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**Working Party on the Accession
of the Kyrgyz Republic**

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ACCESSION OF THE KYRGYZ REPUBLIC

Additional Questions and Replies

Additional questions submitted by Members and the replies thereto provided by the authorities of the Kyrgyz Republic are reproduced hereunder.

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II. ECONOMY, ECONOMIC POLICIES AND FOREIGN TRADE

2. Economic Policy

Question 1:

Please respond to the request for a commitment concerning the abolition of the foreign trade regime contained in page 3 of WT/ACC/KGZ/10.

Answer:

State trading monopolies currently exist in the alcohol, tobacco, and electrical energy: Kyrgyzalco (*de jure*), Kyrgyztamekesi (*de jure*), and Kyrgyz Energy Holding (*de facto*). There are no regulatory barriers to entry in the electrical energy sector. As for alcohol and tobacco, the Kyrgyz Republic is not ready to commit at this point that state trading will be abolished in these two sectors but will commit to comply with the relevant provisions of Article XVII of the GATT 1994 and the corresponding WTO understanding.

For other goods, no restrictions currently exist on the right of foreign or domestic individuals and enterprises to import or export goods within the customs territory of the Kyrgyz Republic. In addition, the Kyrgyz Republic confirms that firms are not restricted in their ability to import or export based on their registered scope of business. The Kyrgyz Republic will commit in its protocol of accession not to introduce any restrictions, except as provided for by the WTO Agreements.

As for restrictions in the service sectors, the Kyrgyz Republic's obligations and commitments will be provided in its Schedule of Specific Commitments in Services.

The Kyrgyz Republic confirms that the criteria for any type of business or trade registration or licensing of companies in the Kyrgyz Republic are generally applicable and published in official publications.

The Kyrgyz Republic will confirm in its protocol of accession that it agrees that it is important to ensure full transparency and to keep WTO Members informed of its progress in the reform of its transforming economic and trade regime, and in the progress of various privatization programmes on an annual basis.

- (b) Monetary and fiscal Policy**
- (c) Competition policy**

Question 2:

According to the information provided in the response to question 2(c) of WT/ACC/KGZ/10 and in WT/ACC/KGZ/10/Add.1 (Information on State Trading), licences are required to import and export, and produce alcohol and alcohol products. Kyrgyzalco is the only body in the Kyrgyz Republic authorized to issue these licences. Any entity (including entities outside of the structure of Kyrgyzalco) may obtain a licence from Kyrgyzalco to import and export alcoholic products (except ethyl alcohol).

- (a) Please describe the procedures and eligibility requirements for obtaining import and export licences for alcohol and alcoholic products from Kyrgyzalco in the form of a response to the Questionnaire on Import Licensing.**

- (b) **Please describe the procedures and eligibility requirements for coming under the structure of Kyrgyzalco, a requirement for enterprises which intend to import ethyl alcohol.**
- (c) **How does the Government of the Kyrgyz Republic ensure that the operation of Kyrgyzalco in the issuance of import and export licences for alcohol and alcoholic products are administered in a manner consistent with WTO requirements, including most-favoured-nation treatment and national treatment?**

Answer:

- (a) Procedures and Eligibility requirements for Obtaining Import and Export Licences for Alcohol and Alcoholic Products ("licences")

Procedures

Responses are according to Section III (Procedures) of the Questionnaire on Import Licensing (QIL).

To obtain a licence for import or export of alcohol and alcoholic products it is necessary, to submit the following documents:

- application for a licence;
- a copy of the certificate of state registration;
- contract on export or import of alcohol and alcoholic products;
- certificate of origin of goods;
- certificate of conformity with safety requirements;
- hygienic certificate of safety for health of people;
- invoice;
- licence for sale of alcoholic products; and
- document confirming payment for the licence.

1. Currently, no quotas, connected with the import and export of alcohol or alcoholic products, are in effect. Therefore, Section III.1 of QIL does not apply.

2.(a) There is no requirement as to how far in advance an application for a licence must be made. The duration to obtain such licences should not exceed ten days (usually it takes 2-3 days). Licences may be obtained after goods arrive at the border.

2.(b) A licence may be obtained in a very short period of time (not exceeding 2-3 days). It is possible that licences may be granted immediately on request.

2.(c) No, there are not limitations as to the period of the year during which an application for licence and/or importation may be made.

2.(d) Only Kyrgyzalco is responsible for reviewing the licence application. A number of documents, however, are required for obtaining a licence. These include (i) hygiene certificate which must be obtained from the Ministry of Health and (ii) certificate of conformity to standards which must be obtained from the State Inspectorate on Standardization and Metrology or other accredited private or State entities.

3. An application for a licence may be refused if (i) it is not complete and (ii) information is not reliable. The reasons for refusal are provided to the applicant in writing. In case of refusal, applicants have the right to appeal to court.

Eligibility Requirements

Responses are according to Section IV (Eligibility) of the QIL.

All persons, firms, institutions are eligible to apply for licences.

(b) Procedures and Eligibility Requirements for Coming under the Structure of Kyrgyzalco

A company wishing to come under the structure of Kyrgyzalco must have a licence from Kyrgyzalco to produce alcohol. Kyrgyzalco is a joint stock company. Shares of a company wishing to be under the structure of Kyrgyzalco are exchanged for shares in Kyrgyzalco (Kyrgyzalco will have shares in the company under its structure and the company will, in turn, have shares in Kyrgyzalco). The State share in Kyrgyzalco must not be less than 51 per cent.

(c) Consistency with the WTO Requirements

Article 8 of the Law on Licensing states that foreign legal entities or individuals, as well as individuals without citizenship shall receive licences on the same conditions and in the same procedure as legal entities and individuals of the Kyrgyz Republic, unless otherwise stipulated by legislative acts. Currently, no legislative acts stipulate otherwise.

Article 18 of the Law on Licensing of 3 March 1997 permits licence applicants to have judicial appeal. Any MFN or national treatment violations may be appealed to court by licence applicants.

Question 3:

According to the information provided in paragraph 1D. of WT/ACC/KGZ/10/Add.1, only companies under the structure of Kyrgyzalco are allowed to obtain licences for importing and exporting ethyl alcohol. There is no competition with any private traders with respect to the import of ethyl alcohol and the production of alcoholic products. The main factor for importing ethyl alcohol is the level of demand by Kyrgyzalco producers.

What is the WTO justification for maintaining import restrictions on ethyl alcohol?

Answer:

There are no import restrictions imposed by the government or Kyrgyzalco on the level of import of ethyl alcohol by Kyrgyzalco companies. The level of import of ethyl alcohol is determined according to demand by the 14 producers under Kyrgyzalco. Such demand is determined by these producers according to commercially sound market demand principles.

Question 4:

According to the information provided in the response to question 2(c) of WT/ACC/KGZ/10, there are wholesale price controls on products sold by enterprises under Kyrgyzalco. Are enterprises not under the Kyrgyzalco subject to wholesale price controls? Are these enterprises

required to report their wholesale prices and profitability to the Anti-Monopoly Department in the Ministry of Finance? Since domestic producers of alcohol and alcoholic products are not required to be under Kyrgyzalco control, how does the Kyrgyz Government assure national treatment for imported products with respect to price controls?

Answer:

Enterprises (under and not under Kyrgyzalco) are not subject to wholesale price controls. Only enterprises under Kyrgyzalco are required to simply report their wholesale prices and profitability to the Anti-Monopoly Department in the Ministry of Finance. Alcoholic products imported to the Kyrgyz Republic are not subject to price control.

In all previous communications, it was consistently stated that domestic producers of alcohol and alcoholic products are required to be under Kyrgyzalco, except domestic beer producers. Therefore, the third question is unclear to the Kyrgyz Republic and we appreciate further clarifications.

Question 5:

According to the response to question 2(c) of WT/ACC/KGZ/10, wholesale prices of alcoholic beverages are established separately by each of the enterprises under Kyrgyzalco. However, the response to the same question also includes a schedule of wholesale prices for products sold by enterprises under Kyrgyzalco.

What is the purpose of the wholesale price schedule, if the enterprises under Kyrgyzalco are able to establish separately wholesale prices for alcoholic beverages? Does the Kyrgyzalco price schedule represent maximum or minimum prices that may be charged by the enterprises under Kyrgyzalco?

Answer:

The wholesale price schedule provided in response to question 2(c) of WT/ACC/KGZ/10 does not represent maximum or minimum prices that may be charged by enterprises under Kyrgyzalco. Such table was compiled for the purpose of responding to question 2(c) of WT/ACC/KGZ/10 and it simply provides the actual wholesale prices of various products sold by various companies under Kyrgyzalco as of 1 May 1997. The Kyrgyz Republic confirms again that wholesale prices of alcoholic products are established separately by each of the enterprises under Kyrgyzalco.

Question 6:

According to the schedule of wholesale prices provided in the response to question 2(c) of WT/ACC/KGZ/10, there appears to be several different prices for vodka. How does Kyrgyzalco determine the price it sets for these different vodkas?

Answer:

Each enterprise under Kyrgyzalco produces a different brand of vodka and, as stated earlier, each enterprise under Kyrgyzalco independently establishes its own wholesale prices. Kyrgyzalco does not set prices for companies under its structure.

Question 7:

Please describe the regime for the importation, production and sale of beer (which is not covered by Kyrgyzalco). Are there any restrictions, prohibitions or import licensing requirements for the importation of beer? Please describe the licensing requirements for the importation of beer, if any, in the form of a response to the Questionnaire on Import Licensing.

Answer:

Currently, there are no quantitative restrictions (e.g. quotas), prohibitions, or import licensing requirements for the importation or exportation of beer. The domestic sale and production of beer, however, requires licensing. Licences for production and sale of beer must be applied for and obtained from Kyrgyzalco.

(a) Licence for Production of Beer

To obtain a licence for production of beer, the following documents must be submitted to Kyrgyzalco:

- application for a licence for production of beer;
- anticipated annual volume of beer production;
- certificate of State registration;
- certificate of conformity with standards issued by Kyrgyzstandard;
- sanitary-hygienic conclusion issued by the State Sanitary and Technical Inspection;
- protocol of the meeting of the Republic Tasting Commission;
- conclusion of the independent expert commission examining enterprises and technical equipment of enterprises and technological equipment for compliance with requirements for production of alcoholic products, as well as with safety requirements for life and health of individuals of the Kyrgyz Republic.

A licence must be issued within 30 days after receiving all materials. In case of refusal, the applicant may appeal to the court.

(b) Licence for Sale of Beer

To obtain a licence for sale of beer the following documents must be submitted to Kyrgyzalco:

- application for a licence for sale of beer (wholesale or retail);
- certificate of State registration;
- documents on trade unit (lease agreement, purchase and sale contract or certificate on the property right);
- card of controlling cash boxes;
- sanitary-hygienic conclusion of the State Sanitary Inspection;
- hygienic certificate issued by the State Sanitary Inspection;
- certificate of conformity with standards issued by Kyrgyzstandard; and
- contract with the supplier (not required if the seller is a producer).

A licence must be issued within 30 days after receiving all materials. In case of refusal, the applicant may appeal to the court.

Question 8:

According to paragraph 1E. of WT/ACC/KGZ/10, Kyrgyzalco and companies under its structure are engaged in the importation of alcoholic products (except ethyl alcohol). In addition, it is clear from the information provided in WT/ACC/KGZ/10/Add.1, in particular in the statistical information provided, that Kyrgyzalco controls virtually all recorded imports of alcohol and alcoholic beverages into the Kyrgyz Republic.

Paragraph 1E. of WT/ACC/KGZ/10/Add.1 (rather than WT/ACC/KGZ/10) states the following: "Currently, Kyrgyzalco and companies under the structure of Kyrgyzalco are not engaged in the import of alcoholic products, except the import of ethyl alcohol for their own use". The statistical information provided is consistent with such statement and indicates that no alcoholic products (except spirits) were imported by companies under Kyrgyzalco.

GATT Article XVII requires State-trading enterprises shall make purchases or sales solely in accordance with commercial considerations and shall afford enterprises of other Members adequate opportunity, in accordance with customary business practices, to compete for participation in such purchases or sales. It does not appear that such opportunities have been provided.

Please explain why Kyrgyzalco is not currently importing alcoholic products, other than ethyl alcohol.

What steps is the Kyrgyz Government taking to ensure that Kyrgyzalco affords adequate opportunity for foreign sellers of alcoholic products to participate in its purchases and sales?

Answer:

Companies under Kyrgyzalco may obtain a licence to import alcohol and alcoholic products. Also, any other company in the Kyrgyz Republic may obtain a licence to import alcohol and alcoholic products (except ethyl alcohol). There are no restrictions or barriers by the government for the import of alcoholic products.

Companies under Kyrgyzalco are mainly producers of alcoholic products and such companies import ethyl alcohol for the purpose of producing alcoholic products. It is a business decision by companies under Kyrgyzalco not to import alcoholic products.

There are no prohibitions on any company (domestic or foreign) not under the structure of Kyrgyzalco, to, under contract with Kyrgyzalco, (1) import alcoholic products on behalf of Kyrgyzalco or (2) purchase alcoholic products produced by companies under Kyrgyzalco and sell them domestically or export them. In addition, foreign investors may purchase shares in, or fully own, companies under Kyrgyzalco. Currently, foreign investors have shares in one of the companies under Kyrgyzalco.

Question 9:

According to paragraph 1E. of WT/ACC/KGZ/10/Add.1, companies under Kyrgyzalco are only exporting to other CIS countries on a barter basis.

Does Kyrgyzalco or its controlled enterprises import alcoholic products or ethyl alcohol from CIS countries pursuant to barter transactions?

Do the import licensing and price control systems apply on an MFN basis to the importation of alcoholic products from CIS countries?

Answer:

No alcoholic products are imported on a barter basis from CIS countries by Kyrgyzalco or its associate enterprises. Ethyl alcohol is imported on a barter basis from Ukraine and Russia.

There is no price control system connected with the importation of alcoholic products. Import licensing applies on a MFN basis to the import of alcoholic products.

Question 10:

Concerning the other State-trading enterprises listed and described in WT/ACC/KGZ/10/Add.1:

Kyrgyztamekesi is the sole provider of licences for the production of tobacco products in the Kyrgyz Republic and the export of fermented tobacco. Importation, however, does not require a licence, and "any person may obtain a licence to engage in the production of tobacco products" and the import/export of fermented tobacco."

Please outline the conditions under which imported tobacco products are marketed in the Kyrgyz Republic.

Answer:

Imported tobacco products are marketed freely in the Kyrgyz Republic. There are no special conditions.

For health protection and sanitary reasons there are current plans to introduce licence requirements for the export of fermented tobacco and import of tobacco products.

Question 11:

Concerning Kyrgyzgasmunaizat:

What firms, in addition to Kyrgyzgasmunaizat, import and export of oil products and natural liquefied natural gas? Are these firms State owned, in whole or in part?

Answer:

There are no firms (including Kyrgyzgasmunaizat) currently exporting oil products, natural, and liquefied gas. The main reason is that demand in the domestic market outweighs the supply. Note, however, that there are no prohibitions by the government on the export of oil products, natural gas, and liquefied gas.

There are five privately-owned companies engaged in the importation of oil products: Lukoil Kyrgyzstan, Tyan-Shan Oil, Sato Petroleum, Datka, and Ekooil.

In addition to Kyrgyzgasmunaizat which imports approximately 50 per cent of the natural gas and liquefied gas to the Kyrgyz Republic, a number of State companies (e.g. Kadamjai Antimony Group,

Maili Suu Lamp Plant) are currently importing natural gas to meet their own demand. These State companies have their own contracts with Uzbekistan for importing natural gas and have a commercial contracts with Kyrgyzgasmunaizat to transport gas from Uzbekistan to the Kyrgyz Republic.

Question 12:

Concerning Kyrgyz Energy Holding Company:

It appears from the statistical table attached that there is no trade electrical power energy in the Kyrgyz Republic that does not originate with this company.

Please describe the licensing procedures and criteria necessary for a firm to share in this trade.

Please indicate how many licences have been requested, granted, and/or denied.

Is electrical power freely available equally to all firms and individuals in the Kyrgyz Republic at the internal, concessional, price? Including foreign firms? If not, please outline the restrictions.

How is the export price of bartered electrical energy established with Uzbekistan and Kazakstan?

While there may not be any de jure barriers to trade in electrical energy in the Kyrgyz Republic, it would appear that there is at least a de facto monopoly in the hands of the Kyrgyz Energy Holding Company.

Answer:

Currently the production and sale of the electrical energy are carried out de-facto only by Kyrgyz Energy Holding. There are no regulatory barriers to entry. Any person may apply for licence for generation, transmission, distribution, and sale of electrical energy. The draft regulations outlining the procedures, criteria, and requirements for obtaining such licences are currently being developed in accordance with the Law on Licensing of 3 March 1997. A copy of this law was provided to the Secretariat in June 1997.

As of today no application for licences have been submitted to the Licensor (the "State Energy Agency under the Cabinet of Ministers").

Electrical power is equally available to all firms and individuals in the Kyrgyz Republic. The rates for households are lower than the rates for firms (legal persons) only if the consumption level of a household is below 300 KW per month during summer and 700 KW per month during winter. If the consumption level of a household is higher than these two figures then the rates will be the same as firms. The rates for all firms are the same. There is no difference in the rates charged to (1) a legal person (without foreign ownership), (2) a legal person (fully or partially foreign-owned), and (3) a representative or branch office.

Export prices of bartered electrical energy established with Uzbekistan and Kazakstan are negotiated on annual basis and depend on the traded volume and conditions of the inter-governmental agreement. The volume and the commercial value of bartered goods are considered during negotiation.

Question 13:

Concerning Kyrgyzaltyn: Please correct the table on page 10.

Answer:

Antimony (tons)	National Production	Production-Kyrgyzaltyn	Total Import	Import-Kyrgyzaltyn	Total Export	Export-Kyrgyzaltyn
1996	6,001.9	6,001.9	0.0	0.0	4,700.1	4,700.1
1995	7,053.2	7,053.2	99.0	99.0	6,283.4	6,283.4
1994	9,588.0	9,588.0	0.0	0.0	8,687.1	8,687.1

Question 14:

Concerning the information provided in WT/ACC/KGZ/9/Add.1:

We support the notification of the "natural monopoly" firm listed in this document, whether or not there is a legal basis for the monopoly. This includes (a) the Kyrgyz Energy Holding Company (electricity), Kyrgyzalco (alcohol), Kyrgyztamekesi (tobacco and products).

We commend the Kyrgyz Republic for this decision, in that it will greatly assist WTO Members in better understanding the nature of the market in the commodities produced and/or traded by these firms.

The reasons given for non-notification "of the permitted monopolies" are not sufficient to determine whether or not that decision is the right one.

We seek more information on the "permitted" monopolies listed and the nature of their monopoly rights. Are they State owned? Do they trade with or on behalf of the government?

Answer:

Permitted Monopoly	State Share	Trade with State	Trade on behalf State
1. Jalal Abad Oil Processing Plant	50%	No	No
2. Kyrgyzgasmunaizat	100%	Yes (State enterprises, government institutions)	Yes (please see 1(F) of WT/ACC/KGZ/10/Add.1)
3. Kyrgyzkomur	70%	No	No
4. Kyrgyzstan Aba Joldoru	100%	Yes (2-3% of total business--servicing government functions)	No
5. Uchkun	100%	Yes (25% with other State enterprises)	No
6. Akyl	80%	Yes (80-85% with state enterprises)	No

Permitted Monopoly	State Share	Trade with State	Trade on behalf State
7. Kyrgyzaltyn	100%	Information not available per instructions of the Ministry of National Security	Information not available per instructions of the Ministry of National Security

Privatization

Question 15:

The Kyrgyz Republic has stated in response to question 6, WT/ACC/KGZ/7 that "Currently, the privatization programme for 1997 is being developed. During 1997 the privatization programme for 1998 and 1999 will be developed. It is too early to predict the date on which the entire programme will have been completed, but it is envisaged that the programme will be completed before 2005." The response to question 4 of WT/ACC/KGZ/9 states that "The Privatization programme for 1998-1999 is currently being developed. It is expected that the Government complete its work toward the end of 1997. At that time, information will be provided".

The ongoing nature of the privatization programme makes periodic reporting on the status and progress toward completion the programme all the more useful necessary.

We renew our request made on page 3 of WT/ACC/KGZ/10. Will the Kyrgyz Republic commit to periodic reporting, confirming that it is important to ensure full transparency and to keep WTO Members informed of Kyrgyz Republic's progress in the reform of its transforming economic and trade regime, and that the Kyrgyz Republic will provide annually to WTO Members information on developments in its privatization along the lines of that provided to the Working Party during the accession process, and on other issues related to its economic reforms as relevant to its obligations under the WTO.

When formulating its response to the questions on the status of privatization, we ask that the information on the progress the progress and status of the programme be displayed in tabular form as well as in text, in the format used by Bulgaria in WT/ACC/BGR/5, Information on Progress of the Privatization Process of State Enterprises.

Answer:

The Kyrgyz Republic will commit to periodic reporting, confirming that it is important to ensure full transparency and to keep WTO Members informed of Kyrgyz Republic's progress in the reform of its transforming economic and trade regime, and that the Kyrgyz Republic will provide annually to WTO Members information on developments in its privatization along the lines of that provided to the Working Party during the accession process, and on other issues related to its economic reforms as relevant to its obligations under the WTO.

Information regarding the status of privatization will be provided on an annual basis. An update on privatization status will be provided during the first half of 1998 based on the recommended format mentioned above.

Price Controls

Question 16:

Please respond to the request for appropriate commitments on the Pricing policy and price controls contained on page 9 of WT/ACC/KGZ/10.

Answer:

The Kyrgyz Republic will commit in its protocol of accession to the following:

- enhanced transparency in the area of price control over goods and services subject to State price controls notified in the accession process. Any changes in price control will be published in official publications;
- all prices for goods and services in every sector that are not clearly notified as under control will be determined by market forces. All price controls on products and services still in effect, at the central and sub-central level, will be listed by HS number. The controls in place will be described, and the authority to apply these and any other such controls clearly cited, including the reasons for the existing controls, and the conditions under which the Kyrgyz Republic expects to use such controls in the future;
- its price controls will be applied in a WTO-consistent fashion, taking account the interests of exporting WTO Members as provided for in Article III:9 of the GATT 1994.

The Kyrgyz Republic does not have any import reference prices in place and commits that such measures will not be reintroduced after accession, except in accordance with WTO Agreements.

III. FRAMEWORK FOR MAKING AND ENFORCING POLICIES AFFECTING FOREIGN TRADE IN GOODS AND IN SERVICES

4. Legislative Programmes or Plans to Change the Regulatory Regime

Question 17:

Thank you for providing translated drafts of the extensive volume of trade legislation that is on the Parliament's work programme for 1997. We will review this draft legislation and written comments on it prior to the next Working Party meeting.

Answer:

Since the last set of questions and answers which was forwarded to the WTO in June 1997, the following legislation were enacted:

- (i) The Customs Code, 30 July 1997
- (ii) Amendments to the Customs Tariff Law, 28 July 1997
- (iii) The Law on Foreign Investment, 24 September 1997
- (iv) The Law on Banks and Banking Activities, 29 July 1997
- (v) The Law on National Bank, 29 July 1997
- (vi) The Law on Collateral, 27 June 1997
- (vii) The Law on Subsurface Resources, 2 July 1997

(viii) The Law on State Regulations of Foreign Trade Activities, 2 July 1997

Copies of the above laws are provided in Attachment B. Resulting from the enactment of the aforementioned laws, the following laws became invalid:

- (i) The Law on the National Bank of the Kyrgyz Republic, 12 December 1992
- (ii) The Law on Banks and Banking Activity in the Kyrgyz Republic, 11 December 1992
- (iii) The Customs Code, 2 July 1992
- (iv) The Law on Subsurface Resources, 15 December 1992
- (v) The Law on Collateral, 6 March 1992
- (vi) The Law on General Principles of Foreign-Economic Activity of the Kyrgyz Republic, 18 April 1991.

Per request of working party members, the Kyrgyz Republic is providing a list of all draft laws relevant to its foreign trade regime:

Draft Law	Status	Date of submission to WTO
1. The Law on Anti-Dumping	Being approved by the Government	Provided in Attachment B
2. The Law on Countervailing	Being approved by the Government	Provided in Attachment B
3. The Law on Safeguards	Being approved by the Government	Provided in Attachment B
4. The Civil Code (Section on Intellectual Property)	Approved by Parliament during the first reading (June 1997).	Provided in June 1997
5. The Criminal Code (Section on Intellectual Property)	Being reviewed by Parliament.	Provided in Attachment B
6. The Law On Copyright and Neighbouring Rights	Approved by Parliament during the first reading (June 1997).	Provided in Attachment B
7. The Law On Trademarks, Servicemarks and Appellation of Places of Origin	Approved by Parliament during the first reading (June 1997)	Provided in Attachment B
8. The Patent Law	Approved by Parliament during the first reading (June 1997)	Provided in Attachment B
9. The Law on Software and Database	Approved by the Government and submitted to Parliament.	Provided in Attachment B
10. The Law on Integrated Circuit Topography	Approved by the Government and submitted to Parliament.	Provided in Attachment B
11. The Law on Selection Achievements	Approved by the Government and submitted to Parliament	Provided in Attachment B

Draft Law	Status	Date of submission to WTO
12. The Law on Commercial Secrets	Being drafted by Parliament	To be provided as soon as it is finalized

IV. POLICIES AFFECTING TRADE IN GOODS

1. Import Regulation

- (b) **Characteristics of national tariff, customs tariff nomenclature (HS), types of duties, general description of the customs tariff structure, weighted average level of duties on main customs tariff groupings, application of MFN rates, tariff preferences**

Question 18:

According to the response to question 5 of WT/ACC/KGZ/10, dated 5 June 1997, the customs tariff schedule provided in WT/ACC/KGZ/3 is no longer valid, and the Kyrgyz Republic is entering negotiations with the WTO Working Party on the basis of the tariff rates in effect in the Kyrgyz Republic on 1 June 1997 (flat 10 per cent mentioned in Section IV.1.b. of WT/ACC/KGZ/3). However, the Kyrgyz Republic also submitted WT/ACC/SPEC/KGZ/4 on 30 June 1997, indicating that this document contains Kyrgyz Republic's goods market access offer.

Please clarify which of these "offers" is in effect. If it is WT/ACC/SPEC/KGZ/4, please indicate why, if applied rates are mostly at the level of a 10 per cent tariff rate across the board, is the initial access offer from the Kyrgyz Republic so much higher, e.g., as outlined in WT/ACC/SPEC/4?

Please respond to the request on page 12 that the Kyrgyz Republic negotiate and establish its WTO Goods Schedule in HS 96 nomenclature.

Answer:

WT/ACC/SPEC/KGZ/4, published by the WTO Secretariat on 30 June 1997, is the Kyrgyz Republic's offer on goods. The Kyrgyz Republic is ready to discuss the reasons for higher rates in the offer than currently applied rates (flat 10 per cent) during bilateral negotiations.

The offer in WT/ACC/SPEC/KGZ/4 was prepared according to HS 96 nomenclature.

- (c) **Tariff quotas, tariff exemptions**

Question 19:

In order to ensure transparency, the Kyrgyz Republic should eliminate its extensive use of tariff exemptions and apply zero or low tariff rates on imports of technical equipment, raw materials, material reagents, components, replacements, spare parts, semi-manufactures and other articles for the production of final products.

According to the response to question 36 of WT/ACC/KGZ/7, the proposed Customs Tariff Law will retain the duty exemption on imports of technical equipment, raw materials, materials, reagents, components, replacements, spare parts, semi-manufactures and other articles, used by domestic business enterprises for the production of final products.

Will these duty exemptions also be available to foreign manufacturers producing final products in the Kyrgyz Republic?

Please describe the process for receiving the exemptions and any restrictions or conditions imposed on foreign manufacturers seeking to obtain a licence from the Ministry of Industry and Foreign Trade to receive these exemptions.

How does the Kyrgyz Republic define "final products" for purposes of the duty exemptions? Would repackaging or simple assembly constitute production of final products for purposes of the duty exemptions?

Please describe the fees, if any, to obtain the licence to obtain the duty exemptions.

Answer:

The Kyrgyz Republic currently provides to Kyrgyz legal entities (a Kyrgyz legal entity may be 100 per cent foreign owned) tariff exemptions on imports of technical equipment, raw materials, material reagents, components, replacements, spare parts, semi-manufactures and other articles for the production of final products.

Manufacturers seeking to obtain such exemptions must submit an application to the Ministry of Industry and Foreign Trade describing the items and the quantity of technical equipment, raw materials, materials, reagents, components, replacements, spare parts, semi-manufactures and other articles necessary for production of final products. The application is reviewed by the Ministry for assessing (i) whether or not those items are indeed used in manufacturing final products by the petitioning enterprise and (ii) whether or not the quantities described in the application are grounded. If the application is approved by the Ministry, then the Cabinet of Ministers includes such enterprise on the list of exempted manufacturers. The manufacturers may not import duty free more than the quantity requested in the original application.

The same procedure to obtain these duty exemptions applies to Kyrgyz legal entities with or without foreign participation. There are no restrictions or conditions imposed on Kyrgyz legal entities which are partially or fully foreign owned.

The Kyrgyz Republic defines "final products" for purposes of the duty exemptions as products originating in the Kyrgyz Republic according to the rules of origin described in the existing customs legislation. Repackaging or simple assembly do not constitute production of final products for purposes of the duty exemptions

No fees are charged by the Ministry of Industry and Foreign Trade or the Cabinet of Ministers for obtaining these duty exemptions.

(d) Other duties and charges, specifying any charges for services rendered

Question 20:

We appreciate the Kyrgyz Republic's commitment to amend the proposed Customs Code to ensure that the customs fee structure and import licence fees conform to GATT Article VIII from the date of accession.

Please respond to the request in WT/ACC/KGZ/10, page 13, for a detailed description of the ad valorem customs processing fees it applies and the measures Kyrgyz Republic intends to take to bring them into conformity with Article VIII of the GATT 1994.

Please provide the WTO Secretariat a schedule of the revised customs duties fees and/or method of assessment that addresses their WTO compatibility at the earliest opportunity.

Please respond to the request on page 14 of WT/ACC/KGZ/10 for information on how the Kyrgyz Republic intends to bring into WTO conformity its fee structure for sanitary certification of imports.

Answer:

When changing the fee structure for customs processing, phytosanitary certificate, veterinary certificate, and export/import licensing, the Kyrgyz Republic will use the methods described herein using actual data at that time.

(i) Customs Processing Fee-Proposal for Conformity with Article VIII of the GATT 1994

The Kyrgyz Republic will bring upon accession its customs processing fee into conformity with Article VIII of the GATT 1994.

The Kyrgyz Republic proposes to maintain an *ad valorem* fee of 0.15 per cent with a minimum of som 180 (approximately US\$10) and a maximum of som 550 (approximately US\$31). The fee structure will be reviewed every two years. The Kyrgyz Republic proposes to continue the existing rate of 0.15 per cent although the expense/revenue ratio was 3.6 per cent for fiscal year 1996 and is estimated at 2.4 per cent for fiscal year 1997. The minimum and maximum fees are determined using a methodology that is based on internationally recognized cost accounting principles and practices. Computational details are provided in Attachment A.I.

Determining Minimum Fee: The fee consists of two components: Direct costs and Indirect costs. Direct costs are those that are exclusively incurred to process import declaration. These consist of employee cost to process an import declaration. The time spent by an employee to process various categories of import goods was analyzed and the average employee cost to process an import declaration was computed. Indirect costs are those that are incurred for various customs activities including import processing. These costs, also called overhead costs, are allocated based on approximate total time spent by customs employees. It is estimated that on average, Kyrgyz Customs employees spent about 50 per cent of their time processing import declarations. As a result, 50 per cent of the total overhead costs was allocated to import processing.

Determining Maximum Fee: The fee is based on the total costs of Kyrgyz Customs. It is estimated that approximately 50 per cent of Customs resources are consumed to process import declarations. As a result, about 50 per cent of total costs are allocated to import processing.

The Kyrgyz Republic proposes to create a revolving fund to finance the import processing activities. All revenues collected from import processing fee will be credited to this fund. The proceeds from this fund may be used only to meet the costs of import processing.

(ii) Phytosanitary Certificate

The current costs of issuing Phytosanitary Certificate (minimum fee: som 70; maximum fee: som 223) exceed the fee charged (minimum fee: som 36; maximum fee: som 265) for such a certificate. A detailed analysis is provided in Attachment A.II showing current costs of issuing Phytosanitary certificate.

The Kyrgyz republic believes that the current fee structure is in full compliance with Article VIII. We, therefore, propose to keep the current fee structure for issuing phytosanitary certificates.

(iii) Veterinary Certificate

The current costs of issuing Veterinary Certificate (minimum fee: som 250; maximum fee: som 3,272) exceed the fee charged (minimum fee: 30 Som; maximum fee: som 500) for such a certificate. A detailed analysis is provided in Attachment A.III showing current costs of issuing Veterinary certificate.

The Kyrgyz republic believes that the current fee structure is in full compliance with Article VIII. We, therefore, propose to keep the current fee structure for issuing veterinary certificates.

(iv) Import/Export Licensing Fee

The current fee to have an import or export licence is som 900 (US\$52.94). A detailed analysis is provided in Attachment A.IV showing that the current fee reflect the cost of services rendered.

(f) **Import licensing procedures**

Question 21:

According to WT/ACC/KGZ/11, the Kyrgyz Republic submitted the text of the Law on Import Licensing to the WTO Secretariat for review by the Working Party. Is this draft legislation or has the Import Licensing Law already been enacted by Parliament? What is the effective date for this law?

Answer:

Currently, there is no law or draft Law on Import Licensing in the Kyrgyz Republic. In June 1997, the Kyrgyz Republic submitted to the WTO Secretariat a copy of the Law on Licensing which was enacted on 3 March 1997 and became effective on 10 April 1997. Chapter II of this law deals with import and export licensing.

Question 22:

According to the information provided in WT/ACC/KGZ/10/Add.1 (on State Trading Enterprises), licences are required for the importation and exportation of gold, antimony and mercury. A licence to engage in the export of mercury and antimony will not be granted if the export contract does not stipulate sale to the final consumer. What is the WTO rationale for maintaining the use of import and export licensing for mercury and antimony?

Answer:

The WTO rationale for maintaining the use of export licensing for mercury and antimony is environmental and health protection. Permission to import mercury and antimony is no longer required.

(h) Customs valuation**Question 23:**

According to the response to question 7 of WT/ACC/KGZ/10, the draft Customs Code will contain specific provisions implementing WTO requirements for customs valuation. Unfortunately, we have not yet had an opportunity to review the draft legislation, which was attached to WT/ACC/KGZ/Add.2 as Annex 1-4, but we will provide comments on the compatibility of this legislation with the WTO Customs Valuation Agreement prior to the next working Party meeting.

Answer:

Please find in attachment B a copy of the Customs Code of 30 July 1997.

(k) Application of internal taxes on imports**Question 24:**

We appreciate the Kyrgyz Government's acknowledgment in WT/ACC/KGZ/10 that the current excise tax regime, with different levels or methods of calculation for imported domestically-produced goods, is not compatible with GATT Article III, and welcomes the commitment to establish, upon accession to the WTO, one equal excise tax regime for imported and domestically-produced goods.

According to the response to question 77 of WT/ACC/KGZ/7, the Kyrgyz Republic currently supports the concept of bringing its VAT system into conformity with accepted world practice: i.e., applying the VAT to all goods sold or imported into the republic regardless of their country of origin, and exempting exported goods regardless of country of destination.

We seek a commitment from the Kyrgyz Republic that it will implement VAT and excise tax systems that are in full conformity with WTO most-favoured nation requirements prior to WTO accession.

Answer

Currently, excise tax systems are in full conformity with WTO most-favoured-nation requirements. As for VAT, the Kyrgyz Republic commit to implement VAT systems that are in full conformity with WTO most-favoured-nation requirements at the time of WTO accession. Appropriate tax legislation will be amended during early 1998.

Question 25:

The response to question 9(c) of WT/ACC/KGZ/10 only increases the uncertainty of the level of border charge to be applied to imports under excise tax.

Please cite the provisions of the Customs Code that permit the discretionary application of tariffs to with excise taxes. Please elaborate on the conditions that would activate these measures.

Answer

Currently, no imported goods to the Kyrgyz Republic are subject to both excise taxes and import duties at the same time. It is not contrary to international practices or WTO rules to have excise taxes and import duties apply together for an imported good.

The Customs Code does not have any provisions which permit the discretionary application of tariffs with excise taxes. In case the Cabinet of Ministers decides in the future to introduce excise taxes for products subject to customs duties (or vice versa), a government resolution will be issued and published at least 15 days before the application of these duties or taxes comes into effect.

(I) Rules of origin

Question 26:

According to the response to question 81 of WT/ACC/KGZ/7, a certificate of origin issued by the authorized body in the exporting country to issue such certificates is required for imports of all products. Please explain, along with examples, what is a considered to be an "authorized body."

Answer:

The Kyrgyz legislation does not provide for the definition of the "authorized body." In practice, Customs authorities of the Kyrgyz Republic accept certificates issued by Chambers of Commerce of the country of origin.

Question 27:

Annex II.3(d) of the WTO Agreement on Rules of Origin requires that Members are to ensure that exporters, importers, or any person with justifiable cause will be provided upon request assessments of preferential origin as soon as possible but no later than 150 days after a request for such an assessment is made. A similar requirement exists in Article 2(h) of the WTO Agreement on Rules of Origin applicable to non-preferential trade regimes.

Please describe in detail the process by which the Kyrgyz Government provides such assessments in compliance with the WTO Agreement on Rules of Origin. Please describe how such assessments are publicly available, as also required under Article 2(h) of the WTO Agreement.

Please describe in detail the procedures that provide prompt independent review of administrative actions taken by the Kyrgyz Republic in relation to determinations of origin, as required under Annex II.3(3) and Article 2(j) of the WTO Agreement on Rules of Origin.

If there are no rules of origin applicable to MFN trade other than review of a certificate of origin, how does the Kyrgyz Republic ensure compliance with Article 2(e) of the WTO Agreement, which requires that rules of origin are administered in a uniform manner, such as in a situation whereby countries are issuing certificates of origin using different standards?

According to the response to question 82 of WT/ACC/KGZ/7, the proposed Customs Code includes the methods specified in the Kyoto Convention Annex.

Answer:

Requests for assessment of preferential origin will be responded to within 150 days. Regulations will be drafted to address the time within which responses will be issued.

Chapter 55 of the adopted Customs Code of the Kyrgyz Republic provides for issuance of preliminary decisions on various issues including the country of origin. Assessments will stay effective for three years. Implementing instructions describing the process in detail will be developed by SCI.

Chapters 58, 59 and 60 of the New Customs Code provides that administrative actions taken by customs bodies can be appealed in two steps. Preliminary appeal may be filed in writing to the Superior Customs Body ("Headquarters") or Superior official. This appeal will be reviewed within a month. Appeals should be submitted within three months from the moment of notification, and six months - if the applicant was not notified. If appellant is not satisfied with a decision of higher customs authority, he can appeal to the district (city) court where the customs body is located.

The Customs Code provides that goods that are wholly produced in a country are considered as originating in that country. The list of wholly produced goods was adopted from the Kyoto Convention Annex. The Customs Code provides for three methods of determining origin as specified in the Kyoto Convention Annex. However, the tariff shift method of determining origin is the only method in use. There are no regulations implementing the *ad valorem* or specific manufacturing or processing methods. The Kyrgyz Republic plans to adopt the Harmonized Rules of Origin once finalized by the World Customs Organization.

(m-o) Anti-dumping, countervailing and safeguard measures

Question 28:

We note in the response to question 36 of WT/ACC/KGZ/9 and question 12 in WT/ACC/KGZ/10 that the Kyrgyz Republic no longer plans to adopt a new Customs Tariff Law, that the existing Customs Tariff Law will become invalid upon enactment of the new Customs Code, and that additional legislation will be adopted to address safeguards, anti-dumping, and countervailing duty cases. The United States appreciates the efforts being made by the Kyrgyz Government to ensure that the anti-dumping, countervailing and safeguards measures will be drafted in conformity with respective WTO Agreements. We will provide comments on the draft legislation at the earliest opportunity after it is submitted to the WTO Secretariat.

Answer:

Please find in Attachment B a copy of the draft law on anti-dumping, the draft law on countervailing, and the draft law on safeguards.

2. Export Regulation
(d) Export licensing procedures

Question 29:

According to the response to question 15 of WT/ACC/KGZ/10, the Kyrgyz reviews licences for the exportation of ferrous, precious and rare-earth metals extracted or processed in the Kyrgyz Republic to evaluate the prices relative to the quality of the products. While the export licences are not refused on the basis of low prices, recommendations are made to the applicant to ensure that prices are comparable to world market prices.

What sanctions does the Kyrgyz Government impose on exporters who continue to export these products at that are considered to below world market prices? Does the Kyrgyz Government consider the export of these products at low prices in its decision to grant or renew enterprise's licence to purchase or sell fragments and waste of non-ferrous and ferrous metals?

Answer:

No sanctions are imposed on exporters who continue to export these products that are considered to be below world market prices. The Kyrgyz Government does not consider the export of these products at low prices in its decision to grant or renew enterprise's licence to purchase or sell fragments and waste of non-ferrous and ferrous metals.

Question 30:

According to the responses to questions 101 and 102 of WT/ACC/KGZ/7, the Cabinet of Ministers Resolution No. 56 of 6 February 1996 provides for licensing requirements and controls on exports of textile goods, wearing apparel, silicon carbide, ammonium nitrate and raw aluminum, required by bilateral agreements between the Russian Federation and the European Communities, and for general exports of precious stones, precious metals, articles containing precious metals, and precious metal wastes. The Resolution will come into effect upon ratification of the Customs Union Agreement and continue throughout the transition period during which internal customs barriers are eliminated. The Kyrgyz Government justifies the use of these export restriction on the basis of national security controls.

Please elaborate on the national security interests that would be protected by the use of these export restrictions.

Please explain in detail how the creation of the customs union with Russia, Belarus and Kazakhstan would justify the use of restrictions on exports of goods to the European Communities and other third countries.

Answer:

These restrictions are introduced by the Kyrgyz Republic and other Customs Union countries, in connection with the creation of the Customs Union and according to the Agreement with the Russian Federation "On Uniform Procedure for Regulation of Foreign Economic Activity".

The Customs Union does not only stipulate the creation of an unified external tariff and a free trade area between member countries, but also unified procedure for regulating foreign economic activity, including issuance of import and export licences.

Question 31:

According to the response to question 61 of WT/ACC/KGZ/5/Add.2, the draft law requiring licensing for the purchase and/or export of electric transmission communication lines and ferrous and non-ferrous metal items is to protect the items from theft by persons desiring to resell those metals to scrap metal processing firms.

Does the draft law provide for the licensing of companies purchasing and selling these items for scrap processing for domestic uses? If not, why not?

What is the WTO justification for this licensing requirement on the exportation and sale for export of these items?

Answer:

The draft law provides for the licensing of companies purchasing and selling these items for scrap processing for domestic uses.

This licensing system is not intended to restrict exports of such items. It is designed to control the legality of the sources of such wastes, i.e. whether such items were plundered or not.

(f) Export financing, subsidy and promotion policies

We welcome the Kyrgyz Government's decision, noted in the response to question 16 of WT/ACC/KGZ/10, to adopt a new foreign investment law that will eliminate tax incentives based on export performance. We also commend the Kyrgyz Government's for its commitment, in the response to question 106 of WT/ACC/KGZ/7, to not maintain any other export subsidies.

3. Internal Policies Affecting Trade in Goods

(f-g) Free zones, free economic zones

Question 32:

According to the response to question 21(b) of WT/ACC/KGZ/10, the Directorate of the Bishkek Free Economic Zone (Information Bulletin No. 2) provides exemptions from lease payments for up to 15 years for establishments which are (1) engaged in export-oriented and import substitution production activities, (2) use domestic raw materials and spare parts, and (3) employ certain number of people per year. In addition, export-oriented production is exempt from quantitative restrictions.

Is the Directorate of the Bishkek Free Economic Zone a entity of the government or other public body? If yes, please explain why the lease payment exemption for export-oriented production is not a prohibited export subsidy under the WTO Agreement on Subsidies and Countervailing Measures.

Please explain why the lease exemption, an advantage that is conditioned on import substitution production activities, use of domestic raw materials and spare parts, and employ a certain number of people per year, is not a TRIM inconsistent with the obligation of national treatment. (TRIMs Illustrative list number 1 (a and b))

Please explain why the exemption from quantitative for export-oriented production is not a TRIM inconsistent with the obligation of general elimination of quantitative restrictions. (TRIMs Illustrative list number 2(a))

Answer:

The Directorate of the Bishkek Free Economic Zone is an entity of the government. The lease payment exemption for export-oriented and import substitution production is a prohibited export subsidy under the WTO Agreement on Subsidies and Countervailing Measures (SCM) and will be eliminated upon accession to the WTO.

The lease payment conditioned on employment of a certain number of people per year is not TRIMs inconsistent. The TRIMs Agreement refers only to products.

The lease payment conditioned on import substitution production alone is not TRIMs inconsistent but it is SCM inconsistent. The source of input for production purpose is not restricted. An enterprise (i) is not prohibited or limited in its ability to import products used in or related to its local production and (ii) is not required to use local products as input for its production.

The lease payment conditioned on use of domestic raw materials and spare parts is TRIMs inconsistent and will be eliminated upon accession to the WTO.

Currently, the exemption from quantitative restrictions for export-oriented production is TRIMs inconsistent and will be eliminated upon accession to the WTO

Appropriate legislation will be prepared during the first half of 1998 to eliminate all above mentioned TRIMs and SCM inconsistencies.

Question 33:

According to the response to question 21(b) of WT/ACC/KGZ/10, for products that are shipped from Bishkek Free Economic Zone to the rest of the Kyrgyz Republic, only the 0.15 per cent customs processing fee is applied. Normal taxes, tariffs, and other restrictions apply for goods not from the zone and imported from the zone to the rest of the Kyrgyz Republic. However, in the response to question 153 of WT/ACC/KGZ/7, the Kyrgyz Government confirmed that all goods produced or imported into free zones will be subject to normal customs formalities, taxes and tariffs when entering the customs territory of the Kyrgyz Republic.

How does the Kyrgyz Government intend to eliminate the preferential access into the territory of the Kyrgyz Republic for products originating in the Bishkek Free Economic Zone?

We seek a commitment to ensure that all sales from the Free Economic Zone into the rest of the Kyrgyz Republic bears normal tariffs and taxes assessed on other domestic and imported goods.

Answer:

The Kyrgyz Republic will amend the Law on Free Economic Zone during early 1998 to ensure that goods originating in the Free Economic Zones and imported to the Kyrgyz Republic will be subject to the same customs duties, taxes, and formalities as other goods imported to the Kyrgyz Republic. Consideration, however, will be given to those goods produced in the zone using products of Kyrgyz origin.

The Kyrgyz Republic commits to ensure that all sales from the Free Economic Zone into the rest of the Kyrgyz Republic bears normal tariffs and taxes assessed on other domestic and imported goods.

(l) Government procurement**Question 34:**

We are disappointed to read in the response to question 22 of WT/ACC/KGZ/10 that the Kyrgyz Republic will not consider joining the Government Procurement Agreement until January 1999, two years after the date of establishment of the Kyrgyz Government Procurement Agency.

We are strongly urging all acceding countries to join the WTO GPA. The Kyrgyz Government should reconsider its decision and commit to acceding to the GPA prior to WTO accession for the following reasons:

Agreements on government procurement are being negotiated in a variety of international fora. Besides the WTO GPA agreement, work is also ongoing in the APES and FTAA on similar government procurement rules. The WTO GPA offers a cohesive framework in which these regional initiatives could develop, minimizing the risk of regional fragmentation on international procurements issues.

Additionally, negotiations are already beginning in the GATS Rules Group on Government Procurement pursuant to GATS Article XIII:2.

The WTO GPA works to assure that countries bidding on government procurement projects in foreign countries will have a transparent and open process with recourse to unbiased dispute settlement procedures. Greater transparency and rule of law reinforce good government and economic efficiency.

In the future, there may be an occasion in which a Kyrgyz company would submit a bid for a government procurement project in a WTO GPA member country.

According to WT/ACC/KGZ/11, the Kyrgyz Republic submitted the text of the Law on Government Procurement of Goods, Works and Services to the WTO Secretariat for review by the Working Party.

Is this draft legislation or has the government procurement law already been enacted by Parliament? What is the effective date for this law?

Answer:

The Government Procurement law was adopted by the Parliament on 15 April 1997, signed by the President on 13 May 1997, and came into effect on 1 June 1997. A copy of this law was provided in June 1997 to the WTO Secretariat (WT/ACC/KGZ/11).

The Kyrgyz Republic is reconsidering its decision regarding considering accession to the GPA prior to January 1999. If a change in decision is made, it will be notified during the third working party meeting.

4. Policies Affecting Trade in Agricultural Products
(a) Imports

Question 35:

According to the response to question 183 of WT/ACC/KGZ/7, the Kyrgyz Republic no longer is applying a flat 10 per cent customs duty on agricultural products. However, according to the response to question 5(e) of WT/ACC/KGZ/10, the Kyrgyz Republic is entering negotiations with the WTO Working Party on the basis of the tariff rates in effect on 1 June 1997 (flat 10 per cent on all products).

Please confirm that all agricultural products are currently subject to a ten per cent customs duty. Please identify all agricultural products not subject to the ten percent duty and the applicable rate.

Answer:

The Kyrgyz Republic confirms that all agricultural products are currently subject to a 10 per cent customs duty.

(b) Exports

Question 36:

According to the response to question 185 of WT/ACC/KGZ/7, the Kyrgyz Government is considering the effects of binding export subsidies for agricultural products at zero. Export subsidies are the most trade distorting forms of agricultural support. We strongly encourage the Kyrgyz Republic to maintain its subsidy-free regime and binds its export subsidy commitment at zero. We also strongly encourage the Kyrgyz Republic to bind its existing policies of not requiring licences for export of agricultural products and not imposing tariffs or quotas on the export of agricultural products.

Answer:

The Kyrgyz Republic commits to bind its export subsidy at zero for agricultural products. The Kyrgyz Republic also commits to bind its existing policies of not requiring licences for export of agricultural products and not imposing tariffs or quotas on the export of agricultural products, except in accordance with WTO Agreements.

(e) Internal policies

Question 37:

Comments on the revised AMS submission (WT/ACC/SPEC/KGZ/1/Rev.1)

We appreciate the Kyrgyz Republic's revised submission of its domestic support and export subsidy measures (WT/ACC/SPEC/KGZ/1/Rev.1), and have the following general follow-up questions:

Although the Kyrgyz Republic included *de minimis* calculations for their total AMS, we would also appreciate receiving separate *de minimis* calculations for both products-specific and non product-specific AMS.

In supporting table DS:1, column 3, the Kyrgyz Republic continues to be very vague about the specific nature of the programmes listed under General Services.

Please provide a detailed and specific explanation of the programmes listed under this category. As a general comment, we continue to be concerned with the lack of specific information in supporting tables DS: 1.

Specifically, the Kyrgyz Republic only lists word-for-word what is written in Annex 2 of the Agriculture Agreement, without explaining how their policies comply with these criteria in column 3. This is especially true for 1.f, infrastructural services.

We would appreciate it if the Kyrgyz Republic could provide this information in detail in column 3 of DS:1.

The items in tables DS: 6 to DS: 9 labelled "Support to agricultural producers" are very vague.

Could the Kyrgyz Republic please provide a more detailed explanation of the types of measures listed in these tables. For example, in table DS: 6, please clarify whether this submission implies that seed producers are being subsidized, or if seeds are provided to agricultural producers as an input subsidy.

Again, we seek further clarification from the Kyrgyz Republic over the item "reschedule of arrears" that appears in table DS: 9.

Do these figures represent the amount of revenue foregone, or the actual amount of the loans provided? Please explain whether these figures represent a total write-off of all loans, or whether the figures assume that the loans will be repaid with the government subsidizing principal or interest payments for a period of time.

Answer:

I. Table DS:1

2. General Services

(a) Research, including general research, research in connection with environmental programmes, and research programmes relating to particular products

Scientific Research Institute of Live Stock Farming: creation of new high-productive breeds, types, lines of agricultural animals and development of effective technologies of their raising; improvement and rational use of pastures of the Kyrgyz Republic.

Scientific Research Veterinary Institute: development and improvement of methods and means of prophylactics and treatment of most wide-spread diseases of animals for the purpose of providing stable veterinary well-being of live-stock farming in the Kyrgyz Republic.

Scientific Research Institute of Soil and Agricultural Chemistry: agricultural melioration service provision of agriculture by application of modern technologies; the technology of obtaining and use of local fertilizers to improve fecundity of soils and productivity of agricultural crops; examination of soil and development of devices for improvement of fecundity.

- (b) Pest and disease control, including general and product-specific pest and disease control measures, such as early-warning systems, quarantine and eradication

The Veterinary Department: control over implementation of veterinary measures in the Republic; performance of prophylactic measures for the purpose of prevention of infectious diseases of animals in the Republic, the Republican veterinary laboratory.

State Inspectorate on Quarantine of Plant: control for the purpose of identification of quarantine objects (pests, weed).

The Department of Chemical and Plant Protection: performance of measures on protection of plants and eradication of pests, weeds and diseases.

- (c) Training services, including both general and special training

Agricultural special institutions, including the institute of training farmers, agricultural entrepreneurs and managers.

- (d) Extension of advisory services, including the provision of means to transfer information and results

The Republican Scientific Agricultural Library.

- (e) Inspection services, including general inspection services and the inspection of particular services for health, safety, grading or standardization purposes

Subsidies are granted to the State Seed Inspectorate, Central Asian laboratory on determination of quality of veterinary medicines and cotton seed station for examination of seeds and veterinary medicines for quality, safety and conformity with standards.

- (f) Infrastructural services

Construction of agricultural water pipes and repair of the water supply network.

3. Creation of State Reserves to Provide Food Security

Grains and flour were issued as humanitarian aid from the Commission of the European Communities.

4. Structural Adjustment Assistance Provided Through Investment Aids

The mentioned means are granted for support of reform of state agricultural enterprises into private ones, in particular:

- organization of re-registration of economic entities in Agriculture;
- completion of the denationalization of state agricultural enterprises;
- re-organization of collective farms;
- liquidation of loss-making entities;
- reforming breeding and seeds farms;
- expenses connected with television, radio, press, publication of booklets and brochures;
- organization and creation of credit cooperatives and their associations;
- organization of methodological and practical assistance to peasant farms in creation of service departments;
- mass publication of packages of documents of peasant farms (forms, certificates for use of land plot);
- organization of model farms in each oblast.

II. Table DS:6

Support of agricultural producers

Credits were granted directly to agricultural producers in the form of goods, in particular, in the form of seeds of agricultural crops. They were granted in the form of interest free credit in proportion to the size of the cultivated land per solicitation of the management offices of oblasts and rayons.

III. Table DS:9

Review of terms of loans

The mentioned figures present the amounts of overdue credits including interests.

IV. Table DS:4

Minimal calculation of Non-Product-specific AMS

	1994	1995	1996
Non-Product-specific AMS	6.2%	2.8%	3.1%
Share of AMS in Gross Product of Agriculture	6.4%	3.0%	3.3%

Agricultural Export Subsidies**Question 38:**

We reiterate our desire to see the Kyrgyz Republic bind its export subsidies for agricultural products at zero. Up to this point the Kyrgyz Republic has only signalled its intention to "consider the effects" of this policy. Is the Kyrgyz Republic now prepared to commit to permanently bind its agricultural export subsidies at zero?

Answer:

The Kyrgyz Republic commits to bind its agricultural export subsidies at zero.

State Trading**Question 39:**

We appreciate the detailed information that the Kyrgyz Republic has submitted on its state trading enterprises in WT/ACC/KGZ/10/Add.1. Concerning the notifications of Kyrgyzalco, the state alcohol board, and Kyrgyztamekesi, the State tobacco board, could the Kyrgyz Republic please respond to the following questions:

Can the Kyrgyz Republic describe fully its excise tax system for imported alcohol and tobacco products, including specific tax rates for imported versus domestically produced alcohol? Are Kyrgyzalco or Kyrgyztamekesi involved in any way with the administration of these excise taxes?

Are either Kyrgyzalco or Kyrgyztamekesi involved in the domestic sales and/or distribution of international brands of alcohol or cigarettes, either directly or indirectly, or are private companies free to sell or distribute these brands on the domestic market as they wish without restriction?

Except for Kyrgyzalco and Kyrgyztamekesi, can the Kyrgyz Republic please confirm that state trading does not exist for any other agricultural or food products?

Answer:

EXCISE TAX RATES
for Alcoholic and Tobacco Products Produced and
Imported by Legal Entities and Natural Persons of the Kyrgyz Republic

	produced, in US\$ of the volume (litre, unit)	imported in US\$ of the volume (litre, unit)
Drinking ethyl spirits, refined ethyl spirits, produced of food raw product (except for that sold to special users within norms)	US\$1.4/l	US\$1.4/l
Vodka	US\$0.90/l	US\$0.90/l
Liqueur - vodka products	US\$0.90/l	US\$0.90/l
Beverages with alcohol, juice with alcohol and balsam	US\$0.90/l	US\$0.90/l
Grape wine	US\$0.35/l	-

	produced, in US\$ of the volume (litre, unit)	imported in US\$ of the volume (litre, unit)
Other wines	US\$0.29/l	-
Wines	-	US\$0.35/l
Cognac	US\$0.60/l	US\$0.80/l
Champaign wines	US\$0.40/l	US\$0.45/l
Packed beer	US\$0.08/l	-
Unpacked beer	US\$0.05/l	-
Beer	-	US\$0.25/l
Wine products	US\$0.15/l	US\$0.20/l
Tobacco articles: cigarettes with filter	US\$1.5/ 1000 units	US\$5/1000 units
cigarettes without filters	US\$0.75/1000 units	US\$2/1000 units

Kyrgyzalco or Kyrgyztamekesi are not involved in any way with the administration of excise taxes.

Kyrgyzalco and Kyrgyztamekesi are not involved in the domestic sales and/or distribution of international brands of alcohol or cigarettes, either directly or indirectly.

Private companies are free to sell and distribute international brands of alcohol and cigarettes on the domestic market as they wish without restriction.

Except for Kyrgyzalco and Kyrgyztamekesi, the Kyrgyz Republic confirms that State-trading does not exist for any other agricultural or food products.

V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME

1. General

We appreciate the submission to the WTO Secretariat of the draft provisions of the Civil Code applying to intellectual property (WT/ACC/KGZ/11). We have not yet had an opportunity to review this draft legislation, but we will provide comments prior to the next Working Party meeting.

VI. TRADE-RELATED SERVICES REGIME

We appreciate the efforts of the Kyrgyz Republic in WT/ACC/SPEC/KGZ/3 to describe its services regime and the offer in WT/ACC/SPEC/KGZ/5. We have responded bilaterally to the offer and look forward to reviewing a revised offer for commitments in services as soon as practicable reflecting the improvements made as a result of bilateral discussions on the margins of this meeting.

The revised market access offer in services submitted by the Kyrgyz Republic has been circulated in document WT/ACC/SPEC/KGZ/5/Rev.1.

VII. INSTITUTIONAL BASIS FOR TRADE AND ECONOMIC RELATIONS WITH THIRD COUNTRIES

Question 40:

Please respond to the comment on page 34 of WT/ACC/KGZ/10 seeking Kyrgyz Republic's membership in the WTO Agreement on Trade in Civil Aircraft.

Answer:

The Kyrgyz Republic is still in the process of evaluating whether or not it will join the WTO Agreement on Trade in Civil Aircraft.

Question 41:

Please update reporting on the status under Kyrgyz Republic's free trade agreements of goods with export taxes, i.e., have these items outside the coverage of the free trade agreements? We would appreciate clarification of the status of the goods listed in the response to question 51 of WT/ACC/KGZ/10 under Kyrgyz Republic's free trade arrangements and the portion of total trade accounted for by these products in a recent representative period. As of now, what products are not covered by the agreements?

Answer:

Goods subject to export taxes are not outside the coverage of the free trade agreements. Products which were listed as response to question 51 of WT/ACC/KGZ/10 are still the only products not covered by free trade between the Kyrgyz Republic on one hand and Kazakhstan and Russia on the other hand.

Percentage of Total Export to Russia and Kazakhstan Per Group

Exports by groups	1994	1995	1996
Copper and articles thereof			
Russia	-	0.2	-
Kazakhstan	-	0.9	0.02
Waste and fragments of copper			
Russia	-	-	-
Kazakhstan	-	0.03	-
Aluminium and article thereof			
Russia	-	0.04	0.04
Kazakhstan	-	0.02	0.04
Waste and fragments of aluminium			
Russia	-	-	0.02
Kazakhstan	-	-	-
Lead and articles thereof			
Russia	-	-	-

Exports by groups	1994	1995	1996
Kazakstan	0.04	0.0002	0.04
Lead waste and fragments			
Russia	-	-	-
Kazakstan	-	0.0002	0.04
Antimony and articles thereof, incl. waste and fragments			
Russia	5.2	4.3	3.5
Kazakstan	0.7	0.2	0.3
Mercury			
Russia	0.1	0.04	0.1
Kazakstan	0.06	-	0.04
Gold			
Russia	-	-	0.002
Kazakstan	-	-	-

The percentages of total export accounted for by all of these products in 1994, 1995, and 1996 is provided in the following table.

	1994	1995	1996
Russia	5.2	4.6	3.6
Kazakstan	0.8	1.2	0.4

Publication

Question 42:

The response to Question 77 of WT/ACC/KGZ/9 indicates that "There is no legal requirements to publish all legislation and administrative acts on WTO related issues".

It would seem that the Kyrgyz Republic lacks a legislative basis for the implementation of Article X of the GATT 1994 and other publication requirements of WTO Agreements, e.g., the requirement that standards be published for prior review and comment before finalization and implementation.

We believe the Kyrgyz Republic should make efforts to institute appropriate legislation on these points.

Answer:

The Kyrgyz Republic is in the process of drafting legislation to ensure conformity with Article X of the GATT 1994 and other publication requirements of WTO Agreements. Draft legislation will be provided to the WTO Secretariat as soon as it is finalized.

ATTACHMENT A
(Supplement to Question 20)

I. DETERMINATION OF CUSTOMS PROCESSING FEE

Method 1

(Employee cost based on time spent and overhead costs at 50 per cent)

(In som)

Description	Severnaya	Bishkek	Republic
Average FTE cost (refer to Table 6)	10,42	7.06	8.74
Number of declarations processed	5,394	567	14,520
Total FTE cost			126,904.80
Allocable Overhead Costs (at 50% of total overhead cost (refer to Table 1))			2,461,400.00
Total Processing Costs			2,588,304.80
Total costs per declaration			178.26

Method 2

(Total costs allocated at 50 per cent)

(In som)

Description	FY 1996
Employee cost (Table 1)	11,143,700
Overhead costs (Table 1)	4,922,800
Total Costs	16,066,500
Import processing costs at 50% of Total Costs	8,033,250
Number of declarations processed	14,520
Total costs per declaration	553.25

Minimum and Maximum Import Processing Fee

Import Processing Fee	In som	In US\$
<u>Minimum</u>		
From Method 1	178.26	
Rounded-off to the nearest 10	180	10.59
<u>Maximum</u>		
From Method 2	553.25	
Rounded-off to the nearest 10	550	32.35
Current Rate	0.15%	

TABLE 1
Annual Budget of Customs - Kyrgyz Republic FY 1996

Description	In som
Salary	8,066,100
Social Fund	3,077,600
Employee cost	11,143,700
Commercial expenses - in country	135,200
Commercial expenses - abroad	100,000
Equipment and stock purchase	1,000,000
Water, power, gas, heating	2,316,100
Vehicle maintenance	971,500
Other purchases	400,000
Other (overhead) costs	4,922,800
Total costs	16,066,500

TABLE 2
Expense/Revenue Ratio

(In som)

Description	FY 1996	FY 1997
Customs revenue (excluding enforcement)	448,929,600	830,000,000
Customs expenses	16,066,500	19,653,400
Expense/Revenue ratio	0.0357884622	0.0236787952
Expense/Revenue ratio in %	3.58%	2.37%

II. DETERMINATION OF PHYTOSANITARY CERTIFICATE FEE

Method 1 (Minimum Cost)

(In som)

Description	1996	1997 (projected)
Number of certificates issued	14,202	9,011
Employee cost		
Number of employees	87	87
Yearly average per employee costs (Table 2)	4,889	11,486
Average total employee costs	425,343	999,282
Average employee cost per certificate	30	111
Average for last two years		70

Method 2
(Maximum cost)

(In som)

Description	1996	1997 (projected)
1. Total employee cost (Table 1)	425,343	999,282
2. Total overhead costs (Table 1)	968,300	2,143,600
3. Total costs (1 + 2)	1,393,643	3,142,882
Number of certificates issued	14,202	9,011
Total costs per certificate	98	349
Average for last two years		223

Minimum and Maximum Phytosanitary Certificate Fees

Certificate of Phytosanitary Fee	In som	In US\$
<u>Minimum</u>		
From Method 1	70	4.14
<u>Maximum</u>		
From Method 2	223	13.15
<u>Current Fee of Certificate</u>		
Minimum	36	2.12
Maximum	265	15.59

TABLE 1
Annual Budget of the State Inspectorate on Plant Quarantine

(In som)

Description	1996	1997 (projected)
Salary	425,300	999,300
Total employee cost	425,300	999,300
Equipment/Furniture purchases	349,100	400,000
Office expense	27,000	150,000
Other overhead costs	592,200	1,593,600
Total allocable overhead costs	968,300	2,143,600
Total costs	1,393,600	3,142,900

TABLE 2
Employee cost

(In som)

Salary Data	1996	1997 (projected)
Total salary	425,300	999,300
Number of employees	87	87
Average annual salary per employee	4,888.51	11,486.21
Average monthly salary per employee	407.38	957.18

III. DETERMINATION OF VETERINARY CERTIFICATE FEE

Method 1
(Minimum cost)

(In som)

Description	1995	1996	1997 (projected)
Number of certificates issued	458	386	600
Employee cost			
Number of employees in veterinary certification	30	30	30
Yearly average per employee costs	3,839	3,871	3,984
Average total employee costs	115,170	116,130	119,520
Average employee cost per certificate	251	301	199
Average for three years			251

Method 2
(Maximum cost)

(In som)

Description	1995	1996	1997 (projected)
1. Total employee cost	115,170	116,130	119,520
2. Total overhead costs	2,462,500	3,408,800	2,353,000
3. Allocable overhead costs at 50%**	1,231,250	1,704,400	1,176,500
4. Total costs (1 + 3)	1,346,420	1,820,530	1,296,020
Number of certificates issued	458	386	600
Total costs per certificate	2,940	4,716	2,160
Average for three years			3,272

** Overhead costs are allocated at 50% of total employees are engaged in issuing veterinary certificates.

Minimum and Maximum Veterinary Certificate Fees

Certificate of Veterinary Fee	In som	In US\$
<u>Minimum</u>		
From Method 1	250	14.74
<u>Maximum</u>		
From Method 2	3,272	192.47
<u>Current Fee of Certificate</u>		
Minimum	30	1.76
Maximum	500	29.41
Average	100	5.88

TABLE 1
Annual Budget of the Department on Organization of Veterinary Business

(In som)

Description	1995	1996	1997 (projected)
Salary	238,000	240,000	247,000
Total employee cost	238,000	240,000	247,000
Equipment/Furniture purchases	95,000	110,000	120,000
Other overhead costs	2,367,500	3,298,800	2,233,000
Total overhead costs	2,462,500	3,408,800	2,353,000
Total costs	2,700,500	3,648,800	2,600,000

TABLE 2
Employee cost

(In som)

Salary Data	1995	1996	1997 (projected)
Total salary	238,000	240,000	247,000
Number of employees	62	62	62
Average annual salary per employee	3,838.71	3,870.97	3,983.87
Average monthly salary per employee	319.89	322.58	331.99

IV. DETERMINATION OF IMPORT/EXPORT LICENCE FEEMethod 1
(Minimum cost)

(In som)

Description	1995	1996	1997 (projected)
Number of certificates issued	170	332	708
1. Total employee cost	24,786	38,610	71,383
2. Allocable overhead costs	63,388	75,872	38,147
3. Total costs (1 + 2)	88,174	114,482	109,530
Total costs per certificate	519	345	155
Average for three years			340

Method 2
(Maximum cost)

(In som)

Description	1995	1996	1997 (projected)
Number of certificates issued	170	332	708
1. Total employee cost	24,786	38,610	71,383
2. Allocable overhead costs	237,705	284,520	132,540
3. Total costs (1 + 2)	262,491	323,130	203,923
Total costs per certificate	1,544	973	288
Average for three years			935

Minimum and Maximum Certificate Fee

Certificate Fee	In som	In US\$
<u>Minimum</u>		
From Method 1	340	
Rounded-off to nearest 10	340	20.00
<u>Maximum</u>		
From Method 2	935	
Rounded-off to nearest 10	940	55.29
<u>Current Fee of Certificate</u>	900	52.94

TABLE 1
Annual Budget of the Ministry of Foreign Trade and Industry

(In '000 som)

Description	1995	1996	1997 (projected)
Total employees	150	150	138
Employee salary	0.00	999.30	2,350.00
Overhead expenses	1,584.70	1,896.80	883.60
Total expenses	1,584.70	2,896.10	3,233.60

TABLE 2
Employee cost - Department of Licensing

(In som)

Description	1995	1996	1997 (projected)
Number of employees	6	6	6
Total annual salary	24,786	38,610	71,383
Average annual employee cost	4,131	6,435	11,897

TABLE 3
Allocable Overhead (Method 1)

(In som)

Description	1995	1996	1997 (projected)
Total employees	150	150	138
Number of employees in Licensing Department	6	6	6
% of employees in licensing	4.00%	4.00%	4.35%
Total overhead expenses	1,584,700	1,896,800	883,600
Allocable overhead at the above rate	63,388	75,872	38,417

TABLE 4
Allocable Overhead (Method 2)

(In som)

Description	1995	1996	1997 (projected)
Total overhead expenses	1,584,700	1,896,800	883,600
Approximate % of resources consumed in issuing licenses	15.00%	15.00%	15.00%
allocable overhead at the above rate	237,705	284,520	132,540

ATTACHMENT B

The following additional legal texts are available in the Secretariat (Accessions Division, Room 1126) for consultation.

1. Draft Law on Anti-Dumping
2. Draft Law on Countervailing
3. Draft Law on Safeguards
4. Draft Civil Code (Section on Intellectual Property)
5. Criminal Code (Section on Intellectual Property)
6. Draft Law on Copyright and Neighbouring Rights
7. Draft Law on Trademarks, Servicemarks and Appellation of Places of Origin
8. Draft Patent Law
9. Draft Law on Software and Database
10. Draft Law on Integrated Circuit Topography
11. Draft Law On Selection Achievements
12. Draft Law on Commercial Secrets
13. Law On Foreign Investment, 24 September, 1997
14. Law On Banks and Banking Activities, 29, July 1997
15. Law On the National Bank, 29 July 1997
16. Law On Collateral, 27 June, 1997
17. Law On Subsurface Resources, 2 July 1997
18. Law On State Regulation of Foreign Economic Activities, 2 July 1997
19. Amendments to the Customs Tariff Law, 30 July 1997