

GENERAL AGREEMENT ON

TARIFFS AND TRADE

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ACCESSION OF BOLIVIA

Questions and Replies Concerning the Memorandum on Foreign Trade Régime (L/6369)

Addendum

In a communication dated 24 September 1987, circulated as L/6217, the Government of Bolivia applied for accession to the General Agreement pursuant to Article XXXVIII. At its meeting on 7 October 1987, the Council set up a Working Party to examine Bolivia's application for accession. The present document sets forth the questions submitted by contracting parties in connection with Bolivia's foreign trade régime and the replies thereto provided by the Bolivian authorities. The annexes mentioned in the replies are listed on page 65 and are available for consultation in the secretariat (Development Division, Office 2010).

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

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REPLIES TO THE QUESTIONS SUBMITTED BY CONTRACTING PARTIES
CONCERNING THE FOREIGN TRADE REGIME OF BOLIVIA
(L/6369)

CHAPTER I: SUMMARYQuestion 1

Page 6, paragraph 7: Concerning the current structure of Bolivia's tariff schedule, could Bolivia supply a table or chart indicating the number of tariff lines and the percentage of import trade to which the 10 per cent duty is currently applied? To which the 20 per cent rate is applied? Does any portion of Bolivian trade, e.g. the goods listed in Article 17 of Supreme Decree 21660, currently enter duty free? If so, could the number of tariff lines and percentage of imports by value be indicated?

Reply

The percentage of imports of goods to which the 10 per cent rate of duty is currently applied was 15.7 per cent of the total (161 tariff headings) in 1987.¹ The lists of these tariff headings are given in annexes to Supreme Decrees 21660, 21910 and 21979 (which form Annexes 3 and 4 of document L/6369 and 1 of the present document). Annex 2 of this document contains the complete list of these tariff headings. The remaining 84.3 per cent of imports are subject to the 17 per cent rate.

Imports c.i.f. Border (adjusted)
(US\$ millions)

	1987		1988*	
	Total	%	Total	%
I. Donations in general	32.74	4.27	29.17	4.27
II. Diplomats and international organizations	9.50	1.25	8.27	1.21
III. Personal effects	1.40	0.18	1.31	0.19
IV. Temporary imports	5.24	0.68	4.79	0.70

* Estimated

The percentage has been calculated on imports c.i.f. border.

Source: Statistical Summary of Foreign Trade 1987-1988, National Statistical Institute

¹The Supreme Decrees containing these headings were issued during 1987 and 1988. This percentage is obtained by applying those lists to the imports of 1987.

Imports by the diplomatic corps, international organizations and their officials, lawfully accepted donations, personal effects up to a value of US\$300 and temporary imports enter free of duty. Given the nature of these exceptions, it is impossible to specify the exact tariff headings to which they apply. The following table gives a summary of the volume and proportion of imports they represented in 1987 and 1988.

Certain imports effected under international treaties and State contracts stipulating special tax treatment also enter duty-free. This also applies to some imports specifically included in investment projects approved by the National Investment Institute prior to the entry into force of the present trade régime, whose exemptions were granted under the Investment Law. With the exception of the exemptions mentioned in the previous paragraph, these all carry over from legal commitments entered into prior to the entry into force of the New Economic Policy and are valid only for the periods stipulated therein. As from August 1985 no new exemptions have been authorized, and therefore those granted earlier are not representative of the provisions currently governing Bolivian foreign trade. The proportion of imports subject to these exceptions cannot be determined because the foreign trade statistics of Bolivia do not give those disaggregated figures.

Question 2

Page 6, paragraph 8: What are the guidelines for determining mining which non-traditional export products are eligible for the refund of import duties paid on products incorporated in their manufacture? Is there a list, by tariff item line, of which products are eligible? Please indicate who determines the eligibility of such products.

Reply

The overall guideline for granting the Tariff Refund Certificate (CRA) to specific products is that they should be non-traditional exports since the purpose of the measure is precisely to encourage non-traditional exports. Annexes 3 and 4 of document L/6369 and Supreme Decree 22013 of 16 September 1988, attached hereto, reproduce the legal instruments establishing it. As may be seen from those documents, there is an exclusive list of products to which the refund does not apply. A list of eligible products by tariff item line does not exist.

The replies to Questions 109 to 112 contain further details on this certificate.

Question 3

Page 6, paragraph 8: Are any taxes or charges other than the value-added tax and import duties incorporated in exports of non-traditional products rebated at the time of export? If so, please list these charges and taxes.

Reply

No. Only the value-added tax and import duties paid on imports incorporated in the exported product are rebated, the latter through the CRA.

CHAPTER II: ECONOMIC PROFILE OF BOLIVIA1. Past developments and present situation of the economyC. ProductionQuestion 4

Page 10: Is the recent upturn in Bolivian production the result of higher production in traditional "extractive" areas? Are recent disaggregated figures available showing the structure of Bolivian production?

Reply

The upturn in Bolivian production during 1987 and 1988 is basically the result of the stabilization and rationalization of the country's economy as a result of the New Economic Policy. The traditional "extractive" areas, whose production is largely aimed at the export market, were affected by factors and for reasons that are not connected with Bolivia's economic policy, in particular sharp falls in world prices. This led to a significant decline in their activities, reflected in a smaller share of the gross domestic product since 1985.

The following table shows the evolution and relative importance of the GDP components in 1987:

Branch of economic activity	Relative share*	Growth*
	%	1986-1987
		%
Agriculture	23.6	(0.18)
Mining and hydrocarbons	10.2	(8.70)
Manufacturing	11.0	7.24
Construction and public works	2.9	5.55
Commerce	12.8	7.06
Transport and communications	7.4	5.97
Public administration	14.0	2.80
Other sectors	18.1	0.82
GDP at market prices	100.0	1.69

*Preliminary figures

Source: National Statistical Institute

F. Balance of payments

Question 5

Page 12, paragraph 7: What was the trend of Bolivia's balance of trade and payments in 1987 and, as possible to report, in the beginning months of 1988?

Reply

This information is given in Annex 3 of this document.

Question 6

Page 12: Do balance-of-payments difficulties have implications for how flexible the Bolivian authorities are prepared to let the exchange rate be?

Reply

A flexible exchange rate was adopted precisely in order to be able to achieve a structural solution to the balance-of-payments problems, since parameters can thus be introduced which reflect the relative scarcity of foreign exchange, as reflected in its price behaviour. This consideration, together with the rational management of fiscal and monetary policy, provides the basis for a foreign exchange policy in keeping with the overall objectives of the country's economic policy.

As mentioned in Section IV.1 of the Memorandum, in Bolivia the exchange rate is determined by an auction mechanism in which the interaction of supply and demand for foreign exchange indicates its shortage or abundance.

Further information on the functioning of the foreign-exchange system is given in the replies to Questions 72-79.

Question 7

Page 12: Despite the increased balance in the Bolivian economy as well as the decrease in the inflation, it is evident that the economic situation in Bolivia continues to be difficult. This is also affected by the world market price fluctuations in the Bolivian export products (tin and natural gas). These aspects make us believe that Bolivia would perhaps frequently have to rely on foreign trade restrictions with the balance-of-payments reasoning. In the light of balance-of-payments difficulties, to what extent does Bolivia expect to be able to maintain its liberalized import policies? How does Bolivia see it to be possible to avoid these imbalances and consequently the resorting to the use of the balance-of-payments Articles?

Reply

Bolivia's vulnerability as a result of its dependence on a small number of export products, essentially raw materials, can be

reduced through the diversification of its exportable supply and of its external markets rather than through trade restrictions.

In the view of the Government of Bolivia, balance-of-payments imbalances may be avoided by increasing exports and foreign investment and lightening the burden of external debt. The present economic policy pursues these goals, among others. Trade policy provides the appropriate incentives both for the exporting sector and for foreign investment. Complemented by the current financial policy, the present trade policy thus provides incentives and guarantees in order to attract foreign capital. These incentives consist of a free-trade régime, a free-price system, a flexible exchange rate system, a non-discriminatory tax system and others which are described in the Memorandum.

The effects of these measures on the balance of payments will be positive in so far as Bolivia can gain access to the markets for its exports on the same terms as Bolivia offers for imports to the Bolivian market.

In addition, Bolivia has negotiated its bilateral debt with the Paris Club and has managed to sell at market prices about 50 per cent of its external debt with private creditors. The Bolivian authorities are currently negotiating the sale of the remainder of its debt with private creditors and further negotiations with the Paris Club are planned in the coming months. The creditors' response to the huge effort of structural adjustment made by Bolivia will be decisive for the future balance-of-payments situation.

In any event, Bolivia reserves the possibility to use all the means provided by the General Agreement and provisions adopted under the GATT and, as appropriate, will notify whenever it resorts to them.

Question 8

Page 12: Are there any trade restrictive measures in force at present to alleviate the balance-of-payments problems? Will these be notified under Article XVIII?

Reply

There are no trade restrictive measures of any kind to resolve balance-of-payments problems.

Question 9

Page 13, paragraph 3: Given the balance-of-payments situation described in this and previous paragraphs, does Bolivia contemplate early recourse to Articles XII and XVIII to justify the application of additional trade restrictions for balance of payments purposes? What sort of restrictions does Bolivia contemplate applying in this regard?

Reply

Bolivia, like all GATT contracting parties, is prepared to resort to all the provisions contained in the Agreement, including those of Article XVIII, given its status as a developing country. However, as is explained throughout document L/6369, and in the replies to questions 7 and 8, the balance-of-payments difficulties are not being tackled through trade-restrictive measures.

Question 10

Page 13: Could Bolivia expand on what the current reactivation policies on consumption are?

Reply

Section II. 1. F (page 13) of the Memorandum refers to the effects of the economic reactivation policies on consumption. Bolivia does not have policies specifically aimed at reactivation of consumption. The Bolivian economic programme seeks to promote growth of levels of output and of productivity and the restructuring of production, making use of market mechanisms for this purpose. In so far as these objectives are attained, in the course of the reactivation process being encouraged in Bolivia, the level of consumption will also rise.

The Government of Bolivia also considers that the improvement of the population's standard of living, a goal pursued by its present social and labour policy, will also stimulate consumption.

2. Structure and evolution of foreign trade

A. Exports

Question 11

Page 13, paragraph 5: This paragraph describes a change in export composition in which non-traditional exports have shown "encouraging increase since 1985". Please outline those sections or provisions of the New Economic Policy which specifically pertain to the objectives of trade diversification, and describe the economic tools used to promote this trade diversification.

Reply

It is hard to identify specific sections of the New Economic Policy which specifically pertain to the need to diversify exports, as this objective is pursued by the entire economic programme. To that end, the New Economic Policy includes provisions relating to foreign exchange, banking, foreign trade, social matters, prices, public enterprises and entities and monetary and tax reform legislation. The economic freedoms established by these provisions are the instruments of promotion of productive activity which should enable exports to expand and diversify.

One clearly identifiable mechanism pursuing the objective of export promotion and diversification is the creation, under Supreme Decree 21660, of the National Institute for Export Promotion (INPEX) to provide technical assistance for the exporting sector.

National development policy is aimed at creating the appropriate economic environment for the growth of the sectors in which the country has comparative advantages. For that purpose, the measures protecting national production have been rationalized (see Chapter III of document L/6369) and the necessary instruments have been established so that domestic exporters enjoy conditions as close as possible to those of the free market, by eliminating tax charges incorporated in products sold abroad (see Chapter VI of the Memorandum).

The specific measures of this policy are given in detail in Supreme Decrees 21060, 21660 and 21910, reproduced in Annexes 2, 3 and 4 of the Memorandum on the Foreign Trade Régime of Bolivia (L/6369).

Question 12

Page 13: Are disaggregated figures available for non-traditional exports?

Reply

Disaggregated figures for non-traditional exports for the period 1981-1987 are given in Annex 1, Table 8, of document L/6369 (page 51), together with additional figures in Annex 4 to the present document.

3. Objectives of the New Economic Policy

Question 13

Page 15: What is the time perspective for the New Economic Policy and its objectives?

Reply

The New Economic Policy is a structural programme and as such does not have specific time-frames for its implementation.

The Policy's first objective, economic stabilisation, was achieved within the planned period, with the curbing of inflation and stabilisation of the exchange rate. The second central objective, recovery of production, was launched with the promulgation of Supreme Decree 21660. It has begun to show some results, in particular the recovery of positive growth levels for the gross domestic product during 1987 and 1988.

However, financing problems have delayed the implementation of some elements contained in these provisions, which reflects the importance of external factors for the success of the economic policy. Thus, obtaining timely financing is decisive for the attainment of the objectives of the New Economic Policy.

Question 14

Page 17: What is the extent of the rôle played by public enterprises in the economy? What steps are being taken to rationalize such enterprises? Will they be notified and operated under the conditions of Article XVII?

Reply

With the entry into force of the current economic model, the rôle of public enterprises in the economy has decreased. The biggest public enterprise, the Bolivian Mining Corporation (Corporación Minera de Bolivia - COMIBOL), has been completely reorganized (see Sections II.1.A, II.1.D, and II.4 of the Memorandum), which has led to a significant reduction in its operations and the dismissal of more than two-thirds of its workers. The State hydrocarbons corporation (Yacimientos Petrolíferos Fiscales Bolivianos - YPFB) was also reorganized by Supreme Decree 22012 of 29 December 1988 (Annex 5 of the present document).

The Bolivian Development Corporation (CBF), which groups a number of State industrial enterprises, was dissolved, and COMIBOL, the national foundries corporation (ENAF) and the iron and steel corporation (SIDERSA) were merged.

The plan for the rationalization of public enterprises has three specific lines of action:

- Enterprise reorganization: the aim is to clearly delimit the rôle and size of State enterprises.
- Financial control of enterprises: the aim is to increase their efficiency, eliminate their discretionary management and subject them to plans and programmes laid down by the State.
- Privatization: the aim is to reduce the number of State-owned enterprises, selling off those that generate chronic losses and are of interest to the private sector and could be managed by the latter.

It should be pointed out that the rationalization programmes for public enterprises are not based on tariff or tax concessions or subsidies or any other similar measures. On the contrary, even public credit for such enterprises has been eliminated. Nor do State enterprises have any commercial privileges. The only existing trading monopoly in Bolivia is for the marketing of hydrocarbons through YPFB, which operates through concessions to private enterprises for domestic distribution and, where appropriate, exports.

This YPFB monopoly is established by the Bolivian Constitution and regulated by the Hydrocarbons Law (Decree Law 10170 of 28 March 1970, Annex 6 to this document).

With regard to the last part of the question, as a contracting party Bolivia will notify all that it should under the General Agreement.

4. Development projects

Question 15

Can Bolivia give guidance as to when the development projects outlined in this Chapter are likely to be completed?

Reply

Generally speaking, it is impossible to give a date since each project has a different implementation time-table. Some of them are already being executed, while others are still under study (as in the case of the lithium exploitation project) or negotiation (gas-pipe line to Brazil) or at the stage where financing is being sought (San Roque field).

Chapter II.4 of the Memorandum gives an approximate indication of the planned implementation period for each project, as well as the present state of progress. The final duration will depend on unforeseeable internal and external factors, so that a more precise answer is impossible.

Question 16

Pages 17-19: Does the list of the principal development projects have any kind of priority order?

Reply

The projects described were chosen because of their priority, and may therefore be said to be of similar importance.

CHAPTER III. FOREIGN TRADE POLICY

1. Trade-policy objectives

Question 17

Page 20: Bolivia's principal objective in trade policy is to diversify its exports. Can Bolivia give more detail of the potential markets and products it intends to develop?

Reply

A guiding principle of Bolivia's foreign-trade policy is that it should be oriented by world-market conditions as regards domestic output. Consequently it is not possible a priori to identify specific markets or products to be developed. The present efforts are aimed at achieving greater competitiveness in general, taking into account the principle of comparative advantage and market-access conditions both now and in future.

The development of manufacturing exports will depend basically on future investments to expand the supply of domestic production and increase

the competitiveness of Bolivian products on export markets; this will depend on the degree to which foreign markets are really open, the success of the Uruguay Round in rolling-back protectionist measures, and trends in prices of certain primary commodities.

Question 18

Page 20: The objective of promoting export diversification is essential taking into consideration the heavy reliance on only few products. Does this objective also include an aim to increase the level of processing?

Reply

Yes, since the central objective is not only to increase exports of primary commodities but also of products with higher value added.

Question 19

Page 20: Taking into account that tariffs are - according to the Memorandum - the only means of trade protection in Bolivia, it would be interesting to get some more clarifications by the Bolivian authorities on how do they see it to be possible to realize the goals of the officially adopted industrial and economic developments plans taking into consideration the country's open foreign-trade policy.

Reply

One of the structural problems that has been affecting the Bolivian economy is the lack of compatibility between its production system and technological progress at the international level. This problem largely stemmed from policies that tended to isolate sectors of the production system from international competition, thus reducing their external competitiveness and penalizing consumers, without any sign of a mechanism to make this problem gradually disappear.

The Government therefore opted for open trade, which will enable the new investments made in the country to be directed towards the sectors in which it is possible to produce efficiently, taking account of the country's human and natural resource endowment and potential. The foreign-trade policy that has been followed is in no way incompatible with the country's development plans. If Bolivia did not take this view of the problem, it would not pursue an open-trade policy and would have no interest in acceding to the General Agreement.

Question 20

Does Bolivia operate countertrade? If so, to what extent and with which countries?

Reply

There is no express legislation regarding countertrade.

There is a clause in the contract for the sale of gas to Argentina under which 20 per cent of the payment for such sale is to be made through Bolivian imports from Argentina. This is carried out through the opening of a line of credit with the Central Bank of Argentina for Bolivian importers.

2. Tariff policy

Question 21

Page 20: With regard to tariff policy, it is planned (Supreme Decree No. 21910) to reduce rates progressively from 20 per cent to 10 per cent according to an established time-table, and what is the intended degree of degressivity to achieve this tariff cut? Will these duties be GATT bound?

Question 23

Page 20: Bolivia explains that the tariff rate applicable to all imported products other than capital goods is to be reduced progressively, from 20 per cent on the c.i.f. value at the border to 10 per cent on the same basis, according to an established time-table. To what extent has this tariff reduction been already implemented?

Question 24

Page 20, paragraph 5: Is the time-table to reduce Bolivia's tariff rates to 10 per cent by 1 January 1990, which is referred to in this paragraph and described in the first Article of Supreme Decree 21910 (Annex 4 of L/6369), still in effect? Are the planned tariff reductions being met? If not, could Bolivia provide a revised time-table?

Reply to Questions 21, 23 and 24

Article 1 of Supreme Decree 21910 of 31 March 1988 established a programme of tariff cuts which was implemented until 31 December 1988.

Under Supreme Decree 22103 of 29 December 1988 (Annex 7 to this document) the customs tariff was fixed at 17 per cent for all products other than capital goods, applicable to the value c.i.f. frontier, thus derogating from Article 1 of Supreme Decree 21910 which provided for the automatic reduction of duties to 10 per cent.

In addition, the 10 per cent tariff was maintained for the capital goods listed in the annexes of Supreme Decrees 21660, 21910 and 21979 (the latter appears as Annex 1 to this document, while the first two are Annexes 3 and 4 of document L/6369).

With regard to the binding of tariffs, see the reply to Question 28 below.

Question 22

Page 20: Are there any charges on imports other than customs duties?

Reply

Imports of goods are subject to the following charges and fees in addition to customs duties:

- (a) fees paid to the enterprises under contract to the State to certify quality, quantity and price of imports;
- (b) charge of 0.5 per cent for services provided by the Autonomous Administration of Customs Warehouses (AADAA) (handling);
- (c) value-added tax (VAT) and, where relevant, the taxes on specific consumer goods established by law.

Question 25

Page 20, paragraph 5: What percentage of the Bolivian Government's budget is financed by tariff duties? By other taxes and customs charges levied on imports and on exports? Does Bolivia foresee the increasing use of tariff and customs duties, taxes, and charges on imports to fund the official budget?

Reply

The percentage of the budget financed by receipts from import tariff duties was about 9.78 per cent in 1986, 10.14 per cent in 1987 and 12.09 per cent in 1988. At present there are no other import charges, or export charges, that could be used to fund the budget. Depending on the level of receipts and other factors, it is possible that customs duties may be adjusted.

Question 26

Page 20, paragraph 5: It is stated that the current tariff policy and its development through 1990 affords "neutral effective protection" to Bolivian production. Does Bolivia foresee future changes in this policy that would require increased tariff levels to regulate trade or as a tool of specific protection for its domestic industry?

Question 27

Page 20: Are there sectors, industries or products for which Bolivia would consider such protection as its domestic industries develop?

Replies to Questions 26 and 27

"Neutral effective protection" refers to non-discrimination by product or origin in the payment of duties, with the exception of the differentiation of capital goods, to which a lower duty is applied than for other products, as indicated in the reply to Question 21.

At present it is not intended to use trade mechanisms to protect domestic industry, since the Government of Bolivia considers that the best incentive for domestic productive activity is economic stability, which has been achieved through the New Economic Policy. Nevertheless, Bolivia reserves the right to make use of the relevant provisions of the General Agreement and Decisions of the CONTRACTING PARTIES, as well as the instruments and agreements negotiated under the auspices of the GATT, to modify its tariff policy.

Question 28

Page 20: To what extent is Bolivia prepared to bind its tariffs? Is Bolivia ready to bind its tariffs at the level of 10 per cent?

Reply

The possibility of binding some tariffs in GATT is a matter for negotiation in the framework of the bilateral tariff negotiations that will be held in parallel with the consideration of Bolivia's trade policy in the Working Party on the accession of Bolivia.

The Government of Bolivia will consider what tariff concessions to grant, and to what extent and at what levels, once it is acquainted with the lists of requests for concessions for the above-mentioned process of negotiations. It also expects that contracting parties will consider Bolivia's status as a relatively less-developed country from the economic standpoint.

3. Non-tariff measures

Question 29

Page 21: Bolivia has stated that no non-tariff restrictions are in existence. Page 38 indicated that transport subsidies exist and Bolivia also operates pre-shipment inspection (page 24). Could Bolivia give assurance that there are no other types of non-tariff measures?

Reply

In submitting to the CONTRACTING PARTIES the details of its foreign trade régime, the Government of Bolivia has sought to ensure the greatest possible transparency.

The instruments referred to are not non-tariff measures hindering foreign trade. The first case refers to the application of the National Railway Company's fares policy, which is explained in the reply to Question 117 and cannot be considered a subsidy. The second case refers to the service provided by international enterprises to certify the quantity, quality and price of imports and exports. The replies to Questions 55 to 62 of this document contain further details on this service.

Question 30

Page 21: Will all subsidies be notified under Article XVI?

Reply

As a contracting party, Bolivia will comply with the relevant provisions of the General Agreement.

Question 31

Page 21, paragraphs 1-2: Does Bolivia maintain any Government agency that engages in State-trading as described in GATT Article XVII:1(a)? Are there any enterprises in Bolivia that are granted special trading privileges or that are State-trading enterprises as described in Article XVII? If so, can Bolivia commit to the notification and operation of such entities and enterprises after accession in conformity with the provisions of Article XVIII?

Reply

No Government agency exclusively responsible for State-trading exists at present. Only special trading privileges are granted to the Bolivian State Petroleum Company (YPFB) regarding hydrocarbons.

This enterprise has a monopoly in the marketing of hydrocarbons. For private companies to import such products, they must obtain special authorization from the Ministry of Energy and Hydrocarbons. In the case of exports, the private enterprises which operate in the country as contractors in petroleum exploitation activities must sell their production to YPFB to the extent necessary to satisfy the needs of domestic consumption, and may only directly export the surplus with the authorization of YPFB in accordance with the provisions of the General Law on Hydrocarbons (Annex 6 of this document).

In its commercial operations, YPFB does not discriminate in any way on grounds of origin or destination, in accordance with the provisions of Article XVII of the General Agreement.

As a contracting party Bolivia will comply with the provisions of Article XVII.

Question 32

Page 21: As can be read in the Memorandum, Bolivia has no quantitative or other import restrictions. Does Bolivia see that her system is in accordance with both the Codes on Import Licensing and on Technical Barriers to Trade, and would it be expected that Bolivia will join these Codes after its accession to the GATT?

Question 33

Page 21: Does Bolivia intend to become a signatory to any of the GATT Non-Tariff Measures Codes? Which ones is Bolivia considering for signature?

Replies to Questions 32 and 33

Bolivia will study the question of accession to the GATT MTN Codes, after analyzing and evaluating them, once its process of accession to the General Agreement has been completed.

A. Products subject to prior licensing

Question 34

Page 21: What is Bolivia's view on the consistency of its prior licensing with Article XI of the General Agreement?

Reply

In the view of the Government of Bolivia, prior licensing for sugar imports is compatible with Article XI of the General Agreement as a restriction falling under paragraph (c)(i) of the Article.

This is the only licence not included among the exceptions authorized by Articles XX and XXI. In this connection, see the reply to Question 36 below.

Furthermore, the prior licensing system for imports is applied in a non-discriminatory manner and therefore is also compatible with Article XIII of the General Agreement.

Question 35

Page 21, third paragraph: Do foreign firms exporting to Bolivia or foreign investors operating within Bolivia receive the same treatment in regard to prior licensing requirements as national firms?

Reply

Yes, foreign and domestic firms receive the same treatment.

Question 36

Page 21, paragraph A(e): This paragraph states that prior licences are required for the importation of raw or refined sugar, and are granted only if domestic production is inadequate for consumption needs. Which agency determines domestic consumption needs, and to what extent are domestic producers and/or importers involved in this determination? Does this restriction apply in any way to imports of sugar-containing products?

Under what specific GATT Articles and provisions would Bolivia justify these restrictions after accession?

Reply

Sugar production in Bolivia is located in the eastern and southern parts of the country, in which other widely-consumed crops cannot be grown. This industry provides the lifeblood of economic and social activity in those areas, and therefore the Government of Bolivia attaches particular social and economic importance to it.

In order to meet the employment needs in the rural parts of these depressed areas, and the population's consumption needs, Bolivia applies prior licensing system for sugar imports.

Domestic consumption needs are determined by the Ministry of Industry, Commerce and Tourism, through the Directorate for Agro-Industries, which certifies the production of the established industries and distributes export quotas among producers in consultation with the organizations representing sugar-cane producers and sugar suppliers.

This measure is only applied to raw or refined sugar and does not affect imports of sugar-containing products.

Bolivia's sugar policy is compatible with the objectives of the General Agreement, inter alia Article XI, and the Decision on Safeguard Action for Development Purposes adopted by the GATT CONTRACTING PARTIES on 28 November 1979 (L/4897).

It should be borne in mind that the difficulties facing the domestic sugar industry are partially explained by the disorder prevailing on the world sugar market.

Question 37

Page 21, paragraph A(e): It is stated that prior licences are also required for the importation of wheat flour and its derivatives. For what purpose is this restriction maintained? Under what conditions are the licences granted or denied? Is there a quantitative level associated with the granting of import licences for these products? Are the wheat flour "derivatives" subject to this requirement listed? Under what specific GATT Articles and provisions would Bolivia justify these restrictions after accession?

Reply

Supreme Decree 21987 of 12 August 1988 (Annex 8 to this document) repealed Supreme Decree 21932 of 5 May 1988 and suspended the restrictions on imports of wheat flour and its derivatives.

Question 38

Page 21: Are there any other products, such as rice, subject to such licensing at the present time? Does Bolivia contemplate subjecting additional products to prior import licensing? Is there any law or regulation that mandates or permits additions to the list of products subject to such licensing requirements? If so, what are its provisions? Under what circumstances might the list of items subject to restrictive licensing procedures be increased?

Reply

Rice is not subject to the prior licensing system. There are no other products subject to prior licensing, and it is not planned to extend the system to other products.

Article 41 of Supreme Decree 21060 establishes the régime of free import of goods, with the sole exception of products that affect public health and/or national security. The Government of Bolivia considers that these measures are covered by Article XX and XXI of the General Agreement.

Article 29 of the Customs Tariff of Bolivia (Annex 6 of document L/6369) authorizes the Executive Power to prohibit, limit and regulate imports in exceptional circumstances. The introduction of prior licensing is decided by the Council of Ministers, by Supreme Decree, and it is abolished when the circumstances which caused it to be introduced have ceased to exist.

B. Import certificates

Question 39

Page 21: Could you give some more clarification on the relevant certificate of origin, on certificates for foodstuffs (b), and on health certificates for animals and vegetables (c)?

Reply

In accordance with Article 15 of the Section of the Import Tariff laying down the rules for its application, food products are imported under duly legalized certificates of origin and certificates issued by the Ministry of Social Welfare and Public Health guaranteeing their fitness for human consumption.

Importation of live animals, plants, seeds and roots is subject to the presentation of duly legalized animal or plant health certificates from the place of origin and certificates of verification in Bolivia issued by the Ministry of Rural Affairs and Agriculture.

Annexes 9 to 11 of this document contain the regulations on animal health (Supreme Decree 12640), supervision of veterinary products (Supreme Decree 07783), imports of vegetable products and vegetative parts thereof,

pesticides and fertilizers (Interministerial Decision 23663-87). The first two establish rules governing production and domestic marketing as well as foreign-trade activities, including import and export.

The purpose of these provisions is to safeguard human and animal, and also plant, health and safety and they are not intended to serve as instruments for the restriction of foreign trade. Furthermore they are in accordance with the provisions of Article XX of the General Agreement.

Question 40

Page 21: It is stated that for certain products import certificates from the relevant Ministry are necessary. What percentage of total imports is covered by this requirement?

Reply

This requirement covers approximately 17 per cent of total imports (1987). It should be pointed out that this figure includes imports of medicaments which would require an import certificate (sanitary registration) only once, and not for each case of importation.

Question 41

Page 21, paragraph B(a): What is the relationship between the issuance of this certificate from the Ministry of Social Welfare and Public Health, and the requirement listed in paragraph C(a) on page 22? Are there any criteria to be met for medicaments in order to qualify for this certificate? If so, are the regulations dealing with this requirement published in a manner as to enable governments and traders to become acquainted with them?

Reply

Pharmaceutical products and medicaments that do not satisfy the requirement of prior registration referred to in Section III.3.B(a) of the Memorandum fall under the prohibition referred to in Section III.3.C(a).

Sanitary registration is governed by the National Health Code (Supreme Decree 15629 of 18 July 1978), the provisions governing registration of pharmacies and laboratories (Articles 134 and 137 of Supreme Decree 18826 of 25 March 1982) and Bi-Ministerial Decision 1020 of 14 October 1987, which appear in Annexes 12 to 14.

Sanitary registration is granted by the Ministry of Social Welfare and Public Health on the basis of a favourable report by the National Pharmacological Commission which consists of Ministry officials and members of the medical and biochemical professional colleges. Representatives of importers and of national laboratories participate in the work of the Commission as observers.

The Commission evaluates the therapeutical virtues of medicaments and will not grant the sanitary certificate to products of doubtful composition or containing conflicting active principles. The evaluation of each case is governed by the rules set forth in the National Therapeutical Formulary, which is published and available to interested persons.

Question 42

Page 22, paragraph B(b): Could examples be given that would illustrate situations in which the health certificate described in this paragraph would be denied?

Reply

The paragraph in question refers to the health certificate for food products. This would be denied, for example, if a product was in a spoiled state or if, for any reason, analysis revealed that the foodstuffs were not fit for human consumption.

C. Products whose import is prohibited

Question 43

Page 22, paragraph C(a): Does the registration of the composition and formulae of pharmaceutical and medicinal specialities require the submission or disclosure of confidential business information? If so, what measures are taken to ensure that the proprietary information of the producers is protected from dissemination in a way that would prejudice the legitimate commercial interests of these enterprises?

Reply

Among other requirements for the grant of sanitary registration, the quality and quantity formula of the medicament must be stated (composition and formula). This information is treated confidentially by the National Pharmacological Commission, referred to above in the reply to Question 41.

The intellectual property rights of producers are protected by the Law on Trade Marks of 15 January 1910 and the Law on Industrial Privileges (patents) of 2 December 1916, copies of which may be found in Annexes 15 and 16 to the present document.

Question 44

Page 22, paragraph C(a)-(j): Are there any products prohibited from importation under Article 13 of the import tariff or any other Bolivian law or regulation, other than those listed in Section C(a)-(j)?

Reply

Since the entry into force of Supreme Decree 21060, the only products whose import is prohibited are those listed in section III.C(a)-(j) of the Memorandum.

D. Measures affecting exports

Question 45

Pages 22-23: Are there any fees or charges associated with obtaining an export licence? Who administers the granting of such licences? Please elaborate on the procedures associated with obtaining export licences.

Reply

Under Article 49 of Supreme Decree 21060, the export of goods and services is in general unrestricted and no export permits or licences are required.

The export of the following is not permitted: arms, ammunition, explosives and other goods and products covered by the legal provisions in force in regard to national security, control of narcotic drugs and dangerous substances, protection of animal and plant life and health, and conservation of the national artistic and cultural heritage, these being exceptions provided for in Articles XX and XXI of the General Agreement.

Question 46

Does Bolivia have any laws or regulations concerning export performance criteria or local content requirements in connection with foreign investment or access to export promotion programmes?

Reply

At present, there are no legal provisions regarding the percentage of domestic content or the percentage of domestic production exported in relation with foreign investment or access to export promotion programmes.

4. Special customs treatment

Question 47

Page 23: A number of products receive special customs treatment based on commitments entered into by Bolivia before 29 August 1985. How important is the trade in relation to these commitments and what is the special treatment accorded?

Reply

Except as indicated in the reply to Question 1, import statistics and customs collection records do not contain any breakdown for exceptions of this kind. As regards the special treatment granted, please see the reply to the next question.

Question 48

Page 23, paragraph 4(a)-(i): Please indicate to what extent the products described in these paragraphs, and in Article 127 of Supreme Decree 21660 (Annex 3 of L/6369), are exempted from application of the customs tariff. To what extent are they also exempt from value-added taxes or other taxes or charges on imports?

Reply

These exceptions provide for various degrees of exemption, mainly exemption from customs duty, as explained below. There are no exemptions from payment of the tax for services rendered by the Customs Administration (0.5 per cent).

- (a) Imports under the Investment Law (Supreme Decree 18751 of 14 December 1981). That Law stipulates the degree of customs duty exemption, for a specified period. The tariff concessions granted under the Investment Law are applicable only to products included in investment projects that were approved by the National Investment Institute before the present trade régime was introduced.
- (b) Imports under international agreements and contracts with the State concluded before the introduction of the New Economic Policy - exempt from customs duty. Exempt from verification by enterprises contracted by the State for foreign-trade surveillance, and from the corresponding payment of fees to those enterprises, only in the case of government-to-government contracts or agreements.
- (c) Imports by services-contracting undertakings and undertakings operating in the hydrocarbon sector under agreements with the State. These were subject only to the 2 per cent ad valorem charge on the basis import performance prior to the issue of Supreme Decree 21979 of 5 August 1988 (Annex 1 to this document). Since that date, contracting undertakings are subject to customs duty and other fiscal charges.
- (d) Imports under special tax regimes stipulated in international integration agreements. - These are exempt from customs duty on a percentage fixed in negotiations.
- (e) Imports by the diplomatic corps, international organizations and officials thereof. - Exempt from payment of customs duty, value-added tax, tax on certain consumer goods (under Law 843 of 20 May 1986) and from verification by the foreign-trade surveillance enterprises.
- (f) Imports of wheat donated to Bolivia. - Exempt from customs duty, value-added tax and from verification by the foreign-trade surveillance enterprises and payment of the corresponding fees.
- (g) Admission of personal effects of bona fide travellers. - Up to a value of \$300, exempt from payment of customs duty, value-added tax, tax on certain consumer goods and from verification by the foreign-trade surveillance enterprises and payment of the corresponding fees.
- (h) Temporary imports or readmission of goods exported temporarily. Exempt from payment of customs duty, value-added tax, tax on certain consumer goods and from verification by the foreign-trade surveillance enterprises.
- (i) Donations legally accepted - Exempt from payment of customs duty and value-added tax.

Question 49

Page 23, paragraph 4(a): Please describe more fully the purpose and provisions of the Investment Law (Supreme Decree 18751 of 14 December 1981). Specifically, which imports under the Investment Law are subject to special customs treatment? What percentage of Bolivian imports in a recent representative period are subject to this customs exemption? What trade-policy tools are used to achieve the objectives of this Law? In what way is this Decree temporary? What permanent regulations are contemplated?

Reply

The objectives of the Investment Law are set forth in its Article 1. It is designed to encourage investment, both domestic and foreign, in producing activities.

Imports carried out under the Investment Law (Supreme Decree 18751 of 14 December 1981) stem exclusively from commitments taken on by the State prior to approval of Supreme Decree 21060 of 29 August 1985. At the present time, no undertaking can become eligible for this system, and the only benefits available are those granted by the State before that date.

The special treatment granted was not specifically on certain tariff headings, but was applicable solely to imports of products included in investment projects approved by the National Investment Institute. This treatment was granted to undertakings investing in sectors which at that time were considered of priority importance for national development. For these reasons, and since the foreign trade statistics system does not include a sufficiently detailed breakdown of data, it is not possible to determine the percentage of imports covered by this system.

The trade-policy instrument contained in that Law comprised full or partial exemption from customs duties on the import of capital goods and inputs over a period of time determined in relation with the type of project concerned. The system is temporary in that under that Law, the exceptions are applicable for a limited period.

Question 50

Page 23, paragraph 4(b): Please characterize the international agreements and contracts referred to in this paragraph. What is the approximate value in recent representative years of imports under these agreements? What are the provisions of these agreements with regard to customs treatment for imports, e.g. duty remission, tax-free treatment, etc.? Please describe any specific trade-policy tools involved in these efforts.

Reply

Page 23, paragraph 4(b) of the Memorandum refers to imports under international agreements and contracts with the State, concluded before the introduction of the New Economic Policy (Supreme Decree 21060). Such imports are subject to the conditions and time-limits stipulated in those agreements or contracts, and it is therefore not possible to generalize.

The exemptions include customs duty, but only for the periods and subject to the conditions established in the relevant contract.

No information is available on the approximate value of imports under these agreements and contracts because the import statistics do not contain a breakdown of this kind.

Question 51

Page 23, paragraph 4(c): Could you give some more information on the exceptions in point (c) imports under the service-contracting undertakings and undertakings operating in the hydrocarbon sector?

Reply

Under Supreme Decree 21979 of 5 August 1988 (Annex 1 of the present document) the customs duty exemptions did not cover imports by contracting undertakings operating in the hydrocarbon sector. At the present time, definitive imports by undertakings contracted for operations and services in the petroleum sector and holding prospection and exploitation contracts with the State petroleum entity (YPSB) - are subject to value-added tax and customs duties.

Question 52

Page 23, paragraph 4(c)-(d): Please give, as possible, the approximate value in recent representative years of imports described in paragraphs (c) and (d), respectively.

Reply

As regards sub-paragraph (c), no information is available on the value of imports carried out by services-contracting undertakings and undertakings operating in the hydrocarbon sector. One may refer to the indications given above concerning the lifting of this exception.

As regards sub-paragraph (d), imports under "Partial-Scope Agreements" in the period 1983-1985 were as follows:

Bolivia: Imports of Products Negotiated
Under Partial-Scope Agreements

	(\$'000)		
	1983	1984	1985
Argentina	2,008.2	660.7	1,485.4
Brazil	1,475.2	190.3	724.1
Chile	4,014.3	3,487.3	3,619.1
Mexico	223.6	1,526.7	91.5
Uruguay	-	6.4	42.1
Paraguay	-	-	-

Source: LAIA, Structure and development of regional trade.

There have been no imports under the Regional Tariff Preference régime, since this is not yet in force in Bolivia, as explained in the replies to Questions 92 to 94.

As regards the Andean Group, in recent years there have been no imports from member countries under special tariff treatment since Bolivia is not yet applying this type of treatment within the Andean Group, as indicated in the replies to Questions 99, 102 and 103.

5. Tariff Nomenclature

Question 53

Page 24: Considering that Bolivia's import tariff is based on the Tariff Nomenclature of the Brussels Customs Co-operation Council, is it the intention of Bolivia to adhere to the Customs Valuation Code?

Reply

Bolivia will study the possibility of acceding to the MTN Codes once the process of its accession to the General Agreement has been completed.

Question 54

Page 24: Does Bolivia intend to adopt the Harmonized System of Tariff Nomenclature? If so, within what time-frame? Are there any studies or preparations underway in this regard?

Reply

Bolivia intends to adopt the Harmonized System, together with the other LAIA countries, by the year 1990. To this end, technical support groups have been set up within the framework of the Andean Group to review and co-ordinate the plan for adapting the NABANDINA to the Harmonized System, with the assistance of experts from the Brussels Customs Co-operation Council.

6. Foreign-trade surveillance mechanisms

A. Certification of quality and price

Question 55

Page 24: Would you give some further reasoning for these control measures?

Question 56

Page 24: Can the Bolivian authorities give further details on the agreements signed with international enterprises for the surveillance of both imports and exports? Does the payment for imports require a certificate of approval from the specialized enterprises?

Replies to Questions 55 and 56

In order to prevent over- or under-invoicing, false declarations regarding the quality and quantity of goods, excessive charges for freight, insurance and other costs and, in general, to contribute to reducing illegal exports and imports, the Bolivian Government enters into contractual arrangements for the furnishing of specialized services of surveillance, verification and certification of foreign trade. These services include: physical inspection prior to shipment of all imported and exported goods - with the exception of those specifically mentioned in legal provisions in force and in contracts with the enterprises concerned - verification of prices (with an indication as to the form or method used), comparison of prices with an indication of any distortion, checking of shipments in regard to packaging, freight, insurance, commissions etc., sampling check of imported goods on arrival at the customs point of destination and inspection of exports at producing plant or port of embarkation.

For further information in this respect, Annex 17 attached hereto contains the text of Circular 60/88 of 1 July 1988 issued by the General Directorate of Customs, which reproduces Supreme Resolution 204296 of 29 April 1988, approving the award of contracts for the furnishing of foreign trade surveillance and verification services to two enterprises - Specialists Services International and Bureau Veritas - and lays down regulations for operational procedures.

The enterprises concerned are contracted under an international public tender procedure, for a limited period. On the other hand, users can opt for the services of either of these enterprises.

The conformity notice issued by the surveillance enterprises constitutes an official document required for customs clearance of any import and is free of cost, apart from the fees charged by the enterprises.

The results of the enterprises' enquiries are confidential and may only be transmitted to the Bolivian Government, which gives them the necessary protection.

There are no legal requirements for payment of imports. The form, modality and other relevant aspects for payment are determined by contract between the buyer and seller. The contracts currently in force with the surveillance enterprises stipulate that intervention by these enterprises does not relieve the seller of his contractual responsibilities towards the buyer, nor does it relieve exporters and importers from their contractual and legal obligations.

Question 57

Page 24, paragraph 3: Does this paragraph signify that the valuation of imports and exports for customs purposes is handled exclusively by the specialized enterprises described? What is the rôle of Bolivian customs officials in the valuation of imports and exports? Would Bolivia provide a list of the enterprises currently under contract for these services? To what extent are the procedures of these enterprises in conformity with the provisions of Article VII of the General Agreement?

Reply

The State delegates responsibility for customs valuation to enterprises contracted for that purpose. Determination of the value of goods imported or exported is based on the certificate of quantity, quality and price issued by those enterprises. The latter's activities are consistent with the provisions of Article VII of the General Agreement.

The Bolivian customs authorities verify that the certificates issued by the surveillance enterprises correspond to the physical goods imported or exported and that the relevant quality and quantity check has been made. The customs authorities also check the tariff heading and calculation of the charges carried out by the custom clearance offices, on the basis of the c.i.f. value at frontier determined by the foreign-trade surveillance enterprises, in the case of imports of a value exceeding \$1,000. In the case of lower values, customs clearance is carried out on the basis of the commercial invoices furnished by importers, valuation and control of quality and quantity being carried out by the General Directorate of Customs.

As regards the enterprises currently furnishing these services, please see to the Reply to Question 56.

Question 58

Page 24: Is the cost of surveillance of imports limited in the amount to the approximate cost of services rendered, as Article VIII:1(a) of the General Agreement stipulates?

Reply

Yes. For further information in this respect, please see Annex 17 and the Reply to Question 59.

Question 59

Page 24, paragraphs 4-5: If the cost of services paid by importers is assessed on an ad valorem basis as indicated in these paragraphs, how can this charge be specifically related to the cost of the transaction being performed by the specialized enterprise?

Reply

The fees paid to enterprises that furnish foreign-trade surveillance services correspond exclusively to the cost of the services furnished by them, and the State neither participates nor makes any charge. These fees cannot be considered as a charge or tax of a fiscal character nor as indirect protection for domestic industry, since the amounts collected do not accrue to the fiscal authorities and the tax is applicable to all imports alike. Accordingly, these services furnished by the foreign trade surveillance enterprises are consistent with Article VIII:1(a) of the General Agreement.

One should bear in mind that in view of the fact that the enterprises are selected and contracts awarded under a public tender procedure, they are obliged to align their fees with their operating costs.

Question 60

Page 24, paragraph 6: What are the modalities for settlement by the Ministry of Finance on disputes between suppliers and exporters and the trade surveillance companies?

Reply

In the case of a dispute or claim between suppliers or exporters and one of the surveillance enterprises, the matter may be put before the Ministry of Finance in a written submission explaining the problems that have arisen. The Ministry of Finance appoints a committee of not more than three members which prepares a specific technical report, on the basis of which a resolution is drawn up, fixing the value of the goods concerned or settling the problem in the particular case.

Under the contracts concluded with the two surveillance enterprises, in the event that of erroneous or unfair verification attributable to grave negligence on the part of an enterprise, the enterprise concerned is obliged to compensate the user for the injury suffered, subject to a determination by the regular justice of Bolivia.

Question 61

Page 24: In the case of a dispute between suppliers and these enterprises, this is settled by the Ministry of Finance. Are there independent appeal or arbitration procedures if the supplier does not agree with the Ministry of Finance's findings?

Reply

In such a case, under Bolivia's legislation the interested party can bring the matter before the appropriate jurisdictional bodies.

Question 62

Page 24: Would Bolivia be prepared to enter into multilateral discussions on pre-shipment inspection?

Reply

Once the accession process has been completed, Bolivia will consider its participation in multilateral discussions on pre-shipment inspection, if the CONTRACTING PARTIES decide to act in that direction

B. Advisory assistance for government procurement

Question 63

Page 25: Are the government procurement procedures described on this page applied on a non-discriminatory basis?

Reply

The purchase of goods and contracting of services is carried out through a public tender procedure, in which domestic and foreign

enterprises can freely participate, on the basis of non-discriminatory treatment.

Question 64

Page 25, paragraph 1: Please describe more precisely the mechanism for reviewing tenders from Bolivian and foreign suppliers for the purchase of goods and services for the public sector. What is meant by the requirement that tenders "must be made on Bolivian territory"? Do any laws or regulations exist which mandate preferential consideration of purchases from Bolivian suppliers or from certain supplying countries?

Reply

Article 205 of Supreme Decree 21660 establishes a mechanism of qualification and selection for the purchase of goods or contracting of services for public sector entities, undertakings and institutions. This mechanism operates through specialized agencies - whether governmental or from multilateral bodies, non-profit making - contracted by the Bolivian Government. The public entity wishing to purchase goods or contract services requests one of these qualifying agencies to take the necessary action for inviting, grading and selecting tenders. The agency receives bids, grades them and submits them for consideration to the public entity concerned, together with its opinions and recommendations. The decision on the purchase is always made by the requesting entity. Purchases or services contracts are signed by the agency, in the name and for the account of the entity concerned.

For this purpose, the Executive has contractual arrangements with the Crown Agents for Overseas Governments and Administrations, and the Office for Projects Execution of the United Nations Development Programme.

Agreements with agencies do not cover the following purchases and services:

- Those financed under bilateral agreements, when the latter stipulate that the supplier selection procedure is to be the responsibility of the financing or donor country;
- Ordinance purchases for the country's armed forces;
- Purchases of foodstuffs produced in Bolivia;
- Goods produced and services offered by Bolivian State entities, except in cases where the purchasing entity considers it appropriate to consult one or other of the contracted agencies, for duly justified reasons;
- Acquisition of goods and contracting of services of a value not exceeding one hundred thousand bolivianos (\$b 100,000);
- Purchases and services contracts for reasons of national emergency, including those by the Civil Defence Directorate or the Emergency Social Fund.

For purchases carried out by State entities through the agencies, no certification is required on the part of the enterprises contracted by the State to certify the quality, quantity and price of imports.

Since the service is being contracted by the Bolivian State, the Government considers that tenders must be made on Bolivian territory, as a guarantee of their serious character, for which reason the interested supplier must have a duly accredited legal representative in Bolivia.

In the grading of tenders, preferential treatment exists in favour of domestic goods and services, in the form of an additional 10 per cent on the total grade marking. Nevertheless, there is no preferential treatment in the final decision, which is taken by the government entity that is financing the purchase. There is no preferential treatment as regards supplying countries.

Question 65

Page 25, paragraph 1: Do the provisions described in this paragraph distinguish between purchases by State-trading entities used to produce goods for commercial sale and goods purchased for direct use by the Government?

Reply

Article 209 of Supreme Decree 21660 (Annex 3 to the Memorandum) stipulates: "The provisions of this chapter shall be applicable to any purchase of goods or contracting of services for construction, consultancy, insurance, auditing etc., carried out by public sector entities, including the central, decentralized, autonomous, regional or departmental Administrations, the Central Bank and other State banks, the Bolivian armed forces, the Bolivian police, municipal authorities, public universities and mixed economy undertakings in which the State itself, or acting through a public entity, holds more than 50 per cent of the registered capital".

7. Institutional organization of foreign trade
- A. Institutions concerned with import policy
- (b) Ministry of Revenue

Question 66

Page 25: Please elaborate on the procedures in place for dealing with disputes on customs matters.

Reply

Articles 21 and 22 of the Bolivian Customs Tariff lay down the procedures for dealing with disputes on customs matters. Under these provisions, the observations, objections or accusations made by the claimant must indicate the relevant legal justification, which must be brought to the knowledge of the customs clearance officers by notification on the customs clearance certificate. If the customs clearance officer

does not make a rejoinder within six working days, the claim is deemed to be confirmed and the amount of the payment for customs clearance must be recalculated.

If a rejoinder is made within the above-mentioned period, the Administrator of Customs declares open the non-extendable twenty working-day period within which the parties can submit their respective items of evidence, based in particular on the text of the tariff heading, the legal notes to the relevant chapter and the sections and interpretative notes of the Brussels nomenclature. At the end of the period allowed for producing evidence, the Administrator of Customs has ten working days within which to give his finding.

If he finds the claim proven, the applicant has two possible courses of action:

- (1) Appeal for reversal to the authority which made the decision. If this is rejected, appeal to the General Directorate of Customs. Recourse can then be had against the Directorate's finding, to the Ministry of Finance for a final determination.
- (2) Contentious appeal to the Fiscal Tribunal of Bolivia. Against the Tribunal's finding, the appellant can apply to the High Court of Justice for an annulment.

Choosing one of these courses of appeal implies renouncing the other. It should be noted that the Ministry of Revenue was established to operate on a temporary basis and was merged with the Ministry of Finance, when the tax reform was introduced.

(e) Mining and hydrocarbons sector

Question 67

Page 27: What scope, if any, is there for private trading of the output of the petroleum and mining sectors? Are the agencies listed also responsible for imports of goods in these sectors? What portion of Bolivia's import and export trade are accounted for by the State-trading of these agencies?

Reply

Under the Constitution, all mineral substances underlying or on the surface of the national territory are the original property of the State, which awards concessions to work them to public and private undertakings. These products are marketed freely, whether by public or private undertakings.

Deposits of hydrocarbons are owned directly by the State. Private undertakings contracted to work those deposits must sell their output to the State petroleum entity (Yacimientos Petroliferos Fiscales Bolivianos - YPF). The latter then supplies the contracting undertaking with volumes corresponding to the compensation stipulated in each contract as payment for the operations carried out. With the sole exception of having to

supply the domestic market when deemed necessary by the Ministry of Energy and Hydrocarbons (Articles 40 to 43 of the Hydrocarbons Law, Annex 6 to this document), the contracting undertaking is free to export the hydrocarbon quantities stipulated in the contract.

YPFB carries out the internal distribution of hydrocarbons and derived products through concessions to private undertakings.

The agencies furnishing advisory assistance on government procurement, described in Section III.6.B of the Memorandum and in Replies 63 and 65, also intervene in the import of goods and services for these sectors.

It should be noted, as indicated in the reply to Question 31, that only in the case of YPFB does State trading exist in terms of Article XVII.1.(a) of the General Agreement.

In relation to Bolivia's total exports, the percentage share of exports by State enterprises in these sectors has been as follows:

	<u>1986</u>	<u>1987</u>
YPFB	51.9%	47.4%
COMIBOL	4.2%	2.5%
Banco Minero	5.5%	6.1%

Under Supreme Decree 21060 (Annex 2 to the Memorandum), ENAF and SIDERSA have been merged with the Corporación Minera de Bolivia.

No statistics are available regarding the volume of imports by the above-mentioned enterprises.

Question 68

Page 27: What are the Government's intentions concerning privatization and joint undertakings in the minerals sector?

Reply

This question does not seem to fall within the purview of the General Agreement, and accordingly we cannot reply in this context.

Question 69

Page 27: Are there dual pricing or two-tier pricing mechanisms in this sector?

Reply

There are no dual pricing systems in Bolivia. Article 72 of Supreme Decree 21060 establishes unrestricted freedom of prices except in respect of hydrocarbons, urban passenger transport, electric power, railway tariffs, telephone tariffs and other tariffs listed in Articles 159 to 189 of that Supreme Decree (Annex 4 of document L/6369), these services being of a monopolistic or oligopolistic character.

C. Information regarding foreign-trade regulations

Question 70

Page 28: Are the regulations affecting trade issued by the competent ministries published promptly in such a manner as to enable governments and traders to become acquainted with them? If not, will Bolivia commit to initiating such policies in conformity with Article X of the General Agreement after its accession.

Question 71

Page 28: Can laws and regulations be implemented prior to publication in the Official Gazette?

Replies to questions 70 and 71

As mentioned on page 28, paragraph C of the Memorandum, all laws, supreme decrees and supreme resolutions (the latter either in full or in summary form, depending on their importance) are published in the Official Gazette and circulated widely through the various communication media before they enter into force.

All these provisions and likewise ministerial resolutions regarding foreign trade are in addition published by the Chamber of Commerce, the Chamber of Industry, the Chamber of Exporters and other interested professional associations and likewise in the National Customs circulars and Inland Revenue publications. They are obtainable by request from the Ministry concerned.

In addition, Bolivia's foreign trade legislation is published and circulated abroad in the monthly bulletins of the Andean Group and LAIA.

CHAPTER IV: OTHER ECONOMIC POLICIES BEARING ON FOREIGN TRADE

1. Exchange-rate policy

Question 72

Page 29: The official exchange rate, and the rate fixed by the Central Bank for the sale of the quantity of foreign currency supplied at each session is adjusted daily by the Central Bank. The exchange rate is determined by a weighted average of the transactions conducted by the Central Bank (L/6369, page 29). What are the details of this calculation, and what criteria does the Central Bank apply to determine the quantity of the foreign currency sold at each session. Why is the foreign-exchange market a Central Bank monopoly?

Reply to Question 72

As described in Section IV.1 of the Memorandum, the official exchange rate is determined on the basis of the foreign currency auction conducted daily by the Central Bank of Bolivia. The official exchange rate is

equivalent to the weighted average resulting from the transactions of each session, in accordance with Article 2 of Supreme Decree 21060.

For determining the quantity to be auctioned, the Central Bank applies the following criteria:

- demand for foreign exchange at earlier sessions (daily, weekly, monthly);
- seasonal character of demand for foreign exchange;
- performance of foreign exchange demand (existence of any surplus of demand or supply);
- availability of net international reserves;
- availability of effective international reserves (notes and currency).

By way of example, the following table shows transactions on 17 January 1989:

Quantity offered for auction (US\$)
CBE basis (Bolivianos)
Minimum offer (Bolivianos)
Maximum offer (Bolivianos)
Official exchange rate
Bids
Bids accepted
Bids rejected
Quantity in demand (US\$)
Quantity awarded (US\$)

Source: "HOY" (morning newspaper), 18 January 1989

Sales and purchases of foreign exchange are not a monopoly of the Central Bank. Under Article 6 of Supreme Decree 21060, exchange operations are unrestricted. Further details concerning the free foreign exchange market may be found in the replies to questions 77 and 78.

Question 73

Page 29, paragraph 3: This paragraph seems to indicate that Bolivia's exchange rate is purely market determined. Does Bolivia "peg" its official exchange rate to any other currency or basket of currencies? Are there any non-market criteria that are included in the determination of the rate?

Question 75

Page 29: It is stated that there is an official single, real and flexible exchange rate for the United States dollar. What is the position for other currencies?

Question 76

Page 29: Are exchange rates between the peso and currencies other than the dollar based on the dollar rates for these currencies?

Replies to questions 73, 75 and 76

Bolivia does not peg its official exchange rate to any other currency. The official exchange rate between the Boliviano and the United States dollar is determined solely on the basis of the weighted average resulting from the daily auction of foreign exchange, as indicated in section IV.1 of the Memorandum.

Transactions can take place in any freely convertible currency. In order to determine the exchange rate with other currencies, the official exchange rate between the Boliviano and the United States dollar is used as the basis, so that parities with other currencies are also single, real and flexible. The United States dollar is used as reference currency for the following reasons:

- Latin America is situated in the area influenced by the dollar, given the proximity of the United States;
- the majority of economic transactions involving foreign currency are carried out in US dollars;
- approximately 70 per cent of Bolivia's imports are from LAIA member countries and the United States, the United States dollar being used in these transactions.

As regards rates of exchange between the United States dollar and other currencies, the most recent information available is used, i.e. from the New York market or the London market.

Question 74

Page 29: How "flexible" is the exchange rate given that:
(a) institutions and public sector enterprises must purchase foreign currency for import needs through official auctions, where the amount of currency for sale and the starting price are set by the Central Bank and
(b) exporters are obliged to sell 100 per cent of foreign exchange earnings to the Central Bank.

Reply

The fact that public sector enterprises and institutions are obliged to purchase their foreign currency from the Central Bank of Bolivia and that exporters are obliged to sell to that Bank 100 per cent of their foreign-exchange earnings does not affect the flexibility of the exchange rate.

Flexibility of the exchange rate results from the auction system used for determining it, since if the quantity of foreign exchange auctioned is not sufficient to meet demand the exchange rate will rise, and vice versa. On the other hand, if the starting price is very high, there will certainly

not be sufficient demand to take up the quantity offered for auction at the base price, while if the base price is low, the auction process will have the effect of raising it to a balanced level.

This is a truly flexible system for determining the exchange rate. Moreover, appreciable exchange rate stability became apparent as soon as the system was brought into effect, together with a much narrower variation in the parallel exchange rate; these two aspects reflect the effectiveness of the system.

Question 77

Page 29, paragraph 5: Can further details be given on the "parallel" exchange rate? Please define more precisely the nature of the "parallel" exchange rate in Bolivia. For what purpose is it used? How is the parallel rate determined?

Question 78

Page 7: What is the extent of use of the "parallel exchange rate"? How much does it differ from the official exchange rate? Are any efforts being made to eradicate the parallel rate?

Replies to Questions 77 and 78

With a view to maintaining the purchasing power of their means of payment in the period of hyper-inflation that Bolivia was experiencing (24,000 per cent annual rate in September 1985), economic agents turned to the parallel market in order to obtain United States dollars, since at that time exchange control was in force and the Central Bank was only allocating foreign exchange for certain transactions deemed to be of priority importance.

Foreign-exchange operations were liberalized under Article 6 of Supreme Decree 21060 (Annex 3 to L/6369), with the sole limitation of compulsory sale to the State of foreign exchange deriving from exports. In addition, under Article 26 of that same Decree, any type of legal act, transaction or contract is permitted in national currency, with an accompanying clause of maintenance of value, or in foreign currency.

Purchases and sales of foreign exchange by commercial banks - including the Bank of the State - money exchange offices and natural or legal persons involve an exchange rate which is termed "parallel". Since this is determined on the basis of market mechanisms, as is the official exchange rate, in practice the difference between the two has been very slight since the system was implemented, as may be seen from the statistics in Annex I, table 2 and in the table attached to the present document as Annex 18.

In the past, because of the shortage of foreign exchange in the economy and the existence of a fixed exchange rate, the United States dollar was quoted in the parallel market at a rate higher than the official exchange rate, with a difference that became wider as the rate of inflation increased.

At the present time, since the difference between the two exchange rates is very slim (see table in Annex 18 to this document), it is not relevant to use the parallel rate as was the case in the period prior to implementation of the New Economic Policy on 28 August 1985. Since foreign exchange is sold by the Central Bank, it is not necessary to have recourse to the parallel market except for relatively unimportant transactions since only the Central Bank can sell foreign exchange in amounts exceeding US\$5,000.

On the other hand, the parallel exchange rate allows unrestricted transactions. If it were eliminated, the Central Bank of Bolivia would have a virtual monopoly over the foreign exchange market, which is not considered appropriate.

This system is known to the international financial institutions, consistently with Article XV of the General Agreement.

Question 79

Page 29, paragraph 6: How are the regulations described in this paragraph enforced, i.e. what means does Bolivia use to ensure that foreign exchange is sold to the Government, as required?

Reply

The following mechanisms are applied to ensure compliance with the requirement to sell to the State 100 per cent of foreign exchange deriving from the export of goods and services:

(a) The Central Bank issues a "Matriculation Certificate" which must be renewed each year. The purpose of the certificate is:

- to accredit exporter status;
- to verify expenditure of foreign exchange for exports carried out in the course of the year.

This certificate is required by the National Directorate of Customs for any export transaction. Issue of the Matriculation Certificate is provided for in Supreme Decree 21060 of 29 August 1985.

(b) Each month, banks in the system are required to send to the Bank Superintendency a detailed statement of notifications and/or confirmations of all documentary export credits, indicating the serial number, name of beneficiary, source, name of the correspondent bank, amount, period of validity and goods to be exported.

(c) The foreign trade surveillance enterprises contracted by the Bolivian Government - Specialist Services International (SSI) and Bureau Veritas (BV) - send to the Central Bank a regular detailed statement of exports carried out.

2. Tax policy

A. General régime

Question 80

Page 29-30: Is there any provision in Bolivian law for the application of taxes or charges on imports other than those listed? Please list all miscellaneous customs and import charges that have not been listed in L/6369).

Reply

The duties, taxes and charges applicable to imports are the following:

- customs duty;
- value-added tax and, where applicable, tax on certain consumer goods;
- 0.5 per cent charge for services furnished by the Autonomous Customs Warehouses Administration;
- fees of enterprises contracted by the State for foreign trade surveillance.

Article 29 of the Import Tariff empowers the Executive to determine the customs duties applicable to each tariff heading, subject to approval by a Supreme Decree following a decision by the Council of Ministers.

Question 81

Page 30: Are all the taxes listed on page 30 non-discriminatory?

Reply

Yes, all the taxes in force in Bolivia, enumerated in section IV.2.A of the Memorandum, are non-discriminatory, in accordance with Part II, Article III of the General Agreement concerning national treatment on taxation.

(a) Value-Added Tax (VAT)

Question 82

Page 30: What are "definitive imports"?

Reply

Definitive import is the régime applicable to imported goods that remain in the national territory definitively, implying payment of import duties and charges and compliance with all the customs formalities.

On the other hand, for certain goods entering the country under the temporary import régime, payment of duties and charges is suspended or

guarantee documents are required in respect of those duties and charges, provided that the goods are re-exported or imported within ninety days, which period may be extended once only for an equal period of time, upon request by the interested party, and subject to approval by the Ministry of Finance.

(d) Turnover tax

Question 83

Page 30: We understand that this tax is not applied to exports. In the case of imports, at what point of sale is this tax applied?

Reply

This tax is not applied to imports.

(e) Tax on certain consumer goods

Question 84

Page 30: Is the tax on imported jewellery and precious stones also applied to similar domestic items? At what point of sale is the tax applied to imports? and to domestic items?

Reply

Article 4 of Supreme Decree 21991 of 19 August 1988 stipulates that the tax on certain consumer goods applicable to imported jewellery and precious stones under Article 79 of Law 843 is applicable both to imported jewellery and precious stones and to those produced in Bolivia. Under Law 1001 of 29 June 1988 the 50 per cent rate applicable to these items was reduced to 10 per cent. (The texts of Law 1001 and Supreme Decree 21991 are attached in Annexes 19 and 20.)

In respect of imports in general, this tax is charged and paid at the time of customs clearance. In the case of domestic products it is charged and paid on the basis of a sworn statement month by month, on the net sale price (ex factory price).

C. Foreign trade

Question 85

Page 31, paragraph C(c): Monthly rate of 2 per cent storage in customs warehouse: are these fees obligatory? Is this monthly rate of 2 per cent an ad valorem charge? If so, how can it be specifically related to the cost of services rendered?

Reply

This charge is not applicable if the goods are withdrawn from the customs warehouse within the first month, but becomes applicable as from the second month and is designed solely to cover storage costs and to

prevent long-term deposit of goods on customs premises, involving additional costs for safe custody, insurance, etc.

The 2 per cent charge for storage in customs warehouses is calculated on the value of the goods. The General Directorate of Customs does not have the administrative resources to establish the unit cost of this service, and for that reason the charge is designed to cover the average costs.

Question 86

Page 31, paragraph 2: Could you also specify which products or shipments are not exempt from consular fees?

Reply

Under Supreme Decree 21660 of 10 July 1987, Article 128, there are no consular fees but only consular endorsement free of charge, which is required for wholesale bills of lading for goods entering the country by rail, road, lake or river transport.

Question 87

Page 31: Please indicate the nature of the "Servicio Prestado" listed in the second column in Bolivia's tariff schedule (Annex 11 of L/6369). Is this tax applied to imports? If so, is it applied to similar domestic products?

Reply

The second column of Bolivia's Import Tariff (Annex 2 to L/6369) is no longer in force since under Supreme Decree 21367 the customs duties, charges for services rendered, surcharges for the Development Corporations and the 1 per cent charge for the Autonomous Customs Warehouses Administration were merged together in one single customs charge.

CHAPTER V: INTEGRATION AGREEMENTS

Question 88

Page 33: Bolivia has concluded various tariff preference agreements in the framework of the Andean Pact and LAIA (including tariff concession agreements with Argentina, Brazil, Chile, Mexico, Paraguay and Uruguay, Supreme Decree No. 21038). To what extent are these agreements compatible with the GATT?

Question 89

Page 33: Although LAIA is a regional agreement under Article XXIV of the General Agreement, there are no common views on the GATT consistency of the agreements within the framework of LAIA. What is Bolivia's view on this issue?

Replies to Questions 88 and 89

The agreements which Bolivia has concluded in the framework of the Andean Group and LAIA solely concern developing countries. The partial scope agreements concluded with Argentina, Brazil, Chile, Mexico, Paraguay and Uruguay are consistent with paragraph 2(c) of the Decision of 28 November 1979 concerning Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries. Accordingly, in the opinion of the Bolivian Government these agreements are entirely compatible with the General Agreement.

1. Latin American Integration Association (LAIA)

A. Regional agreements

Question 90

Page 32, paragraphs 1-2, and Chart: Approximately what percentage of Bolivia's imports are subject to the regional tariff preferences of LAIA described in these paragraphs and in the Chart? What Bolivian imports are explicitly exempted from consideration for regional tariff preferences?

Reply

No Bolivian imports have yet been subject to the regional tariff preferences because the definitive list of exemptions is still pending.

Question 91

Page 22 and Chart: Are the preferences described calculated as a per cent of the tariff applied to third countries, or are they absolute preferences that are subtracted from the normally applied tariff? What is the relationship of these preferences to the partial scope agreements described in Section B of this chapter?

Reply

The Regional Tariff Preference (RTP) percentages are applied on current tariffs in Bolivia.

According to Article 7 of the Treaty of Montevideo of 1980, Partial-Scope Agreements (PSA) are those in which member countries do not all participate and which aim to create the conditions necessary for strengthening the regional integration process, through progressive multilateralization.

The rights and obligations that are established in the Partial-Scope Agreements apply only to member countries which are signatories and which accede to the Agreements.

There is no relation between the RTP and the PSA because they are independent mechanisms. However, member countries will apply the RTP when importing products that they have negotiated through the mechanisms provided for in the Treaty, as long as the preference is greater.

Question 92

Page 32, paragraph 3: Does this paragraph mean that in effect, Bolivia receives, but does not currently provide, preferential tariff treatment under the regional arrangements of the LAIA accords?

Reply

The Regional Tariff Preference is only applied among countries which have put it into effect. So as to normalize its participation in this mechanism, the Bolivian Government enacted Supreme Decree 22022 on 19 September 1988. However, the definitive schedule of products to be excepted is still pending, as well as the protocolization of the Decree by LAIA. The transitional provision mentioned in the Memorandum is no longer in force. The text of the Decree can be found in Annex 21.

Question 93

Page 33, paragraph 1: Has Bolivia submitted a list of exemptions to the LAIA preferential agreements, as provided for in the amending Protocol?

Question 94

Page 33: Has Bolivia submitted a schedule of products to be excepted from the regional tariff preference under Article 8 of the LAIA Agreement? If so, how many items are listed. In the case of Bolivia, what products are covered by this list, and what criteria are applied in determining them?

Reply to Questions 93 and 94

In accordance with Article 8 of the Regional Scope Agreement on Regional Tariff Preference, Bolivia presented a provisional list of exemptions of 2,400 items of the NALADI. The list was drawn up taking account of the following criteria:

1. Previous schedule of products to be excepted from RTP;
2. Taxable items;
3. Items of national production;
4. Products from the Ministry of Planning and Co-ordination's Project Bank;
5. Products of interest to the National Chamber of Industries;
6. List of products from the National Chamber of Exporters.

It should be pointed out that the reference to Article 8 of the Treaty of Montevideo in this Question, should in fact be to Article 5 of the Treaty of Montevideo of 1980 and to Article 8 of the RTP, Regional Scope Agreement, of LAIA.

The list will be transmitted, once account has been taken of the definitive list of exemptions.

Question 95

Page 33: Is Bolivia involved in any regional or other market opening agreements for which it provides preferential treatment in its markets for relatively less economically developed countries? If so, please describe the agreements and their provisions.

Reply

Bolivia grants Ecuador and Paraguay, countries which are relatively less economically developed, a margin preferential of 100 per cent for a limited list of products important to each of them, in the framework of Regional Market Opening Agreements in favour of these countries. Those Agreements can be found in Annexes 22 and 23 of the present document, respectively.

Also, under the Regional Tariff Preference Agreement, Bolivia grants Ecuador and Paraguay preferences shown on the table on page 32 of the Memorandum.

Question 96

Pages 32-36: How would the Regional Agreements that Bolivia has concluded affect its participation in international tariff negotiations and its capacity to negotiate a list of tariff concessions when it accedes to the GATT?

Reply

In accordance with the CONTRACTING PARTIES' Decision of 28 November 1979 on Differential and More-Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries, Bolivia will not jeopardize the trade advantages conceded to its partners in the Integration Agreements to which it is party.

B. Partial-Scope Agreements

Question 97

Page 33: Please describe more fully the provisions of Bolivia's partial-scope agreements under LAIA, especially with regard to reciprocal tariff concessions. What portion of Bolivia's imports are covered by these preferences?

Reply

The LAIA Partial-Scope Agreements are a revision of the commitments derived from the liberalization programme of the Treaty of Montevideo of 1960 - i.e. the concessions granted in national lists, lists of non-extendable advantages and complementarity agreements - so as to incorporate these concessions into the new integration scheme established by the Treaty of Montevideo of 1980. Renegotiation of concessions was done

by updating, enlarging or eliminating them in order to attain strengthened and balanced trade flows.

In their operative part, the Partial-Scope Agreements include provisions on tariff preferences, the preservation of preferential margins, non-tariff restrictions, rules of origin, safeguard clauses in some cases, evaluation, accession, validity and denunciation.

The Partial-Scope Agreements negotiated by Bolivia with Argentina, Brazil, Chile, Mexico and Paraguay were signed in 1983 with a validity of nine years, while that concluded with Uruguay has a validity of six years. The validity of these Agreements can be prolonged through negotiation.

The percentage of total Bolivian imports that were negotiated in the Partial-Scope Agreements was 1.20 per cent in 1984, 1.08 per cent in 1985 and 1.2 per cent in 1986.

C. Other agreements within the framework of LAIA

Question 98

Page 34, paragraph 1: Could Bolivia please give a brief description of the trade elements of the approved resolutions of the Third Meeting of LAIA Council of Foreign Ministers as contained in Annex 8 of L/6369?

Reply

At its third meeting, the LAIA Council of Foreign Ministers adopted the following Resolutions:

Resolution 13(III). Establishes a plan of action for the relatively less economically developed countries. This contains measures, for example, to include a negotiated schedule of products in the market-opening list in favour of these countries and, after negotiation, to transfer products included in the Partial-Scope Agreements to the market-opening lists, as well as measures to contribute to the infrastructure of landlocked countries.

Resolution 14(III). Establishes a programme to lessen or correct intra-regional trade imbalances. If a member country has a trade deficit higher than 50 per cent with other member countries for at least three consecutive years, the Committee of Representatives can recommend increasing the agreed preferences, extending quotas, eliminating non-tariff restrictions, non-reciprocal inclusion of new products in the Partial-Scope Agreements and other measures in favour of the country running the deficit.

Resolution 15(III). Complemented by Resolution 17(VIII-E), entitled Protocol of the Regional Agreement for the Recovery and Expansion of Trade, of which a copy can be found in Annex 24 of this document, this Decision's objective is to increase the value of reciprocal trade and ensure its steady expansion. To this end, it concedes preferential tariff margins, based on a table of preferences according to the category of each country, for products included in lists negotiated between member countries.

Resolution 16(III). General Trade Régimes. It recommends the adoption of the "General Régime of Safeguards" to the Committee of Representatives and commends to this Committee the adoption of the "General Régime of Origin for the Association" until 31 December 1987.

Resolution 17(III). Elimination of non-tariff restrictions. It establishes a tentative programme to eliminate non-tariff restrictions in the various LAIA mechanisms, beginning with restrictions in the Partial-Scope Agreements.

2. Andean Group

A. Common External Tariff and other trade provisions of the Agreement

Question 99

Page 35, first full paragraph: Please describe more precisely the level and method of determination of the Common Minimum External Tariff provided for under the Cartagena Agreement. How do the minimum rates called for in this Agreement relate to Bolivia's current and planned tariff rates? Does Bolivia currently apply the requirements of the Cartagena Agreement? If so, are these rates applied on an m.f.n. basis to all third countries?

Reply

The Common Minimum External Tariff (CMET) is a first step toward adopting a common external tariff to provide adequate protection to sub-regional production, stimulate its efficiency and contribute to the gradual establishment of a sub-regional preferential margin. It was adopted through Decision 30 of the Commission of the Cartagena Agreement in December 1970, and includes an annex containing Common Minimum External Tariff levels for segments of the liberalization programme and according to product sectors. The CMET levels were established through negotiations, using averages of tariffs then current in member countries.

According to Article 104 (as amended) of the Cartagena Agreement, "the Commission, on the basis of the evaluations mentioned in Article 101, shall determine the procedure and time period for the adoption of the Common Minimal External Tariff by Bolivia and Equador. In any event, the Commission shall take account of problems derived from Bolivia's land-locked situation as referred to in Article 4 of the Agreement."

However, for items included in the list of goods not produced in the sub-region, the production of which is beginning in a member country and has been notified to the Board of the Cartagena Agreement, Bolivia will apply the Common Minimum External Tariff through a linear, automatic, three-year process starting on the date on which production in the sub-region begins.

In the case of products which, when imported from outside, can cause serious disturbances to the sub-region, the Commission may determine that Bolivia adopt the minimum tariff levels (Article 104 of the Cartagena Agreement, as amended).

The Common Minimum External Tariff rates differ from currently applied tariffs in Bolivia. The CMET is applied on a most-favoured-nation basis to all third countries.

Question 100

Page 35, paragraph 1: What is the current status of implementation, within the Andean Group, of Article 62?

Reply

The Quito Protocol, which amended Article 62 of the Cartagena Agreement, stipulates that harmonization of policies and co-ordination of plans, including adoption of the Common External Tariff, will be gradual, in accordance with progress made in establishing the expanded market. To this end, the Commission of the Cartagena Agreement will adopt the relevant time-limits and modalities.

Question 101

Page 35, paragraph 1: Under the terms of the Cartagena Agreement, there is a requirement that member countries hold consultations within the regional Commission before entering into tariff commitments with countries outside the sub-region. In light of this requirement, and the commitment in Article 68 concerning changes in the rate of tariff duty, what constraints will Bolivia face in the context of the establishment of its GATT Schedule of Concessions? To what extent do the commitments for the Cartagena Agreement prevent Bolivia to bind its tariffs in the GATT?

Reply

As an active member of the Cartagena Agreement, Bolivia will respect the commitments it has undertaken in that Treaty.

Article 68 (as amended) establishes that member countries should hold consultations in the Commission of the Cartagena Agreement, before entering into tariff commitments with countries outside the sub-region. The Commission will decide on the consultations and terms of these tariff commitments.

In addition, see the reply to Question 96.

Question 102

Page 35, paragraph 2: Please explain the special provisions enjoyed by Bolivia vis-à-vis the implementation of the Liberalization Programme?

Reply

Bolivia enjoys preferential treatment as a relatively less economically developed country, and as a land-locked country. This is expressly stipulated in the Cartagena Agreement for the implementation of the Liberalization Programme, which is delayed and also applied at lower levels. Application of the Common Minimum External Tariff has also been postponed for Bolivia.

Thus, in accordance with Decision 227, Bolivia will initiate the tariff reductions provided for in the Liberalization Programme on 25 May 1991. This will take the form of three successive annual reductions of 5 per cent for a list of products not considered sensitive for the country's economy. The subsequent stages will be determined by the Commission of the Agreement after prior assessment by the Board of the Cartagena Agreement of implementation of the liberalization programme in favour of Bolivia by the other member countries. Based on this assessment, the Commission will set the terms for Bolivia's compliance with the Common Minimum External Tariff.

Question 103

Page 36, paragraph 3: Does this paragraph signify that imports from Cartagena Agreement countries are exempted from any taxes or charges applied to imports other than from tariffs as provided for in the Liberalization Programme?

Reply

It does not mean that imports by member countries from the sub-region are exempted from all taxes and charges applied to imports from third countries, but that products originating from one member country will, in the territory of another member country, enjoy not less favourable treatment in terms of taxes and charges than that applied to similar national products.

Question 104

Page 35: Can Bolivia expand on the rôle and activities of "the Programme of Andean Co-operation with Bolivia"?

Reply

Decision 222 which created this programme appears in Annex 12 of the Memorandum. Its main elements appear in Articles 1, 2 and 3 which establish:

"Article 1. - The objectives of the Programme of Andean Co-operation with Bolivia are to contribute to:

- (a) the efforts of the Government of Bolivia to overcome the structural difficulties hindering its economic development;
- (b) the active and effective participation of Bolivia in the Andean integration process;
- (c) identifying productive opportunities for national vertical integration projects with particular emphasis on the agricultural, agro-industrial and metal-working and engineering sectors, among others;
- (d) according to the requirements of those programmes, gradually strengthening the country's economic infrastructure;

- (e) promote basic processes so as progressively to develop the various producing activities;
- (f) establishing industrial streamlining programmes for existing industry, so as to attain adequate efficiency levels;
- (g) expanding and diversifying Bolivia's exports, so as to use to effective advantage the opportunities offered by the expanded market.

Article 2. - The Programme of Andean Co-operation with Bolivia will be implemented through yearly plans adopted by the Commission. Its projects and activities will be formulated in co-ordination with the Bolivian Government.

Article 3. - These projects and actions will be carried out with resources channelled by the Board itself and the Directorate of the Programme of Andean Co-operation with Bolivia, from multilateral co-operation and development organizations and third countries. The Board and the Programme Directorate will make necessary efforts to ensure that resources are sufficient to allow for the timely implementation of projects and actions, all the above without prejudice to the technical co-operation activities which the Board carries out on a sub-regional level."

The Programme's headquarters are in the city of La Paz; it has an executive director, international civil servants, two permanent consultants, as well as special consultants.

Begun last year, the Programme has obtained resources from the Board of the Cartagena Agreement, with which it has been able to carry out various studies by consultants on Bolivia's participation in the Andean Integration Process.

B. Bilateral agreements

Question 105

Page 36, paragraph 4: Please characterize the nature of the preferential trade treatment provided for Bolivian imports and exports in these agreements.

Reply

With the entry into force of the Quito Amending Protocol, and as established in the operative parts of agreements subscribed to by Bolivia with Peru and Venezuela, these bilateral agreements have ceased to be in force, and the Andean Pact legislative provisions are therefore now in force.

C. Foreign investment

Question 106

Page 36: Please describe more fully the restrictions that apply to direct foreign investment in Bolivia under Decision 220 of the Cartagena Agreement. Specifically, we are interested in the details of the

provisions relating to the "fixing of conditions for converting foreign enterprises into national or mixed enterprises for the purposes of benefiting from the Liberalization Programme". How does Bolivia intend to implement Decision 220?

Reply

Broadly speaking, Decision 220 of the Commission of the Cartagena Agreement concerning the Common Régime of Treatment of Foreign Capital and Trade Marks, Patents, Licences and Royalties, does not contain restrictions representing obstacles to foreign investment, in view of the fact that its rules refer basically to registration, except for some cases of authorization, such as the contracting of external loans by foreign enterprises, and the prohibition imposed on member countries to guarantee external credit operations by foreign enterprises in which the State is not a shareholder.

Chapter II of Decision 220 lays down the conditions for converting foreign enterprises into national or mixed enterprises for the purposes of benefiting from the Liberalisation Programme. In order to obtain these benefits, the foreign enterprise must sign an agreement with the competent national body through which it undertakes to offer for sale, for purchase by national or sub-regional investors, 51 per cent of its shares within a period of not more than thirty-seven years in the case of Bolivia. This progressive participation must not amount to less than 5 per cent over the first five years after the signing of the agreement, 10 per cent after a third of the agreed period, and 35 per cent after two-thirds of the period. Foreign enterprises that have signed an agreement on the above terms and conditions are entitled to the Certificate of Origin in order to be able to benefit from the liberalization programme during the period of their conversion, provided they comply with the said terms and conditions.

It should be pointed out that enterprises which do not intend to benefit from the liberalization programme or obtain other benefits from the Andean Group's expanded market are not obliged to comply with the provisions of Decision 220.

Decision 220 will be applied in Bolivia in accordance with the provisions of this regional undertaking.

Question 107

Page 36: With respect to Article 20 of the Agreement limiting contracts on technology transfers and patents, please describe the limitations. What protection does Bolivia grant to the intellectual property rights embodied in traded goods that enter Bolivia?

Reply

Article 20 of Decision 220 of the Cartagena Agreement (Annex 12 of the Memorandum) establishes the following provisions applicable solely to those foreign enterprises that wish to accede to the benefits of the expanded market:

"Member countries shall not authorize the signing of contracts on the transfer of external technology or on patents that contain:

- (a) clauses by virtue of which the supply of technology is tied to the obligation for the receiving country or enterprise to acquire from a specific source capital goods, intermediate products or other technologies or to use personnel specified by the company providing the technology. In exceptional cases, the receiving country may accept clauses of this kind for the purchase of capital goods, intermediate products or raw materials provided their price corresponds to current world market levels;
- (b) clauses whereby the company selling the technology reserves the right to fix the sale or re-sale prices of the products manufactured using the technology in question;
- (c) clauses containing restrictions on the volume and structure of production;
- (d) clauses prohibiting the use of competing technologies;
- (e) clauses establishing a total or partial purchase option for the provider of the technology;
- (f) clauses obliging the purchaser of the technology to transfer to the supplier any inventions or improvements obtained by the use of such technology;
- (g) clauses providing an obligation to pay royalties to holders of patents for non-utilized patents; and,
- (h) other clauses having equivalent effects.

Save for exceptional cases, duly vouchsafed by the competent national body of the receiving country, clauses prohibiting or limiting in any way the export of the products manufactured using the technology in question shall not be allowed.

In no case shall clauses of this kind be allowed in sub-regional trade or for the export of similar products to third countries."

Intellectual property is protected in Bolivia by the Law Regulating Trade Marks and Law on Industrial Privileges, the texts of which appear in Annexes 15 and 16 to this document.

Question 108

Page 36: We understand that merchandise with the same registered trade mark as a product made in Bolivia cannot be imported into Bolivia. Please give details concerning the reasons for this policy.

Reply

The Law Establishing Regulations Governing Trade Marks (Annex 15 of this document) grants the right to the exclusive use of a trade mark for

commercial purposes to the natural or legal person who has registered the trade mark in his name with the Department of Standards and Technology of the Ministry of Industry, Trade and Tourism.

In order to avoid confusing or misleading consumers or users, trade marks similar to those already registered cannot be registered or used in the market place.

CHAPTER VI: EXPORT PROMOTION

1. Economic incentives

A. Tariff refund certificates

Question 109

Page 37: Please explain more fully how the tariff refund programme operates. L/6369 states that the value of the certificate is equivalent to 10 per cent of the net value of the exported product. How is this net value determined? Please explain how the refund amount awarded to an exporter is determined. Is the value of the refund granted directly related to the actual duties applied to the original imports?

Reply

Supreme Decree 22013 of 16 September 1988 (Annex 25 to this document) establishes the regulations governing the issuance of tariff refund certificates (CRA) and Redeemable Tax Vouchers (BTR), the latter on behalf of exports effected between 10 July 1987 and 31 March 1988.

The workings of the Tax Refund Certificates are made clear in earlier Replies and in Supreme Decree 22013. The net value of the exported product is the equivalent of the gross value (as declared in the export documents) minus exporting costs paid in foreign currency.

Those costs are considered to comprise the following:

- Sea freight: From port of exit or final destination, only when the exporter has paid the costs in foreign currency;
- Air freight: For air shipments from point of origin, only 50 per cent of the total value;
- Land freight: Only from border to point of shipment or destination, if paid in foreign currency;
- Transport insurance: Paid in foreign currency;
- Plant or animal health inspection: Charges paid in foreign currency to the authorities of countries of destination and/or transit for inspections they carry out;
- Charges at port of shipment paid in foreign currency for handling and warehousing, transport from warehouse to wharf, stowage and supervision by the customs agency;

- Weighing, measuring and supervision;
- Discounts for differences in weight, quality and price;
- Agency fees abroad;
- Interest payments for export financing: paid through a bank established in the country, specifying the lots or consignments of exports paid for in foreign currency.

The amount of the refund to the exporter is equal to 10 per cent of the net value of the exported product. The reason for a linear refund of 10 per cent is the limited capability, for the time being, of the State technical bodies to examine each case carefully and calculate a specific refund. This shortcoming stems from the radical austerity policies adopted with regard to the State administrative system for short-term adjustment purposes.

In addition, to carry out an exact calculation of the component of tariffs paid on products incorporated in an export product might well cost the State more than it refunds under the CRA.

Question 110

Page 37, paragraph 4: We understand that Supreme Decree 22013 of September 1988 establishes the tariff refund certificate programme. Is this, in fact, the implementing legislation for the programme described in this paragraph?

Reply

Yes

Question 111

Page 37: When does Bolivia expect to introduce its tariff refund certificate?

Reply

See reply to Question 109.

Question 112

Page 37: According to the Subsidy Code of the Tokyo Round, reimbursing import duties in excess of those levied on imported goods that are physically incorporated in the exported product is deemed to be export subsidies. In this connection, if the Government of Bolivia has the intention of acceding to the MTN Agreements of the Tokyo Round in the future, is it ready to endeavour to make its Tariff Refund Certificate system consistent with the Subsidies Code?

Reply

Bolivia will examine the question of accession to the Subsidies Code, after having analyzed and evaluated it, as indicated in the reply to Question 33.

B. Refund of value-added tax

Question 113

Page 37: With regard to refund of the value-added tax and exemption from the turnover tax for exported products, please describe the procedures used by the Bolivian Government to determine the amounts of these refunds/exemptions.

Reply

To determine the refund of VAT, a calculation is made of the tax debit, i.e. tax charged when a product is sold, and the tax credit, i.e. the tax paid when a product is purchased.

In accordance with Article 11 of the Tax Reform Law, No. 843, of 20 May 1987 (Annex 5 of the Memorandum), exports are exempt from the tax debit they would normally pay. Consequently, the Director-General of Internal Revenue refunds the tax credit up to a limit of 10 per cent of the official value of the exports covered by the corresponding export documents through negotiable credit vouchers.

Refund applications may be submitted as from the first working day of the month following the month in which the export operation took place. The person concerned must be notified in writing of the situation of his application. If no observations are made, the application is considered officially accepted. Within ten days the Director issues the negotiable credit voucher. With regard to the turnover tax, Article 76 of the Tax Reform Law exempts exports from payment of the tax. Consequently, the exemption equals the total amount of the tax.

Question 114

Page 37: Under the export promotion policy, exporters receive refunds (Tariff Refund Certificates, refund of value-added tax) (Supreme Decree No. 21660 of 10 July 1987 and Supreme Decree No. 21910 of 31 March 1988). To what extent do these advantages constitute subsidies?

Reply

The Government of Bolivia considers that the refund of VAT and the Tariff Refund Certificate (CRA) cannot be considered subsidies.

In the first case, the method of calculation of the refund is in keeping with the Interpretive Note to Article XVI of the General Agreement.

Nor can the CRA be considered a subsidy, in view of its small amount, its non-discriminatory nature and especially the high real interest rate prevailing in Bolivia

In the opinion of exporters, these two mechanisms do not manage to refund the VAT and tariffs they pay domestically.

In addition, see replies to Questions 109, 110, 111 and 113.

2. Institutional incentives

Question 115

Page 38: What other industries benefit from State subsidies apart from the railways?

Reply

There are no State subsidies in favour of the railways or of any other public or private companies.

In addition, see the reply to Question 117.

3. Other incentives

Question 116

Page 38: Article 154 of Supreme Decree No. 21660 provides for the establishment of industrial free zones. How many zones are there to be, and how important are they (production sectors, number of jobs) in comparison with the total volume of foreign trade? Can additional information be given to exports in the proposed "industrial free zones"?

Reply

No industrial free zones have been established, and their scope or the rules governing them have not yet been laid down.

Question 117

Could further details be given of the justification for a differentiated railway fare for export freight? Please explain how the differential railway free for export freight has worked in practice. Are there any other preferential transport tariffs for exports?

Reply

Since the volume of import freight by rail is much larger than the volume of export freight by rail, there is greater demand for rail transport from abroad towards Bolivia than from Bolivia towards the exterior. Consequently, rail transport capacity towards the exterior is underutilized. To provide an incentive for the use of this means of transport and increase the use of installed capacity, the National Railways Company (ENFE) charges a lower rate for outward-bound traffic than for transport into Bolivia.

This trade policy is frequently used by international transport companies.

Furthermore, this cannot be considered a subsidy, since ENFE in any event incurs a cost for transporting empty wagons to loading points for goods for import. Furthermore, the Bolivian State does not pay out any additional funds under this policy.

There are no differentiated fares for other means of transport.

Question 118

Page 38: We understand that Bolivia's reactivation policy includes authorization for a 10 per cent export tax rebate. Is this true? If so, what products are eligible for this rebate.

Reply

There are no export taxes in Bolivia.

ADDITIONAL QUESTIONS ON THE MEMORANDUM
ON BOLIVIA'S FOREIGN TRADE REGIME (L/6369)

CHAPTER II: ECONOMIC PROFILE OF BOLIVIA

Chapter II.1.F: Balance of payments

Question 119

Page 13, paragraphs 2 and 3: In light of Bolivia's protracted economic and financial difficulties, what specific provisions of the country's new economic policy are directly related to improving the balance-of-payments situation?

Reply

None of the provisions of the New Economic Policy relates specifically to the balance-of-payments situation in particular, rather than to the state of the economy as a whole. Nevertheless, undoubtedly many of the provisions have a decisive influence on the balance of payments, including for example the maintenance of a single, real and flexible exchange rate; foreign exchange freedom; free trade; the tax reform and the provisions concerning reserves and foreign debt, the latter being contained in Section III of Supreme Decree 21660 (Annex 3 of the Memorandum).

Question 120

Does Bolivia foresee the imminent need to invoke GATT Article XVIII(B) permitting import measures and safeguards for balance-of-payment purposes?

Reply

See the reply to Question 9.

Chapter II.3: Objectives of the New Economic Policy

Page 15, paragraph 1: The New Economic Policy (NEP) calls for the adjustment of State involvement in economic activity.

Question 121

What is the current level of public ownership in the Bolivian economy?

Question 122

What specific changes are envisaged under the NEP?

Replies to Questions 121 and 122

Section V of Supreme Decree 21060 (Annex 2 of the Memorandum) contains the provisions of the New Economic Policy relating to public enterprises. Chapter I of the section established the modalities for the financial organization and payroll rationalization of public-sector enterprises and organizations. Article 80 sets limits for access to Central Bank credit by the public sector. Article 81 prohibits any increase in the number of public-sector employees.

Chapter II of the section (Articles 86 to 101) refers to enterprises in the hydrocarbons sector, and in particular the State Hydrocarbons Corporation (Yacimientos Petroliferos Fiscales Bolivianos - YPFB). Article 86 provides for the decentralization of YPFB through the creation of subsidiary enterprises.

Chapter III (Articles 102 to 117) refers to the State mining and metallurgical sector. The main provision relates to decentralization of the Bolivian Mining Corporation (COMIBOL) into subsidy enterprises. It is important to mention that after Supreme Decree 21060 was issued, and with the collapse of the world tin market, COMIBOL greatly cut back its operations, closing mining centres and reducing its payroll from about 27,000 to about 6,000 workers.

Chapter IV (Articles 118 to 121) and Chapter V (Articles 122 to 124) provide for the dissolution of the Bolivian Development Corporation (CBF) and the National Motor-Vehicle Transport Company (Empresa Nacional de Transporte Automotor - ENTA). The first of these grouped the State-owned industrial enterprises, whose assets were transferred to the National Development Corporations according to the particular territorial department in which they were located. ENTA's assets were transferred to the local authorities of the capitals of the departments in which they were in service. Finally, Chapter VI contains provisions relating to the public sector's floating public debt and Chapter VII concerns monopolies, which are prohibited with the exception of any statement existing previously and established by law. Any natural or legal person, public or private, may exercise any activity not legally declared to be a monopoly.

The hyperinflation in Bolivia up to 1985 has played havoc with the book value of the equity of public-sector companies. Consequently, the Bolivian Government has drawn up a project to calculate the real value of these enterprises today, and it is being implemented.

The reply to Question 14 provides further information on the rôle of public enterprises.

Page 17, paragraph 1 (6): One of the stated objectives of the NEP is "to promote higher production and productivity levels and the re-conversion of the production structure".

Question 123

What rôle will import substitution methods play in the re-conversion process?

Question 124

Is Bolivia contemplating the use of local content requirements?

Replies to Questions 123 and 124

Imports will be replaced by domestic production in so far as the latter is competitive on the domestic market.

See also the reply to Question 46.

The Memorandum lists another NEP objective as "to promote growth and diversification of foreign trade, by ensuring conditions conducive to the competitiveness of Bolivian products in foreign markets".

Question 125

What trade policy tools are contemplated to achieve this objective, e.g. quantitative restrictions, domestic production incentives, etc.?

Question 126

How will these measures be implemented in such a way that they are consistent with GATT obligations?

Replies to Questions 125 and 126

Bolivia is not contemplating trade-policy tools such as quantitative restrictions or other similar measures. The Memorandum (Chapters II, IV, V and VI) indicates the trade policy tools applied to reach the planned objectives, which are considered by the Bolivian Government to be completely compatible with the General Agreement.

CHAPTER III: FOREIGN TRADE POLICY

Chapter III.2: Tariff policy

Page 20, paragraph 5: Question 127: What share of fiscal revenues are generated by customs duties?

Reply.

See the reply to Question 25.

Question 128

What is meant by "neutral effective production"?

Reply

See the reply to Question 26.

Question 129

What is the "established timetable" envisaged under Supreme Decree 21660 for progressive tariff reductions from 20 per cent to 10 per cent on all products except capital goods?

Reply

See the reply to Question 21.

Question 130

Will Bolivia bind its tariff schedule in a comprehensive fashion?

Reply

See the reply to Question 28.

Question 131

In light of the provision in the Cartagena Agreement for a common external tariff, does Bolivia consider that its participation in the Andean Pact will reduce its flexibility to participate in international tariff negotiations?

Reply

The Common External Tariff has not yet been made effective, nor has a date been set to initiate its adoption, so that it will not affect the Bolivian Government's flexibility to participate in tariff negotiations. As to the Common Minimum External Tariff, see the reply to Question 99.

On the other hand, account must be taken of the consultation mechanism which the Andean Pact countries are subject to when entering into tariff commitments with third countries, which is described in the reply to Question 101.

Question 132

What are the repeal and review procedures for customs matters under Bolivian law?

Reply

See the reply to Question 66.

Chapter III.3: Non-tariff measures

Part A: page 21, paragraph 3:

Question 133

Are there any charges applicable to import and export licences? If so, specify the amounts and how these are calculated.

Reply

There are no export licences in Bolivia. There is no cost involved in obtaining an import licence.

Question 134

Does Bolivia intend to accede to the Licensing Code?

Reply

See the reply to Question 32.

Chapter III.4: Special customs treatment

Page 23: Question 135: How long will the temporary exception for imports under investment law remain in place?

Question 136

What products qualify for these exemptions (paragraphs (a) and (b))?

Replies to Questions 135 and 136

See the reply to Question 49.

Question 137

Which tax régimes are referred to under this section?

Reply

Reference is made to the preferential tariff treatment granted under the integration agreements of the Andean Group and LAIA, as described in Chapter V of the Memorandum.

Chapter III.5: Tariff nomenclature

Page 24, paragraph 1: Question 138: Does Bolivia intend to adopt the Harmonized System of tariff nomenclature?

Reply

See the reply to Question 54.

Chapter III.6: Foreign trade surveillance mechanisms

Part A: page 24

Question 139

Are customs valuations done exclusively by specialized private enterprises or do government customs offices share in this responsibility?

Reply

See the reply to Question 57.

Question 140

Is it a condition of entry into the Bolivian market for goods to be checked by specialized inspection enterprises at the border?

Reply

The physical inspection of all imported or exported goods, with the exceptions mentioned in paragraph 13 of Circular 060/88 (Annex 17 of the present document), takes place before shipment. In addition, for certain imports there is a selective inspection upon arrival at the customs of destination, upon request by the government. When merchandise arrives in containers, checks are made on 20 per cent of them, which selection is determined by mutual agreement between the Ministry of Finance and the enterprises. Finally, at the importer's request, the Ministry of Finance authorizes inspection to be carried out at destination on merchandise imported without verification of origin.

Question 141

Do these specialized inspection enterprises have any power to influence market entry based on nature and quality of the goods, in addition to their principal function relating to valuation?

Reply

As the question indicates, the principal function of these enterprises is to determine the value of the merchandise. To this end, documentation presented by the enterprises to the Bolivian authorities contains a detailed description of products, including the necessary analyses when the nature of the product requires it.

If the inspection reveals quality, quantity or price anomalies, or anomalies in any other relevant aspect of the operation, the enterprise submits a report of non-conformity. In cases of non-conformity, the final decision is made by the Ministry of Finance.

Products with which these enterprises do not deal include perishable foods and articles having a short shelf life, which require sanitary, phytosanitary, bromatological or other certificates, which are listed in Annex 17 of the present document.

Question 142

Does Bolivia intend to accede to the Customs Valuation Code?

Reply

See the reply to Question 33.

Question 143

Are the fees payable by importers to these private enterprises calculated on the value of the import transaction?

Reply

See the reply to Question 59.

Part B: page 25, paragraph 1

Question 144

Does Bolivia intend to accede to the Government Procurement Code?

Reply

See the reply to Question 33.

Chapter III.7: Institutional organization of foreign trade

Part C: page 28, paragraph 2

Question 145

In what way is information on the regulations and operational measures implementing foreign trade policies made "available, at the request of the interested public".

Reply

See the reply to Question 70.

Question 146

Does Bolivia have plans to publish this information in the Official Gazette where it would be readily accessible to all contracting parties?

Reply

See the replies to questions 70 and 71.

Question 147

Does Bolivian trade law include regulations concerning protection against dumped and subsidized imports?

Reply

There is no anti-dumping legislation, nor are there countervailing duties in Bolivia.

Question 148

Does Bolivia intend to accede to the Subsidy and Dumping Code?

Reply

See the reply to Question 33.

CHAPTER IV: OTHER ECONOMIC POLICIES BEARING ON FOREIGN TRADE

Chapter IV.1: Exchange Rate Policy

Page 29, paragraph 25: Question 149

What is meant by "parallel" exchange rate? Does this refer to a second official rate of exchange?

Reply

See the reply to Question 77.

Question 150

How does the Central Bank determine how much foreign exchange it would provide for auction?

Reply

See the reply to Question 72.

Chapter IV.2: Tax policy

Part A: page 30, paragraph 2(a)

Question 151

What is meant by "definitive imports"?

Question 152

What are the criteria of selection for this category of imports?

Replies to questions 151 and 152

See the reply to Question 82.

Part C: page 31, paragraphs 1 and 2

We note that import documentation is exempt from the payment of consular fees and there are no charges on export certificates.

Question 153

Are there any other charges or taxes levied on import certificates?

Reply

See the reply to Question 133 above.

CHAPTER V: INTEGRATION AGREEMENTS

Chapter V.1: Latin American Integration Association

Part A: page 32

Question 154

Has Bolivia undertaken consultations with the other member States of the Latin American Integration Association and the Andean Group on its request to accede to the GATT?

Reply

LAIA as well as the Andean Group have an internal consultation mechanism with which Bolivia fully complies.

Question 155

Do the tariff preferences under the Latin American Integration Association (LAIA) listed in the table on page 32 refer to percentage reductions from the applied duty rates?

Reply

See the reply to Question 91.

Part B: page 33

Question 156

Will the details of the Partial-Scope Agreements referred to in this section be notified to the GATT pursuant to the Enabling Clause of the General Agreement?

Reply

The Partial-Scope Agreements in which Bolivia participates can be found in Annex 26 of this document. Moreover, the contracting parties members of LAIA submit periodic reports to GATT in relation to the Enabling Clause.

Question 157

Does this preferential treatment extend beyond tariff concessions?

Reply

See the reply to Question 97.

CHAPTER VI: EXPORT PROMOTION

Chapter VI.1: Economic incentives

Part A: page 37

Question 158

Does 10 per cent refund apply to the value of the exported good or to the value of the inputs? If the former, does this involve a refund in excess of the duty paid on the input?

Reply

See the reply to Question 109

Question 159

How does this conform with Article XVI of the General Agreement?

Reply

In the opinion of the Bolivian Government, the Tariff Refund Certificate is compatible with Article XVI of the GATT.

Chapter VI.3: Other incentives

Page 38: Question 160

To what extent will enterprises operating within the free zones be exempted from import levies described in Section IV.2C of the Memorandum?

Question 161

Which sectors will be eligible to set up operations in the free zones?

Replies to questions 160 and 161

See the reply to Question 116.

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