or registration requirements for the supply of services**

146. In response to questions from members of the Working Party, the representative of Armenia stated that the approach to licensing/registration and technical standards continued to be developed to cover new areas of service activities. In doing so the Government of Armenia would ensure that the provisions of GATS Article VI are fully respected. He also noted that few foreign service suppliers had so far been established in Armenia, and that the Government would welcome greater foreign participation in these activities. The Government of Armenia was not party to any international agreements for the mutual recognition of qualifications, and has not yet fully developed its own policy regime in this area.

- **Provisions governing the existence and operation of monopolies or exclusive service suppliers**

147. Following questions from some members of the Working Party, the representative of Armenia responded that with the exception of the exclusive arrangements described above in relation to certain telecommunications services, Armenia retained no monopoly or exclusive supply arrangements in services trade.

- **Provisions relating to safeguard measures as they apply to trade in services**

148. The representative of Armenia also noted that Armenia had no legislative or regulatory basis upon which it might apply safeguard measures to trade in services, and no such measures have been applied.

- **Provisions relating to international transfers and payments for current transactions of services**

149. In reply to questions from some members of the Working Party, the representative of Armenia also stated that Armenia did not retain any restrictions on current account transactions as related to trade in services.

- **Provisions relating to capital transactions affecting the supply of services**

150. The representative of Armenia also informed the Working Party that the Law on Investments guaranteed the rights of investors freely to transfer capital.

- **Provisions governing the procurement by governmental agencies of services**

151. The representative of Armenia noted that the same provisions for procurement of goods applied to the procurement of services (see paragraph above).

- **Provisions concerning any form of aid, grant, subsidy, tax incentive or promotion scheme affecting trade in services**

152. In response to requests for information on any financial assistance affecting trade in services, the representative of Armenia informed the Working Party that no State aids were provided to service suppliers.

- **Market Access and National Treatment**

- **Limitations on the number of service suppliers/the total value of service transactions or assets/ the total number of service operations or on the total quantity of service/on output/on the total number of natural persons that may be employed in a particular service sector**

153. In response to requests for information concerning limitations on the supply of services, the representative of Armenia stated that the only limitation on the number of service suppliers was sector-specific, relating to certain telecommunications services. There were no limitations on the total value of service transactions or assets. There were no limitations on the total number of service operations or on the total quantity of service output. There were no limitations on the total number of natural persons that may be employed in a particular service sector.

- **Restrictions on, or requirements of specific types of legal entity through which a service may be supplied**

154. The representative of Armenia stated that the Law on Entrepreneurs and Entrepreneurial Activities defined 20 kinds of organizational forms that enterprises could take. Accordingly, the range of legal entities through which services could be supplied was therefore very wide. No particular type of legal entity was discouraged.

- **Limitations on the participation of foreign capital**

155. The representative of Armenia stated that there were no limitations on the participation of foreign capital, although Regulation No. 31 of February 1995 does give discretion to the Board of the Central Bank to limit the size of individual shareholdings in resident commercial banks.

- **Measures providing for less than the treatment accorded to national services or service suppliers**

156. The representative of Armenia stated that no measures were maintained by Armenia which provided for foreign services or service suppliers to be accorded treatment less favourable than that provided to national services or service suppliers. It may be noted, however, that offshore banks were

not entitled to provide retail banking services in the same unrestricted manner as resident banks. Armenia did not maintain any measures inconsistent with m.f.n. treatment in the field of services.

- **Transparency**

157. Some members of the Working Party requested that the Government of Armenia confirm that from the date of accession, all laws, regulations, rulings, decrees or other measures related to trade in goods or services will be published in its official publication for public review at least two weeks prior to implementation, unless a longer period is specified under the relevant WTO Agreement.

VII. Trade Agreements

158. Some members of the Working Party requested that Armenia provide detailed information on the range of Free and Barter Trade Agreements to which Armenia was a party. Other members requested information so that the Working Party could examine whether Armenia's plurilateral and bilateral Free Trade Agreements were consistent with Article XXIV of the GATT 1994. In response to these requests, the representative of Armenia informed the Working Party that Armenia had developed a network of plurilateral and bilateral trade agreements with various countries. A number of the arrangements were short-term in nature, designed to respond to particular needs, other agreements were viewed as more durable, representing the Armenian Government's perception of the directions in which future trade relations should develop. As a member of the World Trade Organization, Armenia would keep its bilateral and regional trade agreements under review, not only to ensure legal consistency, but also to ensure the coherence of Armenia's trade relations with a broad multilateral framework.

- **Plurilateral or regional agreements**

159. In response to further requests for information on Armenia's Regional Trade Agreements, the representative of Armenia stated that the Treaty of Economic Union was a framework agreement signed by nine Heads of State of the Commonwealth of Independent States (C.I.S.) in 1993 (Azerbaijan, Armenia, Belarus, Kazakhstan, Kyrgyz Republic, Moldova, Russia, Tajikistan and Uzbekistan). The treaty committed signatories to the eventual establishment of a customs union and common market among CIS countries. Other economic and financial components of the CIS treaty related to a payments union, cooperation on investment, industrial cooperation, and an agreement on customs procedures.

The treaty set out quite specific commitments in many of these areas (as well as on cultural, scientific, and defence matters). Because the treaty was essentially an evolving framework document, it did not "operationalize" these commitments. Instead, the specifics of preferential trading relationships were defined in bilateral free trade agreements and in clearing agreements.

160. Also in response to requests for further information, the representative of Armenia explained that Armenia was also a member of the Black Sea Economic Cooperation (BSEC) Organization, along with ten other countries (Albania, Azerbaijan, Bulgaria, Georgia, Greece, Moldova, Romania, Russia, Turkey and Ukraine). This agreement covered a number of fields, including economic cooperation and trade, investment, scientific and technical cooperation, the establishment of a BSEC Bank, and cooperation on transport and communications. The agreement did not make any provision for preferential trade, although it envisaged the possibility of free trade zones in the future. More generally, the organization seeks to cement relations among neighbouring countries through cooperation in such areas as transport, international payments and industrial development.

161. Some members asked whether Armenia had concluded an economic cooperation agreement with the European Union. The representative of Armenia responded that Armenia had not done so yet, but hoped to do so in the future. In the meanwhile, the 1989 Trade and Cooperation Agreement between the European Union and the Soviet Union defined Armenia's bilateral relations with the European Union. That agreement did not provide for any trade preferences.

- **Bilateral free trade agreements and trade and economic cooperation agreements with CIS countries**

162. In response to questions from some members about Armenia's bilateral agreements with CIS countries, the representative of Armenia noted that bilateral free trade agreements (FTAs) had been signed with Russia, Ukraine, Moldova, Kyrgyz Republic and Tajikistan. Except for the agreement with Russia, none of those FTAs had been "operationalized". In reply to questions from some members concerning the reason that these agreements were not "operationalized", the representative of Armenia stated that because little or no trade is currently taking place between Armenia and these countries, there were therefore no practical consequences arising from not operationalizing the agreements. Under the FTA with Russia, each party could exempt from duty free treatment any export items subject to quotas, licences and export taxes. Since Armenia did not maintain any export restrictions (other than

those generally applicable for public security, health and safety reasons), there was nothing on Armenia's exception list under the free trade agreement. Russia maintained certain export restrictions which could be covered by the exception provisions of the FTA, but in practice these often do not apply because of the trade and economic cooperation agreements that Armenia also signs annually with Russia (see below). No exceptions to duty-free treatment for imports are contemplated in the Russo-Armenian free trade agreement.

163. The representative of Armenia further responded that the FTAs were an outgrowth of the trade and economic cooperation agreements that Armenia signed with CIS countries immediately after independence, and which in many cases are still operational. Most of these early agreements were negotiated annually, they envisaged free trade and they included lists of products that the parties agreed to trade with one another. The purpose of these agreements was to try to ensure that pre-existing trade links were not ruptured altogether in the disarray that followed the breakup of the Soviet Union. The specificity of product-wise commitments varied considerably, including as to the identification of prices and quantities to be exchanged. Particularly after 1992, product lists tended to become indicative, with no prior agreement on prices, and the commitments were only partially fulfilled. In 1993, for example, product commitments under these agreements were met to the extent of 20-50 per cent, and figures for 1994 are expected to be even lower.

- **Bilateral clearing arrangements**

164. In response to requests for information in relation to Armenia's barter trade agreements with other countries, the representative of Armenia stated that barter was the essence of the remaining clearing arrangements maintained by Armenia. Barter was borne of necessity and was not a preferred policy. Barter was deemed essential in the immediate post-independence period, in order to preserve the only trade links that Armenia had at that time, and was a feature of the trade and economic cooperation agreements described above. Moreover, barter offers a modicum of energy security, which in the current environment remained of paramount importance to the Government. Also, transport difficulties and a poorly functioning payments system have often made governmental support a sine qua non of doing business with FSU countries. As these kinds of constraints are relaxed, barter is expected to disappear. Indeed, the Government is committed to eliminating barter arrangements as soon as it is practicable to do so. The Government recognizes that its role as trader or as intermediary in trade inhibits the independent development of export capacity by enterprises, and the establishment of networks

and contacts with foreign buyers that are so essential to exporting success. He added that in 1995, the only barter arrangements (called "clearing") that will remain are those with Turkmenistan for gas, and Russia for oil and mazout. The agreement with Turkmenistan has already been signed. It involves the purchase of 2.2 billion cubic meters of gas at \$80 per thousand cubic meters. Payment for the gas will be in both cash (\$30 per thousand cubic meters) and in counterpart products (\$50 per thousand cubic meters). Counterpart products include such items as metals, chemical products, machinery, products of light industry, and products of food industries (including brandy, wine, jams, and cigarette filters). The clearing arrangements state the quantities and prices of goods guaranteed in exchange for the energy. In the case of the 1995 agreement with Turkmenistan, however, an additional list of products that might be exchanged has been included, in order to provide additional flexibility. This latter feature is akin to what a product list represents under a trade and cooperation agreement. Thus, the final composition of goods for exchange is established during the currency of the contract.

165. In response to requests for trade flows arising from the 1995 agreement with Russia, the representative of Armenia stated that the Agreement involved the purchase by Armenia of 200,000 tons of mazout and 200,000 tons of oil under the contract. The terms of this agreement were more rigid than those for Turkmenistan, and the composition, quantity and prices of goods fixed in the contract negotiation were not subject to any change. The 1993 clearing arrangements (which existed with Russia, Turkmenistan and Georgia, and included metals, paper wood products and industrial raw materials as well as energy) involved 74 per cent of total exports and 56 per cent of total imports. The respective figures in 1994 were 46 per cent for exports and 29 per cent for imports. Domestic producers are at liberty to choose whether or not to supply goods for the clearing arrangements. But in view of the difficulties many enterprises face in overcoming transport and payments problems relating to exports, the Government generally encounters little difficulty in securing the necessary supplies from local industries to fulfil the clearing contracts.

- **Bilateral trade and cooperation agreements**

166. The representative of Armenia also stated that trade and cooperation agreements had also been signed with many non-CIS countries, including Latvia, Lithuania, Estonia, Vietnam, China, Romania, Bulgaria, the United States, Argentina, Greece, Austria, Iran, Syria, India, Poland and Hungary. The possibility of such agreements with a number of other countries is under active consideration. These agreements seek to strengthen economic links, but do not contain any provisions for preferential trade.

- **Other non-trade bilateral agreements**

167. The representative of Armenia noted that Armenia had also signed a series of other agreements on investment and on customs relations. The investment agreements sought to encourage investment between the parties, primarily by guaranteeing national treatment, non-expropriation, and unrestricted transfers of investment funds and returns from the investments. Investment agreements had been signed with Ukraine, Kyrgyz Republic, Vietnam, China, the United States, Argentina, Greece and the United Kingdom. Agreements on customs relations are intended to ensure cooperation and smooth working relations between the customs services of the signatories. Such agreements have been signed with Ukraine, Tajikistan, Turkmenistan, Georgia and Iran.

168. In response to further requests for clarification of the compatibility of Armenia's free trade agreements with the CIS States with Article XXIV of the GATT 1994, the representative of Armenia stated that within the framework of the 1994 Free-Trade Agreement among the countries of the Commonwealth of Independent States, Armenia's plurilateral and bilateral free-trade agreements eliminated duties and other restrictive regulations on substantially all trade between the parties. Armenia considered that these arrangements were consistent with Article XXIV of GATT 1994. It may be noted that at present Armenia does not conduct trade with all of the CIS countries, but in respect of those countries with which Armenia does trade, Armenia imposes no taxes or barriers on its imports and exports. These agreements do not cover trade in services.

169. The representative of Armenia informed the Working Party that the Government of Armenia had decided to accede to the Agreements on Government Procurement and Trade in Civil Aircraft. The Government of Armenia would also accede to the future Information Technology Agreement.

170. The representative of Armenia also informed the Working Party that the Government of Armenia would also bring all preferential trading agreements into conformity with relevant provisions of the WTO Agreement from the date of its accession to the WTO. [The Working Party took note of this commitment.]

Conclusion

171. The Working Party took note of the explanations and statements of Armenia concerning its foreign trade regime, as reflected in this Report. The Working Party took note of the commitments given by Armenia in relation to certain specific matters which are reproduced in paragraphs ... of this Report. The Working Party took note that these commitments had been incorporated in paragraph 2 of the Protocol of Accession of Armenia to the WTO.

172. Having carried out the examination of the foreign trade regime of Armenia and in the light of the explanations, commitments and concessions made by the representatives of Armenia, the Working Party reached the conclusion that, Armenia should be invited to accede to the Agreement Establishing the WTO pursuant to the provisions of Article XII. For this purpose the Working Party has prepared the draft Decision and Protocol of Accession reproduced in the Appendix to this Report, and takes note of Armenia's Schedule of Specific Commitments on Services (document ...) and its Schedules of Concessions and Commitments on Agriculture and Goods (document ...) that are attached to the Protocol of Accession. It is proposed that these texts be approved by the General Council when it adopts the Report. When the Decision is adopted, the Protocol of Accession would be open for acceptance by Armenia which would become a Member thirty days after it accepts the said Protocol. The Working Party agreed, therefore, that it had completed its work concerning the negotiations for the accession of Armenia to the Agreement Establishing the WTO.

APPENDIX

ACCESSION OF ARMENIA

Draft Decision

The General Council,

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

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

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

DRAFT

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

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

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

Agree as follows:

Part I - General

1. Upon entry into force of this Protocol, Armenia accedes to the WTO Agreement pursuant to Article XII of that Agreement and thereby becomes a Member of the WTO.
2. The WTO Agreement to which Armenia accedes shall be the WTO Agreement as rectified, amended or otherwise modified by such legal instruments as may have entered into force before the date of entry into force of this Protocol. This Protocol, which shall comprise the commitments referred to in paragraph ... of the Working Party Report, shall be an integral part of the WTO Agreement.
3. Armenia will notify the Secretariat annually of the implementation of the phased commitments with definitive dates referred to in paragraphs ... of the Working Party Report, and will identify any delays in implementation together with the reasons therefore.

4. Except as otherwise provided for in the preceding paragraph or in the paragraphs referred to in paragraph ... of the Working Party Report:

- (a) Those obligations in the Multilateral Trade Agreements annexed to the WTO Agreement that are to be implemented over a period of time starting with the entry into force of that Agreement shall be implemented by Armenia as if it had accepted that Agreement on the date of its entry into force.
- (b) Those notifications that are to be made under the Multilateral Trade Agreements annexed to the WTO Agreement within a specified period of time starting with the date of entry into force of the WTO Agreement shall be made by Armenia within that period of time starting with the date of entry into force of this Protocol.

Part II - Schedules

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

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

Part III - Final Provisions

7. This Protocol shall be open for acceptance, by signature or otherwise, by Armenia until ...

8. This Protocol shall enter into force on the thirtieth day following the day upon which it shall have been accepted by Armenia.

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

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

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

ANNEX I

SCHEDULE ... - ARMENIA

Part I - Goods

Circulated in document

Part II - Services

Circulated in document