

**Trade Policy Review Body**  
**29 and 31 October 2003**

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**TRADE POLICY REVIEW**

GUYANA

Minutes of Meeting

Addendum

*Chairperson: H.E. Mrs. Mary Whelan (Ireland)*

This document contains the advance written questions, and replies provided by Guyana.<sup>1</sup>

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**Organe d'examen des politiques commerciales**  
**29 et 31 octobre 2003**

**EXAMEN DES POLITIQUES COMMERCIALES**

GUYANE

Compte rendu de la réunion

Addendum

*Présidente: S.E. Mme Mary Whelan (Irlande)*

Le présent document contient les questions écrites communiquées à l'avance et les réponses fournies par la Guyane.<sup>1</sup>

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**Órgano de Examen de las Políticas Comerciales**  
**29 y 31 de octubre de 2003**

**EXAMEN DE LAS POLÍTICAS COMERCIALES**

GUYANA

Acta de la reunión

Addendum

*Presidenta: Excma. Sra. Mary Whelan (Irlanda)*

En el presente documento figuran las preguntas presentadas anticipadamente por escrito, junto con las respuestas facilitadas por Guyana.<sup>1</sup>

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<sup>1</sup> In English only./En anglais seulement./En inglés solamente.



**ADVANCE WRITTEN QUESTIONS BY MEMBERS AND  
REPLIES PROVIDED BY GUYANA**

**QUESTIONS ON BEHALF OF THE EUROPEAN UNION**

**Report by the Government (WT/TPR/G/122)**

**Question 1**

Taking into account the need for Guyana to diversify its revenue away from duties, where does Guyana stand in its initiatives aimed at broadening the tax base and reducing revenue leakage, and notably the introduction of a value-added tax by 2006?

**Answer**

*Recognising the need to broaden and diversify the tax base, Guyana has worked with the International Monetary Fund (IMF) in the preparation of a comprehensive three-year Tax Policy Reform Action Plan (TRAP). The objectives of the TRAP include the widening of the tax base through increased coverage of goods and services, reduced exemptions and the introduction of a VAT in 2006; increasing transparency and efficiency in tax administration and collection, and stimulation of investment, savings and growth. Towards this end, the Government has taken the following actions in 2003:*

- *Imposed a consumption tax of 10 per cent on domestic telephone calls. Both overseas and domestic calls are now taxed at the same rate,*
- *Equalised the withholding tax on interest bearing deposits, loans secured by bonds, and payments other than interest to non residents to 20 per cent, where before these were assessed at 15 per cent and 10 per cent,*
- *Through the Fiscal Enactments (Amendment)(No.2) Act 2003, the Government has taken the following key actions, among others:*
  1. *Removed the discretion of the President and the Minister of Finance to exempt or remit taxes, except on humanitarian grounds,*
  2. *Imposed a service tax of between 10-15 per cent on the services rendered by certain classes of professionals,*
  3. *Imposed a presumptive method of assessing income of certain categories of self employed persons,*
  4. *Imposed a 2 per cent minimum tax on the income of professionals earning in excess of \$10 million Guyana dollars,*
  5. *Restricted the grant of a tax holiday to certain key sectors and geographic regions, and*
  6. *Updated penalties in respect of false reporting or non-filing of income.*

- *Improved the administration of taxes through the filling of the key posts of Commissioner-General and Deputy Commissioner-General of the Guyana Revenue Authority, hiring of other critical staff, hiring of 12 auditors to boost assessments in the Consumption Tax Division, increasing the budget of the GRA in order to acquire much needed machinery and equipment such as boats, vehicles, and computers.*

*At the moment, the Government is negotiating a Financial Management Loan from the Inter-American Development Bank (IDB) and expects to use a part of the proceeds to contract consultants to assist with the implementation of the VAT. This loan is expected to be approved in December 2003. The IMF is also providing technical assistance, through the Caribbean Centre for Technical Assistance (CARTAC).*

## **Question 2**

The report speaks of a “Small Business (Empowerment) Bill”. As services could become of importance for Guyana’s development, the EC should like to ask: What is the weight given to the services sector by this initiative?

## **Answer**

*The services sector contributes over 40 per cent of the country’s GDP and it has been growing over the past years. Recognising the need to diversify the economic base, especially in light of recent trade developments and their impact on the traditional exports – sugar, rice and bauxite - the Government has been paying increasing attention to the services sector. In this regard, it sees the need to harness the obvious potential that inheres in the small business sector. Currently, small businesses and microenterprises remain unorganised and, for the most part, are associated with activities in the informal economy.*

*The main objectives of the Small Business Bill, which is now in Parliament, are to*

- *Formally organise small businesses and microenterprises so that they can benefit from facilities (government concessions, bank credit, etc.) in line with more established companies; and*
- *Provide technical, training and non-subsiding support to this sector;*

*It is estimated that once properly organised and given the necessary support to grow, this sector could contribute between 5-10 per cent of GDP over the next 0 years.*

## **Question 3**

Infrastructure i.e. for communications is important for enhancing the growth of the business community. What is the penetration of fixed and mobile lines in Guyana? Does the Guyana government intend to complement the benefits of competition in terms of access by a program to promote access in unprofitable areas (e.g. isolated places)?

## **Answer**

*In Guyana, the penetration of fixed lines is 13 per 100 inhabitants. In the case of mobile lines, it is 16 per 100 inhabitants. The Government of Guyana has embarked on a programme aimed at liberalising the telecommunications sector and creating an environment that would foster and regulate an open, competitive telecommunications sector. At this time, the programme is expected to be implemented by*

*mid-February, 2005. The programme includes plans to implement a Universal Access Programme which would be funded through a Universal Access Fund, to expand the provision of telephone and internet access to non-economic areas and low income subscribers.*

#### **Question 4**

Guyana is increasingly utilizing bilateral and regional trade agreements to liberalize trade and enhance its development. How does Guyana see the future of its bilateral agreements with Venezuela, Brazil and China, in the light of the customs union pursued under the Caribbean Single Market and Economy?

#### **Answer**

*Guyana signed a Partial Scope Agreement with Venezuela in the early 90s but, with the exception of the first year, has since been dormant. In the case of Brazil, a Partial Scope Agreement was signed in 2001 and this is currently being reviewed by Caricom. No preferential agreement exists between Guyana and China. All bilateral agreements negotiated by Guyana must comply with the country's obligations under the Caricom Treaty of Chaguaramas.*

#### **Question 5**

The EC considers that the WTO and multilateral liberalization is the most certain way for small countries to promote their interests. How does Guyana judge the relative importance and weight of bilateral/FTA policies and further development of the WTO system in terms of its own trade and development needs?

#### **Answer**

*Guyana's membership of the Caricom integration movement has strengthened its participation in the rules-based multilateral trading system under the WTO. As a small developing and vulnerable country, it is extremely important for Guyana to pool its limited resources and integrate with other regional countries to confront the challenges of globalisation and trade liberalisation by devising common responses and positions.*

#### **Question 6**

The emergence of regulation of the market to ensure its well-functioning will also be of increasing importance to Guyana. Consequently, the EC should like to ask: What will be the relation between the competition authority to be established at national level and initiatives on competition in the context of the Caribbean Single Market and Economy?

#### **Answer**

*A CARICOM COMPETITION COMMISSION is to be established within the Caribbean Single Market and Economy (CSME). Guyana is modeling its competition legislation after the Caricom Draft, which was produced in 2003, in order to ensure harmonization between Guyana and its Caricom partners. The Government expects to present legislation to the Parliament in 6 months.*

#### **Question 7**

Duty transparency is of great importance for the promotion of trade. What is Guyana's policy with regard to the duty relief on offer under various systems, in view of the customs union pursued under the

Caribbean Single Market and Economy, and the repercussions for the predictability, transparency and level playing field of Caricom's Common External Tariff, and Guyana's tariff in particular?

**Answer**

*Guyana accepts that duty transparency is important to the promotion of trade. In this context, it has just enacted legislation, Fiscal Enactments (Amendment)(No.2) Act 2003, which removes the discretion of the President and the Minister of Finance to remit taxes or exempt any goods from the payment of duties and taxes or otherwise grant concessions, unless provided for in a tax Act or subsidiary legislation. Even where it is provided for in law, the Act must expressly permit the Minister to provide the remission, concession or waiver. This Act will improve the transparency and predictability of the tax system, as well as go a far way in levelling the playing field. Contrary to the views implied by the question, Guyana applies the Common External Tariff (CET) in conformity with the rules and guidelines of the Tariff. It should be noted that each member state of Caricom, given its own peculiar circumstances and conditions, can use the CET, through additions of items to the Conditional Duty Exemption Schedule, to fully or partially exempt goods from duty.*

**Question 8**

Guyana has adopted a national trade strategy advancing the country's development objectives in the context of increasing globalization. What is the relationship between this strategy and the poverty reduction strategy of Guyana?

**Answer**

*Globalisation presents both new opportunities and threats to Guyana. Full participation in the world economy is an essential element for achieving the targets embodied in the Poverty Reduction Strategy of Guyana. Guyana cannot afford to ignore the external threats. However, the Government proposes to minimise their effects by, among other things, maintaining sound macroeconomic policies and pursuing sector policies that encourage the production of export products. According to the national poverty strategy, the objective of the Government's export promotion programme is to create the conditions for the export sector to be an instrument for sustaining rapid and broad-based growth." The strategy identifies three principal means by which this objective be achieved: fiscal and monetary policy; trade policy (for example, maintaining a competitive exchange rate, eliminating trade barriers), and export promotion policy (for example, providing more effective export promotion services for Guyana's exports). The Government recognises that trade policy and export promotion strategies are only two aspects of a broader national undertaking that will requires a sustained and coordinated national effort to reduce poverty through economic opportunity.*

**Question 9**

Guyana establishes that there is a need for further technical assistance. Has the need for technical assistance been further assessed such as to provide an overview and a plan of areas are to be further boosted by technical assistance and how much technical assistance is required in each of these areas? Further, is the issue of technical assistance incorporated in the national trade strategy?

**Answer**

*A critical offshoot of the National Trade Strategy is the identification of trade related technical and capacity building needs of Guyana. In this regard, a National Trade Capacity Building Strategy was*

*recently drafted, in which three critical areas have been identified: negotiating capacity, implementation capacity and adjustment capacity. The nature of the technical assistance could include:*

- Training for government officials, such customs officers, environmental analysts, bank regulators, patent and copyright officials, food safety inspectors, and trade policy analysts;
- Programmes that foster trade policy coordination among government agencies and that identify ways to make such trade agencies more effective and transparent;
- Programmes to establish or improve statistical and analytical institutions. Such agencies or institutions would provide impartial and transparent information to governments and civil society on trade policy issues;
- Programmes for business development, such as identifying new market opportunities for small and medium size companies; and
- Programmes to assist the government with regulatory reform in areas such as revenue systems, environmental protection or competition policy.

#### **Report by the WTO Secretariat (WT/TPR/S/122)**

### **SUMMARY OBSERVATIONS**

#### **Question A**

A strong financial sector is a vital component for sound and sustainable development. Consequently, the EC should like to enquire, if direct branches allowed in the sector of banking?

#### **Answer**

*Yes. Direct branches are allowed. In fact, Guyana has two direct branches of foreign banks: Bank of Nova Scotia and Bank of Baroda.*

#### **Question B**

Further, with regard to security services, are there limitations or discriminations on the establishment and operation of foreign financial institutions?

#### **Answer**

*There are no limitations or discrimination in the establishment and operation of foreign financial institutions.*

#### **Question C**

Licensing can be important for necessary regulation of trade in order to protect consumers etc. It can, however, also become an undesired obstacle to the very trade itself. To what extent do the licensing arrangements, described by the WTO Secretariat, restrict the potential for trade, or for what government or regional policies are they considered a necessary instrument?

**Answer**

*This question is similar to Question 7 of the Discussant's list of questions. The answer to this question is the same as that given for question 7.*

**QUESTIONS FROM JAPAN**

**Questions on the Report by the WTO Secretariat (WT/TPR/S/122)**

**III. TRADE POLICIES AND PRACTICES BY MEASURE**

**(2) MEASURES DIRECTLY AFFECTING IMPORTS**

**Question 1**

**Environmental Protection**

Japan appreciates that the Government of Guyana enacted the Environmental Protection Act, which provides for such actions as the protection of the environment, the sustainable use of natural resources and the assessment of the impact of economic development on the environment. Regarding the assessment, it would be useful to make a public announcement of the result for the purpose of helping environmental protection effectively. Please indicate whether the result of the assessment of the impact of economic development on the environment is to be publicly announced or not.

**Answer**

*Yes, the results would be announced publicly.*

**Question 2**

According to the Secretariat Report, Guyana has not notified any state trading enterprises within the meaning of Article XVII of the GATT 1994. However, in our understanding, a number of state-owned enterprises engage in the trade of such products as sugar, gold and petroleum. If this is the case, Japan considers that Guyana should notify the state trading enterprises under Article XVII in accordance with the understanding on the interpretation of this article of the GATT 1994. Japan considers that whether or not the activities of the state trading enterprises are in accordance with this article should only be judged after the notification by Guyana. Concerning this notification, please indicate the policy direction of Guyana.

**Answer**

*Guyana is committed to fulfilling all of its obligations under the WTO. This includes all aspects of the notification procedures. In fact, recently, Guyana submitted notifications in several areas.*

**Question 3**

According to the Secretariat Report, during 2003, the Government of Guyana has been committed to developing a competition law based on the model law distributed by CARICOM. Please indicate whether or not the new developing competition law will apply to the electricity and telecommunications sectors to which are exempted from the prohibition of monopolies in the current Civil Law Act.



**Answer**

*It is not expected that the telecommunications sector will be exempted from the proposed competition law. It should be noted that in certain areas of the telecommunications sector, competition is currently permitted, for example, cellular services, data processing and call centres services, and internet services providers.*

*The draft model competition law which is being developed by the CARICOM Secretariat proposes that such law will apply to public utilities, including the electricity sector. It is anticipated that a Fair Trading Commission will be established under the competition law to promote and facilitate competition in the electricity sector. At present generation of electricity is opened to competition. The principal public utility plans to satisfy much of its generation requirements through power purchase arrangements with Independent Power Producers. The right of any individual to self generate is also enshrined in the existing Electricity Sector Reform Act.*

*With respect to transmission and distribution of electricity and electricity supply in general, the existing law provides that other suppliers may be licensed to provide electricity service in unserved areas where the principal public supplier may not be able to or is not ready to supply. It is anticipated that issues such as economies of scale and demand for electricity will be taken into account in determining to what extent transmission and distribution of electricity within already licensed areas should be opened to competition.*

*In summary, it is expected that the competition law which is being developed will apply to the electricity sector and will serve to further simulate and foster competition in electricity supply activities.*

**QUESTIONS FROM HONG KONG, CHINA****Questions on the Report by the WTO Secretariat (WT/TPR/S/122)****Question 1****Import Restrictions**

It is noted from the Secretariat Report that a large number of goods are subject to import restrictions in Guyana. The authorities explained that some of the requirements date from the 1950s and are not enforced in practice. However, these products are still on the control list. Would Guyana consider updating and rationalising the control list to bring it more in line with the prevailing practice and to provide more certainty to the trade?

**Answer**

*This question is similar to Question 7 of the Discussant's list of questions. The answer to this question is the same as that given for question 7.*

**Question 2****Telecommunications**

It is noted that Guyana privatized the state-owned telecommunication company (Guyana Telecommunications Corporation) in 1990. However, the company has been granted an exclusive licence

for 20 years with an option of renewal for a further 20 years. It means that the monopoly will possibly be only ended in 2030. Besides, it is also noted that although cellular service is open to competition, interconnection is required with the incumbent with respect to international service, which is under the incumbent's monopoly. This further indicates that the open competition in the mobile market is fettered by the monopoly. The experiences of many WTO members, including Hong Kong, China, have indicated that the liberalization of the telecommunication sector would bring about a host of gains for their economies. Would Guyana consider advancing the termination of the monopoly and ultimately binding the sector in the current round of services negotiations?

**Answer**

*The Government of Guyana recognises the importance of telecommunications and ICT services generally to the future well-being of its citizens. It is, therefore, in the process of implementing a programme aimed at reviewing its policies and approaches to the telecommunications sector, with a view to developing a new national telecommunications strategy geared towards attaining an early liberalisation of the sector and the establishment of the legal infrastructure to permit and foster an open, competitive sector. This programme is expected to be executed by mid February, 2005. One of the goals of the programme involves improving undertakings at the multilateral level.*

**QUESTIONS FROM ARGENTINA**

**III. TRADE POLICIES AND PRACTICES AND PRACTICES BY MEASURE**

**Question 1**

The Secretariat's Report points that Guyana, like the other Members of CARICOM, can grant full exemption of duties. Guyana also applies several systems for the exemption of import duties. Could Guyana indicate the criteria used to determine the products entitled to exemption?

**Answer**

*Previously, several discretionary systems were in force to grant duty exemptions. However, this has been replaced by a more transparent mechanism under a new Fiscal Enactments (Amendment)(No.2) Act 2003 that prohibits the President or the Minister of Finance from granting waivers, exemptions, remissions or concessions unless stated in law and the law expressly permits the Minister to do so. Several criteria are used to exempt goods, including whether the goods are inputs into manufacturing; whether the goods appear in the Schedule of the CET on Conditional Duty Exemptions; whether the goods are to be used by the government or in the execution of government contracts; whether goods are imported by charitable organisations for charitable purposes, and whether goods will be used in an approved industry, and hinterland or remote area of the country.*

**Question 2**

The Secretariat's Report points out that the duties applied to the products subject to import licenses vary considerably. Could Guyana indicate the reasons for the said variations?

**Answer**

*The duties applied to goods bear no relationship to the incidence of import licencing. Instead, the duties applied are consistent with the Common External Tariff and the guidelines and conditions contained therein.*

**Question 3**

The Secretariat's Report states that Guyana has not notified any state-owned company under Article XVII of the 1994 GATT. Given that a significant number of state-owned companies has an impact on the GDP, could additional information be provided with regard to the lack of notification of the said companies?

**Answer**

*There has been some lag in the notification to the WTO. However, the Government has been making progress to address this deficiency and will take the necessary actions soon.*

**IV. TRADE POLICIES BY SECTOR****Question 4**

The Secretariat's Report indicates that the "Guyana Marketing Corporation" (GMC), an entity for the trading of agricultural products, was buying all fish and animal products from farmers at a fixed price and was selling them afterwards to consumers. In both instances, the prices were subsidized. Although the buying and selling operations were halted, it was mentioned that since 1997 that the New GMC resumed this practice. Could Guyana specify what is the method employed to fix both the buying as well as the selling price? Similarly, could Guyana indicate the schemes planned to halt such activities?

**Answer**

*As stated in the Secretariat's report the main business of the old GMC was the buying and selling of farmers' produce. However, the new GMC is more into the business of market facilitation, conducting market research, and offering advice to farmers on technology, packaging, storage, etc. The new GMC has engaged in a small commercial activity related to the buying of farmers' produce, at prices negotiated directly with the farmers, and reselling them to domestic and overseas buyers at a small profit margin. This activity is being wound down.*

**QUESTIONS FROM THE UNITED STATES****II. TRADE POLICY REGIME: FRAMEWORK AND OBJECTIVES****Question 1****ii. Investment Regime and Incentives****Para. 69**

Please explain what does "domestic value-added" mean?

**Answer**

*“Domestic value added” refers to value added on products, which are produced within the domestic economy.*

**Question 2**

It is noted that Guyana has been promoting the establishment of industrial estates. Could the representative of Guyana please explain if any of the benefits provided within these industrial estates are tied to the use of domestic goods over imported goods? If so, Guyana should be aware that import-substitution subsidies are prohibited under Article 3 of the SCM Agreement.

**Answer**

*None of the benefits provided within the industrial estates are tied to the use of domestic and/or imported inputs or goods. The industrial estates are established to provide industrial activity within a defined boundary and according to EPA guidelines.*

**III. TRADE POLICIES AND PRACTICES BY MEASURE**

**Question 3**

**1. INTRODUCTION**

While Guyana is to be commended that it has comprehensive tariff bindings, the bindings are at ceiling levels greatly in excess of Guyana's applied tariff rates. This is unfortunate, in that Guyana's tariff commitments do not provide an indication of its tariff policies, nor the stability or predictability that bindings closer to applied rates can provide. This appears to be compounded by use of Conditional Duty Exemptions, which reduce the degree of predictability and transparency of the applied tariff.

**Answer**

*The Government does not agree with statements made in the comment. The bindings represent maximum rates and as such Guyana is within its rights to apply any rate within the range of zero and the maximum rate. Second, as a member state of Caricom, Guyana is obliged to obtain the prior approval of the Council for Trade and Economic Development (COTED) before it can adjust the applied rate above the established CET rate. Third, Caricom countries, individually and collectively, are not in a position to resort to the use of subsidies and other non-tariff mechanisms. The bound rate is the only mechanism avail to our countries to provide some protection against unfair trade practices.*

**Question 4**

**2. MEASURES DIRECTLY AFFECTING IMPORTS**

We noted that Guyana has not made any notification under Article 22 of the Valuation Agreement. Does Guyana plan to make such a notification to ensure the conformity of its laws, regulations and administrative procedures with the Valuation Agreement, as well as any changes in its laws and regulations?

The Secretariat report also notes that while the use of minimum prices for valuation purposes is forbidden under Guyana's laws, Guyana uses references such as catalogues, price lists, the Internet, or previous invoices to determine whether the declared value is acceptable. The description of the use of references raises the question of whether Guyana has a de facto minimum price regime. Please provide further information describing the nature of the practice.

**Answer**

*Yes. The notification will be submitted to the WTO soon. As regards the second part of the question, there is no use of minimum prices in the customs valuation of goods. Reference prices are used only in suspected cases of tax evasion, under-invoicing and smuggling. Guyana does not have the resources to utilise other methods such as engaging a overseas firm to undertake preshipment inspection.*

**Question 5**

**vii. Import prohibitions, restrictions, and licensing**

Guyana has extensive automatic and non-automatic licensing requirements that could add unnecessary costs or burdens to importation. Guyana's notification under the WTO Agreement on Import Licensing Procedures in this regard does not indicate the reasons for these measures. What is the purpose of these requirements, particularly the non-automatic import licensing requirements? What is the fee structure for obtaining licenses? Will Guyana be reviewing its policies in this area to increase the level of transparency and reduce the list of products affected? We look forward to an import licensing notification to the WTO noting any revisions to Guyana's import licensing system that is currently being reviewed. We would like to thank Guyana for the submission of its 2002 annual questionnaire under Article 7.2 of the Agreement and we look forward to Guyana's 2003 notification.

**Answer**

*This question is similar to Question 7 of the Discussant's list of questions. The answer to this question is the same as that given for question 7.*

**Question 6**

**ix. Standards and Technical Regulations**

The United States is concerned that Guyana has not submitted TBT notifications. Please explain the difficulties Guyana is facing. If technical assistance is needed, we would encourage and welcome a submission by Guyana to the TBT Committee for technical assistance on submitting notifications. We encourage Guyana to submit a notification for any of its technical regulations in accordance with its WTO Agreement on Technical Barriers to Trade obligations. We also encourage Guyana to submit its notifications in the early, proposed stage of a technical regulation so as to provide interested parties time to comment and adjust to proposed changes in the technical regulations.

**Answer**

*According to the GNBS, notification of 17 technical standards was submitted to WTO on August 11, 2003, in accordance with Article 10.6. Currently, the Food and Drug Administration of Guyana issues guidelines and technical regulations for food and drug imported into the country. We welcome the offer of technical assistance in this area since we feel that the GNBS can benefit from training on handling of*

*notification and handling of enquiries at the WTO Enquiry Point – Implementation of obligations under WTO/TBT agreement.*

### **Question 7**

#### **3. Measures Directly Affecting Exports**

##### **Para. 75**

Please explain what qualifies as a “non-traditional export”?

##### **Answer**

*A “non-traditional export” is the export of goods other than sugar, rice, timber, bauxite, gold.*

### **Question 7**

#### **4. Measures Affecting Production and Trade**

##### **Para. 84**

It is noted that Guyana provides various incentive schemes that are “applied across-the-board and are contingent on an investor meeting specific criteria or making certain investments”. Could the representative of Guyana please explain what is the “specific criteria” which must be met by the investor? Also, what is meant by “certain investments”? Are investments in particular industries/sectors being targeted? If so, please provide details. What is meant by “pioneering” activities and are full or partial exemptions provided under Guyana’s tax holidays? (Table III.10) Are Guyana’s tax holidays open to every industry in all sectors?

##### **Answer**

*Guyana has updated the criteria for grant of incentives and this is contained in the Fiscal Enactments (Amendment)(No.2) Act 2003, which was passed by Parliament on August 16, 2003. This act amended Section 2 of the Income Tax (In Aid of Industry) Act by the substitution of the following: “(1) Notwithstanding anything to the contrary contained in the Income Tax Act or the Corporation Tax Act, it is hereby provided that the Minister may grant an exemption from Corporation Tax with respect to income from economic activity qualifying under one of the following circumstances:-*

- I. the activity demonstrably creates new employment in (one of four remote geographic) regions;*
- II. the activity is new economic activity in one of the following fields:-*
  - 1. non-traditional agro processing (excluding sugar refining, rice milling and chicken farming);*
  - 2. information and communications technology (excluding retail and distribution);*
  - 3. petroleum exploration, extraction or refining;*
  - 4. mining exploration, extraction or refining;*
  - 5. tourist hotels or eco-tourist hotels.*

*(1A) Any exemption from tax granted under this section shall not exceed five years; except that, in the case of new economic activity specified in 4, 5, and 6 the Minister may grant an exemption of up to*

*10 years. The Customs Tax Act was also amended to provide for the exemption of goods for projects approved under Criteria I and II above.*

#### **Question 8**

##### **Para. 86**

What types of industries are eligible for the accelerated depreciation under the Income Tax (In Aid of Industry) Act?

##### **Answer**

*This answer will be provided on return of the delegation to Guyana.*

#### **Question 9**

##### **Para. 94**

The Secretariat Report states that a number of companies are granted special tax status. Could the representative of Guyana please further explain what is meant by special tax status and are all industries eligible for this status?

##### **Answer**

*There is no concept of "special tax status" within the Guyana Tax Laws. What the Report was probably referring to was the tax incentives provided to certain sectors, for example, the tourism sector, to promote tourism as a key contributor to the GDP. However, these tax arrangements would no longer be available; instead, the answer to Question 7 provides the criteria to be followed. Tax incentive schemes and related arrangements which were in existence immediately prior to the coming into effect of the new Fiscal Enactments Law will be "grandfathered" out.*

#### **Question 10**

We note that some of Guyana's export incentives appear to involve the use of local content requirements. The WTO Agreement on Subsidies and Countervailing Measures prohibits such requirements, and we would urge Guyana to restructure its industrial incentives in accordance with the agreement. More broadly, we wonder what steps Guyana has taken to notify its industrial and export incentives as required by The WTO Agreement on Subsidies and Countervailing Measures.

##### **Answer**

*The statement is not true. As reflected in the answer to Question 2, the government does not discriminate between foreign and domestic goods in terms of them benefiting from use of industrial estates. The export allowance that is granted is provided as an incentive to producers of non-traditional products who export to non-Caricom countries and earn hard currency foreign exchange (for example, the euro, pound sterling, United States dollar, Canadian dollar).*

### **Question 11**

#### **vi. Intellectual Property Rights**

##### **Para. 113**

The Secretariat Report, indicates that all trademarks granted in 1999, 2000 and 2001 were to residents of Guyana. Please indicate whether any foreign applicants filed for trademark registration in the 1999 – 2001 period. Were any trademarks registered to foreign applicants during this period? What is the process for foreign applicants to file a trademark application in Guyana? How, if at all, does it differ from the application process for nationals of Guyana?

##### **Answer**

###### **TRADE MARKS REGISTERED**

YEAR	FOREIGN	LOCAL	TOTAL
1999	555	23	578
2000	505	19	505
2001	573	51	522

*The process for filing foreign applications is similar to process for filing local applications. There is no difference in application process for nationals of Guyana.*

*(Trade marks Act, Section 19)*

### **Question 12**

How are service marks protected under the law of Guyana?

##### **Answer**

*There is no protection for service marks in Guyana. However persons having services would normally register under Class 16, which includes goods such as paper and paper articles, printed matter, newspaper, stationery and books.*

### **Question 13**

Please explain what constitutes eligible subject matter for a trademark, such as words including personal names, letters, numerals, sounds, scents, three-dimensional figures, figurative elements and combinations of colours as well as any combination of such signs. How are well-known marks protected in Guyana?

##### **Answer**

*Any person claiming to be the proprietor of a trade mark used or proposed to be used may apply to the Registrar in the prescribed manner for registration either in Part A or Part B of the register. Registration of United Kingdom Trademarks is provided for under Sections 40-51 of the trademarks Act.*

*In order for a trade mark to be registerable in part A of the register it must consist of one of the following essential particulars: the name of a company, individual, or firm, represented in a special or particular*



*manner, the signature of the applicant for registration or some predecessor in his business, an invented word or words, word or words having no direct reference or character or quality of goods and not being in its ordinary signification a geographical name or surname, any other distinctive mark, but a name, signature or word or words other than such as fall within the descriptions in the foregoing shall not be registerable except upon evidence of its distinctiveness.*

*A trademark may be limited in whole or in part to one or more specified colours, and in any such case the fact that it is so limited shall be taken into consideration by any tribunal having to decide having to decide on the distinctive character of the trademark. If a trademark is registered without limitations it shall be deemed to be registered for all colours.*

*Any person aggrieved by a registered trademark may on apply to the Court or the Registrar to have the registration cancelled. If the action concerns a pending mark the application is made to the court. If in any other case the application is made to the Registrar. Application is made on the prescribed form and shall be accompanied by a statement setting out fully the nature of his interest the fact upon which he bases his case and the relief, which he seeks.*

#### **Question 14**

The report states that Section 29 of the Trade Marks Act, Chapter 90:01 allows for the defensive registration of well-known trademarks, where the well-known trademark is registered in Guyana. What role do defensive marks play in ensuring that well-known marks are protected? Please explain how the requirement for defensive registration is compatible with the obligations under TRIPS Articles 16.2 and 16.3 in respect of well-known marks.

#### **Answer**

*Where a trademark has become so well known as respects any goods in respect of which it is registered and in relation to which it has been used that the use thereof in relation to other goods would be likely to be taken as indicating a connection in the course of trade between those goods and a person entitled to use the said mark in relation to the first mentioned goods, then, notwithstanding that the proprietor registered in respect of the first mentioned goods does not use or propose to use the trade mark in relation to those other goods the trade mark may on the application be registered in his name in respect of those other goods as a defensive trade mark and while so registered shall not be liable to be taken off the register.*

#### **Question 15**

How may interested parties petition to cancel a trademark registration?

#### **Answer**

*This is not available currently. The delegation endeavours to pursue an answer on its return to Guyana.*

#### **Question 16**

##### **c. Patents and industrial designs**

Please provide us a copy of the draft Industrial Property Law. When will the draft law be completed? When do you expect the law to be promulgated? Does Guyana expect to apply for memberships to the

following conventions and treaties: Patent Cooperation Treaty, International Union for the Protection of New Varieties of Plants (UPOV), Patent Law Treaty? If so, when does it expect to apply? Please provide us with any laws, rules, decrees, bulletins, etc. from pertinent institutions (Registry of Patents, Drug Registry, Ministry of Health, etc.) indicating that Guyana protects test data and other information, submitted to health authorities as a condition of approving the marketing of pharmaceutical or agricultural chemical products, against unfair commercial use by third parties. We would also appreciate documents on the specifics of this protection, e.g., does it apply to products that are not under patent protection in Guyana; can others rely on information and data submitted by others without authorization from the party submitting the information and data?

**Answer**

*With assistance from the Commonwealth Secretariat in 1999, the process of drafting a modern industrial bill commenced. However, the draft bill was not completed and the drafting expert left Guyana. The incomplete draft of the industrial property bill is currently with the Ministry of Legal Affairs, which is currently short of legal drafting staff and overwhelmed with requests to draft new legislation in a number of areas. The Government cannot provide a date as to when the draft will be completed and promulgated.*

*Guyana does have plans to accede to the Patent Cooperation Treaty in the near future, as soon as the current patent law is updated. Accession to the International Union for the Protection of New Varieties of Plants (UPOV) has certain implications for Guyana's agricultural sector and the Government is considering all of the options.*

*The Narcotics and Psychotropic Substance Act and Regulations, the Food and Drug Act and Regulations and the Pharmacy and Poison Ordinance makes provisions for the protection of test data and gives guidelines to the conditions for approving marketing of pharmaceutical products.*

**Question 17**

**d. Copyright**

We recognize that Guyana is currently in the process to enact a new copyright bill. Problems with current legislation, include but are not limited to the following: trademark protection is for 7 years, renewable, less than the 10 years prescribed under TRIPS; patent term is 16 years, less than the 20 years required by TRIPS, pharmaceutical products are only eligible for process patents, not product patents; and Guyana's current laws do not provide for the protection of layout-design of integrated circuits. Please provide us a copy of the Copyright Law, now under consideration in the National Assemblies. When will the Copyright Law be promulgated?

**Answer**

*The draft Copyright Law has not been completed and, therefore, could not have been presented to the National Assembly (NA). As soon as the drafting has been completed, it would be circulated to all stakeholders for inputs before a final draft is presented to the NA.*

**Question 18****Para. 124**

This paragraph states that the bill contains compulsory licensing provisions. Please describe the nature of the compulsory license requirement provided for in the bill. Please describe what exclusive rights are provided to copyright owners in the bill. Please also describe what rights are provided to performers and broadcasters. In addition, describe the exceptions, if any, to the rights provided for in the proposed legislation.

**Answer**

*The bill does not contain provisions for compulsory licensing.*

*Section 9 of the Bill describes the exclusive rights which are provided to copyright owners. These are moral and economic rights and they are described as follows:*

*(1) By virtue of and subject to the provisions of this Act, the owner of the copyright in a work shall have the exclusive right to do or to authorize other persons to do any of the following acts in Guyana:-*

- (a) to copy the work;*
- (b) to issue copies of the work to the public;*
- (c) to perform the work in public or, in the case of a sound recording, film, broadcast or cable programme, to play or show the work in public;*
- (d) to broadcast the work or include it in a cable programme service;*
- or*
- (e) to make an adaptation of the work and, in relation to such adaptation, to do any or all of the foregoing acts.*

*(2) For the purposes of subsection (1) references to the doing of any act in relation to any work means the doing of the act:-*

- (a) in relation to the whole or any substantial part of the work; and*
- (b) either directly or indirectly,*

*It is immaterial whether any intervening acts themselves infringe copyright.*

*(3) By virtue of and subject to the provisions of this Act:-*

- (a) the author of a literary, dramatic, musical or artistic work that is a protected work; or*
- (b) the director of a film that is a protected work, shall have in respect of such work, whether or not he is the owner of the copyright in the work, the moral rights specified in Part III.*

*Section 107 describes the rights which are given to performers. First a performer must give consent to the exploitation of his performance and second, a person having recording rights in relation to a performance must give his consent to the making of a recording of that performance. The rights conferred are independent of any copyright in or moral rights relating to any work used in or performed*

*in the performance or any other right or obligation arising otherwise in the bill. In terms of Section 6-(1) (b), broadcasts fall under the category of works which are protected by copyright. Section 8-(2) states that a broadcast qualifies for copyright protection if it is made from a place in Guyana or a specified country by a broadcasting organization in possession of a valid license granted to it under any law in Guyana or a specified country regulating broadcasting. The rights which broadcasters have are the same as for all copyright owners and these have already been listed in the answer to number 3(a) above.*

*Part VI provides for exceptions to the rights in the proposed legislation subject to specified conditions. Part VI is headed 'Exceptions to Infringement of Copyright and provides for the following exceptions:*

- Research and private study;*
- Criticism, review and reporting;*
- Fair dealing;*
- Incidental inclusion;*
- Use of the work for educational purposes;*
- Exceptions affecting libraries and archives;*
- Exceptions relating to public administration;*
- Designs*
- Exceptions relating to works in electronic form;*
- Miscellaneous exceptions relating to sound recordings, films and computer programs;*
- Miscellaneous exceptions respecting broadcast and cable programmes.*

### **Question 19**

Please describe the provisions in the Copyright Bill that provide criminal penalties for copyright infringement. What are the penalties? Is imprisonment provided for? Are all copyright infringements subject to criminal penalties?

### **Answer**

*Sections 46 to 48 provide for offences and section 46 specifically provides for criminal penalties for dealings which infringe copyright.*

*Section 46- (4) provides that any person guilty of an offence shall be liable:*

*'(a) on summary conviction to a fine of fifty thousand dollars and to imprisonment for two years;*

*(b) on conviction on indictment to a fine of two hundred and fifty thousand dollars and to imprisonment for five years.'*

*Section 46- (5) provides that a person guilty of an offence under this section other than an offence under subsection (1) shall be liable to:*

*'(a) on summary conviction to a fine of twenty-five thousand dollars and to imprisonment for one year;*

*(b) on conviction on indictment to a fine of one hundred thousand dollars and to imprisonment for three years.'*

*No, the copyright infringements which are criminal offences are listed in section 46. Section 31 describes various types of infringement of copyright and provides for civil remedies by the copyright owner.*

**Question 20**

Does the draft law provide for national treatment?

**Answer**

*Yes, Section 144 provides that the Minister may by Order extend any provision of the bill to any persons or bodies corporate of any country to apply in the same way as they apply to citizens or habitual residents of Guyana.*

**Question 21**

Will copyright protection be extended under the Copyright Bill retroactively to all works that have not yet fallen into the public domain in the country of origin through the expiry of the term?

**Answer**

*No, the Bill does not provide for this.*

**Question 22**

Does Guyana intend to ratify and implement the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, and if so, when?

**Answer**

*Currently, Guyana is not a signatory to the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty. However, it is envisaged that Guyana will eventually accede to these treaties in due course.*

**Question 23**

**e. Other forms of intellectual property**

How does the law of Guyana provide the legal means for interested parties to prevent the use of misleading geographical indications as required under Article 22 of the TRIPS Agreement? How does the law of Guyana provide the legal means for interested parties to prevent misleading use of geographical indications, which constitutes an act of unfair competition within the meaning of Article 10bis of the Paris Convention? How does the law of Guyana provide the legal means for interested parties to prevent the use of false geographical indications used on wines and spirits, as required under Article 23 of the TRIPS Agreement? What procedures are in place for interested parties or owners of third-country geographical indications to prevent the use of foreign geographical indications? In what way does the law preserve the rights of trademark owners, consistent with Article 24(5) of the TRIPS Agreement? When does Guyana envision adopting laws for the protection of integrated circuit designs?

**Answer**

*The present IP legislation in Guyana does not provide protection for geographical indications (GI). However, steps are being taken to revise the existing trademark legislation to include protection for GI.*

*There are also no laws in place to prevent the misleading use of GI or false GI in the case of wines and spirits.*

*There are no procedures in place for interested parties or owners of third-country GI to prevent the use of foreign GI.*

*Geographical Names are not registerable. However, if a trademark consists of a geographical name, the Registrar may ask for a disclaimer or the mark may be registered on the condition that the mark is limited only to goods produced in such place.*

*Guyana does envisage adopting laws for the protection of integrated circuit designs. The updating of the existing IP legislation would include modern legislation to protect integrated circuit designs.*

**Question 24**

**f. Enforcement of intellectual property rights**

What are the civil and criminal penalties for wrongful use of a trademark? Who enforces any judgment related to the wrongful use of a trademark? In cases of infringement, how are damages calculated? What are the civil and criminal penalties for wrongful use of a geographical indication? Who enforces judgments related to the wrongful use of a geographical indication? In cases of infringement, how are damages calculated? From a brief review of the enforcement laws of Guyana, we note that they appear outdated, and may not be TRIPS compliant. Please provide copies of either existing or draft texts of future customs laws, civil and penal codes that provide for the TRIPS compliant enforcement of intellectual property and indicate when these laws will be promulgated. Please explain how Guyana intends to institute an intellectual property enforcement regime that is compliant with the requirements of the TRIPS agreement. Please explain how Guyana is actively combating piracy on the domestic market to protect its artistic and cultural heritage.

**Answer**

*Civil and criminal penalties for wrongful use of trademarks are spelt out in Section 69 of the Trademark Act Chapter 90:01. The plaintiff will enforce judgment related to the wrongful use of a trademark. However, in cases of infringement, there is a minimal fine of G\$100.*

*There are no civil and criminal penalties in place for wrongful use of geographical indications.*

*Guyana is in the process of updating all its IP legislation to be TRIPS compliant. When these legislation are completed and implemented, the appropriate customs laws, civil and penal codes would be accompanying these legislation for enforcement.*

*Custom officers and law enforcement officials have the authority to seize any pirated products on the domestic market to protect artistic and cultural heritage.*

**Question 25**

**IV. TRADE POLICIES BY SECTOR**

**5. Mining**

**ii. Regulatory Framework**

It is noted that Guyana provides fiscal incentives that are specific to large-scale mining. Could the representative of Guyana please explain what types of fiscal incentives are being offered? Besides fiscal incentives, do mineral agreements with the Government provide other types of benefits to the mining industry?

**Answer**

*The Fiscal Regime Applicable to Mining is as follows:*

**A. Large Scale Mining of Gold and Precious Metals, Diamonds and Precious Stones.**

- |   |  |
|---|--|
| ▪ Royalty   | 5% of production or gross revenues.  |
| ▪ Income Tax  | 35% of taxable income.   |
| ▪ Depreciation  | 20% straight line.   |
| ▪ Duty and Consumption Tax on equipment and machinery | Zero duty and consumption tax on all equipment, process materials and spares used for surveys, exploration or mining.  |
| ▪ Fuel  | 10% Consumption Tax.   |
| ▪ Withholding tax                                     | 6.25% of distributed dividends.  |
| ▪ Stability Clause                                    | All conditions to be maintained for up to 15 years from the start of production or the life of the deposit, whichever is shorter, after which the applicable duties and taxes shall apply. |

*During geological reconnaissance and large scale prospecting, up to 50% of the cost of specified infrastructural developments, which may serve the local community, may be credited against rental fees.*

*The incentive specified under the Stability Clause has been superseded by the Fiscal Enactments (Amendment)(No.2) Act 2003, which was passed by Parliament on August 16, 2003. This act amended Section 2 of the Income Tax (In Aid of Industry) Act*

**B. Bauxite and Other Minerals (Except Sand and Quarriable Stones).**

- |           |  |
|-----------|--|
| ▪ Royalty | 1.5% of product or gross revenues or production costs leaving the plant, whichever is greater. |
|-----------|--|

*All other conditions apply as in the case of gold. The reduced royalty rate is an inducement for the development of industrial minerals, base and ferrous metals, semi-precious stones and other non-traditional minerals.*

## QUESTIONS FROM VENEZUELA

### Question 1

Has the Government of Guyana studied the possibility of phasing out or eliminating the import duty exceptions to the Common External Tariff?

#### Answer

*No. There has been no study on the phasing out or elimination of the import duties exceptions to the Common External Tariff. In order to do this, Caricom as a block would have to undertake same exercise as the CET governs tariff regimes within the Member States.*

### Question 2

#### **III. Trade Policies and Practices by Measure**

Guyana, like other CARICOM members, may grant full import duty exemption on the goods in its Conditional Duty Exemption List. Guyana also applies a number of schemes that provide for import duty relief. These relief schemes, and in general the wide scope of CET exceptions, reduce the degree of predictability and transparency of the applied tariff, and in some cases may be introducing elements of discrimination among importers. Most items are subject to a 30% consumption tax rate, although some may be subject to lower rates and a few to higher ones (up to 128%).

#### Answer

*A similar concern (Question 1) was raised by Argentina. The response of the Government to this concern is the same as its answer given previously.*

### Question 3

The Secretariat report says, with regards to tariff preferences, that the agreement with Colombia is the only one which stipulates the reduction of duties by Guyana and that this agreement is actually in force. Venezuela would like to know: (i) What is the status of the Agreement negotiated with Brazil in the context of the Latin American Integration Association (ALADI)? (ii) If the Government of Guyana plans to negotiate other trade agreements with other Latin American countries (with the exception of the FTAA)?

#### Answer

*The Agreement with Brazil, though signed by both sides, is still under review by Caricom. As soon as approval is obtained, the Government would move to enact legislation to bring the agreement into effect. At present, Guyana has no immediate plans to negotiate other trade agreements with other Latin American countries. For Guyana to negotiate any Free Trade Agreements with other Latin American countries or any other country, the approval of COTED must first be obtained. In addition, the Revised Treaty of Chaguaramas of Caricom states that no country can negotiate any Trade Agreement alone. Caricom is currently negotiating a trade agreement with Costa Rica.*



#### **Question 4**

##### **(f) Tariff preferences**

Some of the trade agreements that Guyana has entered into in recent years, either on its own or as part of CARICOM, also provide for reduced-duty or duty-free treatment of certain imports. The agreement with Colombia is the only one that provides for reduction of Guyana's duties and has been put into effect. As a consequence, imports from Colombia enter Guyana at an average rate of 11.6%, slightly below the MFN rate. Preferences granted to Colombia are in general small and limited to certain products; the main ones are chemicals, tanning products, and some other manufactures. CARICOM agreements with the Dominican Republic and Cuba are still pending ratification.

#### **Answer**

*The Government of Guyana has approved the implementation by Guyana of the agreements between Caricom and the Dominican Republic and Caricom and Cuba. These are expected to be implemented soon.*

#### **QUESTIONS FROM BRAZIL**

#### **Question 1**

##### **I. TECHNICAL STANDARDS**

Should the labelling of packaged edible products carry any detached warning of the product being made with ingredients containing GMO?

#### **Answer**

*Yes. While Guyana has no regulations of its own, it accepts and uses the guidelines provided by CODEX Alimentarius on genetically modified and/or engineered foods*

#### **Question 2**

What products are subject to total or partial ban under Guyanese technical regulations?

#### **Answer**

*Partial ban, meaning under license for technical reasons health and safety, include meats, pharmaceuticals, cosmetics, chemicals and pesticides. A full list can be made available.*

#### **Question 3**

Under Guyanese regulations, what imported products are subject to specific environmental soundness of manufacturing processes?

**Answer**

*Guyana is seeking to have all manufacturers meet at least ISO 9000. All manufacturing has to pass Environmental Protection Agency (EPA) tests for environmental soundness. Environmental Impact Assessments are required to be done. Public notice and approval of the Environmental Assessment Board are also required.*

**Question 4**

**II. INTELLECTUAL PROPERTY**

What is the basis for the use of the term “Demerara” as an exclusive geographic denomination since the final quality of sugar by no means results from soil and/or climatic conditions of the area where the sugar cane used in the industrial process was grown, nor from the sugar cane variety either?

**Answer**

*Since the 19<sup>th</sup> century, the territory of Guyana has comprised three counties: Essequibo, Berbice and Demerara. Thus, the use of the word “Demerara” derives from a geographic location in Guyana and Demerara Sugar is derived from the process from which sugar is produced from sugarcane cultivated in the county of Demerara. Guyana is currently taking steps to update its trademark legislation to include protection for geographic indications.*

**Question 5**

**III. ANTI-DUMPING AND COUNTERVAILING MEASURES**

Could the authorities of Guyana explain if the work in progress on anti-dumping legislation initiated in mid 2003 has been concluded? "Articles 129 and 131 of the Revised Treaty of Chaguaramas allow for member States either to investigate charges of anti-dumping against other member States under their own legislation, or to request COTED to investigate for them under Part 5 of the Treaty". Could the Guyana authorities explain the investigating procedures adopted by COTED, given that Guyana hasn't its own anti-dumping legislation?

**Answer**

*No. Draft CARICOM model Anti Dumping legislation was revised in July 2003 by CARICOM. Guyana is expected to use this model in drafting its own legislation. In the meanwhile, it relies on bilateral discussion to resolve issues, failing which it utilizes the procedures of COTED. These procedures will be clarified by the delegation on its return to Guyana.*

**Question 6**

**IV. SERVICES**

Services account for some 40% of GDP. Guyana has made GATS commitments in five sectors: business, communication, financial, tourism, and transport services. Tourism is the most important service activity in terms of foreign exchange earnings, although it is less important to Guyana than it is to most other CARICOM countries. The industry enjoys various incentives.” What are the incentives given to these industries and what are the sectors benefiting from such subsidies?

**Answer**

*Guyana grants customs duty and consumption tax remission to the tourism sector as follows:*

- *Up to 50% of the value of the investment for building materials and all inputs for new hotels and resorts of more than 15 rooms and for expansions;*
- *Up to 25% of the value of the investment for renovations and refurbishments;*
- *Accommodation tax of 10% is waived for hotels deemed resorts.*

**Question 7**

Which are the areas excluded from the exclusivity granted to Guyana Power and Light (GP&L) until 2022 in transmission and distribution of electricity? Please, provide detailed information about the hydroelectric plant at Turtruba and the services which will be subject to international competition.

**Answer**

*The area excluded is the generation of electricity. The Government actively encourages Independent Power Producers (IPPs), who are required to negotiate the sale of the power generated with GPL. The government also promotes the development of alternative energy sources. There is no hydroelectric plant in Guyana at that location.*

**Question 8**

In Guyana's scheduled commitments there are no commitments for the following: Computer and Related Services, Postal and Courier Services, Construction and Related Engineering Services and Distribution Services. Please, indicate the legislation that rules the provision of those services.

**Answer**

*Currently, only legislation pertaining to the regulation of the Postal and Courier services exists.*

**Question 9**

**V. GOVERNMENT PROCUREMENT**

"New government procurement legislation, to modernize and make more transparent the procurement process, was assented to but not enacted in 2002. In consultation with the World Bank, the Government of Guyana substantially revised that legislation." Which are the points in the former legislation that were advised for revision?" Concessions are treated in the government procurement universe? Are foreign companies allowed to participate in bids concerned with concessions? Does Guyana use the Built Operate Transfer (BOT), or similar contracts, as a purchasing method? Is the Built Operate Transfer (BOT), or similar contracts, included in the coverage of commercial agreements? Guyana is negotiating or already takes part? Is there a Similarity Examination Procedure that excludes acquisition of foreign products and services from Government Procurement contracts? If affirmative, how the Government identifies similar national product? Is Guyana part or is negotiating any Government Procurement International Agreement(s)? How sub-central government procurement are dealt? How public enterprises procurement are dealt? Which are the offsets allowed in the Guyana bidding process? Are there any eco-labelling or eco-audit offsets in the Guyana government procurement regulations and laws

in the central and sub-central level that may be used in government procurement? If affirmative, please indicate its legal provisions and examples of their use. Are there any social clause requirements in the Guyana government procurement regulations and laws in the central and sub-central level that may be used in government procurement? If affirmative, please indicate its legal provisions and examples of their use.

**Answer**

*The Government passed a new Procurement Bill in 2003, incorporating all of the changes recommended by the World Bank. Foreign firms are allowed to bid for contracts in all areas. There are no restrictions, except for the usual preferences that are granted to local contractors by multilateral institutions such as the IDB. Guyana welcomes BOT arrangements that are mutually beneficial. In fact, Guyana is looking to conclude such an arrangement for the construction of a bridge across the Berbice River. Guyana is not currently negotiating any procurement agreement with an international agency. Sub central government procurement is governed under the new Procurement Law, a copy of which can be made available.*

**Question 10**

**VI. COMPETITION POLICY**

Guyana does not have a competition law. Some specific statutory provisions governing competition are to be found in the Civil Law Act (Cap. 6:01), which prohibits monopolies. Such prohibition, however, does not apply in the cases of electricity and telecommunications. According to the TPR, Guyana, as a member of CARICOM, is working to establish a regional fair trading commission and intends to adopt a model law on competition policy based on Jamaica's legislation. When does the government intend to submit to Congress the antitrust law? What are the economic and political prospects fostering an approval of such rules?

**Answer**

*The Government is currently examining the Completion Legislation and hopes to present to the Parliament within 6 months.*

**Question 11**

**VII. RULES OF ORIGIN**

Guyana applies rules of origin for preferential purposes. In the case that certificates of origin are required, could Guyana inform which authorities issue the certificate of origin?

**Answer**

*The Customs and Trade Administration of the Guyana Revenue Authority issues the certificate.*

## **Question 12**

### **VIII. IMPORT PROHIBITIONS, RESTRICTIONS AND LICENSING**

Is there any kind of register required from Guyana importers to the prior import licensing? Which would be the required procedures? Please inform us the licensing fees value in order to cover administrative expenses on the processing of documents.

#### **Answer**

*A similar question was posed by several members of the WTO, for which answers have been provided.*

### **QUESTIONS FROM THE DISCUSSANT – Mr. Jan-Meinte Postma**

#### **Question 1**

What are the authorities' views with respect to future action to be undertaken to increase receipts and reduce expenditure, considering Guyana's dependence on indirect taxes, particularly on imports?

#### **Answer**

*In the area of taxation, as was reported in the Statement by the Minister, Guyana has worked with the International Monetary Fund (IMF) in the preparation of a comprehensive three-year Tax Policy Reform Action Plan (TRAP) whose objectives include the widening of the tax base through increased coverage of goods and services, reduced exemptions and the introduction of a VAT in 2006; increasing transparency and efficiency in tax administration and collection, and stimulation of investment, savings and growth. Towards this end, the Government has taken the following actions in 2003:*

- *Imposed a consumption tax of 10 per cent on domestic telephone calls. Both overseas and domestic calls are now taxed at the same rate,*
- *Equalised the withholding tax on interest bearing deposits, loans secured by bonds, and payments other than interest to non residents to 20 per cent, where before these were assessed at 15 per cent and 10 per cent,*
- *Through the Fiscal Enactments (Amendment)(No.2) Act 2003, the Government has taken the following key actions, among others:*
  1. *Removed the discretion of the President and the Minister of Finance to exempt or remit taxes, except on humanitarian grounds,*
  2. *Imposed a service tax of between 10-15 per cent on the services rendered by certain classes of professionals,*
  3. *Imposed a presumptive method of assessing income of certain categories of self employed persons,*
  4. *Imposed a 2 per cent minimum tax on the income of professionals earning in excess of \$10 million Guyana dollars,*
  5. *Restricted the grant of a tax holiday to certain key sectors and geographic regions, and*
  6. *Updated penalties in respect of false reporting or non-filing of income.*
- *Improved the administration of taxes through the filling of the key posts of Commissioner-General and Deputy Commissioner-General of the Guyana Revenue Authority, hiring of other*

*critical staff, hiring of 12 auditors to boost assessments in the Consumption Tax Division, increasing the budget of the GRA in order to acquire much needed machinery and equipment such as boats, vehicles, and computers.*

- *In the area of expenditure, the Government has adopted a strategy that includes:*
- *Freezing new hirings in the civil service, except in the education and health sectors,*
- *Restricting wage increases within inflation,*
- *Adopted a policy of voluntary separation and natural attrition in a number of areas,*
- *Contracting out a number of services, including the provision of security and the execution of public works programmes,*
- *Undertaking a comprehensive review and audit of public sector entities, with a view of rationalization, closure, mergers, and privatization,*
- *Restricting financial transfers to the loss-making bauxite company,*
- *Implementing programme budgeting as part of the efforts to improve the efficiency and accountability in government,*
- *Modernizing the state's treasury and accounting operations utilizing best practices, and*
- *(very shortly) legislating a new and modern Budget and Financial Management Law and a National Audit Law.*

## **Question 2**

Is the Government considering limiting the financing of the public enterprises?

### **Answer**

*Yes. Over the last four years, Government transfers have been restricted to Linden Mining Enterprise (Linmine), and in the past year, to Guyana Sugar Corporation (Guysuco). In July 2003, the Government severed all the workers at Linmine and handed over the management of a reduced bauxite operation to a Canadian firm. It hopes to engage this firm in a new partnership arrangement by the end of this year. Bearing in mind the social and economic trauma that has been created from such drastic action (bauxite mining is the major activity of the town of Linden), the Government has agreed to continue transfers to meet part of the cost of electricity consumed by the community. With respect to Guysuco, all transfers are in the form of loans from multilateral financial institutions that are granted to the Government and onlent to Guysuco for financing of its modernization project. This activity and treatment of the financing arrangement have the support of both the IMF and the World Bank.*

## **Question 3**

How does Guyana envisage to reduce the debt over time, as well as its reliance on remittances?

### **Answer**

*The Government is engaged in a multi-pronged approach to this issue. First, it is working with the international community, in the context of the Enhanced HIPC initiative. Guyana expects to meet the floating completion point before end December, signaling its eligibility for a top up to 90 per cent write-off of eligible debts. This would result a saving of over US\$500 million over 20 years and would effectively bring the stock of external debt to under US\$1 billion. At the same time, it has been granted 100 per cent write-offs by some bilateral Paris Club donors. We are pursuing a similar approach with the non-Paris Club donors. Second, the Government has been upgrading the physical infrastructure and has been improving the governance, investment and trade frameworks in order to boost investment*

production and exports, thereby increasing foreign exchange and savings and consequently our need to engage in new extensive borrowing. *Third*, in the event of new borrowing, the government has followed a strategy that this would only be undertaken where the terms are extremely soft and generous. *Fourth*, with the aggressive privatization programme, which has seen the government involvement in economic production being restricted to Guysuco, and the co-opting of the private sector to play a lead role in wealth creation, government has limited its borrowing to improvement in the physical, financial and human infrastructure, and other activities in support of the private sector. *Fifth*, remittances will remain an important part of our receipts, given the large Guyanese population in the diaspora. In fact, rather than reducing, the Government views remittances as an important source of receipts, and will take steps to harness and encourage the growth of them.

#### **Question 4**

Doesn't Guyana consider fiscal concessions (to foreign investors) as undermining the fiscal situation if, especially, as the authorities note in the report, fiscal revenue is to a large extent dependent on taxes on imports?

#### **Answer**

No, we do not consider this to be so. Although Guyana is blessed with an abundance of natural resources that have the potential to create wealth and reduce poverty in the country, these by themselves have proven to be insufficient to attract investment of the type and magnitude to exploit them. Guyana suffers from a plethora of infrastructural, human and institutional problems which, when combined with political instability, result in Guyana's low rating among countries to which major investments are destined. And while progress has been made in recent years in improving the environment, the view of the Government is that Guyana will have to continue to use fiscal concessions into the immediate future as an important tool in its armoury of incentives to attract investment. Nevertheless, to remove the arbitrary grant of these concessions, the Government has recently enshrined into law (Fiscal Enactments (Amendment) (No.2) Act 2003) the circumstances under which fiscal concessions, including exemptions from duties and taxes and tax holidays, will be granted to investors. In the meanwhile, the Government feels confident that the other on-going reforms to improve the business climate, including the adoption of the unified investment code and the implementation of the TRAP, and measures to control the growth of expenditures, will improve the fiscal situation in the medium term.

#### **Question 5**

Could the authorities elaborate on the situation that led to the resale of the bauxite and electricity companies and explain if measures are being taken to prevent this from happening again?

#### **Answer**

The Government wishes to state categorically that it does not have a policy of returning privatized public sector companies to the public sector. However, unfortunate developments forced the Government to accept the offers of the investors in the bauxite and electricity companies. In the case of the Aroaima Bauxite Company (ABC), which was jointly owned by the Government and a foreign investor, the mine reserves of ABC were about to be depleted. The foreign investor made a proposal to save the company that involved gaining access to the reserves of another, Government-owned, bauxite company, Bermine, in the immediate vicinity of ABC. Even though the Government supported the proposal, there were strong objections from key stakeholders – the main Opposition political party, the trade unions, and the workers. Since neither a viable decision nor alternative arrangement could be reached in a timely

*manner, the overseas investor agreed to sell its shares to the Government for a token sum of money. Since then, the Government has taken a number of steps to prepare the company for re-privatisation, including the severing of workers at Bermine; and the rationalisation of the operations of ABC and Bermine. In the case of the electricity company, strong public reactions to alleged non-performance of the foreign investor, who was also responsible for the management of the operations under a separate management contract, the imposition of a heavy fine by the Public Utilities Commission for failure to meet technical and commercial loss reduction targets, a class action suit alleging over-billing by the company, and heavy financial losses by the company, occasioned in part by low revenue collection, a delayed tariff adjustment and rising oil prices, among other factors, were responsible for the foreign investor selling its shares to the Government for a token sum of money. The Government has tried to stabilise the operations of the company while it decides on the new form of ownership.*

#### **Question 6**

Are the authorities considering lowering rates as part of the change in tax systems?

#### **Answer**

*Yes. As part of the TRAP, not only is the Government proposing to lower some rates, but it will be abolishing certain taxes once the VAT comes on stream. It also proposes to increase the individual income tax allowances.*

#### **Question 7**

Why does Guyana make such extensive use of import-licencing requirements?

#### **Answer**

*The licencing arrangements enforced in Guyana are for the reasons stated in the Report by the Government in the Guyana Trade Policy Review Report, mainly for health, security and safety. They largely do not result in the inhibition or restriction of trade. The licencing requirement for sugar and rice is because of the sensitive nature of these products to the economy of Guyana, while that for wheaten flour is because of USAID PL 480 (Food Aid) obligations. No fee is charged to process or issue a licence. The list of items is under constant review by a committee under the auspices of the Ministry of Tourism, Industry and Commerce.*

#### **Question 8**

None of the technical standards of the GNBS have been notified to the WTO. Other than the Guyana National Bureau of Standards, do other bodies issue technical regulations?

#### **Answer**

*According to the GNBS, notification of 17 technical standards was submitted to the WTO, on August 11, 2003, in accordance with Article 10.6. Currently, the Food and Drug Administration of Guyana issues guidelines and technical regulations for food and drugs imported into the country.*



**Question 9**

Could the authorities provide information on the interaction between Customs and the Ministries of Agriculture and Health in respect of the widespread use of sanitary and phytosanitary certificate requirements for agricultural imported goods?

**Answer**

*Guyana delegation reserves its answer to this question until its return to the Capital.*

**Question 10**

How does Guyana manage all of the different incentive schemes? Don't they complicate the process unnecessarily and make less transparent the trade and investment regimes?

**Answer**

*Guyana's fiscal incentives regime is encapsulated under a few all-embracing pieces of legislation that are under review. As alluded to before, several pieces of fiscal legislation were amended and tightened under the new Fiscal Enactments (Amendment)(No.2) Act 2003. Further reforms will be undertaken in the on-going efforts to improve the business climate and competition in the country.*

**Question 11**

Could the Government provide details about the scope and content of the new procurement legislation and when is it expected to come into force?

**Answer**

*A new Procurement Law, incorporating detailed comments from the World Bank and other stakeholders, was passed in June 2003. The new law increases the tender limits; creates a number of regional tenders board; limits the Cabinet's involvement in decision making to large scale capital projects; establishes a procurement secretariat; and prescribes the detail, format and manner of record keeping and auditing, among others. It also provides for an over-arching function to be performed by the constitutionally-created Public Procurement Commission. While the new law is in place, it awaits the detailed regulations to bring it into force. At the moment, the Government is negotiating a Financial Management Loan from the Inter-American Development Bank and expects to use a part of the proceeds to contract consultants to undertake the drafting of the regulations. We anticipate that this process would be completed before the end of 2004.*

**Question 12**

What efforts do the authorities intend to pursue to improve the competitiveness of their traditional agricultural products?

**Answer**

*Guyana's traditional agricultural products are sugar and rice. The Government has been moving apace to reform the industries to improve their viability and competitiveness. With respect to sugar, it has taken the following actions:*

- *Developed and is in the process of implementing an ambitious Agricultural Improvement Plan (AIP) that includes the construction of a modern sugar factory at Skeldon Estate, costing US\$110 million. This should increase production significantly to 450,000 tonnes and reduce costs over the next 5 years;*
- *The rationalization of some sugar estates and the rehabilitation of others;*
- *The diversification of product mix, including the launch of organically-grown sugar, the pursuit of an ethanol factory, and the use of bagasse to produce electricity for the national grid;*
- *The diversification of product markets, in particular new markets in the Caribbean and Latin America;*
- *The shedding of labour, through natural attrition and contracting out of some services, at the rate of 3 per cent;*
- *The removal of the Sugar Levy that creamed off some of Guysuco's revenues, irrespective of whether it made profits or not; and*
- *The institution of a performance-based management contract with a foreign firm.*

*With respect to rice, the European Union has just approved financial assistance (a grant of 24 million euros) to, among other things, help to improve the competitiveness of the rice industries of Guyana and Suriname. A 10-year strategic plan has been developed. It focuses on four broad areas: research to increase production through increased yields and adapting rice varieties that are resistant to pests and diseases; processing that entails producing higher quality rice for export; marketing that focuses on expanding market share and developing new markets, especially in non-traditional areas; and support services, including drainage and irrigation, land reform, finance and inputs. The EU's assistance will support interventions in these areas.*

### **Question 13**

How does the Government propose to overcome the infrastructural problem as it relates to the development of the bauxite sector?

### **Answer**

*The bauxite industry remains key to economic expansion in Guyana. Beset by a number of technical, production and financial problems, the industry has not been able to make the kind of contribution for which it was noted in the 1970s and early 80s. Until 2002, a number of attempts at privatization were met with limited, if only temporary, success. With renewed interest being shown in the industry, the Government hopes to conclude a partnership agreement with a major foreign investor, who has already been contracted to manage a down-sized Linmine, for the operation and management of a new bauxite entity at Linden. The agreement provides for the investor to undertake the bulk of the investment, including provision of adequate power, in the new company.*

### **Question 14**

How does the Government envisage the (power) company's future, and what actions have been undertaken to overcome the management and regulation problems that led to private divestment from the company?

**Answer**

*The answer with respect to the company's future status has been provided in A5, that is, the Government is contemplating the company's future status, while concentrating on stabilizing its operations and making it ready for some form of privatization (outright sale, joint venture, equity participation, etc.). In this regard, it has retained the services of two of the expatriate former managers of the company and has filled key vacancies occasioned by the departure of the other managers.*

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