

**GENERAL AGREEMENT  
ON TARIFFS AND TRADE**

RESTRICTED  
Spec(94)20/Rev.1  
28 October 1994

(94-2223)

---

**DRAFT REPORT OF THE WORKING PARTY ON  
THE ACCESSION OF BULGARIA**

Revision

1. At its meetings on 5-6 November 1986, and 20 February 1990, respectively, the Council established a Working Party to examine the application of the Government of Bulgaria to accede to the General Agreement under Article XXXIII, and to submit to the Council recommendations which might include a draft Protocol of Accession. It was understood that in its examination, the Working Party would consider the compatibility of Bulgaria's foreign trade regime with the General Agreement with regard inter alia, to the provisions concerning national treatment, non-discrimination, State-trading, subsidies and safeguards.

2. The Working Party met on 15-16 July 1991, 12-13 July 1993, 4-5 November 1993, 28-29 March 1994, 7-8 July [and ...November] 1994 under the chairmanship of H.E. Mr. E.C. Selmer (Norway). The terms of reference and the membership of the Working Party are set out in document L/6667/Rev.2.

3. The Working Party had before it, to serve as a basis for its discussion, the Memoranda on Bulgaria's Foreign Trade Regime (L/6364 and Add.1, L/6512, L/6880 and Add.1-3, L/7244) and the questions submitted by contracting parties on the foreign trade regime of Bulgaria together with the replies of the Bulgarian authorities thereto (L/6867, L/7309/Rev.1, L/7309/Rev.1/Add.1). In addition, the Government of the Republic of Bulgaria made available to the Working Party the following material:

- \* Constitution of the Republic of Bulgaria, adopted in 1991
- \* Law on Commerce, adopted in 1991
- \* Law on the Ownership and the Use of Agricultural Lands, adopted 1991
- \* Law on Accountancy, adopted in 1991
- \* Law on Value Added Tax, adopted in 1993
- \* Law on the Excise Duties, adopted in 1994
- \* Law on the Protection of Competition, adopted in 1991
- \* Law on the Bulgarian National Bank, adopted in 1991
- \* Law on the Economic Activity of Foreign Persons and on the Protection of Foreign Investments, adopted in 1992
- \* Law on Transformation and Privatization of State-owned and Municipal Enterprises, adopted in 1992

- \* Law on Banks and Credit Activity, adopted in 1992
- \* Patent Law, adopted in 1993
- \* Law on Copyright and neighbouring rights, adopted in 1993
- \* Tax Administration Law, adopted in 1993
- \* Tax Procedure Law, adopted in 1993
- \* Act on the Settlement of Non-Performing Loans Contracting Prior to 31 December 1990, adopted in 1993
- \* The Tobacco and the Tobacco Products Act, adopted in 1993
- \* Customs Tariff of the Republic of Bulgaria, in force from 1 July 1992
- \* The Bulgarian foreign trade régime under Ordinance 241 of December 1993 of the Council of Ministers
- \* Regulations 180/1993 and 181/1993 on safeguard measures and on protection against dumped and subsidized imports
- \* Bulgarian 1992 import statistics
- \* Information on progress of the privatization process of State and Municipal Enterprises by 28 February 1994.
- \* Information concerning companies offered for privatization

4. In his statements to the Working Party, the representative of Bulgaria noted that the accession to GATT was a priority for his Government and an important objective of the reform programme currently under way in Bulgaria with the whole-hearted support of the new democratic structures in place since 1991. He stressed that the Bulgarian economy was in transition. Since 1991 his Government had pursued decidedly the transformation to a market economy through a far reaching process of structural adjustment and liberalization which needed the firm support of the international community. Even though in 1992 GDP per capita was only US\$ 983, Bulgaria had chosen not to claim developing country status on the expectation that contracting parties could recognize this position as a significant contribution on the part of Bulgaria towards full participation in the multilateral trading system. He added that in 1993 due to the considerable liberalization of the Bulgarian foreign trade regime and to the absence of trade policy instruments to deal with the importation of goods in such increased quantities and under such conditions as to cause or threaten to cause serious injury to domestic producers, the Government had had to introduce, as a temporary measure, a system of reference import prices affecting some agricultural imports. This measure aimed at preventing distortions in the domestic market in the meat, fresh fruit and vegetable sector resulting from the importation of heavily subsidized agricultural production. Bulgaria would align these measures with the GATT requirements upon Bulgarian accession. In the case of imports of beverages and tobacco products the measure was aimed at avoiding under invoicing. Since the earlier meetings of the Working Party, the description and the established levels of export taxes for some tariff lines had been changed; the quota amount for ice cream had been increased by 50 per cent; two eight-digit tariff lines had been introduced in the Bulgarian Customs Tariff. He stated also that Bulgaria was presently in a difficult economic situation. This was partly due to the unresolved debt to the private banks and partly to the severe repercussions in the Bulgarian economy of the trade and economic sanctions against Serbia and Montenegro. In observing the UN Security Council embargo against Serbia and Montenegro, Bulgaria had suffered huge direct and indirect

losses. Bulgaria considered that the prompt conclusion of the proceedings of accession to the GATT would represent in a way an indirect compensation for some of these losses. Noting that the Bulgarian economy and foreign trade were undergoing profound transformations, he said that this process would continue with additional structural adjustment measures to avoid internal economic and social tensions. Bulgaria considered the accession to GATT as a very important stage in the adjustment process of the Bulgarian economy to the principles of the world economy and the multilateral trading system which would further the participation of Bulgaria as a reliable trade and economic partner in the international community and also contribute to the country's stability. Bulgaria had been associated as a country acceding to GATT with the concluding phase of the Uruguay Round Multilateral Trade Negotiations and envisaged commencing the process of accession to the World Trade Organization in the near future. Bulgaria's incorporation into the multilateral trading system should also be seen as a step towards consolidating the democratization of the Bulgarian society.

5. Noting that Bulgaria had been implementing far reaching reforms aimed at liberalizing the foreign trade regime and bringing it into conformity with the multilateral trading system, members of the Working Party welcomed the application of Bulgaria for accession to the General Agreement. In expressing support and encouragement for Bulgaria's efforts to continue to reform and liberalize its economy, members stated their firm conviction that accession to GATT would facilitate the country's transition to a market economy and would contribute to improving the standard of living of the Bulgarian people by ensuring stability and attracting further investments which would be job creating and lead to better competitive conditions for Bulgaria's exports in world markets. In this regard they noted that the market access concessions negotiated in the context of the Uruguay Round which were significant would be available to Bulgaria upon becoming a member of the World Trade Organization.

#### Tariff Negotiations

6. The Working Party noted that in response to the invitation of Bulgaria, a number of contracting parties had entered into tariff negotiations with Bulgaria relating to its accession. Some members of the Working Party said that in the bilateral tariff negotiations they would seek the binding of the whole Bulgarian tariff as well as other tariff concessions at a rate commensurate with Bulgaria's development level and participation in world trade. In response the representative of Bulgaria said that his Government was ready to bind the country's tariff at a level consistent with Bulgaria's financial, development and trade needs, on the understanding that the resulting package of tariff and trade concessions would also constitute the contribution of Bulgaria to the Uruguay Round market access negotiations for the purpose of membership in the World Trade Organization.

## I Economic Transition

7. In response to questions concerning recent economic developments in Bulgaria, in particular the role of the State, its share in the productive capacity of the economy and the manner in which the ownership responsibility over firms was exercised, the representative of Bulgaria said that the Bulgarian economy was heavily dependent on foreign trade. In the past several years, Bulgarian foreign trade had declined mainly due to the collapse of trade with its partners from Central and Eastern Europe and due to the strict application of the embargoes towards Iraq, Serbia and Montenegro in accordance with UN Security Council resolutions. Following the disruption of trade with the former CMEA countries, trade flows with the OECD countries had gained momentum. He added that in parallel with the elaboration of a new legislative framework, the Government of Bulgaria had embarked on a comprehensive macroeconomic stabilization and structural reform programme with support from the international financial institutions. The programme aimed at two main policy objectives. First, to achieve progress towards a sustainable external position, including the revival of foreign trade, the diversification of external markets and an improvement in Bulgaria's international reserves position, as well as progress towards resolving Bulgaria's external debt situation. Second, to move towards restoring macroeconomic equilibrium through the appropriate mix of fiscal, monetary and incomes policies. A key step in this regard was to reduce the size of the fiscal deficit, to tighten the monetary supply and credit expansion and to limit the uncontrolled income growth. The expectation being that progress towards macroeconomic stability would create a favourable environment for the emerging private sector and for non-inflationary growth. The following results had been achieved in implementing the above-mentioned programme. In 1991-1994 important reforms had been undertaken towards price liberalization, the liberalization of the trade regime and the process of privatization, as well as in the financial sector and in agriculture. The Government had freed virtually all prices in the economy. Nevertheless, the 1991 three-digit inflation rate had been substantially reduced and remained under control. Thus, the 1993 yearly inflation rate of 63.9% had decreased in February 1994 to a 4.6% monthly level. He recalled that in July 1992 Bulgaria had introduced a new customs tariff based on the Harmonized Commodity Description and Coding System. Since then the customs tariff had become the main trade policy instrument in the economy. All economy units, irrespective of their ownership whether private or public had acquired the right to carry out foreign trade activities. The licensing system applied in the past which had involved direct government regulation of almost all foreign trade had been eliminated. In the financial sector, a two-tier banking system had been established. The national currency, the leva (BGL), had attained internal convertibility for current account transactions. The rate of the BGL quoted daily by the Bulgarian National Bank reflected the average weighted rate of sales and purchases of foreign currencies on the inter bank market. The exchange rate of the BGL quoted by the Bulgarian National Bank, served only as a reference to the licensed commercial banks

and exchange bureaux. Customers could freely negotiate the exchange rate with commercial banks and the foreign exchange agents licensed for carrying out such operations.

8. In his statements to the Working Party, the representative of Bulgaria also recalled that since the establishment of parliamentary democracy in the early 90s, fundamental political and economic changes had taken place in Bulgaria. The country had embarked upon a radical economy reform programme aimed at transformation to a market economy. The trade reform had opened the economy to external competition and the Law on the Economic Activity of Foreign Persons and on the Protection of Foreign Investments had also Bulgaria's economy opened to foreign investors. The main reforms already in place were as follows: the elimination of the State monopoly of foreign trade in 1989, free access to foreign exchange for current account transactions in 1991, the central role of the tariff and the virtual removal of quantitative restrictions on imports, the rationalization of the taxation regime, the decentralization of the State-owned sector and the transfer of productive property to the private sector.

#### **Foreign Exchange Regime**

9. In response to questions concerning current foreign exchange regulations the conditions for its acquisition and use and whether there was any discrimination in the availability or the exchange rates for imports of capital equipment, intermediate goods, consumer goods or new materials, the representative of Bulgaria said that following the establishment in 1991 of an inter bank market the rate of the BGL against the US\$ was quoted daily by the Bulgarian National Bank (i.e. the Central Bank) and reflected the average weighted rate of sales and purchases of foreign currencies on the inter bank market. The exchange rate of the BGL, quoted by the BNB, was applied for the purposes of statistics, accounting and customs valuation. It was not obligatory for transactions and served only as a reference to the licensed banks and exchange bureaux. Customers freely negotiated the exchange rate with the commercial banks and the foreign exchange agents. They had the right to sell or purchase foreign exchange without any restrictions. Companies could freely buy from the inter bank market the foreign exchange needed for payments in connection with imports and other types of current account transactions, as well as trade foreign currencies among themselves. There was no surrender requirement for the foreign currency earned. Local persons and foreigners could freely trade foreign currencies on the interbank currency market for current account transactions. No restrictions existed for nationals and foreign persons to open accounts in foreign currencies with commercial banks and to dispose of the funds in their accounts.

10. Some members noted that Bulgaria maintained bilateral payment agreements with a number of countries, including Albania, Belarus, Cambodia, China, Ethiopia, Finland, Ghana, Greece,

Mozambique, Peru, Romania, the Russian Federation and Ukraine and asked whether trade payments and/or foreign exchange provisions in these agreements differed from such arrangements/provisions with other countries. In response the representative of Bulgaria said that there were no operational payments agreements denominated in non-convertible currencies. Trade with all countries was conducted under normal commercial considerations in convertible currencies.

### **Price Policy**

1 1. Some members enquired whether the State Council Decree of February 1988 which authorises the State to "prevent unlawful increases in prices" was in force and asked for a detailed description of the price control mechanism. In response the representative of Bulgaria said that the 1991 Constitution stipulates in its Article 19 paragraphs 1 and 2 that the Bulgarian economy is based on free entrepreneurship and the Law creates and guarantees to all citizens and legal persons equal juridical conditions for economic activity, preventing the abuse of monopolies and the unfair competition. The application of State Decree 115/1988 was envisaged as long as some fixed prices as well as monitoring existed. The price control mechanism which was irrespective of the ownership embodied fixed prices, ceiling prices and prices under Government monitoring. Fixed prices applied to the following energy products: electricity; heating energy; coal for production purposes and for home heating, briquettes (imported coal for production purposes was not subject to fixed prices). These products were estimated to account for less than 10 per cent of retail and wholesale turnover. The fixed prices had been raised several times since the initial increase in 1991. The number of products under fixed-price had been reduced and the restriction on petroleum prices lessened. The policy was to gradually liberalise fixed prices with a view to their abolition in 1995. Ceiling prices were set by the Government for the sale of the following goods: crude oil; gasoline; diesel oil; gas oil for industrial purposes and fuel oil; gas propane-butane. The ceiling prices were calculated on the basis of the international market prices at the exchange rate of the BGL, considering the customs duty and the excise tax. The ceiling prices were determined on a fortnight basis, and thus reflected changes that might occur. Government monitoring through a ceiling on profit margins was maintained in respect of the prices of the following goods: two types of flour; two types of bread; meat with bone; cow's milk; chicken; Bulgarian yoghurt from cow's milk; white cheese in brine from cow milk; pharmaceutical preparations. The Government was fully aware that in the long term price controls depress supply and the goods under price control are substituted by the traders on the market, whenever possible, by products with fully liberalized prices. The price control was regarded as a temporary measure in the economy in transition, applied to cushion social problems. The system of food price monitoring was introduced with the view to suppressing the tendency towards steep increases in profits on the sale of some goods and establishes a tax on excessive profits. However, this mechanism had not been enforced effectively. Fresh drinking water for household consumption, and passenger railway and road transport fares had been included in the

group of goods and services under government price monitoring. The representative of Bulgaria said that currently the goods and services with fixed prices account for 2.06% of GDP, goods with ceiling prices 1.74% and goods and services under price monitoring 5.11%. Thus the total equals to 8.91% of GDP. The price control measures which Bulgaria expected to abolish by 1995 did not discriminate against imports. The Working Party took note of these assurances.

#### **State-Owned Enterprises and Privatization**

12. Some members requested a comprehensive list of enterprises wholly or substantially owned by the State and the products in which they traded as well as their trade volume and value and asked for information on the role of the State in management and decision making, the bankruptcy and liquidation of State-owned firms. Members also requested a description of the Privatization Law, and the functions and operations of the Agency on Privatization as well as the current status and the future prospects of the privatization process. In response, the representative of Bulgaria said that the number of State enterprises was about 4,500. The Privatization Programme for 1993 had envisaged privatization of 318 enterprises, including 150 differentiated assets. Privatization was one of the most essential elements in the structural reform in Bulgaria. This process had started at the beginning of 1992 with the restitution laws which affected mainly industrial and residential property, small shops and agricultural land. The legal regulation of privatization in Bulgaria was contained in the Law on Transformation and Privatization of State and Municipal Enterprises (published in State Gazette No. 38 of 1992). The State authorities engaged in the privatization process are as follows: (i) The Parliament: adopts legislative acts, adopts the annual privatization programme submitted by the Council of Ministers, appoints six members of the Supervisory Board of the Agency for Privatization, supervises the fulfilment of the annual privatization programme, and in particular approves the report on its fulfilment given by the Agency for Privatization. (ii) The Council of Ministers: adopts regulations on the implementation of legislative acts, authorises the relevant government bodies for small-scale privatization (less than BGL 10 million balance sheet value of assets of the enterprise under privatization), approves the privatization of enterprises with balance sheet value of the long-term assets exceeding BGL 200 million, appoints five members of the Supervisory Board of the Agency for Privatization. (iii) The Agency for Privatization is a government body authorized to organize and control the privatization of State-owned enterprises as well as to carry out privatizations in the cases provided by the law. It is a budget-financed legal person; licenses Bulgarian and foreign appraisers, drafts the annual privatization programme and submits it to the Council of Ministers, organizes and controls privatization effected by other bodies, privatizes State-owned enterprises with a balance sheet value of long-term assets exceeding BGL 10 million (about 30 per cent of the total number of State-owned enterprises). (iv) Government bodies, authorised to carry out small scale privatization: The Council of Ministers has granted privatization competence to some ministries and committees with respect to State-owned enterprises with a balance

sheet value of long-term assets up to 10 million BGL. Those government bodies take decisions for privatization, carry out the privatization process and conclude the privatization transactions. (v) Municipal Councils: the Municipal Councils are responsible of the privatization of municipal enterprises, regardless of their balance sheet value of long-term assets. The Law regulates the basic framework within which the process of privatization is effected. The competence for taking privatization decisions is allocated to the State or to municipal bodies depending on the form of ownership and assets to be privatized. The Law provides for equal treatment of all participants in privatization. The right of preferential participation has been established only for workers and employees with a minimum length of service at the enterprise undergoing privatization prior to the date of declaration of the privatization decision. In cases of selling of shares and stock owned by the State and Municipalities, the employees have the right to buy up to 20 per cent of the shares of the common stock of the capital of the company at a 50 per cent discount on the fixed price. Only if 30 per cent of the employees declare that they will participate in the auction or competition, they become owners of the assets with a 30 per cent reduction of the price, declared as definitive. The original selling price of shares, the initial price of the auctions and the tender price at holding competition or negotiations are determined on the basis of a value appraisal of the enterprise. The Law regulates the following methods of organizing the sale of shares and stock owned by the State and the Municipalities which may be applied simultaneously: open sale (applied only for shares and after preliminary co-ordination with the Privatization Agency), public auction, publicly announced competition and negotiations with potential buyers. The sale of State and municipal enterprises or parts thereof is effected through auction or competition. The ownership can be transferred by renting for a period up to 25 years with a clause for buying out; management with clause for buying out or selling to third person; sale by paying by instalments with retention of ownership; sale under deferment and discontinuation conditions such as maintaining the previous activity of the enterprise, the work places, making investments, obtaining certain results etc. The provisions of the Law on Transformation and Privatization of State and Municipal Enterprises were applied also with respect to selling property of State and municipal enterprises that have been closed down owing to insolvency or for other reasons, left after paying off all debts in accordance with the rules of closing down in case of insolvency, as well as whole enterprises transformed into commercial companies or differentiated parts which are fully owned by the State and the Municipalities with a book value of the fixed assets below BGL 10 million. Privatization was possible through restitution as well. The representative of Bulgaria distributed a table on the progress of the privatization process in Bulgaria. By 28 February 1994 the share of the private sector in the Bulgarian economy was increasing not only because of privatization, but also due to the emergence of new private firms. The share of the private sector was as follows: in retail trade - 56% of sales (semi-annual figure for 1993); in construction - 16% of sales (semi-annual figure for 1993); in transport - 5% of sales (semi-

annual figure for 1993); in GDP produced in agriculture - 45% (annual figure for 1992). Recent estimates put at 25% the contribution of the private sector to GDP.

13. The representative of Bulgaria added that the present status (by February 1994) and the forecast for the implementation of the Privatization Programme until the end of 1994 by Ministries, other Governmental departments and Municipalities was as follows:

| INFORMATION ON PROGRESS OF THE PRIVATIZATION PROCESS OF STATE ENTERPRISES BY 28.02.1994 |                      |                      |                         |                          |                   |                       |                       |                            |                |       |
|---|----------------------|----------------------|-------------------------|--------------------------|-------------------|-----------------------|-----------------------|----------------------------|----------------|-------|
| STEP UNDERTAKEN   | Privatization agency | Ministry of Industry | Ministry of Agriculture | Ministry of Construction | Ministry of Trade | Ministry of Transport | Committee on tourisme | Com. on Posts and Telekom. | Com. on energy | TOTAL |
| 1   |                      |                      |                         |                          |                   |                       |                       |                            |                |       |
| Decision to open the procedure  | 73                   | 68                   | 39                      | 16                       | 105               | 80                    | 12                    | 1                          | 1              | 395   |
| - on whole enterprises  | 65                   | 66                   | 17                      | 10                       | 86                | 68                    | 12                    | 1                          | 1              | 326   |
| - on separate enterprises   | 8                    | 2                    | 22                      | 6                        | 19                | 12                    |                       |                            |                | 69    |
| Tenders for evaluation announced  | 40                   | 63                   | 37                      | 13                       | 48                | 61                    | 9                     |                            |                | 271   |
| Evaluations assigned  | 32                   | 51                   | 38                      | 14                       | 50                | 47                    | 9                     |                            |                | 241   |
| Evaluations accepted  | 29                   | 26                   | 31                      | 13                       | 37                | 17                    | 5                     |                            |                | 158   |
| - returned  | 1                    | 1                    |                         |                          |                   |                       |                       |                            |                | 2     |
| Under preparation - total   | 23                   | 7                    | 11                      | 12                       | 55                | 3                     |                       |                            |                | 111   |
| - auctions  | 1                    |                      |                         | 1                        |                   | 1                     | 1                     |                            |                | 4     |
| - tenders   | 2                    | 1                    | 6                       | 10                       |                   |                       |                       |                            |                | 19    |
| - direct negotiations   | 20                   | 6                    | 5                       | 1                        |                   | 2                     |                       |                            |                | 34    |
| Tenders, auctions or direct negotiations  | 5                    | 25                   | 19                      | 11                       | 10                | 2                     | 3                     |                            |                | 75    |
| - auctions  | 1                    |                      | 8                       | 1                        | 1                 |                       |                       |                            |                | 11    |
| - tenders   | 1                    | 6                    | 5                       | 9                        | 5                 |                       | 3                     |                            |                | 29    |
| - direct negotiations   | 3                    | 19                   | 6                       | 1                        | 4                 | 2                     |                       |                            |                | 35    |
| Transactions concluded - total  | 16                   | 6                    | 9                       | 8                        | 40                |                       |                       |                            |                | 79    |
| - auctions  | 7                    |                      | 5                       |                          | 15                |                       |                       |                            |                | 27    |
| - tenders   | 3                    | 5                    | 3                       | 7                        | 22                |                       |                       |                            |                | 40    |
| - direct negotiations   | 6                    | 1                    | 1                       | 1                        | 3                 |                       |                       |                            |                | 12    |



Due to technical reasons Bulgaria was not in a position to provide exact data on the share of State-owned companies in foreign trade. However, the share of the private sector in Gross Domestic Product<sup>1</sup> was as follows:

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

<sup>1/</sup> Computed at current prices.

<sup>2/</sup> Data based on estimate.

<sup>3/</sup> Incl. construction, etc.

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

14. The representative of Bulgaria added that State intervention in the economic activity of all companies has been abolished. Article 19 of the Constitution of Bulgaria states, *inter alia*, that the economy of Bulgaria is based on the principles of the free entrepreneurship and that the legislation shall create and assure equal legal conditions for carrying out economic activities for all legal and natural persons, thus establishing the principle of non-discrimination between State-owned and private enterprises. Privileged protection of State property has been deleted in the Penal Code. Moreover, the Law on the Protection of Competition of 1991 prevented enterprises from abusing their dominant position which could lead to a restriction of competition. The 1991 Law on Commerce and all other legislation provide for a legal status of State-owned enterprises entirely identical with that of private enterprises. Upon the "corporatization", i.e. the transformation of State organizations into joint-stock or limited liability companies, their autonomy from the Government is guaranteed so that their activity is based on commercial considerations only. Thus the State's role in State-owned enterprises is restricted to that of an ordinary shareholder. The State-owned enterprise is an independent legal person being a titular of its property and acting on its own economic and legal responsibility. State-owned enterprises are

in a position to define independently their own market behaviour, to implement it through the respective operational decisions and to conclude commercial transactions of any kind in accordance with the customary business practice and the legislation in force. Neither economic nor legal privileges are granted to them by the Government. The legal status, the position of the State as a regular shareholder and the identical legal and economic treatment of State-owned and private enterprises are guarantees that the State will not be involved in enterprise policy making. The members of the Management and Supervisory boards of the State-owned enterprises are appointed pursuant to Article 137, paragraph 1, subparagraph 5 and Article 221, paragraph 1 of the Law of Commerce. The selection process is based on certain requirements with respect to education, qualification, business experience, etc. The candidates for an appointment should meet the above mentioned criteria. Individual candidacies are considered on a competitive basis. The selected candidates or candidate negotiate a Management Contract with the respective governmental body. This contract regulates the relations between the Management and Supervisory Boards and the relevant governmental body. As a rule the Management Contracts are of three years duration and can be terminated on grounds strictly defined so that a stable management of the State-owned enterprises is guaranteed in accordance with the general requirement of compliance with the labour legislation in force. Parliament was in the process of adoption of the Bankruptcy Law. In the draft law, there were no privileges for State-owned firms or interference of the State in the bankruptcy procedures. At present bankruptcy and liquidation are still governed by Chapter 3 (Articles 65 to 81) of Decree 56. Insolvent companies can be offered for liquidation by the State or by the servicing banks. However there is a difference in the procedure: the Council of Ministers or the appropriate Minister simply issues a formal decision to such effect, whereas the banks and creditors have to start formal proceedings before the court.

15. Finally, the representative of Bulgaria said that in December 1993, the Parliament had adopted the Law on the Settlement of Non-Performing Loans Contracted Prior to 31 December 1990. Loans contracted by companies and banks with State-ownership over 50% before 31 December 1990 and with arrears of more than 180 days would be replaced by long-term bonds denominated in BGL and in US\$. The bonds issued in pursuance of the provisions of this Law could be used both as securities and in the process of privatization. Within three months from the transformation of the loans, the managing bodies of the companies should develop programs for restructuring aimed at stabilizing the financial situation of the enterprises. He added that the break-up of most large State-owned enterprises into smaller units had been virtually completed. These new enterprises were registered under the 1991 Law on Commerce (the Company Act) as commercial companies (both joint-stock companies and limited liability companies) with the State as a single shareholder, thus legally prepared for privatization.

In conclusion, the representative of Bulgaria expressed the view that the restitution of many urban properties and privatization had created a dynamic private sector which already accounts for a third of all economic activity in the country.

16. A number of members of the Working Party expressed appreciation for the clarifications concerning the status and prospects for Bulgaria's efforts to privatize State-owned enterprises and the manner in which the State exercised its ownership in State-owned firms and the role of state-owned enterprises in international trade. These members noted, however, that while Bulgaria was constructing the legal framework for equality of treatment of private enterprises with State firms and the eventual separation of former State firms from government association after privatization, the current rules for the management of State-owned firms contemplated a State role in enterprise operations. For example, Government ministries appointed the Management and Supervisory Boards that select the management of State firms and that negotiate the terms of a Management Contract with the selected individuals. These contracts regulated the relationship between management, labour, and the State, and there were areas, such as the establishment of subsidiaries, where the management was required to consult with the Government. Even though Bulgaria had stated that the Government was not liable for State enterprises debt, the most recent regulations had transferred the ultimate responsibility for great deal of State enterprise debt from the banks to the Government, in order to allow the banks to reorganize their role in Bulgaria's economy and free up resources for new loans. At the present time, a full separation of the State from the still sizeable and economically critical State-owned sector was not possible, and the enactment of a Bankruptcy Law had been delayed. Moreover, in their view, Bulgaria's privatization process was proceeding very slowly because of the approximately 4,500 State firms slated for transfer to private ownership under the Law on Transformation and Privatization of State and Municipal Enterprises, Bulgaria was currently in the earliest stages of preparing some 400 for sale and the reasons for cautious progress were clear. It would appear, therefore, that the setting up of an economic basis independent of the Bulgarian State would be a long-term project. While respecting Bulgaria's statements concerning its ultimate goals and intent to establish a market-driven economy based on private ownership, these members believed that for accession both to GATT and the WTO the relationship between the Bulgarian State and its trade and industry had to be clear. As a minimum they expected transparency and dialogue as Bulgaria's economic transition progressed and would intend to address these issues in the Protocol of Accession of Bulgaria. A member recalled that Bulgaria had the commitment to keep the CONTRACTING PARTIES informed of these developments.

## II Tariff Policy

### Customs Tariff

17. Some members of the Working Party noted that Bulgaria had relatively high and recently increased average tariff levels which for some items had reached 40-55%, particularly in the agricultural sector. They requested that Bulgaria justify these rates and describe how the tariff structure would develop over the next 5-10 years. In response the representative of Bulgaria said that as a result of the price reform the removal of the import restrictions and the drastic changes in import licensing, tariffs had become the main trade policy instrument. A new import tariff based on the Harmonised Commodity Description and Coding System was in force in Bulgaria as of 1 July 1992. The new customs tariff contained ninety-six chapters, 1,241 four-digit headings, 5,018 six-digit headings and 812 eight-digit headings. The Tariff contains two columns. The first column specifies rates under Bulgaria's Generalized System of Preferences scheme. The second column specifies most-favoured-nation rates (m.f.n.). Imports from least-developed countries were subject to zero tariff rates. The tariff for imports from countries which do not apply m.f.n. treatment to Bulgaria were 200 per cent of the m.f.n. rate. The average nominal m.f.n. tariff rate was 17.96 per cent. The trade weighted average for m.f.n imports was 13.72 per cent. For industrial products, the average nominal rate was 16.69 per cent and the trade weighted average was 12.50 per cent. For agricultural products, the levels were 25.97 per cent and 30.91 per cent, respectively. Bulgaria's tariff had five basic m.f.n. rates ranging from 5 to 40 per cent. The most common rate was 25 per cent representing almost 31 per cent of all tariff lines. Only 8 per cent of tariff lines fell under the rate of 40 per cent accounting for less than 5 per cent of total 1992 imports. The greatest share of imports (34 per cent) fell under the lowest rate of 5 per cent. The preferential margin under Bulgaria's Generalized System of Preferences scheme varied from 20 to 40 per cent of the most favoured nation (m.f.n.) rates. As a future member of GATT and the World Trade Organization, Bulgaria would aim at further development of the process of liberalization under the conditions and in conformity with the GATT and Uruguay Round Agreement rules and practices.

### Surcharges

18. Some members requested information on the 3% import surcharge introduced in 1 August 1993 as well as the calendar for its elimination. The representative of Bulgaria said that as of 1 August 1993, a temporary import surcharge was introduced in order to forestall the imminent threat of a serious decline in the foreign exchange reserves. The surcharge affected equally all trade except some products essential for the economy (energy products and base raw materials) and was applied on an erga omnes basis including the trading partners with whom Bulgaria's commercial relations are based on free trade agreements. Until the end of 1993, the import surcharge was 3 per cent. It had been reduced to 2 per cent for the year 1994, and would be 1 per cent for 1995. The import surcharge would be discontinued from the beginning of 1996. In the view of Bulgaria, the import surcharge was consistent

with Article XII of the General Agreement. Upon request, Bulgaria would be prepared to enter into consultations on this matter. The Working Party took note of this assurance.

### Import Taxes

19. In response to questions concerning import taxes, the representative of Bulgaria said that the 15 per cent import tax applied in 1991 in addition to the import duty had been abolished with the introduction of the new import tariff. However, as of 1 July 1992 an import tax had been introduced for a limited number of agricultural products. The list had been reduced in 1993 and at present import taxes were applied to frozen beef, veal, pork and poultry meat, yoghurt, butter, fresh grapes (from 1 July to 31 October), fresh apples (from 1 August to 31 December), fresh tomatoes, cucumbers, peppers, processed fruit, fruit juices. The import tax was applied also on imports of some perfumery and cosmetics items. The import tax varied from 5 per cent (juices and perfumes) to 25 per cent (frozen pork, veal, beef and poultry meat). As of 1 July 1993, Bulgaria had either eliminated or, in the case of a few agricultural items, incorporated the import taxes into the customs tariff. This change was erga omnes and affected trade under preferential agreements. The Working Party took note of this statement.

### Duty Exemptions

20. Some members requested information on duty exemptions for certain imports. The representative of Bulgaria said that some goods were temporarily exempted from import duties for social and ecological considerations. The list of exemption was being gradually reduced. Exempted from duties were the imports of baby food, raw materials and substances for the production of medicines, animal feed, farming equipment and spares, plant protection chemicals and some fertilizers, ambulance cars, equipment for environmental protection as well as measurement and control devices for environmental analysis, molasses, non-processed timber, medical appliances and equipment. All tariff exemptions were implemented on a erga omnes basis without any differentiation as to the origin and/or conditions of importation.

### Customs Fee

21. Referring to the 0.5% customs fee levied by Bulgaria, some members stated that this fee was not consistent to the provisions of Article VIII of the General Agreement. In their view, minimum and maximum fees should correspond to the approximate cost of the services rendered. In response, the representative of Bulgaria recalled that customs valuation was based on the Agreement on Implementation of Article VII of the GATT. He said that the initial customs fee rate of 1 % had been reduced to 0.5%. This fee was applied to both exports and imports. After becoming a contracting party, Bulgaria would, at the latest 6 months after accession, adapt the customs fee and make it consistent

with the provisions of Article VIII of the General Agreement while continuing to comply with the provisions of Article VII. The Working Party took note of these assurances.

#### Export Taxes

22. In response to questions concerning the export taxes levied by Bulgaria and their rates, the representative of Bulgaria said that as of November 1993 export taxes were levied on eleven groups of product, notably raw materials such as sunflower seed and oil, hides and skins, timber, firewood, wood in the rough, waste and scrap paper, wool, grain flour and other products. These were specific taxes applied to prevent to relieve critical shortages of foodstuffs and other essential products. This tax was temporary and would be dismantled when the domestic supply situation improved. The Working Party took note of this statement.

#### Implementation of Article X

23. The representative of Bulgaria confirmed that all regulations and measures of an economic nature or affecting trade were published in the "State Gazette" prior to implementation, and that Bulgaria would apply the provisions of Article X and other GATT provisions on transparency and notification from the date of its accession to the General Agreement. Moreover, upon becoming a member of the World Trade Organization, Bulgaria would comply with the notification requirements agreed in the Uruguay Round. The Working Party took note of these assurances.

#### III Fiscal Policy

24. In response to some members who requested information concerning internal taxes and the treatment of imports in Bulgaria's fiscal legislation, including the treatment of inputs and other exemptions thereof, the representative of Bulgaria said that fiscal policy was playing a crucial role in the stabilization and restructuring effort. Its principal objectives were to contain and reduce the budget deficit in relation to GDP, to reduce the redistributive role of the State budget through a sharp decrease of both revenues and expenditures in relation to GDP, and to contribute to keeping inflationary processes under control. Important steps had been taken in the context of a comprehensive fiscal reform in line with the principles of a market economy and Bulgaria had introduced a value-added tax. The percentage of revenues from taxes and other duties in relation to GDP had fallen from 42.9 per cent in 1990 to 29.8 per cent in 1992 and to 32.2 per cent for 1993.

25. Pursuant to the Law on Excise Tax, effective on 1 April 1994, the following goods and services are subject to excise tax at the rates listed below:

**A. GOODS:**

1. Beer - ordinary 1.5 BGL/litter; 2. Beer - stabilized - 2 BGL/litter; 3. Wines - up to 15%, vol. with the exception of natural sparkling wines - 6 BGL/litter; 4. Ordinary brandies from fruits, ordinary brandies, desert and aromatized wines, natural sparkling wines, natural fruit liquors - 30 BGL/litter; 5. Alcoholic beverages including brandy and wine brandy - 40 BGL/litter; 6. Luxurious beverages with high content of alcohol including whisky and cognac (V.S.O.P.) - 160 BGL/litter; 7. Tobacco products: 7.1. Cigarettes - Luxurious - 1000 BGL/1000 pieces, 7.2. Cigarettes - representative - 600 BGL/1000 pieces, 7.3. Cigarettes - ordinary - 300 BGL/1000 pieces, 7.4. Cigarettes without filter - 100 BGL/1000 pieces, 7.5. Cigars - 400 BGL/100 pieces, 7.6. Tobacco for cigarettes, pipes, for chewing and snuff - 1000 BGL/1 kg.; 8. Coffee and tea (with the exception of the herb and fruit teas) - 30%; 9. Leather and fur clothing - 40%; 10. Passenger cars with a cylinder capacity from 1800 to 2500 cm<sup>3</sup> - 10%; 11. Passenger cars more than 2500 cm<sup>3</sup> - 40%; 12. Articles of precious metals, including jewellery - 20%; 13. Perfumery and cosmetics in aerosol containers - 40%; 14. Gasoline with an octane number up to 96 - 70%, 14.1. Lead free gasoline with an octane number up to 96 - 60%; 15. Gasoline with an octane number more than 96 - 110%, 15.1. Lead free gasoline with an octane number more than 96 - 100%; 16. Diesel fuel - 30%; 17. Erotic and pornographic works - 70%; 17. Audio - visual devices - 10%;

**B. SERVICES:**

19. Entry tickets for bars, music halls, erotic and other like performances - 50%;

**C. WINES AND OTHER SPIRITS PRODUCED BY NATURAL PERSONS FROM THEIR OWN PRIME MATERIALS FOR THEIR OWN CONSUMPTION:**

20. Wines - 2 BGL per litter; 21. Brandies - 0.3 BGL per every alcoholic degree.

**D. HAZARDOUS GAMES:**

22. Lotteries and raffles 50%; 23. Bets on the results of competitions and other accidental events - 5 time the max. gain; 24. Coin and disk operated games, class B 15000 BGL each three months; 25. Coin and disk operated games, class C in casino 30000 BGL each three months; 26. Casino roulettes - 3000000 BGL each three months; 27. Other casino operated games and tables 500000 BGL each three months; 28. Bingo 300000 BGL each three months.

26. The representative of Bulgaria added that the Law on Value Added Tax (VAT) had entered into force on 1 April 1994. The Law had established a uniform 18% rate for goods and services with a short list of temporary exceptions including a schedule for their elimination. Bulgaria had submitted

detailed information on the Law on VAT. The VAT and excise tax laws made no differentiation between imported and domestically produced goods.

27. In conclusion some members of the Working Party said that, in their view, Bulgaria levied some border charges which, if not consistent with the provisions of the General Agreement, should be either modified, or eliminated as a result of Bulgaria's commitments in the Protocol of Accession. Those members acknowledged, nonetheless, that the new Value Added Tax Law had greatly improved the transparency and equity of Bulgaria's tax system vis-à-vis imports. The representative of Bulgaria said that upon accession to the General Agreement, his Government would use the authority to apply taxes and surcharges on imports and exports in conformity with the provisions of the General Agreement, in particular Articles III, VI, VIII, XII, XVIII and XIX. The Working Party took note of these commitments.

#### **IV Non-Tariff Measures**

##### **Import and Export Licensing**

28. Some members of the Working Party requested that Bulgaria provide a list of non-tariff measures by tariff lines including licensing, quotas and any other restrictions and explain their justification. In their view a number of the quotas and licensing requirements on products such as tobacco, citrus, etc. appeared to be substantively and/or procedurally not in conformity with existing GATT or future WTO obligations. In response the representative of Bulgaria submitted a list of non-tariff measures by tariff lines. With regard to licensing, he said that the Council of Ministers was the body authorized to determine the range of goods subject to licensing. Licensing was applied in a fair and equitable manner. Automatic licences were applied for monitoring purposes and were issued within one day. Non-automatic licences were granted within five working days from the date of application. No fees were charged for the issuing of licences. Licences were issued by the Ministry of Trade. The import licensing regime in force has been established by Government Ordinance No. 72/1993 (published in State Gazette No. 30/1993) and its respective amendments. Imports into Bulgaria were liberalized and were not subject to import licensing, unless explicitly stated. Exceptions were stipulated for (a) goods subject to control regime under international commitments undertaken by Bulgaria; (b) goods under quantitative restrictions if import quotas were established. Automatic licensing was applied for monitoring purposes on imports of the following items: coal, crude oil and liquid fuels, alcoholic beverages, tobacco products. Imports of tobacco products (HS Chapter 24), and alcoholic beverages (HS 22030000, ex2204, 2205, 2207, 2208) were subject to automatic licensing for monitoring purposes. There had been import quota of 12,000 tons for tobacco (HS 2401, 24039100). This quota had been eliminated by the end of 1993. Exports of tobacco and products thereof (Chapter 24 of the HS) were subject to automatic licensing. Imports of essential oils were not subject to licensing. The

restrictions on tobacco and products thereof had been introduced on the ground that certain imports, by the quantity and conditions under which they were performed, caused or threatened to cause a serious injury to domestic producers of like or directly competitive products. The non-automatic licensing of imports of pharmaceutical products, raw materials and substances for their production was aimed at protecting human and animal health. The measure was applied for monitoring purposes and did not constitute a disguised restriction on trade. The sole requirement for granting the licences was the registration of the product with the Ministry of Health. He added that at present there was no product prohibited for import in Bulgaria. However, imports of materials and waste dangerous to the environment were subject to non-automatic licensing, and to approval in writing from the Ministry of Environment. The importation of plant protection chemicals had to be approved by the Ministry of Agriculture. The approval was subject to the chemicals being registered in Bulgaria. Import licenses were granted by the Ministry of Trade within 5 days from the application.

#### Import and Export Quotas

29. Some members enquired about the GATT consistency of certain quotas. In response the representative of Bulgaria said that pursuant to the Law on Establishment of Single-person State-owned Enterprises (State Gazette 55/1991), the Bulgarian Government could establish quantitative restrictions on imports and exports. As of 1 January 1994 Bulgaria applied an import quota on the following product only: HS 21050000, ice cream, 1,500 tons. Due to a deterioration in the economic conditions for domestic production of tobacco in recent years, and with the view to avoiding serious social tension in some underdeveloped regions of the country, the Government had replaced the import quota on tobacco with import licensing. The import quota on ice cream had been introduced by the Government on a temporary basis to support an infant industry in an economy in transition. Bulgaria would consider the tariffication of this quota pursuant to the terms of the Uruguay Round Agreement on Agriculture. The Government had established temporary quantitative restrictions on certain exports, to ensure adequate supplies in the domestic market and prevent or relieve critical shortages. Presently Bulgaria applied export quotas on the following items: ex 0104000 Female livestock for breeding, bovine live animals of more than 12 months: 4,800; ex 01042000 ex 0102 Ovine and caprine live animals, of more than 18 months: 750. Certain quota amounts under VERs were defined in the respective agreements: with the European Communities on textiles and clothing, ferrous metals, live sheep and goat and meat thereof; with the United States on textiles and clothing; with Canada on textiles and clothing. A list of cereals essential for the nutrition of the population as well as a few tariff lines covering basic fodder were temporarily prohibited for export (till September 30, 1994 when the new crop was expected). Some tariff lines of scrap were under export ban with the view to solving transitional problems in the economy. The agricultural export restrictions currently in effect were temporarily applied to prevent or relieve

critical shortages on the domestic market and would be dismantled in response to an improved domestic market situation.

30. In conclusion the representative of Bulgaria confirmed that in the context of its accession to the General Agreement and also as a member of the World Trade Organization, the Bulgarian Government would use its authority to suspend or prohibit imports and exports or otherwise restrict their quantities in conformity with the provisions of the General Agreement in particular Articles XI, XII, XIII, XIX, XX and XXI. The Working Party took note of this commitment.

#### **Unfair Trade Practices and Safeguards**

31. In response to questions concerning Bulgaria's regulations on safeguards and unfair trade practices, the representative of Bulgaria said that the Regulation of the Council of Ministers No. 181 dated 15 September 1993 which had established the general legal framework attempted to incorporate the basic elements of the relevant GATT provisions including in particular the Agreement on the Implementation of Article VI and the Agreement on Interpretation and Application of Articles VI, XVI and XXIII. The Regulation contains definitions of dumping, subsidy, serious injury, the extent of the offsetting measures (duty) and the procedures to be followed in order to apply the offsetting measures. Under the provisions of the Regulation, an anti-dumping duty may be imposed on any product whose importation in Bulgaria through the effects of dumping causes or threatens to cause serious injury to a Bulgarian industry. A product is considered as being dumped if its export price to Bulgaria is less than the normal value of the like product in the ordinary course of trade in the country of origin or export. A countervailing duty may be imposed for the purpose of offsetting the effect of a subsidy bestowed in the country of origin or export whose importation in Bulgaria causes serious injury to a Bulgarian industry. The Regulation stipulates that the determination of serious injury shall be made only if the dumped or subsidized imports through the effects of dumping or subsidization are causing injury. Injuries caused by other factors which individually or in combination also adversely affect the Bulgarian industry under consideration must not be attributed to the dumped or subsidized imports. Up to now safeguard measures had only been implemented on the imports of matches where a reference price had been established.

32. In response to questions by members of the Working Party, the representative of Bulgaria said that as a result of the price liberalization, subsidies had been drastically curtailed - from 16-17 per cent of GDP in 1990 to less than 2 per cent of GDP in 1992 and 1.69 per cent in 1993. Since 1991, no export subsidies were being applied in Bulgaria. Production subsidies were applied primarily for: (i) compensating higher production costs in some vital sectors (energy and transportation) with considerable social implications; (ii) social considerations (including support for producers in

mountainous regions and for disadvantaged regions of the country). The Bulgarian Government would continue its policy of further scaling down subsidies. He added that as a result of the unprecedented scale of economic reform and exclusively to alleviate social problems the following sectors of the economy received financial assistance from the State: (i) Energy production: The 1993 State budget allocated 2590 million BGL for the production of energy. Self-financing of energy production was envisaged in the future. (ii) Agriculture: The 1993 State budget allocated 964 million BGL as technical assistance for the agrarian reform that includes: Restoration of the property rights on farm lands; Legal procedures at the established Commissions for the restoration of the lands and at the courts. For the land owners there was a five-year income tax and profit tax relief from the entry into force of the Law on the Ownership and Use of Agricultural Land, i.e. from 1 March 1991. The recovery of the ecologically polluted areas was financed by the State. The 1993 State budget had allocated 63 million BGL in subsidies for the mountainous areas, the break-down of the amount was as follows: transportation of bread: 15 million BGL; transportation of other basic foodstuffs: 48 million BGL. Other assistance granted to agriculture in 1993 was as follows: (1) 1 billion BGL - for credits, (2) 750 million BGL - for the construction, reconstruction, modernization and maintenance of the irrigation system; (3) 276 million BGL - for financing expenses in the veterinary field; (4) 22 million BGL - allocated under the Law on the preservation of cultivated lands and pastures (Article 15 and 17) for financing the soil conservation. There were no export subsidies in Bulgaria. He added that Bulgarian law ensured non-discriminatory access to credits. As banks determined their credit policy independently, the access to credits did not depend on the type of ownership of the borrower. Private and State-owned companies as well as joint ventures had equal access to credit. There was no obligation for the banks to make loans to State enterprises as a percentage of the bank capital or on any other basis. In 1992 Government support amounting to 16 million BGL had been extended to private Small and Medium-size Enterprises.

33. The representative of Bulgaria confirmed that his Government would observe the provisions of Article XVI after its accession to the GATT, including the notification provisions of paragraph 1. While acceding to the General Agreement, Bulgaria would also consider accession to the GATT Subsidies Agreement. The Working Party took note of these assurances.

#### Standards and Sanitary and Phytosanitary Measures

34. Some members requested additional information on standards and enquired how Bulgaria intended to implement the requirements of the Uruguay Round Agreements on Standards and Sanitary and Phytosanitary Measures (SPS). In response the representative of Bulgaria said that Bulgarian sanitary and phytosanitary measures conformed in principle with international standards, guidelines or recommendations. Bulgaria would accept the agreements on technical barriers to trade and sanitary

and phytosanitary measures when accepting the WTO agreement. Bulgaria was a signatory to the following conventions and agreements in this field: Codex Alimentarius; International Agreement for the Establishment of the International Office of Epizootics; International Convention for Plant Protection; Convention on the Establishment of the European and Mediterranean Plant Protection Organization; Convention on the International Trade in Endangered Species of Wild Fauna and Flora. Improvements might be necessary in some areas, e.g. the publication of regulations, in particular to allow a reasonable interval between the publication of a sanitary or phytosanitary measure and its entry into force. However, such improvements which would fundamentally strengthen transparency did not contradict the existing regulations in Bulgaria. Therefore, Bulgaria did not expect substantial difficulties in adapting sanitary and phytosanitary regulations to the requirements of the Agreement on SPS. With reference to regulation No. 87 of 19 February 1993 on quality control at the border, he said that the quality control was effected by the officers of the Directorate of Border Quality Control within the Committee for Standardization and Metrology. Imports and exports were released at the border upon presentation by the exporter or importer of a quality certificate or protocol for the preliminary test of samples. Such certificates or protocols could be issued by any authorized laboratory in the territory of the country.

#### **Free Trade Zones**

35. In response to questions concerning the free trade zones, the representative of Bulgaria said that these zones had been established by Decree No. 2242 of 1987. The Decree defines a free trade zone as an area in which foreign economic entities or joint ventures may conduct economic activities without the obligation to pay customs duties on their imports and with certain tax advantages. There was a 5 year profit tax relief for activities in the zones. Upon the expiry of the grace period, the rate of the profit tax was 20%. There was no time limit for the existence of the zones. There were seven free trade zones in the regions of the cities of Rousse, Vidin, Bourgas, Plovdiv, Dragoman, Haskovo and Svilengrad. The activities most common in the free trade zones included handling, storage and warehousing. Goods and services exported from the free trade zones to the customs territory of Bulgaria were subject to the customs duties, charges and taxation currently in force in the customs territory of Bulgaria, i.e. normal tariffs and taxes were applied to exports from the zones into Bulgarian customs territory. There were no exceptions to this rule. The representative of Bulgaria added that as of 1 October 1993, the profit tax relief for firms that locate in the free trade zones was no longer in effect. The common profit tax of 40 per cent in force on the territory of Bulgaria was applied. However, legal persons who had started using these incentives would continue to benefit from them until the expiration of the period accorded. The Working Party took note of these assurances.

State Enterprises

36. Recalling the provisions of Article XVII of the General Agreement, several members of the Working Party noted that while Bulgaria had abolished the State legal monopoly on foreign trade at least 60 % of Bulgaria's exports and imports were still generated by State-owned enterprises and in many cases were still carried out by the same trading enterprises that formerly had defined and controlled this trade. In their view, a full separation of the State from the still sizable and economically critical State-owned sector did not seem possible. Even the current rules for the management of State-owned firms clearly contemplated a role for the State in the operations of certain enterprises. In addition Bulgaria's privatization process was proceeding slowly. Out of the 4,500 State-owned firms which would be transferred to private ownership under the Law on Transformation and Privatization of State and Municipal Enterprises, Bulgaria was still in the early stages of preparing some of them for sale. These members requested that Bulgaria provide full details of the role of the State in management and decision making in enterprises wholly or substantially owned by the State, and the products which they traded. In this regard special reference was made to the State trading companies on tobacco and tobacco products (Bulgartabac) and wines and spirits (Vinimpex).

37. The representative of Bulgaria pointed out that as of 1 July 1991, the Commercial Law (Company Act) was in force. Pursuant to this law, economic activities could be carried out on the basis of various forms of ownership including private, municipal, State and joint ventures with foreign participation. All natural and legal persons, whether Bulgarian or with foreign participation, registered at a court, had the right to carry out economic activities, including foreign trade activity. No companies had exclusive or privileged import rights. The importation of all goods may be effected by any economic entity, irrespective of its ownership. State-owned trading companies performed foreign trade activities solely on the basis of commercial considerations, competing with each other and with the private companies. Noting that State intervention in the economic activity of all companies had been abolished, he reiterated that Article 19 of the Constitution of Bulgaria states, inter alia, that the economy of Bulgaria is based on the principle of the free entrepreneurship and that the legislation shall create and assure equal legal conditions for carrying out economic activities for all legal and natural persons, thus establishing the principle of non-discrimination between State-owned and private enterprises. Therefore, State-owned enterprises were in a position to define independently their own market behaviour, to implement it through the respective operational decisions and to conclude commercial transactions of any kind in accordance with the customary business practices and the legislation in force. Neither economic nor legal privileges were granted to them by the Government. He added that at present there were no State trading monopolies in Bulgaria. It seemed that Bulgaria had had only one State trading enterprise within the meaning of Article XVII, Bulgartabac. There were no enterprises having the principal responsibility for import or export of any commodities and products. Neither private nor

State-owned enterprises in Bulgaria were bound by any obligation concerning production or trade in any products or goods, nor with respect to the volume, value of trade, product composition of their sales and purchases, etc. All enterprises acting under Bulgarian legislation are entitled to include in the scope of their activities foreign trade with no limitations with respect to the product coverage of their trade. For the first half of 1993 according to an estimate of the Ministry of Trade the following companies had had a significant activity in foreign trade: Balcancar, Pharmachim, Nephtochim, Bulgartabac, Energoimpex, Chimimport, Kremikovtzy, Ruen, Plama. The principal activity of some of them (Balcancar, Pharmachim, Nephtochim, Bulgartabac) was in the field of production. A list of the enterprises in which the State had ownership participation was in preparation, even though there were difficulties, resulting from the changes in the statistical system, and of the identification numbers of enterprises. The Law on Commerce and the Law on the Protection of Competition did not permit the Government to instruct State-owned enterprises in the conduct of domestic or foreign trade operations. The Government was not in a position to prevent any enterprise under its jurisdiction from acting as normal market operators in accordance with the principles of Article XVII and especially with its paragraph 1 (c). All other laws, ordinances and regulations dealing with the activity of the economic operators in Bulgaria were consistent with the Law on Commerce and provisions of the Constitution which excluded State monopolies on trade.

38. The representative of Bulgaria added that within the meaning and under the conditions set out in Article XVII of GATT, Bulgaria had had only one State-trading company, Bulgartabac, which according to the 1947 Law on State Monopoly on Tobacco had exclusive rights on trade in raw tobacco and the manufacturing of tobacco products. However, the 1947 Law on State Monopoly on Tobacco had been repealed by the 1993 Tobacco and the Tobacco Products Act and the "Bulgartabac" enterprise had been transformed into a holding of smaller joint-stock and limited liability companies registered under the 1991 Law on Commerce. Bulgartabac did not have dominant market positions in internal and foreign trade in tobacco products but enjoyed a dominant position in the production of tobacco products and trade in raw tobacco. Vinimpex did not have a monopoly position in foreign trade in wines and spirits. Vinimpex could not be considered a State-trading enterprise within the meaning of Article XVII as it was not granted by the State any exclusive or special privileges and had statutory authority for deciding on imports and exports. "Vinimpex" continued to trade in alcoholic beverages but did not have a dominant position on the market. It was one of the many companies that trade in alcoholic beverages. He reiterated there was no State monopoly in trade in alcoholic beverages in Bulgaria. As of November 1990, the Council of Ministers had discontinued the existence of the enterprise Vinprom, and the producers of wines and alcoholic beverages were registered as independent legal persons with the right to conduct foreign and domestic trade on their own or through intermediaries. Any firm or individual was free to import alcoholic beverages. The 1992 imports of alcoholic beverages

effected by private companies had accounted for 75.8 per cent of total imports of alcoholic beverages. He noted also that in 1992 noted also that the share of some of the former major foreign trade organizations responsible for agricultural commodity imports and exports had been as follows:

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

39. In conclusion the representative of Bulgaria undertook to submit at the time of accession a comprehensive list of State-trading enterprises granted exclusive or special privileges and thus falling under the relevant provisions of the General Agreement in particular Article XVII thereof. He noted, however, that Bulgaria would abide by the substantial obligations of Article XVII but would not wish to undertake additional obligations concerning the ownership or management regime of the State-owned enterprises which would go beyond GATT and WTO rules, principles and requirements. The Working Party took note of these assurances.

## **V Trade Agreements**

### **Regional Trade Agreements**

40. Some members of the Working Party expressed the concern that the relatively high and recently increased mfn tariff levels would lead to trade distortions against Bulgarian mfn trading partners and requested detailed information and trade data on the agreements establishing preferential access to the Bulgarian market. In response the representative of Bulgaria said that in March 1993, Bulgaria had signed the Europe Agreement with the European Community providing for the establishment of a free-trade area in a ten-year period. This Agreement would eliminate trade barriers for industrial goods and improve market access for agricultural products. The process of trade liberalization was asymmetrical due to the economic disparities between Bulgaria and the EC. Also in March 1993, Bulgaria had signed a Free Trade Agreement with the EFTA States covering trade in industrial products, fish and processed agricultural goods. The Agreement paralleled the Europe Agreement with the EC.

There was also an asymmetry in the implementation schedule of trade liberalization in favour of Bulgaria. Bilateral Agreements on trade in agricultural goods with each individual EFTA State had been signed on the same date. Bulgaria's Free Trade Agreement with Finland from 1974 would remain in force until the benefits under that Agreement were overtaken by the Agreement between Bulgaria and the EFTA States. In 1992 Bulgaria's imports from EFTA States and the EC had accounted for 6.8 per cent and 32.6 per cent respectively of total imports. Their relative shares had increased in 1992 as a consequence of the contraction of Bulgarian trade and the partial reorientation to the OECD markets following the CMEA dissolution. The representative of Bulgaria added that at this moment his Government was not in a position to submit information on trade flows in the framework of the FTAs for the following reasons: both agreements had recently entered into force so there was not enough empirical evidence for analysis; the implementation of both agreements had been strongly hampered because of UN sanctions imposed on Serbia and Montenegro, so trade flows were heavily distorted; the statistical system was undergoing a process of transformation. However, new information would be submitted as soon as available. The representative of Bulgaria said that in Bulgaria's view the free trade agreements were in conformity with the rules and conditions of Article XXIV of the General Agreement and his Government was ready to comply with the relevant Understanding agreed in the context of WTO Agreement. The Working Party took note of these assurances.

#### **Bilateral Trade Agreements**

41. With reference to bilateral trade agreements, the representative of Bulgaria said that an Agreement for Trade Relations between the Republic of Bulgaria and the United States had been signed on 22 April 1991. By virtue of this Agreement the two countries had extended to each other m.f.n. treatment. As from 1 January 1991, trade with the former CMEA countries was conducted in convertible currencies and at world prices. The new trade agreements with the former CMEA countries were consistent with the requirements of GATT and contained the mfn clause. Identical trade agreements had been signed with some of the States of the former Soviet Union, namely Belarus, Lithuania, Russia, and Ukraine.

#### **VI MTN Codes**

42. Several members noted that Bulgaria was a member of Tokyo Round Arrangements on Bovine Meat and Dairy Products. Recalling that Bulgaria had had observer status in a number of MTN Agreements, e.g. the Codes on Import Licensing Procedures, Technical Barriers to Trade, Subsidies and Anti-Dumping, these members requested that Bulgaria clarified its intentions as to joining the agreements negotiated in the context of the Uruguay Round as well as other agreements negotiated in parallel, like the Government Procurement Agreement. In response the representative of Bulgaria informed the Working Party, that Bulgaria was ready to become a signatory to the Agreements on

Import Licensing Procedures and Customs Valuation at the time of accession to the GATT and was considering becoming a signatory to the Agreement on Technical Barriers to Trade. Bulgaria would consider acceding to the Agreement on Government Procurement after the adoption of the necessary legal basis. With regard to the GATT Subsidies Agreement and the Anti-Dumping Agreement, he stated that in the context of the Uruguay Round results some transitional period would be required taking into consideration the provisions for economies in transition. He recalled that Bulgaria was a member of the Arrangements on Bovine Meat and Dairy Products and the Protocols thereof and that his Government had signed the modified Plurilateral Trade Agreements in Marrakesh. Bulgaria would comply with the conditions for membership in the WTO which included acceptance of all the Multilateral Trade Agreements. The Working Party took note of these assurances.

#### **VII Agreement Establishing the World Trade Organization (WTO)**

43. Some members of the Working Party noted that with the formal adoption of the Final Act of the Uruguay Round at Marrakesh, GATT accession deliberations must contemplate the expansion of the negotiations to encompass the expanded scope of GATT institutions under the WTO. They sought confirmation of Bulgaria's intent to adhere to the WTO. A protocol package for Bulgaria that contemplates WTO membership would have to include the schedules required for WTO membership, i.e., an agricultural schedule that includes commitments in the areas of market access, domestic supports, and export subsidies, and commitments on market access for goods and services; the initial submissions/notifications required by the WTO Agreements on Import Licensing Procedures, Technical Barriers to Trade, Customs Valuation, and TRIMs; a list of non-tariff barriers by tariff line that are subject to import or export quotas, automatic or non-automatic licensing requirements, certifications, surcharges or taxes, or any restrictions that require GATT justification in order to (1) comply with the requirements of the Agreement on Import Licensing Procedures, and (2) negotiate, as necessary, their elimination or transformation towards GATT conformity. In their view the preparation of the required WTO schedules and the list of the non-tariff measures by HS line and their GATT justification would facilitate the negotiation of a protocol for Bulgaria. In this connection some members requested information on Bulgaria's commitments concerning intellectual property rights and its intentions concerning participation in the Agreement on Trade Related Aspects of Intellectual Property Rights and in the General Agreement on Trade in Services.

44. In response the representative of Bulgaria said that his Government was negotiating accession to the General Agreement 1947 with the clear intention of becoming as well an original member of the World Trade Organization in accordance with the provisions of Article XI thereof. Therefore, the tariff negotiations currently under way between a number of GATT contracting parties and Bulgaria would be expected to lead to the establishment of a schedule of market access commitments which

would be annexed to the Protocol of Accession to the GATT 1947, as well as to the GATT 1994 following the approval of the Preparatory Committee. Concerning TRIPS, he said that Bulgaria is a signatory to the following international treaties, conventions and agreements related to intellectual property: **A. World Intellectual Property Organization:** 1. Convention Establishing the World Intellectual Property Organization (since 8 January 1970); 2. Paris Convention for the Protection of Industrial Property Ratification (since 13 June 1921); 3. Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods (since 12 August 1975); 4. Madrid Agreement Concerning the International Registration of Marks (since 1 August 1985); 5. Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (since 12 August 1975); 6. Patent Cooperation Treaty (since 21 May 1984); 7. Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (since 8 May 1978); 8. Nairobi Treaty on the Protection of the Olympic Symbol (since 6 May 1984); 9. Bern Convention for the Protection of Literary and Artistic Works (since 5 December 1921). **B. UNESCO:** 1. Universal Copyright Convention as revised at Paris on 24 July 1971 (since 5 December 1921). In order to become a member of the World Trade Organization, Bulgaria would accept the Agreement on Trade-Related Aspects of Intellectual Property Rights, including Trade in Counterfeit Goods (TRIPs) as well as the General Agreement on Trade in Services (GATS) set out in annexes 1B and 1C of the Agreement Establishing the World Trade Organization. Therefore, Bulgaria would adapt its domestic legislation as necessary. The Working Party took note of these assurances. Bulgaria also invited interested members to submit as soon as possible their request lists concerning possible services commitments.

#### **VIII Protocol of Accession**

45. A member suggested that in this case, with the consent of the Government of Bulgaria, accession to GATT and the World Trade Organization might be addressed jointly. Therefore, he suggested that the Protocol of Accession of Bulgaria might include the following elements: (i) establishment of market access schedules on goods and services; (ii) a country schedule on agriculture that includes commitments on market access, domestic support, and export subsidies; (iii) ability to implement the Uruguay Round Agreements on Import Licensing, Procedures, Customs Valuation, Technical Barriers to Trade, TRIPs, TRIMs, Subsidies, Anti-Dumping, and Application of Sanitary and Phytosanitary Measures; (iv) GATT-consistent application of taxes and charges applied to imports and non-tariff restrictions on imports and exports; (v) and an assurance that periodic updates covering the process of privatization will be provided and trade by State-owned enterprises.

**Conclusions**

46. The Working Party took note of the explanations and statements of Bulgaria concerning its foreign trade regime, as reflected in this report. The Working Party took note of the assurances given by Bulgaria in relation to certain specific matters which are reproduced in paragraphs 11,18,19,21,23,33,35,39,40,42 and 44 of this report and noted that the commitments reproduced in paragraphs 27 and 30 had been incorporated in Paragraph 2(a) of the Protocol of Accession.

47. Having carried out the examination of the foreign trade regime of Bulgaria and in the light of the explanations, assurances and commitments given by the Bulgarian representatives, the Working Party reached the conclusion that, subject to the satisfactory conclusion of the relevant tariff negotiations, Bulgaria be invited to accede to the General Agreement under the provisions of Article XXXIII. For this purpose the Working Party has prepared the draft Decision and Protocol of Accession reproduced in the Appendix to this report. It is proposed that these texts be approved by the Council when it adopts the report. When the tariff negotiations between Bulgaria and contracting parties in connection with accession have been concluded, the resulting Schedule of Bulgaria and any concessions granted by contracting parties as result of negotiations with Bulgaria would be annexed to the Protocol. The Decision would then be submitted to a vote by contracting parties in accordance with article XXXIII. When the Decision is adopted, the Protocol of Accession would be open for acceptance and Bulgaria would become a contracting party [thirty days] after it accepts the said Protocol. Having regard to the Ministerial Decision of 14 April 1994 on Acceptance of and Accession to the Agreement Establishing the World Trade Organization (WTO), the Working Party agreed that the market access and services negotiations should be initiated and concluded without delay in order that the GATT 1994 and GATS schedules be submitted to the Preparatory Committee of the WTO for approval in the near future, thus enabling Bulgaria to become an original member of the World Trade Organization.

[TO BE COMPLETED]

APPENDIX

ACCESSION OF BULGARIA

Draft Decision

The CONTRACTING PARTIES,

Having regard to the results of the negotiations directed towards the accession of the Government of the Bulgaria to the General Agreement on Tariffs and Trade and having prepared a Protocol for the Accession of Bulgaria.

Decide, in accordance with Article XXXIII of the General Agreement, that the Government of Bulgaria may accede to the General Agreement on the terms set out in the said Protocol.

**PROTOCOL FOR THE ACCESSION OF BULGARIA**  
**TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE**

The governments which are contracting parties to the General Agreement on Tariffs and Trade (hereinafter referred to as "contracting parties" and the "General Agreement", respectively), the European Communities and the Government of Bulgaria (hereinafter referred to as "Bulgaria"),

Having regard to the results of the negotiations directed towards the accession of Bulgaria to the General Agreement,

Have through their representatives agreed as follows:

**PART I - GENERAL**

1. Bulgaria shall, upon entry into force of this Protocol pursuant to paragraph 6, become a contracting party to the General Agreement, as defined in Article XXXII thereof, and shall apply to contracting parties provisionally and subject to this Protocol:

- (a) Parts I, III and IV of the General Agreement, and
- (b) Parts II of the General Agreement to the fullest extent not inconsistent with its legislation existing on the date of this Protocol.

The obligations incorporated in paragraph 1 of Article I by reference to Article III and those incorporated in paragraph 2(b) of Article II by reference to Article VI of the General Agreement shall be considered as falling within Part II for the purpose of this paragraph.

2. (a) The provisions of the General Agreement to be applied to contracting parties by Bulgaria shall, except as otherwise provided in this Protocol, [and in][including] the commitments listed in paragraph 46 of the Report of the Working Party on the Accession of

Bulgaria (document L/.... dated .....), be the provisions contained in the text annexed to the Final Act of the second session of the Preparatory Committee of the United Nations Conference on Trade and Employment, as rectified, amended or otherwise modified by such instruments as may have become effective on the day on which Bulgaria becomes a contracting party.

(b) In each case in which paragraph 6 of Article V, sub-paragraph 4(d) of Article VII, and sub-paragraph 3(c) of Article X of the General Agreement refer to the date of that Agreement, the applicable date in respect of Bulgaria shall be the date of this Protocol.

## **PART II - SCHEDULE**

3. The Schedule in the Annex shall upon entry into force of this Protocol, become a schedule to the General Agreement relating to Bulgaria.

4. (a) In each case in which paragraph I of Article II of the General Agreement refers to the date of the Agreement, the applicable date in respect of each product which is the subject of a concession provided for in the Schedule annexed to this Protocol shall be the date of this Protocol.

(b) For the purpose of the reference in paragraph 6(a) of Article II of the General Agreement to the date of that Agreement, the applicable date in respect of the Schedule annexed to this Protocol shall be the date of this Protocol.

## **PART III - FINAL PROVISIONS**

5. This Protocol shall be deposited with the Director-General to the CONTRACTING PARTIES. It shall be open for acceptance by signature or otherwise, by Bulgaria until xxx 1994. It shall also be open for acceptance by contracting parties and by the European Communities.

6. This Protocol shall enter into force on the [thirtieth] day following the day upon which it shall have been accepted by Bulgaria.

7. Bulgaria, having become a contracting party to the General Agreement pursuant to paragraph 1 of this Protocol, may accede to the General Agreement upon the applicable terms of this Protocol by deposit of an instrument of accession with the Director-General. Such accession shall take effect on the day on which the General Agreement enters into force pursuant to Article XXVI or on the thirtieth day following the day of the deposit instrument of accession, whichever is the later. Accession to the General Agreement pursuant to this paragraph shall, for the purposes of paragraph 2 of Article XXXII of that Agreement, be regarded as acceptance of the Agreement pursuant to paragraph 4 of Article XXVI thereof.

8. Bulgaria may withdraw its provisional application of the General Agreement prior to its accession thereto pursuant to paragraph 7 and such withdrawal shall take effect on the sixtieth day following the day on which written notice thereof is received by the Director-General.

9. The Director-General shall promptly furnish a certified copy of this Protocol and a notification of each acceptance thereto, pursuant to paragraph 5 to each contracting party, to the European Communities, to Bulgaria and to each government which shall have acceded provisionally to the General Agreement.

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

Done at Geneva this ..... day of ..... one thousand nine hundred and ninety four, in a single copy, in the English, French and Spanish languages, except as otherwise specified with respect to the Schedule annexed hereto, each text being authentic.

**SCHEDULE - BULGARIA**

[to be completed]