

GENERAL AGREEMENT ON TARIFFS AND TRADE

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ACCESSION OF BULGARIA

Information on new legislation adopted in Bulgaria

The Director-General has received the following communication, dated 26 May 1989, from the Minister of Foreign Economic Relations of Bulgaria with the request that it be circulated to contracting parties.

On 14 June 1988 the Government of Bulgaria transmitted through the services of your office to all contracting parties to the GATT the text of its Memorandum on the Main Features of the Economic and Trade Policies and of the Foreign Trading System of Bulgaria (Memorandum on Bulgaria's Foreign Trade Regime - GATT Doc. L/6364 of 22 June 1988) for examination through the usual procedures in cases of application for accession to the General Agreement. Since the submission of the Memorandum the economic reform in Bulgaria, described in it as an on-going process, has entered into a new substantive phase; a number of new important legal instruments have been adopted.

In normal circumstances the Working Party on Bulgaria, established under GATT Council decision of 5-6 November 1986, would have proceeded to examine the Memorandum. In the process of examination information on these new legal instruments would have duly been presented to the Working Party. However, as of the present the Working Party has not been able to begin examination under the standard terms of reference for such cases. Naturally, the discussions in the Working Party itself would have constituted a valuable input in the drafting of the new instruments as was the expectation of the Bulgarian side, stated at the GATT Council meeting on 16 June 1988 at the presentation of its Memorandum. Since it was not possible to thus benefit from such an examination, in drafting the new legal acts the Bulgarian side has worked on its own to ensure their conformity to the General Agreement.

INFORMATION

on legal acts concerning the foreign trade régime and economic activity in Bulgaria from June 1988 to April 1989

I. INTRODUCTION

1. The present paper contains information on the legal acts adopted in Bulgaria between June 1988 and April 1989 concerning the foreign trade régime as well as government economic policy instruments.¹

2. The major legal act adopted in this period is Decree No. 56 of the State Council of the P.R. of Bulgaria on Economic Activity. This has led to the adoption of a number of acts of legislation and government decisions that have specified the implementation of the principles of the economic reform. At the same time a number of existing legal acts dating from the period before the introduction of the economic reform have been repealed.

3. In the eleven-month period since this submission of Bulgaria's Memorandum new bilateral agreements have been concluded thus requiring the updating of the information in Part III. 1. and Annex XI to the Memorandum. In the period indicated five new agreements for the avoidance of double taxation and four agreements on the mutual promotion and protection of investments have been concluded with several GATT contracting parties.

4. Trade with GATT contracting parties in 1988 amounted to 8,309.6 million leva and imports from them surpassed Bulgarian exports by 143.1 million leva. This flow of trade represents 29.3 per cent of the overall Bulgarian trade in 1988. In the first quarter of 1989 Bulgarian imports from the contracting parties continued to exceed the exports and amounted to 1,069.9 and 718.4 million leva correspondingly.

II. EVOLUTION OF BASIC LEGISLATION

5. Basic Legal Acts adopted between June 1988 and April 1989:

- Decree No.56 on Economic Activity of the State Council of the P.R. of Bulgaria of 9 January 1989;
- Ordinance No.2 of 15 February 1989 of the Council of Ministers;
- Regulations for the Application of Decree No.56 on Economic Activity adopted by the Council of Ministers.

6. In the period since June 1988 another legal act of particular importance for the foreign trading community was adopted. On 29 July 1988 the National Assembly passed a Law on International Trade Arbitration (mentioned in Annex I to the Memorandum) thus making Bulgaria one of the

¹One copy per contracting party of the text in English of the relevant legal acts is being distributed in document Spec(89)30.

few countries to have enacted specific national legislation in accordance with the recommendations of the International Chamber of Commerce on international trade arbitration.

7. Basic Legal Acts which have been repealed:

- Law on Foreign Trade of 1969 (except the provision of its Art.16, concerning the activities of the Arbitration court at the Chamber of Commerce and Industry);
- Law on Income Tax of 1950; - Decree 535 of 1980 on Economic Cooperation between Bulgarian Juridical Persons and Foreign Juridical and Physical Persons;
- Decree 3420 of 1987 on Establishing Taxes Levied on Economic Enterprises;
- Ordinance 35 of 1987 on the Adoption of Regulations on the Collective and Individual Labour Activity of Citizens for Additional Production of Goods and Rendering of Services;
- Ordinance 64 of 1987 on the Adoption of Legislative Acts on Economic Activity;
- Regulations of 1976 on the Application of the Law on Foreign Trade;
- Rules on Temporary Representations of Foreign Firms in the P.R. of Bulgaria of 1975;
- Rules on Economic Activities of Self-Managing Economic Organizations with Foreign Investment Participation in the P.R. of Bulgaria of 1987;
- Rules on Procedures for Supervision and Control on Self-Managing Economic Organizations' Economic Activities Carried out with Foreign Investment Participation in the P. R. of Bulgaria of 1987;

8. The main practical consequences for the foreign trading system and economic activity in Bulgaria relate to the organization of the foreign trade, licensing, foreign investments and taxation.

III. ORGANIZATION OF THE FOREIGN TRADING SYSTEM

9. In accordance with the Decree the firm is the basic form for carrying out economic activities (Art. 2, para. 1) and not the enterprise, as mentioned in the Memorandum. All firms operate under the general requirement of self-financing (Art. 10, para. 1). The Decree restates the principle that the state is not responsible for the firms' obligations and vice-versa (Art. 7). The firms may establish partnerships and unions (Art. 8) and chose freely their supply sources and marketing strategies.

10. The Decree delineates the rights and obligations of the firms:
- the firm may carry out foreign trade by itself, by a society of which the firm is a partner or through another firm (Art.17. para.2);

- the firm may perform any economic activities, except those prohibited by the law, a decree or a deed of the Council of Ministers (Art.17. para.1).

11. The firm's foreign trade is carried out freely, without applying for permission from a state institution (Art.17. para.3.). Equal conditions are ensured for the operations of all firms (Art. 4, para. 1). The legislation is neutral in respect to the forms of property, thereby no specific advantages exist for the state firms. The firms draw up independently their own economic activity programmes on the bases of signed contracts, economic conditions, state orders and their own marketing strategies (Art. 85).

12. After the issuance of Decree No. 56 till the 15 May 1989 in the court have been registered firms as follows: 166 State owned, 43 municipal, 6 of public organizations, 9 Limited Liability, 1 Unlimited Liability, 913 firms of individual citizens, 242 collective citizens' firms and 28 citizens' partnerships.

Foreign investments

13. Foreign firms are able to carry out economic activities in the country independently, through wholly owned subsidiary or through a partnership in accordance with the relevant provision of the Decree (Art. 99, para. 1 & 2). All foreign firms are guaranteed equal treatment under the Decree (Art. 4, para. 2). Labour relations are founded on contractual bases.

14. In order to encourage foreign investments and enhance economic cooperation with foreign partners more favourable treatment in taxation is given to foreign companies, their subsidiaries, to mixed joint stock and limited liability companies with foreign participation higher than 49 per cent. The profit of such mixed companies and subsidiaries of foreign persons is taxed 30 per cent. The incomes of foreign persons from dividends and shares in Bulgarian companies, interests, royalties from licences and authorship, fees for technical services and rents are taxed at the rate 15 per cent.

Licensing

15. The scope of application of the licensing system has been limited to types of transactions that still require prior approval (Art. 19 of the Decree) and to the administration of export and import quotas when such quotas are introduced by the Council of Ministers (Art. 18 of the Decree).

16. Thus, for all types of business transactions and products which are not explicitly specified in an Ordinance of the Council of Ministers for the implementation of the above-mentioned provisions of the Decree a licence is not required as a prior condition for exportation or importation. In this case a declaration is filled by the firm which is presented and automatically registered (within 7 days after the conclusion of the respective foreign business transaction) at the Ministry of Foreign Economic Relations. This declaration has been established as an unified

document for customs purposes, compiling of foreign trade statistics, current analyses of exports and imports and of the balance of payments situation and replaces the different forms required up to now by the Customs Administration, the Statistical Office and the Bank. This declaration has been designed as to make convenient computerized processing. According to the provisions of the Agreement on Import Licensing Procedures the declaration is not considered as a licence.

17. Individual licensing is maintained for import and export transactions which require prior permit. This regime is applied mainly for monitoring transactions related to obligations undertaken at intergovernmental level (barter and clearing agreements), exports under government credits, specific transactions (under provisions for technical assistance, for labour force and engineering services), as well as transactions requiring wide experience and expertise (import and export of complete plants and single deals worth more than 5 million US dollars). The application for such a licence is submitted prior to the conclusion of the respective contract.

18. Exports are free except in cases where non-automatic licensing is applied for the administration of temporary measures to safeguard the country's external financial position and its balance of payments as well as to prevent critical shortages of foodstuffs and other essential products on the internal market. At present such licences are applied only for administering export quotas for some basic consumer goods for which a tense supply and demand situation exists on the internal market.

19. The applications for issuing of licences are also based on the unified form used for customs, statistical and banking purposes which facilitates and simplifies documentation turnover and ensures transparency and compatibility of information for all foreign business transactions. Without prejudice to the Bulgarian position concerning the acceptance of the Agreement on import licensing procedures the current licensing practices are in conformity with the requirements of the Code.

Taxation

20. Under the new economic legislation the taxation system was further simplified and streamlined by reducing the number of taxes and by further unifying tax rates. As of 1 January 1989 the tax on fixed production assets and the tax on working capital were abolished. The tax on manpower was substituted for a tax on the increase in the wages fund of a firm. The transition from differentiated tax rates to unified rates was completed in relation to profit tax, where former 40 and 60 percent rates were replaced by a unified 50 per cent rate (Art. 87 of the Decree).

21. The "resource taxes" introduced in 1988 (on fixed production assets, on working capital and on manpower) proved to be a very rigid tax instrument which only marginally contributed to more efficient utilization of factors of production. Consequently those taxes were abolished in 1989. A more flexible tax on the increase in the wages fund was introduced which also replaced the fixed maximum yearly increase of this fund. It is

considered that this tax instrument for stimulating efficiency and resource saving in the economy would better correspond to the strengthened autonomy of the economic operators and their freedom in decision-making.

Monetary and financing policies

22. The central issue in the field of monetary and financing policies at the new stage of the economic reform was to further adjust the regulations on payments so as to enhance the autonomy of the economic operators and to ensure monetary discipline both at the macro- and micro-economic levels. It was considered that in addition to the flexibility already provided for in the access to tenders and commercial credits in foreign currencies a system of more limited reallocation and greater involvement of the firms in increasing foreign exchange receipts centralized by the National Bank should be introduced.

23. A further new element in the progressive introduction of financial market is that companies have also acquired the right to sell directly to another company foreign exchange or to establish with its partners common funds for covering convertible currency needs.

24. Thus Bulgarian firms may acquire at present foreign currency from their receipts from exports of goods and services, by purchasing from the Banks and at auctions, through common company funds, as well as from short and long term credits denominated in foreign currency by Bulgarian commercial banks and foreign banks.

25. The present system is of transitional character corresponding to the current stage of the reform and the overall economic situation in the country. It may be regarded as an initial step towards the progressive introduction of a national financial market for foreign exchange. Some elements of the current system are also inevitably linked to specific balance of payments considerations. However, by increasing the interest of companies in their financial results and by strengthening their autonomy a more effective means of enhancing net foreign currency earnings is sought after, than the overall administrative centralization and redistribution of foreign currencies.

IV. PRACTICAL STEPS IN OTHER FIELDS OF ECONOMIC ACTIVITY

26. The rôle of the so-called State orders, as an ad hoc instrument responding to particular necessities, in the new circumstances is further diminished. State orders will represent contractual agreement where the State, together with the company involved, equally assumes specific obligations. It is explicitly stipulated in the regulations that at present not a single company should be ordered with State orders exceeding 2/3 of its productive capacities. For 1989 it is envisaged that placed State orders as a whole will not be more than 20 per cent of the industrial production, while in agriculture they will cover only several basic products for the fulfilment of international obligations, the definition of national material balances and for the food industry, leaving scope for market based instruments to grow in importance.

27. The Decree firmly establishes prices as the central element in development of market environment. As a general rule prices of goods and services are bargained between buyers and sellers in accordance with prices on international markets and with the demand and supply on the internal market. The prices of individual transactions are set by the firms (Art. 86, para.1). For a specific range of basic raw materials and essential consumer goods prices continue to be set or registered as maximum prices by government bodies (Art. 86, para. 2).

28. The price formation mechanism has been simplified. The result of this process during 1989, the second year of the price reform, is that its scope of application has considerably widened covering at present the wholesale prices of 70 per cent of the goods produced (in 1988, at the time of the presentation of the Memorandum, that share was 22 per cent). The products of the agro-industry, the light industry and the construction materials, closely linked to complex issues, including social policy and standards of living considerations, will be subject to adjustments at the next stage of the reform. Consequently a considerable proportion of prices for those groups are set by the authorities as fixed ceiling retail prices. The introduced closer link between wholesale and retail prices will also have substantial implications for the price reform in this group of basically consumer goods. However, the basic orientation is to maintain relative retail price stability.