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ACCESSION OF BULGARIA

Questions and Replies Concerning Bulgaria's Foreign Trade Regime (L/7244)

Revision

With reference to the proceedings of the Working Party on the Accession of Bulgaria, as agreed at its meeting on 12-13 July 1993, the interested contracting parties submitted in written form questions on the foreign trade regime of Bulgaria. The replies to the Questions, as of 1 September 1993, submitted by the Bulgarian Government and organized according to the headings of document L/7244 - Information on Bulgaria's Foreign Trade Regime, are reproduced hereunder.

PART I. INTRODUCTION - THE BULGARIAN ECONOMY AND FOREIGN TRADE SINCE 1991

1. Recent economic developments

-- In the response to Question 3 in L/6867, Bulgaria stated that "Bulgaria does not envisage recourse to Article XVIII or Part IV of the GATT.":

--Question (No. 1): Does this statement still reflect the position of the Government of Bulgaria? If so, we would like to see its substance reflected in the Working Party report.

Reply (No. 1): We do not envisage recourse to Art. XVIII but, in specific cases, Bulgaria will use the right to invoke it as defined by the dispositions of that Article.

2. Privatization

-- Concerning the role of the State in management and decision-making in firms and enterprises owned or operated by the State:

--Question (No. 2): Please describe, for the Working Party record, precisely how an enterprise or firm, notwithstanding that it is owned or operated by the State, avoids engaging the State's interest and involvement in its policy making.

Reply (No. 2): State intervention in the economic activity of all companies has been abolished. Art. 19 of the Constitution of Bulgaria states, *inter alia*, that the economy of Bulgaria is based on the principles of the free entrepreneurship and that the legislation shall create and assure equal legal conditions for carrying out economic activities for all legal and natural persons, thus establishing the principle of non-discrimination between State owned and private enterprises. Privileged protection of State property has been deleted in the Penal Code.

¹English only

The 1991 Law on Commerce and all other legislation provide for a legal status of State owned enterprises entirely identical with that of private enterprises. Upon the "corporatization", i.e. the transformation of State organizations into joint-stock or limited liability companies, their autonomy from the government is guaranteed so that their activity is based on commercial considerations only. Thus the State's role in State owned enterprises is restricted to that of an ordinary shareholder. The State owned enterprise is an independent legal person being a titular of its property and acting on its own economic and legal responsibility. State owned enterprises are in a position to define independently their own market behaviour, to implement it through the respective operational decisions and to conclude commercial transactions of any kind in accordance with the customary business practice and the legislation in force. Neither economic nor legal privileges are granted to them by the Government. The legal status, the position of the State as a regular shareholder and the identical legal and economic treatment of State owned and private enterprises are to be considered as guarantees for the State's non-involvement in their policy making.

--Question (No. 3): In a State-owned firm, please describe in concrete terms how the management and supervisory boards and the general manager are selected. To what extent are State-owned firms required to consult with the government concerning employment and restructuring plans?

Reply (No. 3): The members of the Management and Supervisory boards of the State owned enterprises are appointed in accordance with the Law on Commerce, pursuant to Art. 137, para 1, subpara 5 and Art. 221, para 1. The selection process is based on certain requirements with respect to education, qualification, business experience, etc. The candidates for an appointment should meet the above mentioned criteria. Individual candidacies are considered on a competitive basis. The selected candidates or candidate negotiate a Management Contract with the respective governmental body. This contract regulates the relations between the Management and Supervisory Boards and the relevant Governmental body. As a rule the Management Contracts are of three years duration and could be terminated on strictly defined grounds so that a stable management of the State owned enterprises is guaranteed.

As for employment there is no requirement for consultations with the governmental authorities since the respective competence is granted to the Management Boards or to the General Manager by virtue of the Managing Contracts that have been concluded. Questions of employment are discussed within the framework of social partnership with the participation of trade unions. There is only the general requirement for compliance with the labour legislation in force.

Consultation is necessary for the establishment of subsidiaries.

Concerning the "bankruptcy" of State owned firms:

--Question (No. 4): What is the status of the Bankruptcy Law referred to in paragraph 45 of L/7244? Please outline its provisions. What steps does the Government of Bulgaria take to continue the operation of an insolvent State-owned enterprise or firm?

Reply (No. 4): Parliament is in the process of adoption of the Bankruptcy Law. In the draft law, there are no privileges for State owned firms or interference of the State into the bankruptcy procedures.

At present bankruptcy and liquidation are still governed by Chapter 3 of Decree 56 (Articles 65 to 81).

Insolvent companies can be offered for liquidation by the State or by the servicing banks. However there is a difference in the procedure: the Council of Ministers or the appropriate Minister simply issues a formal decision to such effect, whereas the banks and creditors have to start formal proceedings before the court. Both cases have taken place in practice already.

An insolvent company could be assisted by the State or by the servicing bank if an agreement between the company and its creditors is reached. However, there have been no such cases since the State budget does not envisage funds for this purpose.

—Question (No. 5): How does the State participate in the bankruptcy of the firms that it owns? If a firm or enterprise is a "dominant supplier" in the Bulgarian market, does this change the approach of the Government of Bulgaria to its liquidation under bankruptcy? What State aids are available to help firms avoid bankruptcy, and for what duration?

Reply (No. 5): The draft Law on Bankruptcy is to stipulate equal treatment for insolvent companies including State-owned. There are no special provisions or privileges for "dominant supplier". Until now no State aids have been given from the budget to help firms avoid bankruptcy. At present, the Government is proposing to Parliament a mechanism for alleviating non-collectible loans given before 31 December 1990, i.e. before the beginning of the economic reform. Please, refer also to Reply 6.

—Question (No. 6): Could the Bulgarian delegation describe the scope of recent bankruptcies, particularly among State-owned firms?

Reply (No. 6): Even under the current bankruptcy provisions State Gazette contains a lot of bankruptcy publications of State owned firms. A great number of private firms has been declared bankrupt. The State is in no position to finance insolvent State owned firms because of the restrictive macroeconomic and especially monetary policy of the Government.

The creditor banks, guided by commercial considerations, are somehow reluctant to initiate bankruptcy procedures for their State owned debtors with the view not to undermine the privatization prospects of these debtors and thus lose clients, especially before a mechanism for the transformation of loans allocated before the start of the economic reform is in place. Please refer also to Reply 5.

— Concerning the responses to Questions 6, 8, 9, and 10 in L/6867, in the view of the U.S. Government, the text of Article XVII appears to cover all State-owned or established enterprises, as well as enterprises to which the State "grants ... formally or in effect, exclusive or special privileges.":

—Question (No. 7): Please provide a more comprehensive list of enterprises wholly or substantially owned by the State, and the products which they trade.

—Question (No. 8): In developing this list, please give special emphasis to State trade organizations or firms that conduct a significant portion of their economic activity in the international sphere, or that continue to have principal responsibility for the import or export of certain commodities and products.

Reply (No. 7), Reply (No. 8): In our understanding Art. XVII appears to cover enterprises which have the "statutory power of deciding on imports and exports" and which are either "an agency of government", "an instrumentality of government which has the power to buy or sell", or "a non-governmental body with such power and to which the government has granted exclusive or special privileges". It seems that, at present, Bulgaria has only one State trading enterprise in the meaning of Art XVII, Bulgartabac.

There are no enterprises having the principal responsibility for import or export of any commodities and products.

Neither private nor State owned enterprises in Bulgaria are bound by any obligation concerning production or trade in any products or goods, nor with respect to the volume, value of trade, product composition of their sales and purchases, etc.

All enterprises acting under Bulgarian legislation are entitled to include in the scope of their activities foreign trade with no limitations with respect to the product coverage of their trade.

For the first half of 1993 according to an estimate of the Ministry of Trade the following companies had a significant activity in foreign trade: Balcancar, Pharmachim, Nephtochim, Bulgartabac, Energoimpex, Chimimport, Kremikovtzy, Ruen, Plama. The principal activity of some of them (Balcancar, Pharmachim, Nephtochim, Bulgartabac) is in the field of production.

List of enterprises in which the State has ownership participation is in preparation. At the moment there are difficulties, however, resulting from the changes in the statistical system, and of the identification numbers of enterprises in particular.

Please, refer also to Reply 2.

—Question (No. 9): Is there any provision of Bulgarian law which prevents the Government from instructing State-owned enterprises in the conduct of domestic or foreign trade operations?

Reply (No. 9): No provision in the Bulgarian legislation provides the Government with the authority to instruct State-owned enterprises in the conduct of domestic or foreign trade operations.

The Government is not in a position to prevent any enterprise under its jurisdiction from acting in accordance with the principles of Article XVII and especially with its paragraph 1 (c).

The Law on Commerce and the Law on the Protection of Competition do not provide the Government with the authority to instruct State-owned enterprises in the conduct of domestic or foreign trade operations

All other laws, ordinances and regulations dealing with the activity of the economic operators in Bulgaria are consistent with the Law on Commerce. The State executes its right of ownership solely through the appointment of the management and does not interfere in the conduct of domestic and foreign trade operations.

The provisions of the Constitution exclude any possibility for State monopolies on trade.

The Law on Commerce is built on the principle that the State is not liable for the obligations of the State-owned firms and these firms are not liable for the obligations of the State.

There is no longer privileged protection of State property in the Penal Code.

Legislation in Bulgaria does not provide any privileges for State-owned companies in their commercial transactions. They can only act as normal market operators.

The draft Law on the Commercial Transactions which is to supplement the Law on Commerce is now in Parliament.

Bulgaria is a party to the UN Convention for international sales of goods (Vienna 1980) and any enterprise including also State-owned in its international trading practices is subject to that convention.

Bulgarian State-owned and private companies are free to conclude contracts which provide the application of foreign law and of dispute settlement procedures under foreign law.

Bulgaria is a party to the New York Convention for enforcement of foreign arbitration awards and therefore State owned companies do not have a safe haven if they lose such a case abroad.

The Law on the Protection of Competition is based on the legislation of developed economies and provides for reliable remedies against unfair competition and abuse of monopoly. The Commission for the Protection of Competition has a wide range of legal instruments to enforce the law.

Concerning Bulgartabac and Vinimpex:

--Question (No. 10): Has Bulgaria dismantled the State trading companies on tobacco and tobacco products (Bulgartabac) and wines and spirits (Vinimpex).

Reply (No. 10): In the meaning and under the conditions set out in Art. XVII of GATT Bulgaria has only one State-trading company Bulgartabac, which according to the 1947 Law on State Monopoly on Tobacco has exclusive rights on trade in raw tobacco and the manufacturing of tobacco products. Since the beginning of the liberalization of foreign trade in Bulgaria, Bulgartabac in fact does not have dominant market positions in internal and foreign trade with tobacco products. However, Bulgartabac still enjoys a dominant position in the production of tobacco products and trade with raw tobacco.

At present, the State monopoly on tobacco has an uncertain legal existence, however, because the 1991 Constitution does not explicitly mention tobacco among the monopolies which can be established and maintained. The position of the Supreme Court is that the Constitution excludes tobacco and alcoholic beverages from the list of State monopolies, enforced by law.

Therefore, the status of Bulgartabac as a State trading enterprise in the meaning of Art. XVII may change in the future.

1. There is a draft Law on Tobacco which is to bring the existing legislation into compliance with the 1991 Constitution and to create the appropriate conditions for the abolition of the centralized system of purchasing of raw tobacco and the manufacturing of tobacco products. The draft law envisages the possibility of purchasing of raw tobacco and production of tobacco products by any natural or legal person.

Please, refer also to Reply 11.

Vinimpex does not have any longer a monopoly position in foreign trade with wines and spirits. Vinimpex cannot be considered a State-trading enterprise within the meaning of Article XVII as it is not granted by the State any exclusive or special privileges thus having statutory power of deciding on imports and exports.

Please refer also to Reply 12.

--Question (No. 11): Please describe how import decisions are made on tobacco products, i.e., how does the State determine the domestic and imported prices and overall demand? Please describe the current conditions of production and distribution for tobacco products in Bulgaria, including the number of private companies and their percentage of the market.

Reply (No. 11): There is no monopoly on foreign and domestic trade with tobacco products in Bulgaria.

Prices on tobacco products are not subject to State intervention. They are negotiable between suppliers and buyers.

In 1992, imports of tobacco products, effected by private companies accounted for 99.17 per cent.

Distribution of tobacco products at present is not subject to any restrictions in Bulgaria. There are no precise statistics on the share of private companies distributing tobacco products but, based on estimates, the private distributors have the prevailing part.

At present, the 1947 Law on Tobacco Monopoly is not yet formally repealed. Bulgartabac is still the only purchaser of raw tobacco and producer of tobacco products, authorized by the State, according to the Law. Its position may change after the adoption of the new Law on Tobacco, however. According to an estimate, Bulgartabac participated in the foreign trade with tobacco and tobacco products during the first half of 1993 with a share of 72.84 per cent. Please refer also to Reply 10.

However, any firm can freely distribute tobacco products in Bulgaria as the above mentioned Law on Tobacco Monopoly does not affect the distribution of tobacco products.

The taxation system does not make any difference between imported and domestic tobacco products.

Determination of tobacco prices.

Minimum purchase prices for tobacco leaves (1993 crop) are established - Ordinance No 146/July 30, 1993 of the Council of Ministers.

—Question (No. 12): Please describe the current conditions of production and distribution for alcoholic beverages in Bulgaria? Can any firm or individual import? Are there restrictions on domestic distribution related to the continued formal existence of a State monopoly?

Reply (No. 12): There is no State monopoly in trade of alcoholic beverages in Bulgaria and there are no restrictions currently applied to it.

As of November 1990, the Council of Ministers discontinued the existence of the enterprise Vinprom, and since, the producers of wines and alcoholic beverages are registered as independent legal persons with the right to conduct foreign and domestic trade on their own or by intermediaries.

Some of them have established their own trading companies. Private companies have emerged too.

Any firm or individual is free to import alcoholic beverages. The 1992 imports of alcoholic beverages effected by private companies accounted for 75.8 per cent of total imports of alcoholic beverages (based on estimates).

— Regarding the response to Question 13 in L/6867, and the responsibility of firms for profits and losses:

—Question (No. 13): Would the Bulgarian delegation cite the provision of law that addresses the issue of budgetary redistribution under Bulgaria's reformed economy? In this regard, is Article 7 of Decree Law 56 relevant, i.e., "The State shall bear no responsibility for the obligations of firms, and the firm shall not be responsible for the obligations of the State, or of other firms."?

Reply (No. 13): The issue of budgetary redistribution is addressed in the Law on State Budget. Although the 1991 Law on Commerce supersedes Chapter One of Decree 56 with Article 7 being a part of it, the Law on Commerce implies the principle that the State is not liable for the obligations of the State-owned firms and these firms are also not liable for the obligations of the State.

-- Paragraph 18 of L/7244 describes the various provisions for organizing the work of privatization. State Ministries are responsible for the privatization of enterprises worth less than Bulgarian Lev (BGL) 10 million, the Privatization Agency is responsible for enterprises with assets between BGL 10 million and BGL 200 million, and privatization of enterprises worth over 200 million BGL are subject to the approval of the Council of Ministers:

--Question (No. 14): Please indicate approximately what percentage of potential privatization will be handled in each category, and the status of successful privatization to date in each category.

Reply (No. 14): The Law on Transformation and Privatization of State and Municipal Enterprises (published in State Gazette No. 38 of 1992) provides the legal basis for both small and large scale privatization.

The number of State enterprises is about 4,500. Privatization Programme for 1993 envisages starting procedures for the privatization of 318 enterprises, including 150 differentiated assets.

According to the competence provided for in Art. 3 of the Law on Transformation and Privatization of State and Municipal Enterprises the distribution is as follows :

	DEPARTMENTS	decisions	%
1.	PRIVATIZATION AGENCY	86	27.04
2.	MINISTRY OF INDUSTRY	100	31.45
3.	MINISTRY OF TRADE	25	7.86
4.	MINISTRY OF TRANSPORT	52	16.35
5.	MINISTRY OF TERRITORIAL DEVELOPMENT AND BUILDING	9	2.83
6.	MINISTRY OF AGRICULTURE	25	7.86
7.	COMMITTEE FOR TOURISM	15	4.72
8.	MINISTRY OF LABOUR AND SOCIAL WELFARE	5	1.57
9.	COMMITTEE FOR POSTS AND TELECOMMUNICATION	1	0.32
	TOTAL	318	100.00

Ministry of Industry has already performed preliminary studies at 150 enterprises in respect of their readiness for privatization. 50 of them are completely ready for privatization. Foreign firms are seriously interested in privatization of about 20 other enterprises.

Decisions on opening procedures for 26 enterprises and two differentiated assets are made till July 30, 1993. Tenders for appraisers have been announced and the value appraisals of 18 enterprises have been assigned. Nine of the value appraisals have already been accepted. An auction and 5 tenders are in process now but another auction and a tender failed due to lack of buyers.

According to the forecasts in the course of the year it is envisaged to carry out transactions for 218 enterprises, including 96 parts of enterprises procedures for which have been initiated.

By 31 July 1993, the following deals have been effected for the sale of assets with State property :

PRIVATIZATION AGENCY - concluded two deals by direct negotiations for "Maize Products" Limited Liability Company with the State as a single shareholder in the town of Razgrad, and "Magnetic Heads" Limited Liability Company with the State as a single shareholder, town of Razlog.

MINISTRY OF TRADE - concluded two deals for selling by auction of "Skoda" Motor-car Service, town of Preslav, and Motor-car Service, village of Kliment, parts of the "Shoumen-auto" State Firm, town of Showmen. Another five deals have been concluded for which the deadline for raising objections has not yet expired.

MINISTRY OF TERRITORIAL DEVELOPMENT AND BUILDING - one deal for selling by competition of "Transcomplet" State Firm, town of Dimitrovgrad.

MINISTRY OF AGRICULTURE - concluded two deals for selling by auction of "Fortuna" Limited Liability Company, town of Byala Slatina, and Fodder Shop No.2, a part of the "Vaya Fourrage" Limited Liability Company with the State as a single shareholder, town of Bourgas.

—Question (No. 15): Please discuss how the privatization process works in each case.

Reply (No. 15): Predominant form of privatization of enterprises with assets up to BGL 10 million is the auction with the only criteria to win the submitted price bid. Employees of the privatized companies are allowed to participate in the auction.

For enterprises with assets over BGL 10 million, the forms of privatization used are:

- (a) a competitive examination of offers submitted by the buyers; and
- (b) direct negotiations with potential buyers.

In the competitive examinations the company is given to that competitor who fulfils the competition requirements best. It could be a requirement to invest in the company for a given period of time (3-5 years) according to a previously outlined programme; to provide for work places in the company; to take measures against pollution of the environment; to continue production in line with the specialisation characteristics of the company etc. In the case of the competitive examinations, the price of the company is an important, but not the sole factor to be taken into account.

Another way for privatization of State owned assets is direct negotiations with the potential buyer.

–Question (No. 16): Please describe the provisions of the Privatization Law and the function and operations of the Agency on Privatization.

Reply (No. 16): Privatization is one of the most essential element in the structural reform in Bulgaria.

At the beginning of 1992 the process started with the restitution laws which affected mainly industrial and residential property, small shops and agricultural land.

The legal regulation of privatization in Bulgaria is contained in the Law on Transformation and Privatization of State and Municipal Enterprises (published in State Gazette No. 38 of 1992).

The Law regulates the basic framework within which the process of privatization is effected :

1. Taking a Decision for Privatization

The competence for taking such a decision is distributed between the State and municipal bodies depending on the form of ownership of the asset to be privatized.

The Law differentiates between the power of the State bodies depending on the book value of the fixed assets of the State enterprise. The bodies and persons with a right to propose privatization to the competent body are also indicated.

2. Participants in Privatization

The Law provides for equal treatment of all participants in privatization.

The right of preferential participation has been established only for workers and employees with a minimum length of service at the enterprise undergoing privatization prior to the date of declaration of the privatization decision.

In cases of selling of shares and stock owned by the State and the Municipalities, these employees have the right to buy up to 20 per cent of the shares of the common stock of the capital of the company at a 50 per cent discount on the fixed price.

A detailed regulation for the realisation of these preferences is contained in the Ordinance for the Method of Acquiring under Preferential Terms of Shares and Stock Owned by the State and the Municipalities (published in State Gazette No. 81 of 1992).

In the event of sale of State and municipal enterprises or parts thereof, workers and employees enjoy preference only if 30 per cent of them declare that they will participate in the auction or competition won by their representative.

In this case they become owners of the asset with a 30 per cent reduction of the price, declared as definitive.

3. Value Appraisal of Enterprises

The original selling price of the shares, the initial price of the auctions and the tender price at holding a competition or negotiations are determined on the basis of a value appraisal of the enterprise. The appraisal may be carried out by independent Bulgarian or foreign experts or expert firms, licensed by the Privatization Agency. All necessary information and documents for concluding the appraisal is accessible to the experts. The valuation is assigned after the decision on privatizing is taken.

The Ordinance for Appraisal of Assets Subject to Privatization (published in State Gazette No. 50 of 1992) provides for appraisal after decision for the privatization of the property. This Ordinance settles the question connected with the licensing of the expert appraisers and the assignment of value appraisals.

Method of Selling Shares and Stock Owned by the State and the Municipalities

It is provided for in Chapter Five of the Law on Transformation and Privatization of State and Municipal Enterprises.

With the decision for privatization the way of organizing the sale is also determined.

The Law regulates the following methods which may be applied simultaneously : open sale (applied only for shares and after preliminary co-ordination with the Privatization Agency), public auction, publicly announced competition and negotiations with potential buyers.

The law envisages the possibility only for buyers who are Bulgarian citizens, with permanent residence in this country, to buy stock and shares by means of payment by instalments.

Method of Selling State and Municipal Enterprises or Parts thereof

It is described in Chapter Six of the Law on Transformation and Privatization of State and Municipal Enterprises.

The sale is effected through auction or competition.

The ownership can be transferred by: renting for a period up to 25 years with a clause for buying out; management with a clause for buying out or selling to third person; sale by paying by instalments with retention of ownership; sale under deferment and discontinuation conditions such as maintaining the previous activity of the enterprise, the work places, making investments, obtaining certain results etc.

The provisions of Chapter Six are applied also with respect to selling the property of State and municipal enterprises that have been closed down owing to insolvency or for other reasons, left after paying off all debts in accordance with the rules of closing down in case of insolvency, as well as of whole enterprises transformed into commercial companies or differentiated parts which are fully owned by the State and the Municipalities with a book value of the fixed assets below BGL 10 million.

The techniques of sale by auction and by the competition are dealt with in details in the Ordinance for Auctions (published in State Gazette No.68 of 1992) and the Ordinance for Competitions.

Privatization is possible through restitution as well.

The State authorities engaged with the privatization process are as follows:

(i) - The Parliament:

- adopts legislative acts;
- adopts the annual privatization programme, submitted by the Council of Ministers;
- appoints six members of the Supervisory Board of the Agency for privatization;

- supervises the fulfilment of the annual privatization programme, and in particular approves the report on this fulfilment given by the Agency for privatization;

(ii) - The Council of Ministers:

- adopts regulations on the implementation of legislative acts;
- authorises the relevant government bodies for small-scale privatization (less than BGL 10 million balance sheet value of assets of the enterprise under privatization);
- approves the privatization of enterprises with balance sheet value of the long-term assets exceeding BGL 200 million;
- appoints five members of the supervisory board of the Agency for privatization;

(iii) - The Agency for Privatization:

It is a government body , authorized to organize and control the privatization of State-owned enterprises as well as to carry out privatizations in the cases provided by the law. It is a budget-financed legal person. (See item ii)

The Agency for Privatization :

- licenses Bulgarian and foreign appraisers;- drafts the annual privatization programme and submits it to the Council of Ministers;
- organizes and controls privatization effected by other bodies:
- privatizes State-owned enterprises with balance sheet value of long-term assets exceeding BGL 10 million (about 30 per cent of the total number of State-owned enterprises).

(iv) Government bodies, authorized to carry out small scale privatization :

The Council of Ministers has granted privatization competence to some ministries and committees with respect to State-owned enterprises with balance sheet value of long-term assets up to 10 million BGL. Those government bodies take decisions for privatization, carry out the privatization process and conclude the privatization transactions.

(v) Municipal Councils:

The Municipal Councils are responsible for the privatization of municipal enterprises, regardless of their balance sheet value of long-term assets.

--Question (No. 17): Please, explain the current status and the future prospect on the privatization process.

Reply (No. 17): The present status (by June 30, 1993) and the forecast for the implementation of the Privatization Programme until the end of 1993 by Ministries and other Governmental departments is as follows:

June 30, 1993 end of 1993					
	Departments	Decisions	Transactions	Decisions	Transactions
1.	PRIVATIZATION AGENCY	18	2	90	34
2.	MINISTRY OF INDUSTRY	28	-	80-100	55-75
3.	MINISTRY OF TRADE	45	2	25*	17**
4	MINISTRY OF TRANSPORT	68	-	52	40
5	MINISTRY OF TERRITORIAL DEVELOPMENT AND BUILDING	11	-	9	10
6	MINISTRY OF AGRICULTURE	16	1	25	22
7	COMMITTEE FOR TOURISM		-		10
8	COMMITTEE FOR POSTS AND TELECOMMUNICATION		-		1
9	TOTAL	186	5	195-215	189-209

* Including 150 differentiated assets

** Including 96 differentiated assets

Please, refer also to Reply 14.

–Question (No. 18): L/7244/para.22. It is stated that in 1992 the private sector accounted for 30 per cent of foreign trade. What percentage of imports were carried out by the private sector, by value?

Reply (No. 18): The 1992 data available cannot provide us with the break-down. The figures cited are just an estimate. The respective Bulgarian central authorities are presently working on the introduction of a new coding of the classification system of the economic operators acting under the Bulgarian legislation so that the appropriate assessment could be made.

In general, Bulgarian private companies are active both in imports and in exports.

3. Foreign trade

-- Paragraphs 22 and 33 of L/7244 indicate that the "private sector accounted for over 50 per cent of the retail trade [in 1992]" and "at least 30 per cent of total trade was effected by private companies":

--Question (No. 19): Please indicate what percentage of total import and of total exports were accounted for by the private sector in 1992.

Reply (No. 19): Please, refer to Reply 18.

--Question (No. 20): Please indicate the relative importance of the private sector in wholesale commerce, construction, services, and agricultural production in Bulgaria.

Reply (No. 20): Please, refer also to Reply 18.

Share of Private Sector in Gross Domestic Product ^{1/}

(Per cent)			
Economic activity	1990	1991	1992 ^{2/}
Private sector - total	9.5	11.9	15.6
Agriculture and forestry	6.7	5.5	4.5
Industry ^{3/}	1.7	3.9	6.1
Services ^{4/}	1.1	2.5	5.0

^{1/} Computed at current prices.

^{2/} Data based on estimate.

^{3/} Incl. construction, etc.

^{4/} Incl. transport, communication, trade, housing, public utilities and household services, science and technology, education, culture and art, health, social insurance, finance, credit and insurance.

--Question (No. 21): Please, provide statistical data on the portion of trade volume and value conducted by State trading enterprises, and State-owned enterprises and State-controlled enterprises in Bulgaria's whole trade volume and value. How is this portion expected to become smaller as Bulgaria moves the privatization process forward in the near future?

Reply (No. 21): Presently, due to technical reasons, Bulgaria is not in a position to provide exact data on the share of State owned companies in foreign trade. The respective Bulgarian central authorities are presently working on solving this problem.

At the moment, there are no estimates as to the impact of privatization on the share of State owned enterprises in trade.

At the moment, there are no estimates as to the impact of privatization on the share of State owned enterprises in trade.

Please, refer also to Reply 18.

1-Question (No. 22): Can the Bulgarian delegation confirm, as is implied by the responses to Questions 14-16 in L/6867, that Bulgaria no longer prepares a State plan for foreign or domestic trade?

Reply (No. 22): The Bulgarian Government no longer prepares a State plan for foreign or domestic trade.

--Question (No.23): Concerning trade in agriculture, which former foreign trade organizations or firms still dominate trade in the major agricultural commodity groups? Which Bulgarian Ministry is responsible for handling agricultural import policies?

Reply (No.23): Import policy, including agricultural, is determined by the Council of Ministers. The former foreign trade organizations do not dominate the trade in the agricultural commodity groups. For example, 89 per cent of export quota allocations for meat imposed by virtue of voluntary export restraints have been obtained by private firms in tender procedures.

The share of some of the former major foreign trade organizations responsible for imports and exports in the respective agricultural commodity groups in 1992 imports and exports is as follows:

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

--Question (No. 24): Government procurement: What percentage of imports is accounted for by government procurement? What are Bulgaria's intentions with reference to the GATT Government Procurement Code?

Reply (No. 24): The data available do not provide for establishing the share of imports accounted for by government procurement.

However government procurement, due to sharp contraction of investment and consumption is practically negligible. It should be noted that the infrastructure projects that the Government is involved in are co-financed by international financial institutions (World Bank, EBRD, EIB) all of which have adequate rules on tenders.

The establishment of a government procurement legislation in Bulgaria is under consideration.

Bulgaria will consider the possibilities of accession to the GATT Government Procurement Code after adopting the appropriate legal basis.

--Question (No. 25): Australia requests an update of the information provided in the Memorandum and L/6867, on State Trading Enterprises and State Owned Enterprises (SOEs). Given that some 70 per cent of international trade is being conducted by the State Owned foreign trading companies, we would particularly like to know the number of SOEs engaged in international trade and/or in production, purchasing or selling which may be indirectly related to such trade.

Reply (No. 25): The estimate on the share of State-owned enterprises does not refer to foreign trading companies only but to all State-owned enterprises. Please, refer also to Replies 7 and 8.

--Question (No. 26): We would like a list of the sectors in which SOEs engage in trade and of the main enterprises by sector, including volumes and values of trade in 1992. We would like an updated detailed description of the operating framework for SOEs and information, by major sector, on any rights granted to them by the Government, e.g., access to material inputs to production. We would also appreciate a description of how Government policies developed for the market transition on pricing, taxation, import licensing and the commercial laws apply to SOEs.

Reply (No. 26): The data available for 1992 does not allow break-down of imports and exports as per different enterprises.

The 1991 Law on Commerce defines the functioning of the companies. The State-owned enterprises operate on commercial considerations, including price, quality, availability, marketability, transportation, terms of financing and other conditions of purchase or sale. Please, refer also to Replies 7, 8, 9, 10 and 11.

--Question (No. 27): The information provided verbally to the Working Party on 12 July could be reproduced in the requested Add.1 update to L/7244, along with the specific information requested above.

Reply (No. 27): The information provided verbally to the WP on 12 July is incorporated in this document, in the respective Replies to the Questions concerning privatization, foreign investment, bankruptcy, private sector .

--Question (No. 28): In paragraph 38 Bulgaria States that the accession to GATT is a trade policy priority and that Bulgaria expects credit for its unilateral liberalization measures. Could Bulgaria specify what kind of credit it is expecting to obtain?

Reply (No. 28): In the last years Bulgaria has taken significant measures towards liberalization of its trade policy.

Bulgaria expects credit for these unilateral liberalization measures in the tariff negotiations and other concessions.

4. Legal developments

--Question (No. 29): Please list any laws or decrees, in addition to Decree No. 56, that govern business organization and describe their operations.

Reply (No. 29):

1. Constitution of the Republic of Bulgaria
2. Law on Property and Use of Agricultural Land
3. Law on Accountancy
4. Law on Statistics
5. Law on Turnover Tax and Excise Tax
6. Law on the Protection of Competition
7. Law on Commerce
8. Law on the Economic Activity of Foreign Persons and on the Protection of Foreign Investments
9. Law on the Bulgarian National Bank
10. A number of laws on restitution of urban property
11. Law on Transformation and Privatization of State-owned and Municipal Enterprises
12. Law on Banks and Credit Activity
13. Patent Law
14. Law on Copyright and Neighboring Rights
15. Tax Administration Act
16. Tax Procedure Act.

–Question (No. 30): Concerning the response to Question 7 of L/6867, please describe precisely how the Law on Protection of Competition prevents the abuse of dominant position by enterprises.

Reply (No. 30): The Law on the Protection of Competition provides for the following measures for preventing the abuse of dominant (monopoly) position:

(1) Permissions issued by the Commission for the Protection of Competition

According to Article 6 of the Law on the Protection of Competition the persons enjoying a dominant market position as well as persons that by acquiring shares have attained such a position, must notify in advance the Commission on the Protection of Competition of the acquisitions in a competitor company with subsidiary status, as well as of the decision to refrain from or limit the expansion of production, sales, capital investment or technological development. These transactions may be carried out with the permission of the Commission for the Protection of Competition when it has not opposed them within thirty days of the notification.

Agreements for applying standardized terms of sale and manufacturing, services, transport, credit, payments etc. may be concluded only with the permission of the Commission for the Protection of Competition provided that such agreements do not restrict competition or injure the interests of consumers.

(2) Invalidation of agreements and decisions

Cartel agreements, as well as decisions of companies, economic groups, associations or persons, which explicitly or implicitly provide for the creation of dominant market position in the country, or de facto lead to it, are considered null and void. (Article 8 (1) of the Law on the Protection of Competition).

(3) State action against the establishment and abuse of a monopoly position

Whenever an abuse of a monopoly position occurs and at the initiative of the Commission for the Protection of Competition, the Council of Ministers or a body authorized by it may establish maximum and/or minimum prices which shall be obligatory for the person with a monopoly position. (Article 16 of the Law on the Protection of Competition)

Whenever export or import quotas have been established, the body which is entrusted with overseeing that they are observed must advertise them and ensure equitable competitive terms for participation in the quota distribution competition to all interested parties (Article 17.).

(4) Liability

In cases of violations of the Law on the Protection of Competition, actions may be brought before the courts by the persons whose interests have been harmed or by the Commission for the Protection of Competition.

The court may:

- establish the violation;
- order that business activities be stopped until the violation has been discontinued;
- declare void transactions or decisions which violate the law;
- pass a judgement against the violator ordering that the violation be terminated (and confiscation in favour of the State of the profit made in violation of the Law on the Protection of Competition).

Sanctions between BGL 5 000 and BGL 1 000 000 are provided for.

Question (No. 31): [The Law on the Protection of Competition, adopted in 1991, at the beginning of the reform process, does not seem to cover all the aspects relevant to this matter, particularly as regards restrictive business practices. Is it foreseen to adapt this law once the restructuring and privatization process has gone further?]

Reply (No. 31): The restrictive business practices are regulated in Chapter 3 of the Law.

Article 8.2. of the Law stipulates: "contractual terms restricting one of the parties with respect to the choice of a market, suppliers, buyers, sellers or consumers, except when the restriction arises from the nature of the contract and is not injurious to the consumers, are prohibited".

The following acts which could lead to a restriction of the competition are regulated explicitly by the Law:

- the conclusion of agreements for applying standardized terms of sale, manufacturing, services, transport, credit, payments etc. The Law provides that such agreements may be concluded only with the permission of the Commission for the Protection of Competition as a guarantee that such agreements will not restrict competition or injure the interests of consumers.
- the acquisition of exclusive rights for trade by concluding a contract for agency or by acquiring exclusive rights as a commission-merchant, buyer or seller of goods or services of competitors when

these acts would lead to limiting of the competition in Bulgaria or to the creation of dominant market position, or in relation to which the person obtaining these rights enjoys a dominant market position in production, consumption or trade.

The Law on the Protection of Competition is considered adequate to the requirements of the economy in transition.

With the further development of the economic restructuring and privatization, certain amendments to the Law on the Protection of Competition may become necessary. Moreover, Bulgaria has undertaken, within the framework of the Europe Agreement, to adjust its laws and regulations, including the Law on Protection of Competition and to bring them into conformity with the Community legislation.

– In Paragraphs 44-45, the status of various laws affecting trade and economic activity is described. These laws include the Law on Property and use of Agricultural Lands, the Accounting Law, the Law on Turnover Tax and Excises, the Law on Protection of Competition, the Law on the Economic Activity of Foreign Persons and on the protection of Foreign Investment, the Law on Transformation and Privatization of State-owned and municipal Enterprises, the Law on Banks and Credit Activity, and the Patent and Copyright Laws:

–Question (No. 32): Is this a complete list, or can the delegation of Bulgaria list additional laws. Please provide copies of these laws, in translation if possible, and outline their provisions, with particular emphasis on the methods or changes in operation associated with the limitation of government intervention in the decision-making and management of firms and enterprises.

Reply (No. 32): In addition to the list of laws affecting trade and economic activity, submitted to the GATT Secretariat for the WP meeting in July 1993, the Bulgarian party supplemented the list with the following Laws, translated into the English language:

- Patent Law (adopted by Parliament on March 18, 1993);
- Law on copyright and neighboring rights (adopted by Parliament on June 16, 1993);
- Tax Administration Act (adopted by Parliament on June 24, 1993);
- Tax Procedure Act (adopted by Parliament on July 1, 1993).

–Question (No. 33): Concerning the pending Law on VAT, the Bankruptcy Law, and the Customs Code, could Bulgaria either provide a draft in translation or describe their provisions?

Reply (No. 33): These draft laws, based on the existing legislation of developed economies, are under discussion in Parliament. Upon adoption of these laws by the National Assembly, Bulgaria will provide the GATT Secretariat with translations.

Please, refer also to Replies 48 and 49.

–Question (No. 34): Anti-dumping, subsidies / countervail, safeguards: Does Bulgaria have any plans to implement legislation and regulations governing the use of such measures? Please provide a situation report.

Reply (No. 34): The Government of Bulgaria is envisaging preparation of an Anti-Dumping Law with the respective implementing legislation, based on the GATT Anti-Dumping Code.

—Question (No. 35): Intellectual Property (IP): Please, specify Bulgaria's current international commitments with reference to IP. What are Bulgaria's intentions with reference to the "Agreement on Trade-Related Aspects of Intellectual Property Rights, including Trade in Counterfeit Goods" (TRIPs), as contained in the Draft Final Act (DFA) of the Uruguay Round?

Reply (No. 35): Bulgaria is a signatory to the following international treaties, conventions and agreements related to intellectual property:

I. World Intellectual Property Organization

1. Convention Establishing the World Intellectual Property Organization (Since 8 January 1970).
2. Paris Convention for the Protection of Industrial Property Ratification (Since 13 June 1921).
3. Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods (Since 12 August 1975).
4. Madrid Agreement Concerning the International Registration of Marks (Since 1 August 1985).
5. Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (Since 12 August 1975)
6. Patent Cooperation Treaty (Since 21 May 1984).
7. Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (Since 8 May 1978).
8. Nairobi Treaty on the Protection of the Olympic Symbol (Since 6 May 1984).
9. Bern Convention for the Protection of Literary and Artistic Works (Since 5 December 1921).

II. UNESCO

1. Universal Copyright Convention as revised at Paris on 24 July 1971 (Since 5 December 1921).

Bulgaria will positively consider with the view of possible implementation the "Agreement on Trade-Related Aspects of Intellectual Property Rights, including Trade in Counterfeit Goods" (TRIPs), as contained in the Draft Final Act of the Uruguay Round.

—Question (No. 36): Trade in Services: What are Bulgaria's intentions with reference to the "General Agreement on Trade in Services" as set out in the DFA?

Reply (No. 36): Bulgaria will consider the whole package of the Uruguay Round including also the proposed General Agreement on Trade in services (GATS).

PART II. MACRO ECONOMIC POLICY INSTRUMENTS

1. Price policy

—Question (No. 37): Has the State Council Decree of February 1988 referred to in the response to Question 47, which authorises the State to "prevent unlawful increases in prices," been repealed? Does the Government of Bulgaria intend to retain this authority?

Reply (No. 37): The 1991 Constitution stipulates in its Article 19 para 1 and 2 that the Bulgarian economy is based on free entrepreneurship and the Law creates and guarantees to all citizens and legal persons equal juridical conditions for economic activity, preventing the abuse of monopoly and the unfair competition.

The application of State Decree 115/1988 cited, is envisaged as long as some fixed prices as well as prices under government monitoring exist.

—Question (No. 38): Please describe in more detail than is contained in paragraphs 117-125 of L/7244 what products or sectors remain subject to price controls, "registration" or government "guidance" at the wholesale and at the retail levels? At what point of sale are such controls applied to imports?

Reply (No. 38): The price control mechanism embodies: fixed prices, ceiling prices, prices under Government monitoring.

Fixed are the prices on the following energy products:

- electricity;
- heating energy;
- coal for production purposes and for home heating, briquettes (imported coal for production purposes is not subject to fixed prices)

These products are estimated to account for less than 10 per cent of retail and wholesale turnover. The fixed prices have been raised several times since the initial increase in 1991. The number of products listed under this fixed-price measure has been reduced as well (the restriction on petroleum prices was lessened).

The ceiling prices are set by the Government for the sale of following goods:

- crude oil;
- gasoline;
- diesel oil;
- gas oil for industrial purposes and fuel oil;
- gas propane-butane

The ceiling prices are calculated on the basis of the international market prices at the exchange rate of the BGL, considering the customs duty and the excise tax. The ceiling prices are determined on a fortnight basis, and thus reflect changes that may occur.

Government monitoring is maintained in respect of the following goods:

- two types of flour;
- two types of bread;
- meat with bone;

- cow milk;
- chicken;
- Bulgarian yoghurt from cow milk;
- white cheese in brine from cow milk;
- pharmaceutical preparations.

The goods under Government monitoring account for 6 per cent of retail turnover and about 2 per cent of GDP.

The Government is fully aware that in the long term price controls depress supply and the goods under price control are substituted by the traders on the market, whenever possible, by products with fully liberalized prices. The price control is regarded as a temporary measure in the economy in transition, applied to cushion social problems.

In pursuing their pricing policy for exported and imported goods, companies are guided by the usual commercial considerations, such as duties and taxes; production, transportation and insurance costs, etc.

-Question (No. 39): Are any retail food prices still subject to residual consumer subsidies or price controls? Please explain the concept of food price monitoring referred to in paragraph 121 of L/7244?

Reply (No.39): There are no retail food prices subject to residual consumer subsidies. The system of food price monitoring was introduced with the view to suppress the tendency of steep increases of profits on the sale of some goods and provides for an increased tax for excessive profits. This mechanism has not been enforced effectively, however.

-Question (No. 40): L/7244/para.48. Are any imported goods subject to price control measures? If so, please list such products and describe the price control or adjustment measure which is applied.

Reply (No. 40): Please refer to Replies 38 and 39.

2. Fiscal policy

-- The response to Question 19 of L/6867 and in paragraph 56 of L/7244 indicate that imports receive equal internal tax treatment under Bulgarian law, and that imported goods receive "treatment not less favourable than that of domestic products" in their conditions of sale, purchase, transportation, or use:

-Question (No. 41): Can the Delegation of Bulgaria confirm this for the WP record, and cite the provision of law that provides for such treatment?

Reply (No. 41): The Law on Turnover Tax and Excise Tax in its Chapter I, Article 1 stipulates, that both imports and local production receive equal treatment in respect of taxation in accordance with the said Law.

- Taxes

The response to Question 78 in L/6867 appears to indicate that neither the turnover tax nor the excise tax are applied to goods that are used as inputs for further manufacturing.

--Question (No. 42): Is this the case? If so, does this provision apply to imported inputs as well, or only to domestic Bulgarian goods? ()

Reply (No. 42): The provisions of the Law on Turnover Tax and Excise Tax stipulate application of these taxes to both imported and domestically produced goods for final consumption. Turnover and excise taxes are applied neither to imported nor to domestic inputs for further manufacturing.

Please, refer also to Reply 41.

-- Concerning the application of the turnover tax as described in the response to Question 80 of L/6867:

--Question (No. 43): Are there any goods exempt from this tax, other than those sold for "productive consumption?"

Reply (No. 43): Exports are not subject to turnover tax.

Article 16 of the Law on Turnover Tax and Excise Tax provides for the exemption from the turnover tax for the following goods:

- brown and diet bread;
- milk and yoghurt;
- prostheses and all appliances for the handicapped;
- turnover of pharmaceuticals sold in the pharmacies;
- human organs, blood, mother's milk and insemination material;
- electricity, steam for heating and coal;
- waste and scrap from products provided that the goods are not dangerous;
- waste and scrap from goods already levied with turnover tax;
- agricultural and farming products, as well as home-made products sold by the producers directly to consumers;
- goods produced in schools as part of the education curriculum.

Further, the August 1993 amendment to the Law on Turnover Tax and Excise Tax stipulates the following exemptions from turnover tax:

- Land, forest, perennial plants;
- Machinery and equipment, with the exception of farm equipment;
- Raw materials and materials, with exception of stationary;
- Vehicles;
- Fuels, with the exception of petrol, diesel oil and propane-butane gas;
- Services directly connected with the production process and the commercial activity.

Please refer also the Reply 41.

--Question (No. 44): At what point of sale for imports and domestic goods is this tax applied?

Reply (No. 44): For imported goods the tax is applied at the customs border. For domestic goods the tax is applied at the point of sale by the producer.

Article 9 of the Law stipulates that goods are levied only once. In the case of resale of the same goods at a higher price, the difference in the price is levied once again and at the same tax rate.

--Question (No. 45): L/7244/para.56. It is Stated that "The tax rate shall be the same for local and imported products and services". Are different tax rates currently in effect? If so, what are the various rates? Once the implementation is completed, we would request that definitive information be provided to the Working Party.

Reply (No. 45): The Law on Turnover Tax and Excise Tax in its Chapter I, Article 1 stipulates, that both imports and local production are subject to the same taxation in accordance with the said law.

Please, refer also to Replies 41 and 42.

--Question (No. 46): What is the economic rationale for the 10 per cent turnover tax on food imports noted in paragraph 58 of L/7244 or for the 5-25 per cent import taxes on selected agricultural products described in paragraph 121? Under which economic circumstances will these taxes be eliminated or reduced? Could Bulgaria supply a list of the products subject to the excise tax referred to in paragraph 58 of L/7244?

Reply (No. 46): The import tax is applied usually to goods with depressed international prices because of export and production subsidies in quite a number of agricultural exporting countries. The import tax is considered as a less disruptive measure compared with import bans and import quotas. The import taxes as described in paragraph 121 of L/7244 have been included in the customs duty for some of the products and abolished for the rest. For additional information on the subject, please refer to Reply No 78.

As of August 31, following goods and services are subject to excise tax:

Goods subject to 70 per cent excise tax

1. Whisky, vodka; liqueurs, other spirituous beverages
2. Articles of jewellery of precious metals

Goods and services subject to 60 per cent excise tax

1. Entry tickets for bars, music halls, telepathic seances, erotic and other like performances
2. Turnover from hazardous games on rotative machines, roulettes and the like
3. Tobacco products
4. Aircraft for private usage, yachts, motorboats, sailboats and other vessels for private activities
5. Perfumery and cosmetics in a freon-free aerosol containers
6. Erotic and pornographic books, newspapers and magazines, and pornographic video cassettes
7. Ordinary brandies.

Goods and services subject to 50 per cent excise tax

1. Clothing of leather and fur, excl. occupational and industrial for special purposes
2. Lotteries, raffles and the like games

Goods and services subject to 40 per cent excise tax

1. All kinds of wines
2. All kinds of beer, excl. non-alcoholic beer

3. Coffee and tea
4. The turnovers from playing cards, backgammon, bagatelle, bowling and the like
5. Perfumery
6. Matches and lighters

Wines and spirits distilled from fruit produced by natural persons

1. Wines - 1 BGL per litter
2. Spirits - 0.1 BGL per every per cent of alcoholic strength by volume

Liquid fuels

1. Gasoline A-96 and A-98 - 60 per cent
2. Gasoline A-93 and A-86 - 50 per cent
3. Diesel fuel - 30 per cent
4. Propane - butane gas - 10 per cent

Passenger cars

1. With a cylinder capacity from 1801 cm³ to 2500 cm³ - 10 per cent
2. With a cylinder capacity more than 2500 cm³ - 30 per cent

-Question (No. 47): The response to Question 82 of L/6867 refers to tax exemptions applied for social and ecological reasons. Could Bulgaria describe these?

Reply (No. 47): Please, refer to Reply 43.

-Question (No. 48): When will the Value Added Tax referred to in paragraph 59 of L/7244 be implemented and at what level? Will any products or sectors be excluded from its application? What will be the basis for its application to imports?

Reply (No. 48): The draft law on Value Added Tax is in Parliament under discussion.

-Question (No. 49): L/7244/para.59. Similarly, once these additional tax laws are finalized, definitive information should be provided to the Working Party.

Reply (No. 49): Bulgaria will submit detailed information on the Law on VAT after it is adopted by Parliament.

- Subsidies

-- Concerning the response to Question 87 of L/6867:

-Question (No. 50): Please indicate the products or institutions which enjoy production subsidies, and outline the scope and nature of the benefit applied. Please describe the nature and purpose of the subsidies granted for the implementation of the Law on Property and Use of Agricultural Land, and for producers in mountainous areas.

Reply (No. 50): The limited assistance is allocated exclusively for the alleviation of the social problems and the difficulties, resulting from the unprecedented scale of economic reform in the country.

The following sectors of the economy receive financial assistance from the State:

Energy production

The 1993 State budget allocates 2 590 million BGL for the energy production. This amount represents 0.75 per cent of the expected GDP and allows the step-by-step price increases of electricity. Self-financing of the energy production is envisaged in the future.

Agriculture

The State budget allocates 964 million BGL as a technical assistance for the agrarian reform that includes:

- Restoration of the property rights on farm lands (Article 67, item 2 from the Regulation for Implementation of the Law on Property and Use of Agricultural Lands);
- Legal procedures at the established Commissions for the restoration of the lands and at the courts.

There is a five-year turnover tax and profit tax relief (from the entry into force of the Law, i.e. from 1 March 1991) for the land owners.

The recovery of the ecologically polluted areas is financed by the State (Article 10 of the Law).

Please, refer also to Replies 51 and 54.

Subsidies for mountainous areas have only regional significance and are introduced due to social considerations to assist the development of economically disadvantaged regions.

The 1993 State budget envisages 63 million BGL in subsidies for the mountainous areas, the break-down of the amount being:

- transportation of bread: 15 million BGL
- transportation of other basic foodstuffs: 48 million BGL.

The subsidy covers the higher transport expenses.

—Question (No. 51): Please describe any other government supports for agriculture and for industrial concerns.

Reply (No. 51): Other assistance granted to agriculture

(1) 1 billion BGL - for credit preferences.

2/3 of the interest rate, charged on the loans granted for the cultivation of 1992 autumn crops and 1993 spring crops, and for harvesting are paid by the State budget.

(2) 750 million BGL - allocated in the 1993 State budget for the construction, reconstruction, modernization and maintenance of the irrigation system.

(3) 276 million BGL - for financing expenses in the veterinary field, selection and sorts preservation, pest control, technical inspections. 208 million BGL of the total is allocated for veterinary expenses: vaccination of livestock against acute infectious diseases.

(4) 22 million BGL - allocated under the Law on the preservation of cultivated lands and pastures (Article 15 and 17) for financing the soil conservation. The amount is spent for levelling of gullies, building protective lands, neutralization of acid and salted lands etc.

Please, refer also to Replies 50 and 53.

--Question (No. 52): Are the subsidies outlined in the response to Question 88, i.e., those "in relation to exports intended to settle outstanding trade balances from 1990 with ... some of the former CMEA member countries," still in effect? Can the Bulgarian delegation indicate the approximate size and duration of these subsidies? How much longer does Bulgaria contemplate such subsidies will be necessary?

Reply (No. 52): In order to meet the outstanding trade deficits with former CMEA member countries the following funds from the State Budget had been used in 1991 and 1992 and are envisaged for 1993 (in million BGL):

1991.....2.305
1992.....134
1993.....903

The amount of 903 million BGL allocated in the 1993 State budget for settlement of the unresolved trade balances with former CMEA member countries is not considered as a subsidy, but expenses for existing debt paying off. Bulgaria is a debtor for the amount of approximately 1 356 million "convertible roubles" to former CMEA countries and creditor for 800 million "convertible roubles" to the former Soviet Union.

--Question (No. 53): L/7244/para.62. Please provide a breakdown of subsidies as granted by sector and sub-sector. Are production subsidies applied to any goods which are exported? If so, please, specify.

	1992	% in GDP	1993	% in GDP
Committee on energy (for heating and coal)	1310.0	0.58	2590.0	0.75
Sofia - public transport	400.0	0.18	500.0	0.15
Ministry of transportation	901.0	0.40	2300.0	0.66
- railways	701.0	0.31	1900.0	0.55
- in-town public transport	200.0	0.09	400.0	0.11

Retail price subsidies on coal for heating for consumer use	25.0	0.01	100.0	0.03
Development of railway infrastructure	523.0	0.15		
Others	691.0	0.31	1060.0	0.31
Total:	3327.0	1.48	7073.0	2.05

Reply (No. 53): Financial assistance break-down in million BGL

Assistance allocated for the Agricultural sector
(in million BGL)

1.	In conformity with the 1991 Law on Land agricultural producers are granted turnover tax and profit tax relief which for 1993 is estimated to amount to	1.500,0
2.	Credit preferences for restituted private land owners	1.000,0
3.	Financing of land reform	964,0
4.	Reconstruction and development of the irrigation network	750,0
5.	Financing of veterinary and selection programmes.	276,0
6.	Protection against erosion	22,0
	Total	4.512,0

There are no export subsidies.

–Question (No. 54): Which agricultural commodities benefit from domestic support prices? Please specify the scope of agricultural subsidies in mountainous areas as referred to in paragraph 62 of L/7244.

Reply (No. 54): None of the agricultural products benefits from domestic support prices. Please, refer also to Replies 50, 51 and 53.

–Question (No. 55): L/7244/para.63. Is there a specific schedule or timetable in place regarding the "policy of further scaling down of subsidies"? If so, please describe.

Reply (No. 55): Gradual scaling down of assistance is envisaged along the stabilization of the economy in transition. The policy of scaling down is discussed on an yearly basis with the IMF and the World Bank in the context of the budget deficit.

--Question (No. 56): Will Bulgaria confirm that it will observe the provisions of Article XVI after its accession to the GATT, including the notification provisions of paragraph 1? What is Bulgaria's intent regarding association with the GATT Subsidies Code?

Reply (No. 56): Bulgaria will observe the provisions of Article XVI after its accession to the GATT, including the notification provisions of paragraph 1. Bulgaria is considering its accession to the GATT Subsidies Code while acceding to the General Agreement.

--Question (No. 57): Can the Government of Bulgaria confirm that it does not make "soft loans" to State enterprises; i.e. that it does not make loans to State enterprises regardless of their solvency?

Reply (No. 57): The Bulgarian Government does not extend loans to State enterprises from the budget. Neither does the Bulgarian National Bank. Furthermore the Government is not in a position to exert pressure on the commercial banks to give "soft loans" to State enterprises. All trade banks are registered as joint-stock companies under the Law on Commerce. They determine and carry out their credit policy independently and the Government has no rights to interfere into determining to whom and under what conditions the credit should be granted.

--Question (No. 58): Does Bulgarian law ensure non-discriminatory access to credit: Do private and public enterprises have equal access to credit? What about individual borrowers? Joint ventures? Are there different interest rates applied to public enterprise, private enterprise, joint venture or individual investor loans? Are banks required to lend a certain percentage of their available capital to State enterprises?

Reply (No. 58): The trade banks determine their credit policy independently. The access to credit does not depend on the type of ownership of the borrower. Private and State-owned companies as well as joint ventures have equal access to credit. Under the acting legislation there is no obligation for the banks to make loans to State enterprises in the scale of certain percentage of the bank capital or on whatever other basis.

Article 31 of the 1992 Law on Banks and Credit Activity stipulates:

"(1) The interest rates on credits and money deposits shall be negotiated between the borrowers and depositors, respectively, and the banks on the basis of the basic interest rate determined by the Central Bank, and depending on the demand and supply of credit, the solvency of the borrower, the term of the credit or deposit, and other circumstances.

(2) The interest rates on foreign currency credits and deposits shall be negotiated in accordance with the terms on the international credit markets, and depending on the demand and supply of credit in the country."

In 1992 Government support amounting to 16 million BGL had been extended to private Small and Medium-size Enterprises.

3. Foreign exchange and banking policy

- Foreign exchange policy

--Question (No. 59): According to the experts of the Bulgarian National Bank (Note CCEET/DAFFE(93)60 of the OECD from 20 April 1993), the liberalization of the exchange markets in Bulgaria, as well as the activities on these markets are affected by two main characteristics: the lack of modern legislation - from one side the law of 1966 on exchange transactions and on the control of exchange, which is still in force seems to be largely obsolete, even with the amendments brought during the last years; on the other side, the laws on the stock exchange, the bonds and on the insurances are still not adopted - and the foreign debt. What are the measures foreseen to remedy these two characteristics which penalize the development of the exchange market in Bulgaria?

Reply (No. 59): On the extensive and radical liberalization of the exchange markets in Bulgaria please refer to paragraphs 64-74 of L/7244.

The Laws on the stock exchange, the bonds and on the insurance are not yet adopted by Parliament. However, private stock exchanges and auctions and the first financial stock exchange have developed on the basis of the Law on commerce. Transactions are made on the basis of agreed practices and procedures between sellers and buyers.

Bulgaria is prepared to reach an agreement with its commercial bank creditors as soon as possible. The Bulgarian Government has demonstrated its willingness to negotiate in good faith with the banks. Fundamental to an early resolution of this problem is the recognition of Bulgaria's financial constraints and its capacity to service the debt.

Please, refer also to Annex I.

PART III. TRADE POLICY AND ORGANIZATION OF THE FOREIGN TRADE SYSTEM

1. Reform in the foreign trade system

- Trade policy

-- It is Stated in para. 86. L/7244 that "the State monopoly and administrative management of foreign trade was abolished and the system is liberalized.":

--Question (No. 60): Does this Statement mean that there are no State monopoly on trade? If not, what portion of Bulgaria's trade is conducted under State monopoly? What are the products whose trade are subject to State monopoly?

Reply (No. 60): There is no State monopoly on trade in Bulgaria. The only State monopoly that still exists (but is expected to be abolished) is in trade with tobacco leaves.

Please, refer also to Reply 10.

--Question (No. 61): Does this statement mean that there are no administrative management of foreign trade? If not, please describe such administrative management.

Reply (No. 61): With the abolition of the State monopoly on foreign trade in 1989, there was no need any longer to maintain administrative management of foreign trade. The Ministry of Foreign Trade discontinued its existence as of end of 1991.

--Question (No. 62): Barter / counter trade: Are any arrangements in effect which specify barter, counter trade or clearing arrangements? If so, please describe, with product details and quantities. What percentage of Bulgarian imports are transacted through such arrangements?

Reply (No. 62): At present, there are no intergovernmental barter, counter trade or clearing arrangements in force.

Please refer also to doc.L/7244, para 92 to 95.

- - GATT Codes

--Question (No. 63): Bulgaria has observer status in a number of codes, e.g. the codes on import licensing, subsidies, TBT, and anti-dumping. Bulgaria's intention is, according to the document, to join the codes on import licensing and customs valuation. We would appreciate if Bulgaria could clarify its intentions as to joining the other codes in the context of the Uruguay Round and agreements negotiated in parallel, like government procurement?

Reply (No. 63): Bulgaria is interested in joining the Codes on Import Licensing and Customs Valuation on its accession to the GATT and is studying the possibility of accession to other Tokyo Round Codes. Bulgaria is also considering the whole package of the Uruguay Round.

[--Question (No.64): At what moment does Bulgaria intend to accede to the GATT Codes, for which she has shown interest?

Reply (No.64): Please, refer to Reply 63.

--Question (No. 65): Will Bulgaria join the Customs Valuation Code and immediately apply its provisions after accession?

Reply (No. 65): Bulgaria's intention is to join the Customs Valuation Code. It is de facto applying its provisions since the rules for customs valuation currently in force in Bulgaria are based on the provisions of the GATT Code.

- Regional trade agreements.

--Question (No. 66): Concerning the response to Question 57 in L/6867 and the information in paragraphs 112-117 of L/7244, could Bulgaria please indicate what portion of its imports are conducted with the EC and EFTA countries and/or are subject to the provisions of Free Trade Agreements or the trade provisions of an Association Agreement or GSP provisions establishing for preferential access to Bulgaria's import market?

Reply (No. 66): In 1992 imports from the EFTA States and the EC to Bulgaria accounted for 6.8 per cent and 32.6 per cent respectively of total. Their relative shares increased in 1992 on the grounds of total contraction of Bulgarian trade and the partial reorientation to the OECD markets following the CMEA dissolution.

The FTA with the EFTA States provides for liberalization of trade in industrial products, fish and processed agricultural products. Bilateral agreements on trade in agricultural products were signed with the individual EFTA States. The Agreement is communicated to the CPs by Sweden on behalf of the EFTA States and circulated as GATT document L/7257/13 July 1993.

The Europe Agreement provides for elimination of trade barriers for industrial products and improvement in market access for agricultural products. The Interim Agreement has not yet entered into force (as of September 1, 1993).

There are no other agreements providing for preferential imports. Under Bulgaria's GSP scheme fall about 14.3 per cent of total 1992 imports.

—Question (No. 67): (L/7244/para.89) What percentage of current Bulgarian agricultural exports is covered by the trade provisions of the Europe Agreement with the EC, and by the FTAs with the EFTA States? What percentage is expected to be covered within five years? - - within ten years?

Reply (No. 67): The Bulgarian agricultural export to the EC and to the EFTA States in 1992 amounted to 30.9 per cent and 5.5 per cent respectively, of total agricultural exports.

As the Europe Agreement has not entered into force yet no estimates on developments of bilateral trade can be considered accurate or reliable.

Bulgaria is presently undergoing a process of reforming and restructuring its agriculture and in this economic environment we find it difficult to make even an estimate as to what will be the share of agricultural exports within 5 years.

- Conditions for business for foreign natural and legal persons

—Question (No. 68): (L/7244/para.96) Are there any requirements in the foreign investment laws or regulations which are trade-related, e.g. : which require any specified amounts or proportions of imports or exports, or which mandate the use of specified amounts or proportions of domestic inputs? What are Bulgaria's intentions regarding the Decision on "Trade-Related Aspects of Investment Measures" (TRIMs), as contained in the Draft Final Act of the Uruguay Round?

Reply (No. 68): The Law on the Economic Activity of Foreign Persons and on the Protection of Foreign Investments does not stipulate any export performance criteria or local content requirement.

When the decision on TRIMs is taken after the conclusion of the Uruguay Round the Bulgarian Government will consider its position.

—Question (No. 69): (L/7244/para.100) Do free trade zone exports which are destined to enter the commerce of Bulgaria attract customs duties? If there are exceptions, please describe the terms and conditions which govern them.

Reply (No. 69): Goods and services exported from the zones to the customs territory of Bulgaria are subject to the customs duties, charges and taxation currently in force in the customs territory of Bulgaria, i.e. normal tariffs and taxes are applied to exports from the zones into Bulgarian customs territory. There are no exceptions from this rule.

—Question (No. 70): Please list the taxes from which firms are granted relief if they locate in the zones.

Reply (No. 70): Goods and services exported from the zones to other countries are liable to 30 per cent profit tax.

There is a 5-year profit tax relief for economic activities in the zones. Upon expiration of the grace period, a 20 per cent profit tax is charged.

–Question (No. 71): Are normal tariffs and taxes applied to exports from the zones into Bulgarian customs territory?

Reply (No. 71): Please, refer to Reply 69.

–Question (No. 72): There are, according to paragraphs 100 and 101, seven free trade zones. Are these zones of a temporary or a permanent nature?

Reply (No. 72): The seven free trade zones are created under Decree No.2242 of 1987 of the Council of Ministers. The Decree does not stipulate any time limits for the existence of the zones.

–Question (No. 73): [Clearing trade arrangements with the CIS countries are no longer applied since the beginning of 1993 (para.95 doc L/7244). On what basis (money, market prices,...) is trade conducted between Bulgaria and the CIS States. Are arrangements of a preferential type foreseen with these countries?

Reply (No. 73): Trade between Bulgaria and the CIS States is based on an Agreement providing for MFN treatment. Trade is conducted under normal commercial considerations in convertible currency.

2. Institutional framework of the foreign trade system

- Governmental institutions

–Question (No. 74): Please outline the other responsibilities and functions of the BCCI referred to in the response to –Question 105. Does this organization help to set export prices or minimum export quality standards?

Reply (No. 74): The Bulgarian Chamber of Commerce and Industry is an independent organization with no authority in implementing the foreign trade regime. No exclusive or special privileges that discriminate in trade had been granted to the Chamber. The functions of the Chamber are limited to providing informational and consultation services to companies. Certificates of origin, when required, are also issued by the Chamber of Commerce and Industry.

–Question (No. 75): Could Bulgaria confirm, for the record, that there are no restrictions of any kind for companies to carry out foreign economic activities?

Reply (No. 75): Companies are free to engage in foreign economic activities.

–Question (No. 76): L/7244 (para.105). Is there any provision for appeal to judicial or quasi-judicial authorities on any import policy matters, for example, customs classification? If so, please, describe.

Reply (No. 76): An appeal in relation to customs valuation can be submitted according to the provisions of the Law on Administrative Proceedings before the court.

An appeal in relation to customs classification and all other customs matters can be submitted before the General Customs Directorate in accordance with its rulings.

An appeal in relation to licensing procedures can be submitted before the Minister of Trade. The Minister of Trade informs the applicant of his final decision in writing within 5 days after the submission of the appeal.

- Natural and legal persons

--Question (No. 77): L/7244/para.110. What percentage of imports, by sector, are handled by State-owned or State-controlled trading companies, Ministries or entities?

Reply (No. 77): The 1992 data available cannot provide us with the break-down. The respective Bulgarian central authorities are presently working on the improvement of the system so that the data be more accurate and detailed.

3. Tariff Policy

- Customs tariff

--Question (No. 78): Are there any products whose tariff rates have been raised since the negotiations on the Europe Agreement or free trade agreement with EFTA States? If any, please provide the HS base list of these products. Please indicate from how many per cent to how many per cent each tariff rate has been changed.

Reply (No. 78): Since document L/7244 was distributed to the contracting parties some changes in Bulgaria's customs tariff have occurred. Please, refer also to the documents distributed during the July 1993 meeting of the Working Party on the accession of Bulgaria.

As of 1st of July, 1993, as part of the tariff simplification and rationalization, the Government of Bulgaria has introduced tariff changes on 70 tariff lines. Out of these 70 lines, following 46 tariff rates were increased:

HS Code	Description	MFN Rate	Duty Rate
0407	Birds' eggs in shell, fresh, preserved or cooked		
0090	- Other	40	55
21021000	Active yeast	15	25
28151100	Sodium hydroxide (solid)	25	40
28151200	In aqueous solution (soda lye or liquid soda)	25	40
28362000	Disodium carbonate	25	40
28363000	Sodium hydrogencarbonate (sodium bicarbonate)	25	40
29041010	Dodecylbenzene sulphonate, dodecylbenzenesulphonic acid, sulphonates of fatty acids	10	25
29173200	Diocetyl orthophthalates	15	25
29173500	Phthalic anhydride	15	25
31021000	Urea, whether or not in aqueous solution	15	40
31023000	Ammonium nitrate, whether or not in aqueous solution	25	40
34029010	Washing preparations	25	40
36050000	Matches, other than pyrotechnic articles of heading No 3604	25	40
3904	Polymers of vinyl chloride or of other halogenated olefins, in primary forms : - Polyvinyl chloride, not mixed with any other substances		

1010	- Emulsive	5	40
3919	Self-adhesive plates, sheets, film, foil, tape, strip and other flat shapes, of plastics, whether or not in rolls: - In rolls of a width not exceeding 20cm.	5	5
	Other	15	25
7003	"Cast" glass and rolled glass in sheets or profiles, whether or not having an absorbent or reflecting layer, but not otherwise worked - non-wired sheets: coloured throughout the mass (body tinted), opacified, flashing or having an absorbent or reflecting layer:		
1120	- In a square or rectangular form - Other:	15	40
1920	- In a square or rectangular form - Wired sheets :	15	40
2010	- In a square or rectangular form	15	40

7004	- Drawn glass and blown glass, in sheets, whether or not having an absorbent or reflecting layer, but not otherwise worked: - Glass coloured throughout - the mass(body tinted), - opacified, flashed or having - an absorbent or reflecting layer :		
1010	- Optical glass	15	40
1020	- In a square or rectangular form	15	40
	- Other glass :		
9010	- Optical glass	15	40
9020	- In a square or rectangular form	15	40
7005	- Float glass and surface ground or polished glass, in sheets, whether or not having an absorbent or reflecting layer, but not otherwise worked: - Other non-wired glass : - Coloured throughout the mass - (body tinted), opacified, - flashed or merely surface ground :		
2110	- Optical glass	10	40
2120	- In a square or rectangular form	10	40
	Other		

2910	- Optical glass	10	40
2920	- In a square or rectangular form	10	40
8434	- Milking machines and dairy machinery:		
1010	- Milking machines with less than 5 outlets*	10	25
84705000	- Cash registers	15	25
85281090	- Other (Television receivers/Colour)	15	25
8539	- Electric filament or discharge lamps, including sealed beam lamp units and ultra-violet or infra-red lamps; arc lamps: - Other filament lamps, - excluding ultra-violet or infra-red lamps :		
2200	- Other, of a power not exceeding 200 W and for a voltage exceeding 100 volts	25	40
2900	- Other- Discharge lamps, other than ultra-violet :	25	40
3100	- Fluorescent, hot cathode	25	40
3900	- Other	25	40
87120000	- Bicycles and other cycles (including delivery tricycles), not motorized	15	25

(Cont.)

* - Eight-digit tariff line has been added to the nomenclature.

The import tax was partially eliminated and for a number of tariff lines - included in the customs duty, which practically lead to the increase of the duty for these lines. The tariff lines with the increased duty are the following:

HS	Description	Previous Duty	Import Tax	New Duty
0203	Meat of swine, fresh, chilled or frozen: - carcasses and half carcasses			
2110	- of piglets	25	15	40
2120	- With fat	25	15	40
2190	Other	25	15	40
	- Hams, shoulders and cuts thereof, with bone in:	25	15	40
2210	- Of piglets	25	15	40
2220	- With fat	25	15	40
2290	- Other:	25	15	40
2910	Other: - Of piglets	25	15	40
2920	With fat	25	15	40
2990	- Other	25	15	40
0207	Meat and edible offal, of the poultry of No.0105, fresh, chilled or forzen: - Poultry not cut in pieces, frozen:	25	15	40
2100	Fowls of the species, Gallus domesticus - Poultry cuts and offal, other than dices, frozen:	25	25	55
4100	Of fowls of the species Gallus domesticus	25	25	55

040500000	Butter and other fats and oils derived from milk	25	25	40
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For some fresh fruits and vegetables seasonal duties were introduced replacing the previously applied import taxes, which also had implications on the level of duty:

HS Code	Description	MFN Duty Rate
07020000	Tomatoes, fresh or chilled From 1 June to 31 October	40
		55
07070000	Cucumbers and gherkins, fresh or chilled From 1 June to 30 September	40
		55
07096010	Sweet peppers From 1 July to 31 October	40
		55
07096020	Chilli peppers From 1 July to 31 October	40
		55
08061000	Grapes, fresh From 1 July to 31 October	40
		55
08081000	Apples From 1 August to 31 December	40
		55

–Question (No. 79): Does Bulgaria have the intention to raise tariff rate of any product or to introduce new quantitative restrictions before it accedes to the GATT?

Reply (No. 79): At this stage of economic development of Bulgaria the Bulgarian Government reserves the right to follow an economic policy which, in the context of Bulgarian accession to the GATT, will be in conformity with the General Agreement on Tariffs and Trade.

– Regarding the eventual establishment of laws or regulations dealing with unfair trade practices, e.g., dumped or subsidized imports, as referred to in the response to –Question 50 of L/6867:

--Question (No. 80): Does such legislation currently exist? If so, please describe it and provide CPs with a copy.

Reply (No. 80): Please, refer to Reply 34.

--Question (No. 81): If such legislation does not exist at this time, how does Bulgaria intend to defend its market from such practices? What is Bulgaria's intent with respect to association with the GATT Antidumping and Subsidies Codes?

Reply (No. 81): Please, refer to Reply 34 and 56.

--Question (No. 82): Can the delegation of Bulgaria commit to apply its laws, regulations, or authority in this regard in conformity with the provisions of Article VI of the GATT?

Reply (No. 82): The draft legislation currently under discussion is based on the provisions of Article VI of the GATT.

--Question (No. 83): [What is the coverage of the import surcharge of 3 per cent the introduction of which is foreseen for the August 1st, 1993. What is the calendar for the elimination of the surcharge by the end of 1995?

Reply (No. 83): Please, refer to Reply 84.

--Question (No. 84): Please list by tariff line all imports still subject to the 15 per cent import tax or any other non-tariff import tax other than customs fees for the cost of services rendered, and indicate the nature and incidence of the tax. Are these taxes applied to all trade, or are the imports of any country exempted?

Reply (No. 84): As indicated in paragraph 121 of document L/7244 the 15 per cent import tax has been abolished. The import taxes as described in document L/7244 have been either included in the import duty rates or abolished as of 1 July 1993.

The import taxes included into the customs tariff relate only to agricultural products.

This information has been circulated in written form to the contracting parties participating at the July 1993 meeting of the Working Party on the Accession of Bulgaria.

However, as of 1 August, a temporary import surcharge was introduced in order to forestall the imminent threat of a serious decline in the foreign exchange reserves. The surcharge affects equally all trade except some products essential for the economy (energy products and base raw materials) and is applied on an erga omnes basis including the trading partners with whom Bulgaria's commercial relations are based on free trade agreements.

The import surcharge shall be 3 per cent until the end of 1993, and will be subsequently reduced to 2 per cent for the year 1994, and to 1 per cent for 1995. The import surcharge will be discontinued from the beginning of 1996.

--Question (No. 85): In light of Bulgaria's response to --Question 68 of L/6867 concerning its import taxes and surcharges, will Bulgaria confirm that, in the context of accession to the General Agreement, it will only use its authority after accession to apply taxes and surcharges on imports and exports in conformity with the provisions of the General Agreement, in particular Articles III, VI, VIII, XII, and XIX?

Reply (No. 85): In the context of accession to the General Agreement the Bulgarian Government will use its authority to apply after accession taxes and surcharges on imports and exports in conformity with the provisions of the General Agreement, in particular Articles III, VI, VIII, XII, XVIII and XIX.

–Question (No. 86): Which excise taxes are levied on imported food products?

Reply (No. 86) Excise taxes are levied both on domestically produced and imported goods. Please, refer also to Reply 43.

–Question (No. 87): Bulgaria states in paragraph 121 that it is considering the elimination of the import taxes. What is the time frame envisaged for this elimination?

Reply (No. 87): Please, refer to Reply 84.

–Question (No. 88): What is the rate of predictability concerning modifications within the list of products exempted from duty? What about the proposal for a further reduction of the scope of these exemptions (para.122, p.22 from L/7244)? Is a calendar foreseen for this reduction?

Reply (No. 88): The Council of Ministers is the body authorized to introduce temporary duty suspensions.

Duty suspensions are introduced with the view to lessen social and food problems in the economy.

–Question (No. 89): Regarding the response to –Question 59 of L/6867: Does the response to this –Question, concerning import tax exemptions available for a "foreign person" refer to imports related to direct foreign investment in Bulgaria? What sort of "equipment" is eligible for the tariff exemption?

Reply (No. 89): Only imports of inputs directly incorporated in the production of exportable goods are exempted from duties.

–Question (No. 90): Are these exemptions implemented through tariff suspensions on whole categories of goods, or are they limited to only certain trade transactions?

Reply (No. 90): Please, refer to Reply 89.

–Question (No. 91): Does this provision grant a tax rebate on inputs of the exported product that are not directly incorporated in the exported good?

Reply (No. 91): No. Please, refer to Reply 89.

- Export taxes

–Question (No. 92): How long does Bulgaria plan to apply the taxes to export described in paragraph 125 of L/7244? What is the current level of export tax? In 1991 it was between 20 and 30 per cent.

Reply (No. 92): The list of the products concerned and the respective level of export taxes has been circulated to the contracting parties participating at the July 1993 meeting of the WP on the accession of Bulgaria.

The export taxes on agricultural products currently in effect are applied to prevent or relieve critical shortages of foodstuffs. The measure is introduced as a temporary one and will be dismantled in response to improving domestic supply situation of the foodstuffs concerned.

The other products in the list are subject to export restriction with the view to protect animal and plant life and the environment.

At present Bulgaria applies following export taxes:

Description	HS Code	Export Tax
1. Sunflower seeds	ex 12060090	90USD/TNE
2. Non-refined sunflower seeds oil	ex 15121100	55USD/1000LTR
3. Raw hides and skins : - from bovine species - from ovine and caprine species - pigs skins	4101 4102, 410310 410390	200USD/TNE 1USD/PCE 150USD/TNE
4. Fire wood; wood in chips or particles, sawdust	4401	5USD/TNE
5. Technological wood cellulose, semi-cellulose, wood-pulp and wood-slabs (Cont.)	ex 4403	5USD/TNE
6. Wood in the rough - coniferous and non-coniferous with a diameter of the slender edge over 20 cm excl. oak, acacia, lime and poplar - walnut	ex 4403	20USD/MTQ 80USD/MTQ
7. Other wood in the rough from all kinds different from this in point 6, excl. oak, acacia, lime and poplar	ex 4403	5USD/MTQ

--Question (No. 93): In paragraph 124 Bulgaria states that the export taxes will be eliminated. When will this elimination take place?

Reply (No. 93): Please, refer to Reply 92.

- Customs fees

-- As outlined in the response to --Question 51 of L/6867 and in paragraph 127 of L/7244:

--Question (No. 94): Within what time-frame does Bulgaria plan to bring its 0.5 per cent customs fee into conformity with Article VIII, i.e., to alter this ad valorem charge to better approximate the actual cost of customs services rendered on individual customs entries? Is trade supplied by or destined for any country or countries exempted from this charge? If so, why?

Reply (No. 94): There are no exemptions from the 0.5 per cent customs fee.

The customs fee was reduced in November 1991 from its previous level of 1.0 per cent to bring it as close as possible to the approximate cost of services rendered. No recent analysis has been carried out as to the actual cost of the customs services rendered.

Transformation of the ad valorem tax into a fixed amount is under consideration in the Customs Administration.

- Customs valuation

--Question (No. 95): Please cite and describe in more precise terms than those of paragraphs 128-129 of L/7244 the law or regulation that governs Bulgaria's customs valuation practices.

Reply (No. 95): The rules of valuation of goods for customs purposes were introduced by Ordinance No35/26.02.1992 of the Council of Ministers of Bulgaria. The text of the Ordinance is available in the GATT Secretariat.

--Question (No. 96): The Working Party should take note for the record, of Bulgaria's Statement in paragraph 92 of L/7244 and the response to --Question 63 of L/6867 regarding the basis for its customs valuation.

Reply (No. 96): Paragraph 128 of L/7244 reads: "Since 1982, the Bulgarian legislation on customs valuation is based on the Agreement on Implementation of Article VII of the GATT."

4. Licensing

Import and Export Licensing:

-- Concerning the response to --Question 72 of L/6867 and the description in paragraphs 136-137 and 144-145 of L/7244:

--Question (No. 97): Please list existing legislation that provides for the application of licenses, permits, prohibitions, or other quantitative restrictions on Bulgaria's imports or exports

Reply (No. 97): The import licensing regime now in force in Bulgaria is established by Government Ordinance No. 72/1993 (published in State Gazette No. 30/1993) and the respective amendments to it.

Question (No. 98): Do licensing restrictions still exist on imports of tobacco, tobacco products, alcoholic beverages, and essential oils? Please list, by tariff line, all imports and exports covered by such restrictions and indicate the reason for the measures.

Reply (No. 98): Imports into Bulgarian customs territory are liberalized and are not subject to import licensing, unless explicitly otherwise stated.

At present exceptions are stipulated for:

- (a) goods subject to control regime under international commitments undertaken by Bulgaria;
- (b) goods under quantitative restrictions if import quotas are established;

Automatic licensing is applied for monitoring purposes on imports of the following items: coal, crude oil and liquid fuels, alcoholic beverages, tobacco products.

Imports of tobacco products (HS Chapter 24), and alcoholic beverages (HS 22030000, ex2204, 2205, 2207, 2208) are subject to automatic licensing for monitoring purposes.

There is an import quota of 12000 tons on tobacco (HS 2401, 24039100). 5000 tons of this quota is for oriental tobacco.

Exports of tobacco and products thereof (Chapter 24 of the HS) are subject to automatic licensing.

Imports of essential oils are not subject to licensing.

The restrictions on tobacco and products thereof are introduced on the ground that certain imports, by their quantity and conditions under which they are performed, cause or threaten to cause a serious injury to domestic producers of like or directly competitive products.

Question (No. 99): How are licenses applied in relation to products of intellectual property?

Reply (No. 99): The terms of license agreements on intellectual property rights are freely negotiated between the parties to such agreements. They are not subject to government approval. The license agreements for patents, trademarks, industrial design have to be registered at the Patent Office in order to be opposable to third parties. The registration at the Patent Office is not, however, a condition for the validity of the license agreement.

Question (No. 100): What is the purpose of the import licensing indicated for pharmaceutical products, raw materials and substances for their production noted in paragraph 141 of L/7244? Do these requirements restrict imports?

Reply (No. 100): The non-automatic licensing of imports of pharmaceutical products, raw materials and substances for their production has the aim of protecting human and animal health. The measure is applied for monitoring purposes and does not constitute a disguised restriction on trade. The sole requirement for granting the licences is the registration of the product with the Ministry of Health.

–Question (No. 101): L/7244/para.141. Are any goods prohibited entry into Bulgaria? If so, please specify. With reference to pharmaceutical products and plant protection preparations, what criteria or conditions govern the granting of import licenses? (Please, provide details).

Reply (No. 101): There is no product explicitly cited as prohibited for import.

Imports of materials and waste dangerous to the environment are subject to non-automatic licensing, and an approval in written from the Ministry of Environment is required.

On importation of pharmaceutical products the application is to be first approved by the Ministry of Health. Due to health reasons the approval is subject to the pharmaceutical products being registered in Bulgaria.

On importation of plant protection chemicals the application is to be first approved by the Ministry of Agriculture. The approval is subject to the chemicals being registered in Bulgaria.

Import licenses are granted by the Ministry of Trade within 5 days from application.

Import and Export Quotas:

–Question (No. 102): Please cite the legal authority of the Government of Bulgaria to apply import and export quotas. Please list by HS tariff line all such restrictions and the size of the quota associated with it.

Reply (No. 102) : Pursuant to and in implementation of the Law on Establishment of Single-person State owned Enterprises (State Gazette 55/1991), the Bulgarian Government establishes quantitative restrictions on imports and exports.

Presently Bulgaria applies import quotas on following products:

HS	Description	Quotas (in tons)
2401	Tobacco	12000
24039100	(out of which 5000 tons oriental type)	
08051000	Oranges	30000
21050000	Ice cream	1500

The Government establishes temporary quantitative restriction on exports, in order to ensure balance on the domestic market, to prevent or relieve critical shortages.

Presently Bulgaria applies export quotas on following products:

HS (Heads)	Description	Quota
	Female livestock for breeding Bovine live animals	
ex 01041000	of more than 12 months	4800
ex 01042000	Ovine and caprine live animals	
ex 0102	Of more than 18 months	750

The quota amounts under the VERs are defined in the respective agreements:

- with the European Communities on textiles and clothing, ferrous metals, live sheep and goat and meat thereof;
- with the United States on textiles and clothing;
- with Canada on textiles and clothing.

—Question (No. 103): Are agricultural export restrictions currently in effect due to shortages on the domestic market? Will they be dismantled in response to improving domestic supply situations?

Reply (No. 103): The agricultural export restrictions currently in effect are temporarily applied to prevent or relieve critical shortages on the domestic market. The export restrictions will be dismantled in response to improving domestic market situation.

—Question (No. 104): Will Bulgaria confirm that, in the context of accession to the General Agreement, it will only use its authority to suspend or prohibit imports and exports or otherwise restrict their quantities in conformity with the provisions of the General Agreement, in particular Articles XI, XII, XIII, XIX, XX, and XXI?

Reply (No. 104): In the context of its accession to the General Agreement, the Bulgarian Government will use its authority to suspend or prohibit imports and exports or otherwise restrict their quantities in conformity with the provisions of the General Agreement.

- Import quotas

—Question (No. 105): What is the economic rationale for the import quotas referred to in paragraph 143 of L/7244 on tobacco, oranges, and ice cream? Does Bulgaria plan to eliminate the quotas upon GATT accession?

Reply (No. 105): Due to deteriorated economic conditions for domestic production of tobacco for the last years, and with the view to avoid serious social tension in underdeveloped regions of the country, the Government introduced an import quota on tobacco.

The import quota on ice cream was introduced by the Government on temporary basis to support an infant industry in the economy in transition.

Bulgaria is considering tariffication of these two quotas according to the terms multilaterally agreed under the Uruguay Round agreement.

Import ceilings were introduced in 1991-1992 on following fruits: tangerines, bananas and oranges. With the improvement of the balance of payments position of the country, the measure is being gradually eliminated. Application of the import ceilings on tangerines and bananas was discontinued. The quota on oranges is still in force. The 1993 deterioration of Bulgaria's balance of payments makes the question of elimination of the remaining quota on oranges hardly possible now.

-Question (No. 106): Please provide GATT justification for the remaining quantitative restrictions.

Reply (No. 106): Please, refer to Reply 105.

5. Standards and veterinary and phytosanitary regulations

-Question (No. 107): Does paragraph 151 indicate that Bulgarian customs authorities enforce the terms of specific import contracts concerning standards? If so, why?

Reply (No. 107): The Statement of para 151 of L/7244 should be understood in such a way that in case of missing Bulgarian standard for certain products, for the purpose of a specific deal, product specifications may be agreed between exporter and importer as part of the trade contract. Obviously these specifications should not in any case be in conflict with relevant mandatory standards or regulations, if any.

-Question (No. 108): Regulation No. 87 from 19.02.1993 on quality control at the border. What motivations have led to the elaboration of this regulation? Does the control procedure lead to unjustified delays at the border? Please list in detail the products subject to mandatory controls at the border. Is this list regularly modified and on the basis of what criteria?

Reply (No. 108): The border control of imported goods concerns quality requirements only, as per the mandatory standards and regulations, which may affect life and health of persons and animals, protection of the environment and consumer protection.

The quality control is effected by the officers of the State Directorate of Border Control on Imported and Exported Goods within the Committee for Standardization and Metrology.

The imports and exports are released at the border upon presentation by the exporter or importer, of a quality certificate or protocol for preliminary test of samples.

Such certificates or protocols can be issued by any authorized laboratory in the territory of the country.

Such authorized laboratories can issue a protocol for conformity with the Bulgarian standards and regulations on the basis of certificates issued by foreign laboratories authorized by the relevant national certification bodies.

–Question (No. 109): Which farm products are highly restricted or outright banned for animal or plant health reasons as noted in paragraph 154 of L/7244?

Reply (No. 109): In principle such kind of measures are of a limited and temporary character. and are introduced only in emergency situations such as the outbursts of epidemic animal diseases.

–Question (No. 110): Is Bulgaria ready to sign the GATT Code on Technical Barriers to Trade and support the principles of the Uruguay Round draft agreement on Sanitary and Phytosanitary Measures?

Reply (No. 110): Bulgarian legislation on standards is under review for assessing its compliance with the requirements and procedures of the TBT Agreement. Bulgaria envisages to sign the GATT Code on TBT on acceding to the General Agreement.

Bulgaria will consider the Uruguay Round draft agreement on Sanitary and Phytosanitary Measures as one of the instruments of the Uruguay Round package.

–Question (No. 111): L/7244/para.155. What are Bulgaria's intentions regarding possible adherence to the GATT Agreement on Technical Barriers to Trade (TBT or Standards Code)?

Reply (No. 111): Please, refer to Reply 110.

Statistical Annex

–Question (No. 112): (L/7244/Table 2.) On what basis are the indices of industrial output for 1990-1992 calculated?

Reply (No. 112): The indices of industrial output shown in table 2 are calculated on the base of the preceding year taken as 100.

–Question (No. 113): (L/7244/Table 2.) What is the base year for the indices shown?

Reply (No. 113): Please, refer to Reply 112.

–Question (No. 114): (L/7244/Table 3.) What is the percentage of economic activity by value which is produced in each of the sectors and sub-sectors shown?

Reply (No. 114): The following table shows the share of the different sectors of economic activity in Bulgaria:

GDP by Kind of Economic Activity

(1992 data is based on estimate)

(Million BGL at current prices)

Sectors	1990	1991	1992
Total	45390	131058	195000
Agriculture and Forestry	8055	20139	20200
Industry	23273	62843	90800
Services	14062	48076	84000

ANNEX 1

FOREIGN DEBT

As of 31 December 1992, Bulgaria's foreign debt totalled 12.952 billion US dollars. 90 per cent of this amount are liabilities of the Bulgarian Foreign Trade Bank (BFTB) and other commercial banks, and the foreign financing from the IMF, World Bank, EBRD and G-24. Foreign financing in 1992 was approximately two-thirds of that in 1991, totalling 1.268 billion US dollars for the two years.

The BFTB was the debtor on all obligations to Bulgaria's official and private creditors due to the rôle of a central foreign exchange bank it performed until 1991. The total amount of foreign debt on its books is 11.3 billion US dollars, of which 8.5 billion US dollars, or 75 per cent, are owed to private banks. The debt in convertible currency to the former CMEA member countries is 1.250 billion US dollars.

The debt to Paris Club official creditors is 1.2 billion US dollars. Following Rescheduling Agreement of 17 April 1991, Bulgaria repaid 53 million US dollars for servicing these obligations.

A second Rescheduling Agreement was concluded on 14 December 1992. Repayments of obligations with maturities falling due between 31 March 1992 and 1 April 1993 were rescheduled.

Foreign bond obligations totalled 347 million US dollars. Their servicing requires 15.2 million US dollars annually.

According to the use of the loans received, the debt to both official and private creditors has the following distribution: 54 per cent for balance of payments financing, 29 per cent for trade financing, and 17 per cent for investment financing.

The foreign debt/GDP ratio dropped from 173 per cent in 1991 to 152 per cent in 1992. Foreign debt equalled 296 per cent of the earnings from exports in 1992.

Following the 29 March 1990 moratorium on debt repayment, Bulgaria has been regulating its relations with commercial creditors on the basis of three-month roll-overs. Taking into consideration the importance of the foreign debt problem, on 23 January 1992 the National Assembly voted to assign the government task of concluding an agreement with private creditor banks on a final solution to Bulgaria's debt obligations through debt reduction and debt servicing. In conformity with this decision, Bulgaria began partial servicing of current interests; such repayments totalled 30 million US dollars in 1992.

Negotiations with the Creditor Banks Advisory Committee are oriented toward reaching an agreement for a single solution of the London Club foreign debt problem. Use of all possible Brady-type transactions has been agreed upon. Bulgaria's standpoint is based on realistic forecasts for the country's payment capabilities up to the year 2000 and coordination with the IFM and the World Bank.

Foreign liabilities of the other Bulgarian commercial banks at the end of 1992 were 375 million US dollars, or 23 per cent less than their respective amount in 1991.

FOREIGN DEBT OF BULGARIA AS OF 31 DECEMBER 1992

(Million US dollars)

Total amount of debt, of which	12,952
BFTB	11,309
to official creditors	1,205
to commercial banks	8,508
to the former CMEA (in convertible currency)	1,250
Other Bulgarian commercial banks	375
Foreign debt/GDP ratio (%)	152
Foreign debt/export ratio (%)	296

Source: Bulgarian National Bank