

**Trade Policy Review Body**  
**4 and 6 February 2004**

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**TRADE POLICY REVIEW**

THE GAMBIA

Minutes of Meeting

Addendum

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

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

**Organe d'examen des politiques commerciales**  
**4 et 6 février 2004**

**EXAMEN DES POLITIQUES COMMERCIALES**

GAMBIE

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 Gambie.<sup>1</sup>

**Órgano de Examen de las Políticas Comerciales**  
**4 y 6 de febrero de 2004**

**EXAMEN DE LAS POLÍTICAS COMERCIALES**

GAMBIA

Acta de la reunión

Addendum

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

En el presente documento figuran las preguntas presentadas anticipadamente por escrito, junto con las respuestas facilitadas por Gambia.<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 THE GAMBIA**

**I. ECONOMIC ENVIRONMENT**

**Japan**

**Question:**

Japan appreciates that the Government of the Gambia has taken such measures as prohibiting unauthorized money exchange in order to control the recent rise in inflation, which has sharply increased to quite a high level.

Please explain the effect that such measures have had towards combating then recent inflation.

**Answer:**

Since the abolition of unauthorized money exchange in the Gambia, coupled with the implementation of tight monetary policy measures the Dalasi appreciated against all the major international currencies and inflationary pressures abated. In fact, consumer price inflation declined from 21.1% at the end of August 2003 to 17.6% at the end of December 2003.

**Comments on the Government's Report**

**Question:**

According to the Government report, it has been listed as a medium-term objective of the tourism sector, to create awareness to potential new markets in North America and Eastern Europe by 2004.

Please indicate the specific measures planned to achieve this objective?

**Answer:**

The Gambia Tourism Authority (GTA) has established an international roots foundation to promote Gambian tourism in the American Diaspora. Plans are also underway to establish and negotiate direct route from Banjul to the US. With regards to Eastern Europe, the GTA is working closely with Gambian tour operators and Gambia Embassies to promote tourism all over Europe.

**European Communities**

**Question:**

The Gambia has adopted strategies for developing capacities in a number of fields.

How is the issue of trade being dealt with in The Gambia's national strategies? Are the strategies based on the possibilities for advancing the country's development objectives in the context of increasing globalisation through trade? What is the relationship between The Gambia's strategy vis-à-vis trade liberalisation and its poverty reduction strategy?

**Answer:**

The Gambia has embarked on programmes to operationalise its Vision 2020 and presently working on a Medium Term Plan (MTP), which would deal with the issues of trade in this strategy. This strategy is expected to advance the country's development objectives in the context of globalisation through trade. The relationship between The Gambia's strategy on trade liberalisation and its poverty

reduction strategy is aimed to integrate The Gambia in the global trading system in order to realize its economic development goals.

**Question:**

Regional trade is an important tool for improving and harvesting the benefits from trade. The Gambia is actively promoting the ongoing integration-process in ECOWAS, including the establishment of a free-trade area by 2004 and a common external tariff by 2007.

What is The Gambia's strategy with regard to establishing national institutional mechanisms for enforcing ECOWAS decisions and how does The Gambia assess the feasibility and constraints in this respect?

**Answer:**

The Gambia has established an inter-ministerial committee for the implementation of ECOWAS Protocols and Decisions. The Committee is answerable to Cabinet and monitors implementation of the Protocols and Decisions.

**Question:**

The EC considers that the WTO and multilateral liberalization is the most certain way for small countries to promote their interests.

How does The Gambia 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:**

The Gambia considers bilateral/FTA policies important, as it is a member of the Sub-regional Organization (ECOWAS) whose main objective is customs union and free trade area within the ECOWAS sub-region. Since the FTA aims to improve trade, we believe that further development of the WTO system in terms of The Gambia's trade and development needs is to ensure market access both for agricultural non-agriculture goods.

**Question:**

As most LDC's the EC is truly aware of the needs that The Gambia may be facing with regard to further trade-related assistance. We also understand that The Gambia has benefited from the first generation of the Integrated Framework and also that The Gambia would like to benefit now from the re-vamped IF; a Technical Review will be undertaken in the near future.

What is the follow up given to the work undertaken under the old IF? To what extent trade has been mainstreamed in the PRSP and national development policy? Has the need for trade related 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?

**Answer:**

The Gambia is still making follow-ups to the work undertaken under the old IF. Although a study on export development strategy has been undertaken, the Gambia still needs assistance to implement it. In relation to the supply-side constraints identified in the old IF, most of them remain to be addressed.

Not much has been done on mainstreaming trade in the PRSP. The Gambia believes that integration or mainstreaming into development plans is the *raison d'être* of the IF and now considers it as a priority. The Macro-economic Committee and the Inter-Ministerial Committee are the institutional structures to integrate trade into the PRSP.

However, The Gambia would need technical assistance to benefit from the new IF and also to mainstream trade in its national PRSP.

## **Canada**

### **Question:**

Integration or mainstreaming of trade into development plans is the *raison d'être* of the Integrated Framework (IF). However, a recent evaluation of The Gambia's participation in the IF revealed that this integration is "not a priority for the Government" of The Gambia.

What steps is the Government of The Gambia taking to translate recognition of the important link between trade and development into actual practice?

### **Answer:**

Government is committed to mainstream trade into the development plans. The Macro-Economic Committee and the Inter-Ministerial Committee on WTO are the institutional structures to integrate trade into the PRSP. The Gambia believes that Integration or mainstreaming of trade into development plans is the *raison d'être* of the IF and now considers it as a priority.

## **United States**

### **Question:**

We are told modernization of the Gambia's income tax is being sought. Could the representative of the Gambia give some idea of the government's plans for tax modernization and its expected timeframe?

### **Answer:**

A new Income and Sales Tax Act has already been drafted with assistance from the IMF and is currently being reviewed by the Department of State for Justice prior to submission to Cabinet and the National Assembly. The process is intended to be completed by end June 2004. The new system calls for the creation of a Large Taxpayer unit, a self- assessment system and the broadening of the tax base to include the informal sector.

### **Question:**

We are told the 2001 privatization program has stalled. Could the Gambia representative indicate when the program will be reactivated?

### **Answer:**

The program has already been reactivated with the establishment of the Public Utilities Regulatory Act (December, 2001) and works towards the establishment of the Agency.

### **Question:**

We are informed that the commercial court system has a severe backlog of cases. Would the Gambia representative explain any plans to improve the situation? Are any commercial arbitration centers planned for the country to resolve commercial disputes more economically and quickly?

### **Answer:**

The commercial courts have been established and their operations will start in due course.

**Question:**

The Secretariat's report noted that appeals against or complaints about a decision taken by the Gambia's customs authority are to be made first to the Director-General of Customs. A further appeal or complaint may be made to the Secretary of State for Finance and Economic Affairs.

Does Gambia's legislation provide for the right of appeal without penalty to a judicial authority? Does Gambia's appeal process provide the appellant the reasons for a decision in writing and inform them of any right to a further appeal.

**Answer:**

The Gambia's appeal system does allow for right of appeal to a judicial system without penalty and also provides the appellant with reasons for a decision in writing as well as informing them of any right to a further appeal.

**Question:**

The Gambia has been declared eligible for AGOA benefits, but has not received the textile and apparel benefit. Does the Gambia plan to establish an effective product visa system and apply for the textile benefit under AGOA?

**Answer:**

Although the Gambia has qualified for AGOA since 2003, it has not benefited from this concession; however, we will be seeking for technical assistance for product visa from the USA.

## **II. TRADE POLICIES**

### **Japan**

**Question:**

The Gambia has acceded to the Paris Convention and to the Bern Convention. However, these conventions do not cover the protection of such areas as the layout designs of integrated circuits or undisclosed information.

Please indicate how such intellectual property is protected.

**Answer:**

Presently there is no industrial or commercial production of layout designs of integrated circuits in The Gambia. As such there is no legal regime in place to provide protection. However, the government is in the process of far reaching economic and legal reforms. This reform process is focused on economic activities and enhancing the institutions of contracts, property rights (including intellectual property rights) and provides private sector development.

**Question:**

As an LDC, The Gambia shall implement the TRIPS Agreement by 1<sup>st</sup> January 2006 except for the patent regarding medicines. However, the Secretariat Report states that legislation regarding patent protection does not cover agricultural or pharmaceutical products, and the Gambia currently has no mailbox provisions.

Please indicate the schedule for implementing the legislation on the patent protection of agricultural products.

**Answer:**

The economic reform agenda of the government requires that a legal infrastructure for the property rights protection be in place. To this end a legislative agenda, which includes intellectual property rights protection, is being worked out. Legislation in the area of patents, trademarks, and industrial designs would be enacted in the Omnibus Act.

**Question:**

The Secretariat's Report states that in practice, capacity constraints have led to a backlog of 12 years in the publication of registered trademarks thus hampering the enforcement of trademark protection.

Please indicate the plans for dealing with such backlog.

**Answer:**

Although there are constraints in the publication of the registered trademarks, efforts are underway to clear the backlog. WIPO has provided some assistance in the form of computers and training.

**Question:**

According to the Secretariat's Report the Copyright Act of 1916 is thoroughly obsolete.

Please indicate how the Gambia is implementing its obligation on the Bern Convention.

**Answer:**

Response will be supplied in due course.

**Question:**

Please indicate the schedule for amending or implementing legislation regarding the protection of copyright.

**Answer:**

The Copyright Act of 1916 is obsolete and efforts are underway for a review of the Act. This would require assistance from the WTO.

**Hong Kong, China****Question:**

The Gambia has not formulated any domestic standards nor has adopted any international standards into her domestic regime. At present, there is no operational standards bureau that could act as a focal point for the development of national standards. We nevertheless note that a draft Standards and Consumer Protection Act is being prepared, which aims at, amongst other things, establishing the Standards and Consumer Protection Bureau as a separate legal entity with the mandate of developing domestic standards. We appreciate The Gambia has a need to develop her domestic standards (e.g. for consumer safety purpose), but hope that any such standards adopted are transparent and would not create unnecessary restrictions to the trade.

We are also interested to know the current state of play of the draft Act, and whether there is any proposed legislative timetable.

**Answer:**

A draft Standard and Consumer Protection Act is currently being reviewed by the Attorney General's Chambers prior to submission to Cabinet and National Assembly for enactment. The process is expected to be finalized by the first half of 2004.

**Question:**

The Gambia's sanitary and phyto-sanitary requirements are governed by various pieces of legislation, and fall under the purview of a number of institutions. This dispersion has rendered policy-making and enforcement difficult, as well as reduced transparency to the trade. We note that new legislation on food imports is under preparation to, among others, reduce the level of fragmentation in policy-making and implementation in the area.

We would be grateful if The Gambia's authorities could share with us the latest state of play of the legislative process.

**Answer:**

Currently the draft food law is in its final stage and hopefully it will be tabled at the National Assembly in the next two months.

**European Communities**

**Question:**

Doing away with unnecessary external as well as internal impediments to trade is vital for the promotion of trade and development itself.

To the knowledge of the EC, The Gambia is still using the 1950 Brussels Definition of Value for customs valuation purposes, without having applied for a waiver granting it an extended transition period for the implementation of the WTO Agreement on Customs Valuation.

What are the plans of The Gambia when it comes to moving to more WTO consistent customs valuation procedures methods? Further, has The Gambia sought to obtain technical assistance in this area?

**Answer:**

Plans to move from the BDV to WTO Customs Valuation are very high on Government's agenda. So far, The Gambia is currently seeking technical assistance to modernize our customs procedures and law. In this regard, The Gambia is very much interested to have technical assistance to move to the WTO Customs Valuation system.

**Question:**

To the knowledge of the EC, The Gambia is struggling with discrimination on taxation between imported food and beverage products and locally produced ones.

What is the status of discussions with regard to abolishing this discrimination?

**Answer:**

Discussions are on going and the final decision will be communicated in the next review.

**Question:**

Could Gambia explain any measures it is taking or planning to take in the field of trade facilitation, notably simplification of customs and import/export procedures, particularly to cut costs for Gambian exporters and SME's. Further, does Gambia involve its business sector in discussing improvements?



**Answer:**

The Gambia had already taken measures in simplifying customs procedures on import/export by adopting a Single Administrative Document (SAD) and Automated System of Customs Data (ASYCUDA). SAD records both import and export in a single form to expedite customs transactions. The business sector now meets with government at many fora, including the National Economic Summit where issues on trade and investment are discussed and recommendations made.

**Question:**

How is the issue of trade being dealt with in The Gambia's national strategies? Are the strategies based on the possibilities for advancing the country's development objectives in the context of increasing globalisation through trade? What is the relationship between The Gambia's strategy vis-à-vis trade liberalisation and its poverty reduction strategy?

**Answer:**

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**Question:**

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**Answer:**

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**Question:**

How does The Gambia 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:**

The Gambia considers bilateral/FTA policies important, as it is a member of the Sub-regional Organization (ECOWAS) whose main objective is customs union and free trade area within the ECOWAS sub-region. Since the FTA aims to improve trade, we believe that further development of the WTO system in terms of The Gambia's trade and development needs is to ensure market access both for agricultural non-agriculture goods.

**Question:**

What is the follow up given to the work undertaken under the old IF? To what extent trade has been mainstreamed in the PRSP and national development policy? Has the need for trade related 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?

**Answer:**

The Gambia is still making follow up to the work undertaken under the old IF by seeking technical assistance on an export promotion project document. The Project document is an outcome of the old IF and The Gambia needs Technical Assistance to implement it.

Not much has been done on trade mainstreaming in the PRSP. The Project document being referred to above has outlined areas where technical assistance is needed. Moreover, The Gambia would need Technical Assistance to benefit from the new IF and also to mainstream trade in its national PRSP.

## **Korea**

### **Question:**

According to the Secretariat's report, Gambia has been applying the "Brussels Definition of Value for customs purposes" in determining the customs value of imported goods and selecting the higher value, after comparing the reference value and the declared value. It is also reported that Gambia has not applied to the WTO for a waiver granting it an extended transition period for the implementation of the WTO Customs Valuation Agreement, although it is not yet applying the method based on the transaction value.

It is our understanding that the current customs system of Gambia is not in compliance with the WTO Customs Valuation Agreement. We would like to listen to any opinion of the Gambia on this view.

### **Answer:**

The current customs valuation system applied in The Gambia is not in line with the WTO Customs Valuation Agreement. However, efforts are being made to adopt the WTO valuation system and technical assistance is needed in this area.

### **Question:**

Please give us any information on the current situation or future plan for implementing the WTO Customs Valuation Agreement.

### **Answer:**

The adoption of the WTO Customs Valuation system is high on the government agenda, and as soon as capacity is built around this subject it will be implemented without delay.

## **Canada**

### **Question:**

We note the footnote reference to The Gambia's involvement in the old structure of the Integrated Framework (IF). It should be noted that The Gambia is applying for membership in the revamped IF, entitling it to a diagnostic trade integration study (DTIS) and additional funding for follow-up activities.

In the absence of the DTIS, how has the Government of The Gambia identified its trade-related needs?

### **Answer:**

The Gambia recognizes trade as an engine of economic development and hence has developed an Export Promotion Strategy, which is output of the Integrated Framework. In addition, Government is developing trade related policies and Strategies such as the Standard and Quality Control, Industrial Policy, Competition Policy, Employment Policy. These policies were developed through a series of sectoral studies and consultative workshops with the relevant stakeholders.

### **Question:**

Through what mechanisms, besides the WTO and Integrated Framework, is The Gambia pursuing its trade-related needs?

**Answer:**

Other initiatives in which the country is involved include regional, multilateral and bilateral initiatives such as the ECOWAS, CILSS, AGOA, and the Commonwealth Secretariat.

**Question:**

Paragraph 1 refers to a processing fee that is lower for imports of ECOWAS origin versus those of non-ECOWAS origin. This would appear to violate the Most Favoured Nation principle, unless the actual cost of import processing is higher for non-ECOWAS products. However, even if processing costs are different, GATT Article VIII stipulates that fees should be limited to the approximate cost of the service rendered, and this would preclude calculating fees on an ad valorem basis.

What steps will The Gambia take to institute a fee structure based on the actual cost of the transaction?

**Answer:**

Processing fee is an internal tax applicable to all imports regardless of source at a standard rate of 1.55 percent. In effect there is no discrimination.

**Question:**

Paragraph 2 refers to a sales tax that favours domestic products over imports. In addition, it refers to a 10% export tax that is applied discriminately, i.e., exempting products destined for one particular export market. These measures are inconsistent with the WTO's National Treatment and Most Favoured Nation requirements.

Canada would like to know what steps The Gambia will take to correct this situation.

**Answer:**

Discussions are on going and the final decision will be communicated in the next review. The 10% tax is only levied on those exports of fish and fish products who do not use the domestic banking system. This is to ensure inflow of foreign currency into the country.

**Question:**

Paragraph 10 states that pre-shipment inspection, required in 1999 and 2000, is no longer compulsory. Please confirm whether or not this is still the case.

**Answer:**

Pre-shipment inspection was found to stifle trade and therefore abolished.

**Question:**

Paragraph 11 states that The Gambia is still using the 1950 Brussels Definition of Value for customs valuation purposes and that the implementation of WTO-consistent valuation methods is among The Gambia's capacity-building needs. Consequently, although The Gambia has been a WTO Member since late 1996, it has not applied to the WTO for a waiver granting it an extended transition period for the implementation of the WTO Agreement on Customs Valuation.

Would The Gambia please advise the current status of its efforts to obtain technical assistance in this area? Would The Gambia also please provide an update with respect to its plans to move towards WTO-consistent customs valuation methods?

**Answer:**

As indicated earlier plans to move from the BDV to WTO Customs Valuation are high on Government's agenda. So far, The Gambia is currently seeking technical assistance to modernize our

customs procedures and law. In this regard, The Gambia is very much interested to have technical assistance to move to the WTO Customs Valuation system. (See response to EC).

**Question:**

Canada notes that there is no reference to regulatory measures with respect to products derived through biotechnology. We would be interested in any information that can be provided on this matter.

**Answer:**

The Gambia has signed the Protocol on Biosafety and is currently in the process of developing the national framework (strategy, legal and regulatory) for its implementation. This will include issues of LMOs, GMOs and other products of biotechnology.

**Question:**

Canada understands that, as a Least-Developed Country, The Gambia is working hard to ensure compliance with WTO requirements, including in the area of intellectual property law, and we commend The Gambia on its efforts to date. It is our understanding, however, that there are currently no laws in The Gambia to provide for the protection of the layout design of integrated circuits, new plant varieties or the conservation and sustainable use of biodiversity.

Is The Gambia considering legislation to provide such protection and if so, what are its specific plans?

**Answer:**

Presently there is no industrial or commercial production of layout designs of integrated circuits in The Gambia. As such there is no legal regime in place to provide protection. However, the government is in the process of far reaching economic and legal reforms. This reform process is focused on economic activities and enhancing the institutions of contracts, property rights (including intellectual property rights) and provides private sector development.

**Question:**

Is The Gambia undertaking any work to extend patent protection to agricultural and pharmaceutical products as required by WTO-TRIPS? What measures are currently in place for:

- a. the renewal of a patent;
- b. the invalidation of a patent due to lack of use or other abuse;
- c. compulsory licensing of patented products; and
- d. prevention of parallel importation of patented products?

**Answer:**

The economic reform agenda of the government requires that a legal infrastructure for the property rights protection be in place. To this end a legislative agenda, which includes intellectual property rights protection, is being worked out. Legislation in the area of patents, trademarks, and industrial designs would be enacted in the Omnibus Act.

**Question:**

Please clarify the means by which The Gambia is addressing backlog concerns regarding the publication of registered trademarks in the country.

**Answer:**

Although there are constraints in the publication of the registered trademarks, efforts are underway to clear the backlog. WIPO has provided some assistance in the form of computers and training.

**Question:**

Canada is aware that The Gambia's Copyright Act of 1916 may need revision to ensure compliance with WTO requirements. What efforts are being undertaken in this regard by Gambian authorities?

**Answer:**

The Copyright Act of 1916 is obsolete and efforts are underway for a review of the Act. This would require assistance from the WTO.

**United States****Question:**

Implementation of the Trade Gateway Project is mentioned. Does the representative of the Gambia have more information on this project?

**Answer:**

Government has recently laid the foundation stone for the construction of the civil works at the Free Zones site at the Yundum International Airport. This is the first site to be developed and has already attracted a number of investors. The Gambia Investment Promotion and Free Zones Agency is being provided with capacity building assistance to effectively implement the Trade Gateway Project.

**Question:**

Approximately 16 percent of imports are exempted from customs duty. Does the Government of the Gambia have any plans to eliminate any of these exemptions?

**Answer:**

There are plans to minimize exemptions given out by government; however, exemptions will still remain for diplomatic missions and NGO's.

**Question:**

There is a 10 percent export duty which European Union countries are exempted. Does the Gambia have plans to provide this in a less discriminatory fashion?

**Answer:**

The issue is currently being studied and decisions reached will be communicated.

**Question:**

Gambia still uses the Brussels Definition of Value for valuation purposes. What are Gambia's plans to implement a WTO-consistent valuation method? We encourage Gambia to implement the WTO Agreement on Customs Valuation as quickly as possible. One way to ensure WTO consistency is to compare draft legislation to the WTO Valuation Questionnaire.

**Answer:**

Plans are well ahead to move away from the BDV System of valuation to the WTO System.

**Question:**

The Secretariat's report also notes that under the current system, the customs authorities in Gambia systematically compare the value of goods stated in the single administrative document ("SAD"), invoice, and packing list, to a computerized list of "indicative" (ie. reference) values. The higher of the reference value or the declared value is systematically selected. The use of such reference prices can be inconsistent with the Valuation Agreement, resulting in a de facto minimum price regime.

What plans does Gambia have to revise its valuation method?

**Answer:**

Again as indicated above, plans are well advanced to move away from the BDV System to the WTO System. (See response to Japan, Canada).

**Question:**

The Gambia charges excise taxes on imported ("luxury") goods such as cigarettes, beer, and fruit juice and soft drinks. Are these taxes collected on domestically produced goods? If not, are these excise taxes within the limits of Gambia's tariff bindings?

**Answer:**

The taxes on domestic goods have been abolished since December 2003.

**Question:**

Could you please provide information on any plans that may be in place in the Gambia to create trade remedy legislation?

**Answer:**

The Gambia is in the process of reforming its trade laws and regulations. The Gambia would need technical assistance in this area from the US and other donors.

**Question:**

This report lists the following criteria, which are required to be taken into account by the Gambia Investment Promotion and Free Zones Agency when granting incentives through the Investment Promotion Act of 2001: the capacity of the business to contribute to the generation of new earnings through increase exports, import substitution and the level of local content. The report also states that there is no requirement for firms to export in order to be eligible for the incentives provided under the Investment Promotion Act (see paragraph 58). It also states that no formal benchmark is used when looking at local content and that "investors may still be granted a special certificate of investment if they are deemed to have satisfied some of the other requirements set out in the Act (see paragraph 58).

Aside from the criteria listed above, could Gambia please provide more information regarding the criteria that must be met to qualify for the incentives provided in this program?

**Answer:**

Answer will be provided in due course.

**Question:**

Has the Industrial Intellectual Property Act of 1989 come into force? Does Gambian legislation recognize ARIPO's authority to grant patents and register trademarks on Gambia's behalf? If not, what provisions govern that provide for such rights in Gambia?

Please describe the Gambia's legislative efforts concerning the protection of geographical indications? What measures are in place to protect existing prior trademark rights against subsequent applications for geographical indications?

**Answer:**

The laws are being reviewed.

**Question:**

What is the status of the Gambia effort to update its 1916 copyright law concerning Berne and TRIPs obligations? Does the Gambia intend to implement the WIPO Copyright Treaty and WIPO Performances and Phonograms Treaty when it enacts a new TRIPs-compliant copyright law?

**Answer:**

It is true that the copyright Act of 1916 is obsolete but efforts are underway for a thorough review of the Act and if necessary repeal it. This would require assistance from WTO and WIPO.

**Question:**

Under what circumstances, if any, are goods found to be infringing destroyed? Do Customs act on its own or after being informed of a potential problem by a right holder? Does the Gambia ever impose prison sentences on those convicted of trademark counterfeiting or copyright piracy? If not, does the Gambia have any pending legislation, which would if passed, provide for prison sentences in criminal trademark counterfeiting or copyright piracy cases?

**Answer:**

Answer will be provided in due course.

**Question:**

Domestic regulations ban the exportation of lobster, sole, and cephalopods without the permission of the Director of Fisheries. Would the representative of the Gambia clarify the need for this policy?

**Answer:**

The need for this policy is to ensure adding value to the product in the Gambia. It aims at regulating those exporters who export the unprocessed product to neighboring countries, where it would be further processed and labeled as a product of that country. It also aims to regulate and control the stocks of these species, which are prone to over-exploitation.

**III. SECTORAL POLICIES****Japan****Question:**

According to the Secretariat's Report International Bank for Commerce and the Guarantee Trust Bank are 100% foreign owned.

Please confirm that there are no limitations for foreign investments in the banking sector.

**Answer:**

Since the economic reforms of the late 80s and early 90s the financial sector was completely liberalized and capital controls completely eliminated. As a consequence, there are no limitations on foreign investments in the banking sector.

**Question:**

Please indicate whether there is limitation on commercial presence in the banking sector.

**Answer:**

There are no limitations in commercial presence in the banking sector. However, to guard against money laundering, investors are subjected to a "fit and proper person" test.

**Question:**

The Secretariat's Report states that all financial institutions are required to obtain a license from the Central Bank prior to commencing operations and that as part of its approval process the Bank considers the following criteria; capital adequacy and the source of the institution's capital.

Please indicate the specific standards necessary when considering the criteria for such capital requirements for financial institutions.

**Answer:**

The minimum capital requirement for setting up financial institutions in the Gambia is based on the criterion that the proposed capital is adequate to cover the initial operational cost of the bank. Once a license is granted the banks are required to meet a capital adequacy ratio of 8% a per the Basle Accord.

**Question:**

The Secretariat's Report states that Gambian residents need written permission from the Central Bank before opening an account overseas.

Please indicate the specific standards required for obtaining permission for Gambian residents to open an account overseas.

**Answer:**

As indicated above, since the removal of capital controls Gambian residents do not require permission to open overseas accounts. However, in the fight against money laundering and global terrorism those traveling outside the Gambia with cash over D300,000 are required to declare it at the port of exit. There are no limitation if transfers are made through the banking system.

**Question:**

On page vii, paragraph 8, the Secretariat report states that while The Gambia has one of the highest levels of commitments under GATS, for a Least Developed Country, legislation and/or policy practices in some sub-sectors, such as banking and maritime and road transport, do not mirror those commitments. On page 79, paragraph 76, it is also stated that The Gambia's binding commitments under the GATS regarding the banking sub-sectors are somewhat less liberal than the actual regime.

**Regarding these points, please provide specific details.**

**Answer:**

(To be provided later).

**Question:**

According to the Secretariat's Report most insurance companies do not comply with the regulations relating to reserves.

Please explain what measures the government of Gambia takes in order for such companies to comply with the regulations relating to reserves.

**Answer:**

Presently there are no regulations governing operations of insurance companies and hence the Central Bank employs moral suasion to ensure compliance with the reserve requirement. However, the National Assembly ratified the Insurance Act in 2003, and an Insurance Regulation Bill has been drafted for enactment by the National Assembly. The draft Insurance Regulation set a minimum and binding paid-up capital and reserves for all insurance companies.

**Question:**

Please indicate whether other financial institutions other than Insurance Companies really comply with the regulations.



**Answer:**

Generally all other financial institutions comply with the Financial Institutions Act of 1992.

**Question:**

According to the Secretariat's Report, a new Telecommunication Act is under preparation, along with a new Telecommunications Policy.

Does the new Telecommunications Act include the provisions, which oblige unbundling of the services and universal services to GAMTEL?

**Answer:**

Even though the Act is yet to be finalized, the policy provides for the unbundling of the services and the universal services to GAMTEL.

**Question:**

According to the Secretariat's Report, the Government currently has no plans to auction a license to new entrants of cellular operators, nor has a date yet been set for the liberalization of fixed line telephony.

**Answer:**

There is no other gateway apart from GAMTEL, but the value-added fixed line services are liberalized. However, within the Trade Gateway Project there are plans for the creation of a teleport component.

**Question:**

Please indicate the relationship between The Gambia's actual regime and its binding commitments for the telecommunication services.

**Answer:**

The Gambia's telecommunication service commitments are very onerous, fully liberalized in all four modes of supply except on mode 4 ( temporary movement of natural persons). We acknowledge the need to increase the degree of implementation of these commitments.

**Comments on the Government's Report**

**Question:**

According to the Government Report, as long term objective of the tourism sector, improving the overall service quality standard of the industry by 2004 and to increase tourism arrival by 20% annually beginning 2003 for the next ten years have been listed.

Please indicate the specific measures planned to achieve these objectives?

**Answer:**

Delloitte USA is developing a Tourism Master Plan on behalf of the Government of the Gambia. This Project, financed by the ADB would address issues such as hotel classification, quality control and standards, eco-tourism, amongst others. In addition Government has embarked on the up-grading and expansion of tourism infrastructure such as roads and electrify within the Tourism Development Area (TDA).

## **Hong Kong, China**

### **Question:**

We take note of the situations in The Gambia's telecommunications sector. There appears to be a lack of competition in the market for cellular telephone and fixed line telephony. No date has so far been set for the liberalization of fixed line telephony and no action has been taken to establish an independent regulatory authority, which is an essential precondition for effective liberalization. We however note that a new telecommunications act is under preparation, along with a new telecommunications policy.

We would be interested to know the progress of the preparation, and whether the new act/policy would envisage any concrete measures to improve the market conditions in order to enhance competition and liberalization in the sector.

### **Answer:**

As indicated earlier to the question raised by Japan, a telecommunications policy has already been finalized. However, the Act is still in the making. The policy seeks to improve market conditions and enhance competition..

## **European Communities**

### **Question:**

The EC appreciates and recognizes that The Gambia has taken substantial commitments in 12 service sectors during previous negotiations, and hope that The Gambia will also take an active part in the current round of services negotiations. While fully recognizing this, the EC should like to ask the following questions. The telecommunications sector is bound to play an important role for The Gambia's development, as communication will become of increasing importance for both visitors as well as business in The Gambia.

Given that The Gambia has undertaken full commitments for voice and data services, when will it implement these commitments and allow operators alternative to GAMTEL in the fixed sector?

### **Answer:**

There is no date set to undertake full commitments for voice and data services by allowing operators, other than GAMTEL in the fixed line sector. However, the Gambia is carrying out necessary reforms including the establishment of a Public Utility Regulatory Agency (PURA). It should be noted that the Gambia wishes to honor all its commitment but contingent upon putting in place a suitable environment.

### **Question:**

Are there plans to separate GAMTEL and the DOSCIT or will The Gambia set up an independent regulatory authority to supervise the sector and promote competition?

### **Answer:**

A Public Utility Regulatory Act has already been passed and the Agency is in the making with the appointment of the Chief Executive in progress. DOSCIT will cease to perform its current regulatory function for GAMTEL.

### **Question:**

The government of The Gambia points out that tourism is at the very heart of the country's economy.

Would The Gambia inform how many people work in the tourism sector, what has been the evolution in the last years and how much of the FDI attracted by the country in the last years has been in the tourism sector?

**Answer:**

Approximately 10,000 people both in the formal and informal sectors work in the industry. In 1999 the FDI stock in the Gambia totaled D658.6 million. Hotels, catering and restaurants accounted for 26.6% of this stock. In 2000 the stock of FDI increased to D706.2 million with the share of hotels, catering and restaurants declining to 24.2 %.

**Question:**

Further, what is The Gambia's assessment of the effect of the tourism sector in overall economic growth and employment, and in particular in other economic sectors like construction, transport, computer services, education and professional training?

**Answer:**

The Gambia has not undertaken a comprehensive assessment of the effect of the tourism sector on the economy. Nonetheless tourism creates linkages with other sectors of the economy with a positive impact on economic growth and employment. Tourism contributes 16% of GDP and is a major source of foreign exchange.

**Question:**

The increase of market forces may serve as a tool for enhancing the tourism sector. Would The Gambia inform about existing plans to promote the tourism sector, and what measures the government is taking to ensure non-discrimination of Foreign Service suppliers?

**Answer:**

It is true that the increase of market forces is a tool for enhancing competition in the tourism sector. This is why the Gambia has an open door policy with regard to suppliers of foreign services.

**Question:**

Would The Gambia inform about plans for improving professional education and training related to the tourism sector?

**Answer:**

The country is aware of the problems of capacity within the tourist industry and has thus created a hotel training institution that provides training for certain cadres of professionals, and plans are well advanced to even make it autonomous to attract professional staff to raise the level of certification.

**Question:**

Would The Gambia inform us about the existing legislation applicable to tour managers (professionals accompanying groups of tourists in their travel through the country) and tourist guides? Further, would The Gambia inform us about the plans that the government is considering to reduce or eliminate discrimination of Foreign Service suppliers in these fields?

**Answer:**

For the first part of the question the answer will be provided in due course. However, for the second part we have already stated that there is no discrimination between Gambian and foreign service suppliers.

**Question:**

Finally, it is important that tourism is carried out in a sustainable manner, in order to ensure that the very fundament for tourism itself is not eroded or disrupted.

What is the approach of the government of The Gambia to the regulation of tourism-related aspects of general interests such as environment, wildlife, urban planning and the promotion of local cultures, development of water supply and sanitation services, and public security?

**Answer:**

Government has adopted a national strategy for the promotion of eco tourism which will address the issue of environment and sustainable use of natural resources as these are essentially the very foundation upon which nature tourism is based. The strategy will also address the issues of supplies and support services such as water and sanitation services within the established eco tourism facilities, and will encourage the maintenance of local customs and cultures.

**Canada**

**Question:**

Canada notes that the Permanent Secretary of the Department of State for Communications, Information and Technology (DOSCIT), the telecommunications regulator, sits on the board of directors for GAMTEL.

Why does The Gambia organize its service provider and regulator in such a manner? Additionally, does The Gambia have any intention to create a completely independent regulator?

**Answer:**

The Gambia organizes its service provider in such a manner because GAMTEL as it is, is a public enterprise and therefore there is a need to ensure that sector operations are consistent with government policy.

There is an Act establishing an independent regulatory agency, which will separate the functions of provider and regulator.

**Question:**

Canada notes that The Gambia is currently working on a new telecommunications act and policy.

Please provide an update on the development of this new Act. Does The Gambia foresee any major changes to GAMTEL's position as the monopolist provider of fixed line telephone services?

**Answer:**

The telecommunications policy has been finalized and the Act is in the drafting stage. The Gambia is committed to the opening of its fixed line telephone service to the private sector.

**Question:**

Further to the comment "Certain legislative changes need to be made to properly reflect Gambia's liberal policy orientation and GATS commitments," what timeframe does Gambia envisage for such legislative changes to be made?

**Answer:**

Response will be provided later.

**Question:**

The Secretariat Report states that the GPA maintains a monopoly on all port services and that this contrasts with the more liberal stance set out in The Gambia's GATS schedule. The report suggests that private-sector entry would help to enhance the competitive position of the Banjul port. With respect to pilotage and berthing services, navigation aid services, vessel salvage and refloating services, and other supporting services for water transport, like for port services, The Gambia's GATS schedule of commitments lists no limitations for modes 1, 2 and 3.

Has the Government of The Gambia considered encouraging private sector involvement in these services? The report indicates that for port services, no action has been taken to liberalize the market. Is the Government of The Gambia considering a plan for privatization?

**Answer:**

The Government encourages private sector involvement in the provision of port services. Under the privatization program government is committed to encouraging private sector involvement in port operations. The GPA is among the Track 1 enterprises slated for privatization after a thorough and comprehensive study has been carried out.

**Question:**

Canada is pleased that The Gambia has taken almost full commitments for the sector of computer and related services. However, Canada notes that The Gambia has left market access for mode 3 unbound, except as indicated in the horizontal section.

Does The Gambia have any particular concerns that prevent it from taking full commitments for computer and related services in this mode? Furthermore, does The Gambia have any intention to further liberalize this mode during the current round of negotiations?

**Answer:**

There is private participation under mode 3. Further information will be provided on this issue later.

**Question:**

Canada notes that The Gambia has not taken commitments for the following services:

- a. telegraph services;
- b. private leased circuit services;
- c. electronic mail;
- d. voice mail;
- e. on-line information and database retrieval;
- f. electronic data interchange (EDI);
- g. enhanced/value-added facsimile services, incl. store and forward, store and retrieve;
- h. code and protocol conversion; and
- i. on-line information and/or data processing (including transaction processing).

Does The Gambia intend to liberalize any of these services in the current negotiating round? If not, could The Gambia please explain what concerns keep it from doing so?

**Answer:**

These services are in the process of being liberalized.

**Question:**

Canada notes that The Gambia has not committed to the additional commitments of the WTO Reference Paper for basic telecommunications.

Does The Gambia intend to take on those additional commitments in the current round of negotiations? Are there any specific parts of the Reference Paper that make it particularly difficult for The Gambia to take on those commitments?

**Answer:**

The answer to this will be provided later.

**Question:**

The Secretariat report takes note of the diamond trade to Europe. Our understanding is that Gambia has no local diamond production.

What is the likely origin of these diamonds? Does Gambia plan to join the Kimberley Process on certification of traded rough diamonds?

**Answer:**

The Gambia is a Transit Point for both import and export of diamonds from the Africa region and plans are underway to join the Kimberley process.

**United States**

**Question:**

We are told that tourism is expected to increase 20 percent annually for 10 years beginning in 2003. Given an estimate of 200,000 arrivals in 2003 (page 86, Secretariat Report). How does Gambia plan to foster this growth in tourism?

**Answer:**

Tourism is an important sector of the Gambian economy accounting for 16% of GDP. Tourism is also the second largest employer and the second largest contributor of foreign currency. The Gambia intends to foster growth in the tourism sector by :

1. Expanding and upgrading the tourism infrastructure, through inter alia the introduction of a classification scheme for hotels.
2. Diversifying the source market to non-traditional sources;
3. Intensifying the promotion of The Gambia as a year-round tourist destination.

**Question:**

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What is the likely origin of these diamonds? Does Gambia plan to join the Kimberley Process on certification of traded rough diamonds?

**Answer:**

The Gambia is a Transit Point for both import and export of diamonds from the Africa region and plans are underway to join the Kimberley process.

**Question:**

The Gambia has undertaken commitments under the GATS in twelve service sub-sectors. We commend the Gambia for its initiative and compliance, and hope that banking and other financial services will be added to the list in the future.

Would the representative of the Gambia describe the degree of implementation of GATS commitments?

**Answer:**

The level of Gambia's commitment in the GATS illustrates our commitment to the framework. We are continuing with the liberalization process and additional information will be provided in due course.

**COMMENTS FROM THE DISCUSSANT**

**I. ECONOMIC ENVIRONMENT**

**Question:**

With the Governance Policy framework and strategy for Poverty alleviation and plans to revise revenue and tax collection, the Gambia has identified possible solutions to some of these problems. How quickly can these be implemented? How can the Government accelerate mainstream integration of trade into the PRSP?

**Answer:**

1. Not much has been done on mainstreaming trade in the PRSP. For The Gambia the integration or mainstreaming of trade into our development plans is a high priority if we are to attain the objectives of the PRSP. In this regard a coordination mechanism needs to be developed, and as a starting point the current Macro-economic Committee and the Inter-Ministerial Committee are the institutional structures being used to integrate trade into the PRSP. However, The Gambia would need technical assistance to be to do this more effectively.

Already with assistance from World Bank, and other donor agencies implementation of the PRSP document has begun, but with funding for the most part insufficient, and certain areas still requiring resources and for more effective implementation. The Gambia will require additional resources and technical assistance from our development partners.

**Question:**

What particular difficulties does the Gambia have with implementing trade enhancing policies and fulfilling its commitments under the WTO Agreements? Where could targeted technical assistance help? (cf pages 27-30).

**Answer:**

In the short term, technical assistance could be targeted to the following areas:

- a). Implementation of the Customs Valuation Agreement;
- b). Review of Laws and regulations in order to be in compliance with WTO obligations in such areas as TRIPS Agreement,
- c). Standards and Technical requirements, including SPS;
- d). Trade Remedy Rules

**Question:**

What might help better exploitation of existing preferences (in EU and USA)? Is Origin rules a problem?

**Answer:**

Simplified Rules of Origin, Visa requirements under AGOA, non discrimination in the application of standards on imported vis a vis locally produced products.

## **II. TRADE POLICIES**

### **Question:**

Any plans for implementing Customs Valuation Agreement?

### **Answer:**

This is one of the areas of very high priority for the Gambia. In addition, please see our responses to similar questions raised by Japan, EC, and US

### **Question:**

Can Technical Assistance help in reviewing tariff structure (to remove negative escalation) and implementing changes?

### **Answer:**

Should the need arise, requests for technical assistance will be made.

### **Question:**

Anything Gambia can tell the Review Body about progress on legislation on trade remedies, IPRs, SPS and standards?

### **Answer:**

Please see our responses to the similar questions raised by EC, US, Japan, and Hong Kong, China.

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