

WORLD TRADE ORGANIZATION

RESTRICTED

WT/ACC/CPV/23

11 October 2005

(05-4615)

**Working Party on the
Accession of Cape Verde**

Original: English

ACCESSION OF CAPE VERDE

Additional Questions and Replies

The following submission, dated 30 September 2005, is being circulated at the request of the Delegation of the Republic of Cape Verde.

Unless otherwise indicated, all questions and comments concern either the Questions and Replies in WT/ACC/CPV/19 or 20 (identified by question number) or the text of WT/ACC/SPEC/CPV/4, Elements of a Draft Working Party Report (identified by paragraph number).

TABLE OF CONTENTS

II.	ECONOMIC POLICIES.....	1
-	Monetary and Fiscal Policy.....	1
-	Foreign Exchange and Payments	1
-	Investment Regime.....	4
-	State Ownership and Privatization	6
-	Pricing Policies	8
-	Competition Policy	11
III.	FRAMEWORK FOR MAKING AND ENFORCING POLICIES AFFECTING FOREIGN TRADE IN GOODS AND TRADE IN SERVICES	11
-	Powers of executive, legislative and judicial branches of government.....	11
-	Authority of Sub-Central Governments	13
IV.	POLICIES AFFECTING TRADE IN GOODS	13
-	Trading Rights	13
A.	IMPORT REGULATIONS.....	20
-	Ordinary customs duties	20
-	Other duties and charges.....	22
-	Tariff rate quotas, tariff exemptions	25
-	Fees and charges for services rendered.....	26
-	Application of internal taxes to imports	29
-	Quantitative import restrictions, including prohibitions, quotas and licensing systems	32
-	Customs valuation.....	37
-	Rules of origin	37
-	Other customs formalities	40
-	Preshipment inspection	40
-	Anti-dumping, countervailing duties, and safeguard regimes	40
B.	EXPORT REGULATION.....	41
-	Export subsidies	41
C.	INTERNAL POLICIES AFFECTING FOREIGN TRADE IN GOODS	43
-	Industrial Policy, including subsidies.....	43
-	Technical barriers to trade, standards, and certification.....	45
-	Sanitary and phytosanitary measures.....	46
-	Trade-related investment measures	49
-	State Trading Entities.....	49

-	Free zones, special economic areas.....	51
-	Government procurement.....	53
-	Transit.....	54
-	Agricultural Policies	55
(a)	Imports.....	55
(c)	Internal policies.....	59
-	Textiles Regime	59
V.	TRADE-RELATED INTELLECTUAL PROPERTY RIGHTS REGIME	59
-	GENERAL.....	59
-	Industrial Property Protection	59
-	Participation in international intellectual property agreements	60
-	SUBSTANTIVE STANDARDS OF PROTECTION, INCLUDING PROCEDURES FOR THE ACQUISITION AND MAINTENANCE OF INTELLECTUAL PROPERTY RIGHTS	60
-	Copyright and related rights.....	60
-	Trademarks, including service marks.....	61
-	Geographical indications, including appellations of origin.....	61
-	Requirements on undisclosed information, including trade secrets and test data.....	62
-	ENFORCEMENT	63
VI.	POLICIES AFFECTING TRADE IN SERVICES.....	65
VII.	TRANSPARENCY	69

II. ECONOMIC POLICIES

- Monetary and Fiscal Policy

Question 1

We note the bracketed statement in paragraph 13 that the VAT, Special Tax on Consumption (STC), and the Environmental taxes are the "only" domestic taxes applied to imports. We seek confirmation and a comprehensive list of such taxes.

Answer:

The Government of Cape Verde confirms that the VAT, Special Tax on Consumption (STC) and the Environmental Tax are the "only" domestic taxes applied to imports.

As these are the "only" domestic taxes applied to imports, a comprehensive list of such taxes should not be necessary.

- Foreign Exchange and Payments

Question 2

As regards paragraph 16, could Cape Verde explain the reasons for requiring Bank of Cape Verde (BCV) authorization for 1) obtaining currency to import merchandise above CVE 5,000,000; 2) invisible operations falling under "private unilateral transfers" for amounts exceeding CVE 1,000,000 and for transfers exceeding CVE 5,000,000 as payment for goods and services.

Answer:

This question is clarified with the new writing of paragraph 16 of the Working Party Report, given below:

16. With respect to foreign exchange controls, in accordance with Decree Law Nos. 25/98 and 26/98 of 29 June 1998, and the Bank of Cape Verde's Notice No. 4/98 of 21 December 1998:
 - The current invisible operations are totally liberalized, with the exception of the operations connected with travelling should the amount involved exceed CVE 1,000,000;
 - There is no restriction in opening up accounts in foreign currency, in the banks, nor in obtaining foreign currency for the importation of goods;
 - The operations of capitals, with the exception of those executed in the Stock Market or through duly authorized Brokers, are subject to prior authorization from the BCV, upon request accompanied by the documents that prove the reality and the nature of the operations to be executed. This authorization is given automatically (it is never rejected) as long as the necessary requisites established by law are met;
 - In situations of doubt regarding the legitimacy of the stakeholders in a specific operation, the law foresees subjection to a prior verification by the

BCV. Thus, the execution of the following operations may be subject to prior verification by the BCV:

1. Transfers pertaining to current invisible operations in amounts greater than CVE 1,000,000, included under the heading "private unilateral transfers";
 2. Transfers of amounts greater than CVE 5,000,000 pertaining to the liquidation of services rendered or to revenues, except for, in this case, the interests pertaining to granting previously authorized loans or credits;
 3. Transfers pertaining to payment or advance reception of current transactions, when the advance reception deadline is greater than three months, their amount exceeds CVE 1,000,000 and represents more than 35 per cent of the contractual value.
- Cape Verde confirmed that there are no foreign exchange restrictions, such as mandatory surrender requirements, prior import deposits, or a tax in the acquisition of currency exchange.

Question 3

We welcome the news in paragraph 15 that Cape Verde's bilateral agreement on credits and payment with Cuba has lapsed. When does Cape Verde expect to adopt the obligations of IMF Article VIII sections 2(a), 3, and 4 on current account transactions?

Answer:

According to notification made by note No. 520/GMFP/04 of 6 August, and taking into account Section I of Article XIV of the Agreement with the IMF, the Government of Cape Verde has already informed the IMF of its decision to accept the obligations of Article VIII, Sections 2(a), 3 and 4.

Question 4

Paragraph 16: We seek clarification in the text of the statement that "transfers and payments for current account transactions could be done freely" in light of the statement later in the paragraph that Bank of Cape Verde (BCV) "authorization" was required to obtain foreign exchange for importation of merchandise above a certain value, and that prior "verification" was necessary for payments for services and private unilateral transfers, and for current account transactions prepaid by more than three months.

Is the authorization automatic, or are there criteria that must be met? Is the state of the balance of payments a factor?

Answer:

This question is clarified with the new writing given to Paragraph 16 of the Working Party Report.

Note: Paragraphs 15, 16 and 17 of the Draft Working Party Report were revised. The revised text is as follows:

15. The representative of Cape Verde said that his Government had notified the IMF on 6 August 2004 of its decision to accept the obligations of Article VIII, Sections 2 (a), 3 and 4. The process is underway, following the normal proceedings.

16. With respect to foreign exchange controls, in accordance with Decree Laws No. 25/98 and 26/98 of 29 June 1998, and the Bank of Cape Verde's Notice No. 4/98 of 21 December 1998:
- The current invisible operations are totally liberalized, with the exception of the operations connected with travelling should the amount involved exceed CVE 1,000,000;
 - There is no restriction in opening up accounts in foreign currency, in the banks, nor in obtaining foreign currency for the importation of goods;
 - The operations of capitals, with the exception of those executed in the Stock Market or through duly authorized Brokers, are subject to prior authorization from the BCV, upon request accompanied by the documents that prove the reality and the nature of the operations to be executed. This authorization is given automatically (it is never rejected) as long as the necessary requisites established by law are met;
 - In situations of doubt regarding the legitimacy of the stakeholders in a specific operation, the law foresees subjection to a prior verification by the BCV. Thus, the execution of the following operations may be subject to prior verification by the BCV:
 1. Transfers pertaining to current invisible operations in amounts greater than CVE 1,000,000, included under the heading "private unilateral transfers";
 2. Transfers of amounts greater than CVE 5,000,000 pertaining to the liquidation of services rendered or to revenues, except for, in this case, the interests pertaining to granting previously authorized loans or credits;
 3. Transfers pertaining to payment or advance reception of current transactions, when the advance reception deadline is greater than three months, their amount exceeds CVE 1,000,000 and represents more than 35 per cent of the contractual value.
 - Cape Verde confirmed that there are no foreign exchange restrictions, such as mandatory surrender requirements, prior import deposits, or a tax in the acquisition of currency exchange.
17. The representative of Cape Verde said that the Foreign Investment Law No. 89/IV/93 of 13 December 1993 facilitated the full (100 per cent) transfer of foreign investment capital as long as the foreign investor was registered as such with the BCV and was authorized by the Minister of Finance and Planning to carry out foreign investment operations.

Question 5

Paragraph 16: We seek clarification in the text of the statement that "transfers and payments for current account transactions could be done freely" in light of the statement later in the paragraph that Bank of Cape Verde (BCV) "authorization" was required to obtain foreign exchange for importation of merchandise above a certain value, and that prior "verification" was necessary for payments for services and private unilateral transfers, and for current account transactions prepaid by more than three months.

Under what circumstances would BCV deny its authorization or verification? How often does that happen?

Answer:

This question is clarified with the new writing given to Paragraph 16 of the Working Party Report. See text in answer to Question No. 4.

Question 6

Paragraph 17 indicated that the BCV could require the transfer of capital arising from the sale, liquidation, or dissolution of an enterprise to be carried out in quarterly installments if transferring the sum in full would cause a serious disturbance to Cape Verde's balance of payments. How is this measure an investment incentive?

Answer:

It is a safeguard measure. Only in very exceptional cases of great concern in the balance of payments, is it possible for this happen.

This question is clarified with the new writing given to Paragraph 16 of the Working Party Report. See text in answer to Question No. 4.

Question 7

Paragraph 17 indicated that the BCV could require the transfer of capital arising from the sale, liquidation, or dissolution of an enterprise to be carried out in quarterly installments if transferring the sum in full would cause a serious disturbance to Cape Verde's balance of payments.

How would the BCV make this determination? Would the BCV seek IMF concurrence on its evaluation before acting?

Answer:

This question is clarified with the answer to the previous question and the revision of paragraphs 15, 16 and 17 of the Draft Working Party Report. See revised text of paragraphs 15, 16 and 17 in answer to Question No. 4.

- **Investment Regime**

Question 8

Specific comments on the Regulamentary Decree No. 1/94 of 3 January concerning Foreign Investment authorisation processes. Articles 3 and 4 are not clear as regards the deadline for receiving the authorisation. Please clarify the deadline for receiving the authorisation.

Answer:

Cape Verde states that Article 3 of the above-cited Regulamentary Decree is clear as to the maximum of a 30-day deadline. It, no doubt, is the exception that causes the confusion.

Paragraph 3 of Article 4 only applies to investments in Franc Enterprises. When information is missing or incomplete the Investment and Franc Enterprise Evaluation Committee will request the prerequisite date or information. In such cases, the deadline specified in Article 3 is suspended until

the foreign investor or its representative provides the information requested. When the foreign investor or its representative provides the information, the deadline period is resumed.

Question 9

Specific comments on the Regulamentary Decree No. 1/94 of 3 January concerning Foreign Investment authorisation processes.

Article 4.3

The criteria for receiving authorisation and information needed for this purpose should be clear and exhaustive. In the case of the present Decree, all necessary information should be contained in the required application forms which are set out in Annexes 1 and 2 of the Decree.

We note that Article 4.3 states that "Whenever necessary, The Investment and Franc Enterprises Evaluation Committee should solicit complementary elements of information from the foreign investor. According to Article 4.4, in such cases the deadline of a maximum 30 days is suspended and resumes after the foreign investor has provided the requested information".

The provisions of Article 4.3 and 4.4 are arbitrary and we urge their deletion from the Decree. The information contained in the application forms should be sufficient and it is for the Exports and Investment Promotion Centre, who receives the application, to judge whether all the information requested in the application form is submitted.

Answer:

Cape Verde thanks the Member for its views and comments. Cape Verde will take the suggestion under consideration.

Question 10

Paragraph 19: Could Cape Verde give a list of sectors which are not open to investment because they are considered as a threat to national security, public morals, the environment or public health, or in violation of domestic laws and regulations?

Answer:

Paragraph 19 states that all sectors are open unless the activity is considered a threat to the above mentioned sectors.

Cape Verde hereafter provides examples (not an exhaustive list) of activities in sectors that pose a threat.

National Security: Production or importation of handguns, military weapons and hardware, munitions and similar materials.

Public Morals: Production or importation of pornographic materials, establishment of houses of ill repute, establishment of illegal gambling houses and similar activities.

Environment: Industries that would degrade the environment (such as processing turtle products and/or other endangered species).

Public Health: Establishment of industries that would produce and/or distribute illegal drugs and food dangerous to public health.

Question 11

Paragraph 24: It appears that Cape Verde operates a system of investment incentives that constitutes prohibited export subsidies (Cape Verde states that incentives are denied for investments that exclusively or mainly target domestic markets). Could Cape Verde provide a comprehensive list of all its investment promotion schemes indicating their legal basis, eligibility criteria and budget.

Answer:

Cape Verde is pleased to inform the Working Party of the following information:

1. With regard to foreign investment, Article 2 of Law No. 89/IV/93 of 13 December 1993, provides the eligibility criteria;
2. With regard to the Industrial Status (Industrial Investment), Article 28 of Decree Law No. 108/89 of 30 December 1989, provides the condition of access to the incentives of the Industrial Status;
3. With regard to the Franc Enterprises, Article 2 of Law No. 99/IV/93 of 31 December 1993, provides the eligibility criteria;
4. With regard to Incentives applicable to Exportation or Re-exportation, Article 4 of Law No. 92/IV/93 of 15 December 1993, establishes the condition of access;
5. With regard to Tourism Utility:
 - (a) Article 3 of Law No. 55/VI/2004 of 10 January 2004, establishes the assumptions for attribution;
 - (b) Article 5 of Law No. 55/VI/2004 of 10 January 2004, describes the criteria for evaluating the requests.
6. However the 2006 Activity Plan for Cape Verde Investment (the Agency responsible for Investments in Cape Verde) foresees a revision of the Foreign Investment Legislation.

Cape Verde will notify the WTO Secretariat accordingly when the revised legislation has been approved.

The Legislation cited above has been submitted to the WTO Secretariat along the Accession Process.

- **State Ownership and Privatization**

Question 12

We would like to applaud Cape Verde's privatization program which has set a standard that many could emulate. The reduction of its state sector has undoubtedly been a key factor in Cape Verde's economic growth over the past few years.

Can Cape Verde confirm that there are no other state owned enterprises other than those listed in this section of WT/ACC/SPEC/CPV/4?

Answer:

The Government of Cape Verde confirms that there are no other state owned enterprises other than those listed in the Paragraph 28, Table 2 of WT/ACC/SPEC/CPV/4.

Question 13

Article XVII of the GATT requires State-Owned Enterprises (SOEs) to operate on commercial principles. How would competitors of SOEs determine if they are in fact operating on commercial principles? What transparency requirements does Cape Verde impose on SOEs? What accounting standards are applied to SOEs? Are SOEs required to publish annual reports? Are they required to submit to an independent external audit? If so, does the law require the publication of the independent auditors report? How do SOEs pay profits to the State?

Answer:

All of the remaining state-owned enterprises have to abide by the same corporate law and principles as private companies. They all have Boards of Directors, Fiscal Councils (Internal Auditors), and follow the National Accounting Standards, as do private companies.

The Boards of Directors of the four state-owned companies must prepare annual reports and audited statements to submit to shareholders, internal auditors and tax authorities. CV tax authorities require audited statements.

Concerning transparency, annual reports are always made available to shareholders and tax authorities and in some/many cases, also available to the public. Annual Reports are required to be published in the Official Bulletin or in the newspapers with wider circulation in the country or in both at the expenses of the company.

It is mandatory to published Independent Auditors Report annexed to Annual Reports, without prejudice to the economical and financial oversight by the governmental departments responsible for Finance who may also resort to the services of credible independent auditors.

As to paying profits to the State, once accounts are presented to the share holders for approval, a vote is taken on returned earnings and dividends. Thereafter, dividends are distributed in proportion to shareholders equity (including the State).

Question 14

We take note of the commitments in paragraph 30.

Answer:

No answer needed.

Question 15

We would like to propose the following additional commitment for this section:

"The representative of Cape Verde confirmed that it would ensure that all state-owned, state-invested, and state trading enterprises would make purchases and sales based solely on commercial considerations, e.g., price, quality, marketability and availability, and that the enterprises of other WTO Members would have an adequate opportunity to compete for sales to and purchases from these enterprises on non-discriminatory terms and conditions. In addition, the Government of Cape Verde would not influence, directly or indirectly, commercial decisions on the part of state-owned, state-invested, or state trading enterprises, including on the quantity, value or country of origin of any goods purchased or sold, except in a manner consistent with the WTO Agreement. The Working Party took note of these commitments."

Answer:

The Government of Cape Verde adheres to the statement by our representation and agrees with the commitment language suggested.

- Pricing Policies

Question 16

We would be grateful if Cape Verde could clarify if price measures of the following kinds are applied to any product:

- Minimum internal prices;**
- Minimum import prices;**
- Imposts on an imported good that are subject to variations that would tend to insulate the domestic price from changes in the external price.**

Answer:

- Domestic minimum prices are not applied in Cape Verde. Regulamentary Decree No. 2/2002, of 12 August, which fixes The Reference Price and the Minimum Taxable Price, for the purpose of Customs Clearance of 1 Kg of imported chicken meat of the headings 02.07.11.00.00, 02.07.12.00.00, 02.07.13.00.00, 02.07.14.00.00, of the import Table in effect, at CVE 235 and CVE 145, respectively, expired since 12 August 2004 and was not continued.
- Minimum prices are not applied on imports.
- There are none.

Question 17

In addition to the commitment sought in question 13 of WT/ACC/CPV/20, we would ask that commitment language framed around the following text also be included in the report:

The representative of Cape Verde confirmed moreover that pricing policy in Cape Verde would be applied in compliance with the provisions of Article III.4 and XI.1 of GATT 1994 and Article 4 of the Agriculture Agreement.

Answer:

Article III.4 and XI.1 of the GATT 94, refer respectively, to national treatment and to quantitative restrictions on imports other than the customs duties (contingencies, import and export licenses, etc).

Article 4 of the Agreement on Agriculture refers to access to the market, specifically to the establishment and reestablishment of non-tariff measures that had been converted into customs duties.

Cape Verde agrees to the commitment language suggested by the Member.

Question 18

Paragraph 34 of WT/ACC/CPV/SPEC/4 notes that all legislation and regulations establishing or modifying price controls had always been published in the Official Bulletin before taking effect.

Under relevant Cape Verde laws governing price controls, what is the length of time between publication and entry into force of the new prices?

Answer:

In WT/ACC/CPV/15 (25 August 2004), Cape Verde confirmed that "no law, regulation, judicial decision, administrative rulings, or other measures of general application pertaining to or affecting trade in goods, services, TRIPS, etc., would become effective or be enforced prior to such publication.

Accordingly, the new prices become effective immediately or on the day of publication in the Official Bulletin.

Question 19

Paragraph 34 of WT/ACC/CPV/SPEC/4 notes that all legislation and regulations establishing or modifying price controls had always been published in the Official Bulletin before taking effect.

Does Cape Verde currently allow interested parties to comment on proposed changes in price controls? If not, does Cape Verde intend to provide opportunities for public comment on price control changes?

Answer:

Yes. The views of the Chamber of Commerce, the ministries involved, the municipalities and the interested consumer associations are taken into consideration.

Question 20

Referring to paragraph 35, we are not aware that there are "international prices" for some of the products listed, e.g., bread and bakery products, or possibly wheat flour and butane gas. What methods are used to fix these prices?

Answer:

In WT/ACC/CPV/15 (page 1), in the response to Question 1, Table 1 specifies the methods used to fix the prices.

Maximum and fixed prices are established depending on the structure of production cost, fluctuation of prices in the international market place and the domestic market.

Please note that the phrase "international prices was previously clarified by Cape Verde to mean "prices in the international market". The paragraph 34 of WT/ACC/SPEC/CPV/4 already reflects this change.

Question 21

Is it true that price controls for Rice, Sugar (Granular), Com, Wheat Flour, Wheat Bran, Bread and bakery products, Gas oil and Gasoline are not applied to imports at time of importation, but rather at the same point of sale as for domestic production? Please adjust the table and/or text to clarify this point.

Answer:

Yes.

Price controls for imports are administered at the same point of sale as for domestic production.

The paragraph 35 of WT/ACC/SPEC/CPV/4 should read as follows:

"Price controls were applied to imported and domestically-produced goods and services, but not to exports. Price controls for imported bread and baking products, rice, sugar (granules), corn, wheat flour and bran, butane gas, gasoline, gas oil and kerosene were applied at the point of sale as for domestic production. He confirmed that products affected by price controls were no longer subject to State trading."

Question 22

Referring to a footnote to Table 3 on page 57 of WT/ACC/SPEC/CPV/4, importers of corn, rice, sugar, and wheat flour which are subject to maximum prices must distribute 30 per cent of their importation in other islands than Santiago and St. Vincent.

How is this requirement consistent with Article III of the GATT?

Answer:

The 30 per cent figure has been eliminated in the revision of the external trade legislation, Decree Law No. 50/2005 (a copy of which was forwarded to the WTO Secretariat).

Thus, the revised law on external trade will be consistent with Article III of the GATT.

Question 23

Referring to a footnote to Table 3 on page 57, importers of corn, rice, sugar, and wheat flour which are subject to maximum prices must distribute 30 per cent of their importation in other islands than Santiago and St. Vincent.

Are domestic producers of these products required to meet this same requirement?

Answer:

No.

See answer to Question No. 22 and Decree Law No. 50/2005.

Question 24

We note the dual commitment language indicated in paragraph 36. We can support the first set of bracketed text.

Answer:

Cape Verde agrees with this comment and makes a commitment of using the language of the first set of brackets in paragraph 36.

- **Competition Policy**

Question 25

Paragraph 37: Please precisely describe Cape Verde's current competition policies and the institutions that enforce those policies. Please also describe any planned or developing changes to existing competition policies or institutions plans to develop Cape Verde. Please advise whether intended changes require legislation.

Answer:

The General Directorate of Commerce, within the Ministry of Economy is responsible for planning and enforcing competition policies. Decree Law No. 50/2005 replaces Decree Law No. 53/2003 and outlines the competition policies of Cape Verde.

A copy of Decree Law No. 50/2005 has been provided to the WTO Secretariat.

III. FRAMEWORK FOR MAKING AND ENFORCING POLICIES AFFECTING FOREIGN TRADE IN GOODS AND TRADE IN SERVICES

- **Powers of executive, legislative and judicial branches of government**

Question 26

We appreciate the explanation of Cape Verde's ratification procedures in paragraph 41 of WT/ACC/SPEC/CVP/4. We would appreciate an explanation for the brackets remaining around the word automatically.

Answer:

Cape Verde thanks the Members for its comments. The bracketed word "[automatically]" was a drafting oversight and adds nothing to the concept. In accordance with Articles 12-14 of the Constitution, the provision of the WTO would supersede the domestic law.

Cape Verde agrees to remove the word "automatically" from paragraph 41.

Question 27

For clarity, we would recommend restructuring this section by placing paragraphs 47-51 after paragraph 41.

Answer:

Cape Verde agrees with the recommendation to restructuring this section.

Question 28

Paragraph 43 indicates that an aggrieved party could lodge a written appeal against an administrative decision.

Can that written appeal be filed with the decision-maker's superior or other responsible official within the executive branch of government, or must it be made to the courts?

Answer:

Yes, a written appeal can be lodged against an administrative decision with an official within the executive branch of the Government.

After exhausting administrative remedies, then the aggrieved party could appeal to the courts.

An aggrieved party could lodge an appeal directly to the courts, at their option. Generally the appeal is to the administrative body and if the aggrieved party is not satisfied with the decisions then an appeal to the courts would be the next step.

Question 29

Paragraph 43 indicates that the Administrative Courts are not yet operational. When does Cape Verde intend to open them?

Answer:

The question of Administrative Courts as an autonomous court is still under consideration at this time. At this time, no date has been established for them to open, as such.

However, the Administrative Justice operates in plentitude and it is attained via the Common Courts and the Supreme Court of Justice. Along the years, the administration of Administration Justice always functioned through the Common Courts and the Supreme Court of Justice.

Question 30

Referring to Paragraph 44, we note that Cape Verde is not yet a party to the 1958 U.N. Convention on the Recognition and Enforcement of Foreign Arbitral Awards and paragraph 45 notes that Cape Verde is not yet a party to the Convention on the Settlement of Investment Disputes.

Does Cape Verde intend to become a party to these conventions? If so, when?

Answer:

The question of Cape Verde becoming a party to the 1958 UN Convention on the Recognition and Enforcement of Foreign Arbitral Awards (paragraph 44) and a party to the Convention on Settlement of Investment Disputes is currently under consideration before the Ministry of Justice and the Ministry of Foreign Affairs.

Question 31

Paragraph 46: We are confused by this draft commitment:

It states in this commitment that Cape Verde "would establish" appropriate independent tribunals for appeals of administrative decisions regarding trade in goods and services, and TRIPS. This would seem to conflict with the description in paragraph 43, and paragraphs 91 and 92, where it states, "the right to appeal to an independent administrative tribunal was already in effect.

Please indicate whether or not Cape Verde already has appeals to the courts or to independent tribunals for all the issues covered by the WTO, e.g., those dealing with trade in goods, trade in services, and TRIPS.

Answer:

Please refer to the answer to Question No. 29.

The issues pertaining to the WTO could be appealed to the Common Courts, in their attribution as Administrative Courts and could be appealed upward to the Supreme Court of Justice if the appellant is not satisfied with the decision of the Common Courts.

Question 32

Concerning the WTO Unit for trade policy development and execution referred to in paragraph 48, where is this Unit located in the governing structure, and to what Ministry does it belong and report?

Answer:

The WTO Unit for trade policy development referred to in paragraph 48 is located in the Ministry of Economy, Growth and Competitiveness, and reports directly to the Minister.

- **Authority of Sub-Central Governments**

Question 33

We take note of the commitment in paragraph 51

Answer:

No answer needed.

IV. POLICIES AFFECTING TRADE IN GOODS

- **Trading Rights**

Question 34

Paragraph 52: Could Cape Verde explain the current state of revision of the legislation as regards registration of businesses and commercial operators? When would the draft laws be available?

Answer:

The revision of the law regarding internal commerce juridical regime has been completed and is in the final stages of approval by the Government.

A copy of the revised law was forwarded to the WTO Secretariat (please see document WT/ACC/CPV/19/Add.1).

Question 35

Paragraph 57: Could Cape Verde explain why the registration fee for importers is double of that than the fee for exporters. Looking at the criteria listed (i) to (iv), there seems to be no justification for this different treatment. Cape Verde would be urged to bring its registration fees in line with Article VIII GATT to reflect the cost of services rendered.

Could Cape Verde also explain in more detail the method used for fixing the fees on the basis of the cost of service provided, indicating the actual cost of services provided.

Answer:

Article 22 of the draft Juridical Regime for internal commerce provides that an Ordinance should be prepared (and in fact, is completed) and the fees are harmonized.

The fees are fixed in the Ordinance with inputs from members of Government responsible for the sectors of Commerce and Finance.

Question 36

Paragraph 52: We understand that Cape Verde is in the process of revising its business registration law.

Could Cape Verde please provide a status report on the new draft law? When will it be provided to the Secretariat for comment by Working Party Members?

Answer:

Cape Verde would like to make the following clarifications:

- Licensing for commercial activity is performed by the Chamber of Commerce; and
- Business registration is performed by the Conservatory of Commercial Registry.

As this question appears to concern Trading Rights, Cape Verde will assume the question concerns "licensing for commercial activity" and not business registration.

The draft law on revising licensing for commercial activities (draft-law will replace Decree Law No. 50/2003) has been circulated to the various ministries in Cape Verde and is awaiting comments.

The draft revision of the licensing for commercial activities law has been forwarded to the WTO Secretariat.

Question 37

Paragraph 52: We understand that Cape Verde is in the process of revising its business registration law.

We are very concerned about the WTO consistency of the current law and we would appreciate a chance to provide substantive comments on the new draft law to ensure that it is WTO compliant prior to enactment.

Answer:

See answer to Question No. 36.

Please note, however, the distinction between licensing for commercial activities and business registration.

Question 38

Paragraph 53: We understand that "industrial enterprises" are subject to a separate registration process based on your response to Question 40 in WT/ACC/CPV/20. What are the requirements to be designated as an "industrial enterprise" in Cape Verde and how do they differ from those for traders or distributors?

Answer:

An industrial enterprise engages in transformation activities, such as assembly, manufacturing, building, etc. An industrial enterprise may import only raw materials, semi-finished material, equipment, and the like, to meet their own needs. An industrial enterprise may not engage in general imports and distribution of the imported products, in Cape Verde.

Traders or distributors differ from industrial enterprises in that they may freely engage in all import, export and distribution activities.

Question 39

Paragraph 54: The first sentence in paragraph 54 seems to imply that a foreign enterprise must establish a branch or other form of commercial presence in Cape Verde in order to import or to export. This should not be necessary, and an unnecessary barrier to trade inconsistent with GATT Article XI. Foreign individuals and enterprises should be able to be recognized as "importers or exporters of record," maintaining legal ownership and control of the goods and paying all duties and taxes prior to transferring ownership to a local distributor without having to establish a physical presence in Cape Verde.

Does the new draft business registration law provide for this facility? Is Cape Verde prepared to establish this right to import and to export separate from the right to distribute goods in Cape Verde?

Answer:

Please note distinction between licensing for commercial activities and new business registration.

Yes, the new licensing for commercial activities law provides that both domestic and foreign enterprises must establish a commercial presence in Cape Verde and register with the Conservatory of Commercial registry.

The new draft licensing law already separates the right to import and export from the right to distribute goods in Cape Verde.

Question 40

Paragraph 55: Under the business registration system, Cape Verde's two Chambers of Commerce act as the government's agent in registering new companies.

What are the "conditions" in Decree Law No. 50/2003 under which a Chamber of Commerce may reject an application for commercial registration? Does a Chamber administer any sort of economic needs test to firms wishing to establish in Cape Verde?

Answer:

Cape Verde would like to make the following clarifications:

- Licensing for commercial activity is performed by the Chamber of Commerce; and
- Business registration is performed by the Conservatory of Commercial Registry.

As this question appears to concern Trading Rights, Cape Verde will assume the question concerns "licensing for commercial activity" and not business registration.

The revision of Decree Law No. 50/2003 does not specify conditions under which a Chamber may reject an application. However, the revision of Decree Law No. 50/2003 sets forth positive standards or requirements that are to be included in an application. Should the requirements or conditions not be met, then an application would be returned to the applicant for inclusion of the missing data.

Neither the Chamber nor the Conservatory administer any economic needs test to firms needing to establish in Cape Verde.

Question 41

Paragraph 55: Under the business registration system, Cape Verde's two Chambers of Commerce act as the government's agent in registering new companies.

Does Cape Verde's new draft business registration law envision returning the role of registering new businesses to the government?

Answer:

Cape Verde would like to make the following clarifications:

- Licensing for commercial activity is performed by the Chamber of Commerce; and
- Business registration is performed by the Conservatory of Commercial Registry.

As this question appears to concern Trading Rights, Cape Verde will assume the question concerns "licensing for commercial activity" and not business registration.

The draft licensing for commercial activities business registration law does not envisage returning the role of authorization for the exercise of commercial activity to the government.

Question 42

Cape Verde also indicated in paragraph 55 states that a company must specify by product (HS code) what goods will be imported and exported. However, in the response to Question 50 of WT/ACC/CPV/20, Cape Verde states that registration must be done by HS section, not by HS number. These statements seem to be inconsistent. Please provide more specific information clarifying what information a business entity needs to provide to be authorized to import and export goods. Examples would be very helpful.

Answer:

Although the statements appear to be inconsistent, they are not. What is needed in paragraph 55 is the addition of the word Section after "by HS Code". Thus, paragraph 55 would read "The application would also specify by the products (by HS Code Section) that would be imported or exported".

Question 43

Paragraph 56: Cape Verde states that business entities should assume that a registration has been granted if they have not received a response within 30 days. Is that thirty business or calendar days? For transparency reasons and to provide business entities with greater certainty, we strongly suggest that Cape Verde's draft law on business registration require issuance of some type of documentation affirming the authorization of the business registration.

Answer:

The response time was 30 business days. The response time is reduced in the new licensing for commercial activities, to 7 days

Cape Verde appreciates the suggestion of the view on the draft-law on licensing, and will take into consideration this suggestion when finishing the draft-law.

Cape Verde would like to make the following clarifications:

- Licensing for commercial activity is performed by the Chamber of Commerce; and
- Business registration is performed by the Conservatory of Commercial Registry.

As this question appears to concern Trading Rights, Cape Verde will assume the question concerns "licensing for commercial activity" and not business registration.

Question 44

Paragraph 56 also indicated that a party whose business registration application faced undue delays or rejection could seek recourse to an administrative appeal.

With what organization would such an appeal be filed?

Answer:

Cape Verde would like to make the following clarifications:

- Licensing for commercial activity is performed by the Chamber of Commerce; and
- Business registration is performed by the Conservatory of Commercial Registry.

As this question appears to concern Trading Rights, Cape Verde will assume the question concerns "licensing for commercial activity" and not business registration.

An administrative appeal would be filed with the General Directorate of Commerce in the Ministry of Economy, Growth and Competitiveness. Further appeal would be to the Minister.

Question 45

Paragraph 56 also indicated that a party whose business registration application faced undue delays or rejection could seek recourse to an administrative appeal.

Would a rejected applicant also have recourse to the courts?

Answer:

Cape Verde would like to make the following clarifications:

- Licensing for commercial activity is performed by the Chamber of Commerce; and
- Business registration is performed by the Conservatory of Commercial Registry.

As this question appears to concern Trading Rights, Cape Verde will assume the question concerns "licensing for commercial activity" and not business registration.

Yes, registered applicants for licence for commercial activity would have recourse to the courts.

Question 46

Paragraph 56 also indicated that a party whose business registration application faced undue delays or rejection could seek recourse to an administrative appeal.

Could a rejected applicant file a case in civil court against the Chamber of Commerce that rejected an application and seek financial compensation for damages?

Answer:

Again, please note the distinction between licensing and business registration.

Yes, a rejected applicant may file a case in civil court against the Chamber of Commerce within 30 days from the day of rejection of the application, Also, the rejected applicant may seek financial compensation for damages.

Question 47

Paragraph 56: Does Cape Verde have an update on when the on-line registration system will be functioning? In the meantime, how does Cape Verde intend to ensure that business entities can register with one municipality and still be authorized to carry on business throughout Cape Verde?

Answer:

Again, please note the distinction between licensing and business registration.

The Government of Cape Verde is developing an on-line system that will interface entities involved in the commercial area, such as Chamber of Commerce, Cabo Verde Investimentos (formerly PROMEX), Conservatory of Commercial Registry, Tourism, Energy, Commerce and Customs. The on-line system is still being developed and is expected to be functioning in the foreseeable future.

In the meantime (currently), new business registrations at one municipality are forwarded to the Conservatory of Commercial Registry, central office in Praia. All business registrations are compiled

at the Central Conservatory Office. Thus, new business registrants are authorized to carry-on business throughout Cape Verde.

Question 48

Paragraph 57: Cape Verde charges different fees for registration depending on whether a company is engaging in importation or exportation activities. Cape Verde has indicated it is in the process of revising the fee structure of its business registration law. Will the fees be harmonized under the new law? Will the fee be based on the "cost of services" rendered? Please explain the relationship between costs listed as "payments for meeting expenses" and "travel expenses" and the issuance of a business registration?

Answer:

Yes, the fee structure will be revised in the new registration of business and commercial activities law. Also, the fees will reflect the cost of service rendered.

Question 49

Paragraph 59 stated that non-profit institutions exempt from registration requirements could offer imported consumption goods (i.e. all goods that are not raw materials, semi-finished products, or equipment) for resale in Cape Verde, pursuant to the approval of the General Customs Directorate. Some private firms were involved in the purchase of these exempted goods."

Please advise whether duty is payable on goods imported by non-profit institutions.

Answer:

Non-profit organizations pay duties on imported goods unless these goods they import are exempt by law.

Question 50

Paragraph 59 stated that non-profit institutions exempt from registration requirements could offer imported consumption goods (i.e. all goods that are not raw materials, semi-finished products, or equipment) for resale in Cape Verde, pursuant to the approval of the General Customs Directorate. Some private firms were involved in the purchase of these exempted goods."

If not, is duty payable prior to a non-profit institution's resale of imported goods to private firms?

Answer:

The non-profit organizations are authorized to import goods for their exclusive use, destined for the purposes they are expected to attain in the ambit of their activities.

Should certain goods not serve or cease to serve the purposes for which they were imported, the referred institutions may alienate them to third parties, with prior authorization from the General Director of Customs. Duties and other impositions due should be paid, based on the value agreed to by expert arbitration and in accordance with the state of conservation of the goods.

Question 51

We seek a commitment containing the following elements:

Consistent with Articles III and XI of the GATT, Cape Verde should grant from the date of accession, any natural or legal person, domestic or foreign, the right to be the importer of record of any product allowed to be imported into Cape Verde, recognizing that this was separate from the right to distribute goods in a the local market.

Answer:

Cape Verde agrees with the commitment language suggested.

Question 52

We seek a commitment containing the following elements:

Cape Verde should confirm that from the date of accession, full rights to import and to export would be granted in a non-discriminatory and non-discretionary way, and that any requirements for registration or application for trading rights would be for customs and fiscal purposes only, would not require actual investment in Cape Verde nor confer the right to distribute there, and would not constitute a barrier to trade.

Answer:

The Government of Cape Verde confirms its commitment, from the date of accession, to grant full rights to import and to export in a non-discriminatory and non-discretionary way. The Government of Cape Verde further confirms its commitment not to require actual investment in Cape Verde nor confer the right to distribute, not to constitute a barrier to trade, and not to require any requirements for registration or application for trading rights that are not for customs and fiscal purposes only.

A. IMPORT REGULATIONS

- Ordinary customs duties

Question 53

Paragraph 64: Appreciate submission of the ECOWAS Roadmap. However, there are certain aspects of Cape Verde's customs structure that remain unclear.

Cape Verde is a member of both ECOWAS and WAEMU. Both regional organizations maintain common external tariffs (CET). According to the roadmap, the implementation of a new CET was scheduled by completion by 2003. Do you have an update on progress? Will this new CET be ECOWAS wide? Will it be based on the current WAEMU or ECOWAS CET?

Answer:

Cape Verde is a member of the ECOWAS but is not a member of WAEMU;

There is only one CET, which is the one from WAEMU;

There is, however, a study at a very advanced phase with a view to extend the WAEMU CET to the ECOWAS countries, non-members of WAEMU, such as the case of Cape Verde.

The implementation date for the WAEMU CET to remaining ECOWAS countries, non-members of WAEMU is foreseen for the year 2007.

Question 54

Paragraph 64: Appreciate submission of the ECOWAS Roadmap. However, there are certain aspects of Cape Verde's customs structure that remain unclear.

Please confirm when Cape Verde intends to adopt HS2002 and whether it will establish its GATT Schedule in that nomenclature.

Answer:

Cape Verde confirms that it intends to adopt HS 2002. The date of adoption has not been determined at this time.

Cape Verde confirms that it will establish its GATT schedule in that nomenclature (HS 2002) subsequent to its adoption.

Question 55

Paragraph 64: Appreciate submission of the ECOWAS Roadmap. However, there are certain aspects of Cape Verde's customs structure that remain unclear.

When the new CET is finally implemented, will member countries have exceptions or will the CET be harmonized across the entire HS harmonized tariff schedule?

Answer:

Several non-WAEMU countries have already commenced the CET phasing-in process (Ghana, Guinea, Sierra Leone and Nigeria). The period from 2005 to 2007 is the transitional period, during which countries could be granted waivers on tariff line identified as coming under Type A and Type B exceptions.

Cape Verde has solicited the list of Type A and Type B exceptions from ECOWAS and will forward the lists to the WTO Secretariat as soon they are made available.

Question 56

Paragraph 65: Cape Verde states in paragraph 65 that it has seven tariff bands and base duty rates between 0 and 50 per cent. The WAEMU common external tariff has four tariff bands of 0, 5, 10, and 20 per cent. As a member of WAEMU, please explain why Cape Verde has tariffs as high as 50 per cent, while the highest WAEMU CET rates are 20 per cent.

Answer:

As was referred in the response to Question 53, Cape Verde is not a member of the WAEMU. Cape Verde is a member of the ECOWAS;

Not being a member of WAEMU, obviously it could not apply the WAEMU CET, which explains the difference of the tariff levels between Cape Verde and any member-country of WAEMU.

- **Other duties and charges**

Question 57

Regarding the reply to Question 74 of WT/ACC/CPV/20 and paragraph 69 of WT/ACC/SPEC/CPV/4, we would be very concerned at any attempt to seek exemptions from the provisions of Article II.1(b) of GATT 1994 for particular kinds of measures such as the ECOWAS levy. The provisions of Article II:1(b) of GATT 1994 were created to ensure the integrity of commitments on bound tariffs.

We would recommend that Cape Verde either fund the ECOWAS levy out of general taxation revenue, or negotiate its elimination with its ECOWAS partners.

Answer:

Cape Verde thanks the Member for its recommendation.

Cape Verde informs Members that the ECOWAS levy is a Community matter and needs to be discussed at that level.

Cape Verde further informs Members that it commits itself to discuss the issue within ECOWAS at the earliest possible moment and notify the WTO Secretariat of the outcome, accordingly.

Question 58

Regarding the reply to Question 74 of WT/ACC/CPV/20 and paragraph 69 of WT/ACC/SPEC/CPV/4, we would be very concerned at any attempt to seek exemptions from the provisions of Article II.1(b) of GATT 1994 for particular kinds of measures such as the ECOWAS levy. The provisions of Article II:1(b) of GATT 1994 were created to ensure the integrity of commitments on bound tariffs.

We would propose that the following be included in the report as a basis for commitment language:

The representative of Cape Verde recalled that Cape Verde had bound all tariffs in its Schedule of Concessions and Commitments for Goods. He confirmed that Cape Verde would from the date of its accession to the WTO not apply other duties and charges within the meaning of Article II.1(b) of GATT 1994 and would bind such other duties and charges at zero in relation to all products included in its Schedule of Concessions and Commitments for Goods. He confirmed that measures applied to imported goods of the kind described in paragraph [...] above would be eliminated no later than the date of Cape Verde's accession and that after accession measures of this kind would not be reapplied or introduced. The Working Party took note of these commitments.

Answer:

Cape Verde thanks the Member for its comments and suggested language.

Cape Verde informs Members that the ECOWAS levy is a Community matter and needs to be discussed at that level.

Cape Verde further informs Members that it commits itself to discuss the issue within ECOWAS at the earliest possible moment and notify the WTO Secretariat of the outcome, accordingly.

Question 59

Paragraph 67 lists 18 separate taxes, charges, surcharges, and fees as "other duties and charges." Most of these are actually covered in the subsequent sections on Fees and Charges for Services Rendered and Application of Internal Taxes to Imports, where further information on these taxes, charges, and fees is provided.

The information in this paragraph should be revised to ensure that only ODCs are described.

Answer:

Cape Verde thanks Members for their suggestion and will ensure the correction is made.

Question 60

These three sections of the report, i.e., Other Duties and Charges, Fees and Chares for Services Rendered and Application of Internal Taxes to Imports should be redrafted:

- **To indicate precisely which of the fees, charges, and taxes are still in place;**
- **To fully describe the level and nature of application of the charges;**
- **To distinguish more clearly among (a) fees and charges applied for services rendered on or in connection with importation or exportation; (b) taxes applied to both domestic and imported goods; and (c) other duties and charges that cannot be justified as falling under either of the other two categories; and**
- **To indicate how Cape Verde plans to bring it into conformity with WTO provisions.**

Answer:

Cape Verde thanks Members for their suggestion and will ensure the correction is made.

Question 61

We would also appreciate Cape Verde's explanation on whether the following charges are still applied, and if they are applied solely to imports or also to domestic output:

- **Charges for Government Publications and Printed Matters purchased by users or importers; and**
- **Consumption Tax on Local Production created in 1966.**

Answer:

The sole customs publication is the "customs bulletin" published annually by the General Directorate of Customs, containing diverse legislative provisions related to the customs services, dispatches from Government members, circulars, service orders, etc., sold at the Customs Treasuries. The proceeds from the sales is destined to pay for the publication of new issues.

Included in the category of forms for sale, those utilized by the users of the customs services in carrying out all the custom activities or activities related to the customs, by the official dispatchers (brokers), cashier-dispatchers, agents of the transporters of goods, fuel companies, among others.

Article 38 of Law No. 14/VI/2002, of 19 September 2002, already submitted to the Secretariat revoked the consumption tax on local production.

Question 62

Paragraph 67 states that a surcharge (the "ISDC") of 35 per cent is applied on goods imported by informal importers.

Is this charge still in place? If so, who or what is an "informal" importer, and why is there a surcharge on goods imported by them?;

Answer:

No.

A surtax of 35 per cent *ad valorem* due in the importation without currency expenditure ("ISDC") by informal operators is no longer in effect. The referred surtax was revoked by Law No. 121/V/2000, of 5 June 2000.

Question 63

Paragraph 69: We seek commitment that Cape Verde will bind the ECOWAS Community Levy as an ODC in its GATT Schedule, at 0.5 per cent, along the following lines:

- 69. Responding to requests that Cape Verde eliminate all ODCs and bind such duties and charges at zero in the Schedule of Concessions and Commitments on Goods, the representative of Cape Verde said that the application of the ECOWAS levy had been negotiated by all the Member-States of ECOWAS and that Cape Verde was not in a position to eliminate this levy unilaterally. He further stated that the ECOWAS levy was, in his view, the only charge currently applied by Cape Verde that fell within the meaning of other duties and charges" covered by Article II:1(b) of the GATT 1994.**

Answer:

Cape Verde agrees with the commitment language suggested.

Question 64

Paragraph 69: We seek commitment that Cape Verde will bind the ECOWAS Community Levy as an ODC in its GATT Schedule, at 0.5 per cent, along the following lines:

- 69bis The representative of Cape Verde confirmed that his government would not list duties and charges in its Schedule of Concessions and Commitments on Goods under Article II:1(b) of the GATT 1994 except for the ECOWAS Community Levy of 0.5 per cent, thereby binding such charges at that rate. The Working Party took note of this commitment.**

Answer:

Please see answer to Question No. 63.

Question 65

We suggest the following revision of coverage of these sections as follows to provide a more coherent framework for the description of the measures, their status, and how Cape Verde plans to bring them into conformity with WTO provisions.

Other Duties and Charges:

ECOWAS Community Levy of .5 per cent on all imports from non-ECOWAS countries.

Answer:

Cape Verde agrees with the commitment language suggested.

- **Tariff rate quotas, tariff exemptions**

Question 66

We take note of Cape Verde's assertion that it has no intention of introducing tariff rate quotas in the future.

Answer:

The Government of Cape Verde confirms that it has no intention of introducing tariff rates quotas in its future commercial legislation.

Question 67

Paragraph 72: Please identify which staple food imports may qualify for tariff exemptions and describe how an importer may obtain that exemption.

Answer:

The staple goods are corn, beans, rice, sugar, wheat, milk, cooking oils, among others. These goods are exempt only when they constitute food assistance from friendly countries or from international organizations to the Government of Cape Verde.

If they do not constitute food assistance, any of the same products, when imported, pay the duties and other impositions indicated in Customs Tables in effect, no matter who the importer is. In other words, there will be no exemption.

Question 68

We seek a commitment that any future introduction of tariff rate quotas would be applied and administered in conformity with WTO rules and regulations, including MFN and national treatment provisions.

Answer:

The Government of Cape Verde confirms its commitment that any future introduction of tariff rate quotas will be applied and administered in conformity with WTO rules and regulations, including MFN and national treatment provisions.

- **Fees and charges for services rendered**

Question 69

As regards paragraph 75, could Cape Verde communicate the result of the envisaged review of the customs user fee of 1.04 per cent of the CIF-value in order to bring the fee in compliance with Article VIII of the GATT 1994.

Answer:

According to the study done, a copy of which shall be forwarded to the WTO, the 1.04 per cent fee "ad valorem" applied to the imported goods for the payment of services rendered is in conformity with Article VIII of the GATT (see document WT/ACC/CPV/19/Add.1).

Question 70

We suggest the following revision of coverage of these sections as follows to provide a more coherent framework for the description of the measures, their status, and how Cape Verde plans to bring them into conformity with WTO provisions.

Fees and Charges for Services Rendered
applied on or in connection with importation or exportation

- **Tonnage Tax levied as a charge per ton on vessels;**
- **Customs User Fee of 1.04 per cent of CIF import value, mostly for general revenue, in new Customs Code;**
- **Tax Penalties or fines and other judicial charges;**
- **Late Payment Penalty or additional interest for delayed payment of duties and charges;**
- **Interest paid by importers for credit on custom duties;**
- **(Eliminated) Special Storage tax introduced in 1960 for the storage of fuels;**
- **(Eliminated) Storage charge by the Customs House for goods stored in its former warehouses;**
- **(Eliminated) General Customs Fees or General Emolument Tax of 9 per cent introduced in 1942;**
- **(Eliminated) Stamp Duty of CVE 100 (€ 0.91) applied to each import and export declaration, dating back to 1942.**

Answer:

Cape Verde agrees with the commitment language suggested.

Question 71

Paragraph 67 lists the following charges applied to imports:

- (v) **Interest paid by importers for credit on custom duties;**
- (vi) **A Late Payment Penalty or additional interest for delayed payment of duties and charges; and**
- (viii) **Tax Penalties or fines and other judicial charges.**

Are the charges noted in paragraphs 67(v) and 67(vi), i.e., the interest and penalties paid by importers for credit or delay on customs duties or charges, levied on imports if customs duties and charges are paid on time?

Answer:

The granting of a credit on importation duties for any good implies the payment by the importer of interest at the rate of 10 per cent per year, paid prior to granting the credit.

If the credit granted is not paid up in the agreed to deadline, late charges shall be applied. If payment of the credit is made within the established deadline, there shall be no late charges.

There are no additional charges to those already described.

Question 72

Paragraph 67 lists the following charges applied to imports:

- (v) **Interest paid by importers for credit on custom duties;**
- (vi) **A Late Payment Penalty or additional interest for delayed payment of duties and charges; and**
- (viii) **Tax Penalties or fines and other judicial charges.**

Are the charges in paragraph 67(viii) levied on both imports and domestic output?

Answer:

The expenses indicated in paragraph 67(viii) apply to local goods and in the following situations:

- (a) Imported goods, and stored in the customs warehouses beyond the legally established;
- (b) Penalties and fines applied to the accused and other responsible persons in the cases of customs crimes and contra-ordinations;
- (c) Judicial expenses paid by the parts in the referred cases.

Question 73

Paragraph 67 lists the following charges applied to imports:

- (v) **Interest paid by importers for credit on custom duties;**
- (vi) **A Late Payment Penalty or additional interest for delayed payment of duties and charges; and**
- (viii) **Tax Penalties or fines and other judicial charges.**

Are these charges applied uniformly to all imports under similar circumstances?

Answer:

Yes.

Question 74

Please provide information in the Draft Working Party Report text on the Tonnage Tax, levied as a charge per ton on vessels.

Answer:

The tonnage tax was eliminated by Article 38 of Law No. 14/VI/2002, of 19 September 2002, which has already been submitted to the WTO Secretariat.

Question 75

Paragraph 75: We remain concerned about the WTO consistency of the customs user fee of 1.04 per cent of the CIF value on all imports despite the study that Cape Verde has done. GATT Article VIII requires that fees be charged based on the cost of services rendered. The fact that amount of the fee changes depending on the value of the goods would on its face seem to show that the fee was being charged on an ad valorem basis.

Answer:

The 1.04 per cent fee *ad valorem* applied on the CIF value of the goods imported by sea for the payment of services rendered will be reviewed and if necessary the Government will take the necessary steps to bring it in line with Article VIII of the GATT. The WTO Secretariat will be notified of the results of the efforts of the Government of Cape Verde on this matter.

Question 76

Cape Verde should change its fee structure so that it approximates the cost of services rendered for the customs processing of individual import transactions as well as for overall customs processing operations, and not to the value of the import.

Answer:

If proven necessary, the Government of Cape Verde commits itself to adjust the structure of the fee so as to make it correspond to the cost of services rendered during customs operations.

Question 77

In addition, the level of the fee should be adjusted to ensure that all the revenues collected are used for customs processing of imports, since that is the reason they give for assessing it.

Answer:

If it proves necessary, the Government of Cape Verde commits itself to adjust the level of the fee to make it correspond to the cost of the services effectively rendered and to utilize the proceeds collected for the customs clearing operations.

Question 78

If Cape Verde wishes to use revenues from the fee for export processing, it will have to apply it to exports as well. To be consistent with Article VIII of the GATT, revenues from the fee cannot be used for expenditures not related to customs processing

Answer:

The Government of Cape Verde commits itself, likewise, to apply the fee to services rendered in the exportation services.

Question 79

We seek a commitment that from the date of accession Cape Verde will charge fees in a WTO consistent manner. We suggest the following text:

75bis The representative of Cape Verde confirmed that from the date of accession any fees or charges imposed on or in connection with importation and exportation, including but not limited to the current Customs User Fee of 1.04 per cent applied to imports, would be applied in accordance with Article VIII of the GATT 1994. The Working Party took note of these commitments.

Answer:

The Government of Cape Verde thanks Members for their suggestion and will take the steps necessary to implement the suggested writing.

- **Application of internal taxes to imports**

Question 80

We suggest the following revision of coverage of these sections as follows to provide a more coherent framework for the description of the measures, their status, and how Cape Verde plans to bring them into conformity with WTO provisions.

Taxes Applied to Imports:

- **VAT from 1 January 2004;**
- **Special Tax on Consumption (STC) from 1 January 2004;**
- **(Are these applied on an MFN basis?);**
- **Tax on Duty-Free shops, introduced in 1970 (Is this tax still in place? What level?);**
- **Environmental Tax, first revoked and then reintroduced in July 2004;**
- **(Eliminated) Consumption Tax on imported goods;**
- **(Eliminated) Miscellaneous Tax for recovery of minor charges;**
- **(Eliminated) Special Tax on Consumption that was introduced on alcohol and tobacco in 1993.**

Answer:

Cape Verde thanks Members for their suggestion and will take the necessary steps to implement it.

Question 81

As regards paragraph 78, it is noted that the environmental tax appears to be collected only on the imported products. Could Cape Verde clarify how this tax is collected on the domestically produced products and what is the level of the tax collected?

Answer:

Paragraph 78 needs to be revised and updated. The revision to Law No. 46/IV/2004 is in the final stages of approval.

The revision of Law No. 46/IV/2004 will assess the environmental tax equally upon domestic products as well as imports.

Question 82

Paragraph 76: Does Cape Verde still apply the Tax on Duty-Free shops, introduced in 1970? If so, how does this tax work and what is its level of application?

Answer:

No. The fee on Duty-Free shops was revoked by Article 38 of Law No. 14/VI/2002, of 19 September 2002, which has already been submitted to the WTO Secretariat.

Question 83

Paragraph 77, WT/ACC/SPEC/CPV/4 and WT/ACC/CPV/19 — Question 12: We thank Cape Verde for Table 5 in the Draft Working Party Report. It is very helpful to have a list of goods by HS number subject to the Special Consumption Tax. Has Cape Verde considered applying the tax only at the time of purchase, rather than importation? Otherwise, some goods may be subject to double taxation. For example, if an auto dealership imports a car, they would need to pay the tax and then the consumer would have to pay the tax again at the time of purchase.

Answer:

The Government of Cape Verde has not yet considered this possibility. The issue shall be studied and the decision reached shall be notified to the WTO Secretariat.

Question 84

Paragraph 78, WT/ACC/SPEC/CPV/4 and WT/ACC/CPV/19 - Question 14: We appreciate the description provided by Cape Verde in Question 14 with regard to the environmental tax. Cape Verde's description seems to imply that there are different tax rates charged depending on the type of material in the good (non-bio-degradable wrapper, metal, glass or plastic). Is that statement accurate? If so, could Cape Verde please provide the rates? Also, what government agency makes a determination whether a good contains a non-biodegradable good that is subject to the tax? Can a company appeal a decision?

Answer:

At the time the declaration was made, it was, in effect, correct. However, the referred Law No. 46/VI/2004 of 12 July, that reintroduced the ecology tax was the object of a revision and there already is a new draft of the referred Law, which alters the ambit of the referred tax. The new draft law will be presented to the Parliament opportunistically, for approval. A copy of the new Ecology draft law has been submitted to the WTO Secretariat.

Question 85

Paragraph 81 indicates that VAT exemptions are not automatic but must be applied for.

Please explain the process for obtaining a VAT exemption. How long does the General Directorate of Contributions and Taxation take to reach a determination on an application? What are the criteria used to determine issuance of the exemption? What avenues of appeal are open to a rejected applicant? If an importer unknowingly pays VAT on a shipment that could have been VAT exempt, can the importer apply, ex post facto, for a VAT exemption and obtain a refund?

Answer:

The request for VAT exemption is addressed to the Minister of Finance and Planning, but the decision to approve or deny VAT exemption on importation and on internal operations may be delegated on the General Directors of Customs and Contribution And Taxation, respectively, who may, in turn,

sub-delegate said powers on the Customs Directors and Head of the Finance Delegations, respectively.

The decision to grant the exemption or not has to be emitted within five workdays.

The exemption criteria are spelled out in Articles 9 and 12 of the VAT Regulation approved by Article 1 of Law No. 21/VI/2003.

The decisions by the Directors of Customs and the Heads of Finance Departments can be appealed to the General Directorates of Customs and Contributions and Taxation, respectively. The decisions from the latter can be appealed to the Minister of Finance. The decisions by the Minister of Finance can be appealed to the Supreme Court of Justice.

The aggrieved party may be entitled to reimbursement under the terms of the current Customs Statute, these provisions are included in the draft Customs Law provided to the WTO Secretariat.

Question 86

Paragraph 81 also indicates that "certain domestic operations" are exempt from VAT. What are these "operations?"

Answer:

The exempt internal operations of the Value Added Tax (VAT) are contained in Article 8, subparagraphs a) to y) of Law No. 14/VI/2002 of 9 September, a copy of which was already submitted to the WTO Secretariat.

Question 87

We seek a commitment that from the date of accession Cape Verde would ensure that its laws, regulations and other measures relating to internal taxes and charges levied on imports would be in full conformity with its WTO obligations, in particular Article III of GATT 1994, and that it would implement such laws, regulations and other measures in full conformity with those obligations.

Answer:

The Government of Cape Verde assumes the committed to, from the date of its accession to the WTO, ensure that its laws, regulations and other measures relating to internal taxes and charges levied on imports would be in full conformity with its WTO obligations, in particular Article III of GATT 1994, and that it would implement such laws, regulations and other measures in full conformity with those obligations.

Question 88

As our review of Cape Verde's VAT, SCT, and environmental tax matures, we may need to modify this text.

Answer:

The Government of Cape Verde shall be pleased to receive future comments on Cape Verde's VAT, SCT and environmental tax measures, and shall respond as required.

- **Quantitative import restrictions, including prohibitions, quotas and licensing systems**

Question 89

Specific comments on the Draft Decree Law on Import and Export licensing. We note that the wording of Article 3 and 9 is "importation operations" - this gives the impression that a licence is required for each separate imports operation. Please clarify what is the validity of the import licence obtained?

Answer:

An import licence is not required for each and every separate import operation. The licence is valid for one year, and may be extended for a similar period upon request of the importer.

Question 90

Specific comments on the Draft Decree Law on Import and Export licensing. What are the fees of import licences? What is their legal basis?

Answer:

Article 22 of the draft law provides that the amount of the annual fee shall be fixed by an Ordinance. The Ordinance has been prepared and is in final stages of approval. The fee stated in the Ordinance is CVE 20,000.

Question 91

Specific comments on the Draft Decree Law on Import and Export licensing. Article 6 and 7 appear not to be compatible with the WTO Agreement on Import Licensing Procedures. The goods subject to both automatic and non-automatic licensing are not clear. The goods subject to licensing and the criteria for obtaining the licence should be clear and exhaustive and publicly available.

Answer:

All goods are subject to automatic licensing except for goods that require control (sanitary and phytosanitary, animal origin and environmental products), which are subject to non-automatic licensing.

The draft law on external commerce will be published in the Official Bulletin, after approval.

Question 92

Specific comments on the Draft Decree Law on Import and Export licensing as regards Article 6 - clarify the contents of b):

**What are "goods without commercial value, whose does not exceed the amount defined by Ordinance from the member of the Government responsible for the area of trade"?
What is the amount referred to in this provision and what is its legal basis?**

Answer:

These are goods without commercial value, transported by travellers and destined for personal use, with amounts of CVE 100,000 and not weighting more than 150 Kg. The legal basis is Ordinance No. 4/2004, of 26 January.

Question 93

Specific comments on the Draft Decree Law on Import and Export licensing as regards Article 6:

Clarify contents of c): What are the other products subject to licensing and what is the legal basis of them?

We note that the goods referred to in b) and c) should be clearly and exhaustively listed in the Decree.

Answer:

Other products in Article 6 (c) means goods without commercial value described in Decree Law No. 51/2003, and will be eliminated in the revision of Draft-Law No. 51/2003.

Question 94

Specific comments on the Draft Decree Law on Import and Export licensing as regards Article 7:

Provide and exhaustive list of products subject to non-automatic licensing according to a) to c).

We note that this list should be clear and exhaustive and form part of the provisions of the Decree Law.

Answer:

An exhaustive list of products subject to non-automatic licence does not exist. A decision is made on a case-by-case basis by the Customs General Director.

In general, most products subject to non-automatic licensing are in Sections I, II and XVIII of the Harmonized System.

Question 95

As regards Table 8, could Cape Verde explain the rationale of prohibiting imports of foodstuffs containing saccharin?

Answer:

When researching the answer to the question it was discovered that foodstuff containing saccharin were prohibited. Currently, however, foodstuffs containing saccharin are no longer prohibited.

Line 18, Table 8, in Paragraph 83, is incorrect and thus should be deleted.

Question 96

An applicant's adherence to the "standstill principle" of not introducing new WTO-inconsistent measures once a state begins the negotiating process for WTO accession ensures the neutrality of the negotiation process and the applicant's negotiating credibility. Nevertheless, Cape Verde suddenly and without consultation with the Members of the Working Party instituted a non-automatic licensing procedure on all products imported to and exported from Cape Verde in accordance with Ministerial Ordinances No. 3/2004 and No. 4/2004 of 26 January 2004. To date, the Working Party has received no explanation for this action or description of the measure. In questions 78-85 of WT/ACC/CPV/20 and in paragraph 87 of WT/ACC/SPEC/CPV/4, when asked about Cape Verde's new import licensing system, the representative from Cape Verde noted that his Government was in the process of revising its licensing procedures. We would appreciate an explanation for Cape Verde's adoption of this new licensing system and a description of the procedure.

Answer:

Cape Verde confirms that the new regime for external commerce has been concluded. The revised procedures on imports and exports are in accordance with GATT 1947. The TCE has been eliminated.

The revised regime for external commerce was forwarded to the WTO Secretariat in June 2005.

Question 97

In following up after this meeting, Cape Verde should:

- **Indicate when information on the revised non-automatic licensing procedures will be presented to the Working Party;**
- **Describe the scope and nature of the measure;**
- **Explain its purpose;**
- **Identify who would be eligible to apply for the licence,**
- **List the criteria applied in issuing licenses, and,**
- **Outline its plans, e.g., whether Cape Verde intended to narrow the coverage of this licensing regime to a limited number of products of particular interest or concern and how long the program is slated to last.**

Answer:

See answer to Question No. 96.

Question 98

Additionally, Cape Verde needs to submit its draft Import Licensing Questionnaire to the Working Party for review, as they will need to make a formal notification upon accession under the Import Licensing Procedures Agreement.

Answer:

Decree Law No. 51/2003, of 24 November 2003, which describes Cape Verde's Licensing Regime, is currently being revised with a view to bring it in conformity with the WTO's Agreement on Import Licensing Procedures.

The revised legislation takes the following operations in consideration:

- Imports that are totally exempt from licensing;
- Imports that are subject to automatic licensing; and
- Imports subject to non-automatic licensing.

Under the revised regime, the following are exempt from any kind of licensing:

- Importation of goods without commercial value, under the terms that will be defined in ordinance of the government member responsible for the area of foreign trade;
- Active and passive improvement operations, of temporary importation, re-importation in the state, re-exportation and transit;
- Importations of goods subject to the special customs regimes in the modalities of franc stores, bonded warehouses, franc deposit and special customs storage;
- Industrialized goods, destined for consumption in the area of congresses, fairs and international expositions and assimilated events;
- Importation of goods destined for the provisionment of ships and aircrafts, under the terms of the applicable legislation;
- Goods apprehended, abandoned, found at sea or stranded by it or salvaged from shipwreck and sold at auction;
- Importation of goods without expenditure of currency, property of air and maritime navigation companies and destined for their exclusive use.

Under the new regime, all importation of goods is subject to automatic licensing except goods that require sanitary/phytosanitary control, or security control (handguns, explosives and the like), or mandatory restrictions, required by law. These goods are subject to a non-automatic licence regime.

The automatic licensing becomes effective upon presentation of a Customs Declaration to Customs.

The importation request for the goods subject to non-automatic licence require a certificate of compliance issued by the sanitary/phytosanitary authorities or security control authorities, or other applicable competent authorities, depending on the nature of the goods in question

The non-automatic licence takes effect within a maximum of 21 days, counting from the date the Customs Declaration is presented to Customs.

The revised licensing regime eliminates the TCE (a foreign trade Title), which was required under the old regime. However, the Foreign Trade Titles emitted under the old regime will continue in effect until the end of their validity period.

The export operations in Cape Verde are exempt from licensing, under the terms of Article 9 of law No. 92/IV/93, of 31 December.

The foreign trade operations shall be liquidated under the terms of the currency exchange.

Question 99

We seek a commitment from Cape Verde that addresses its intentions in terms of establishing non tariff barriers to imports. We do not see how the current licensing system can be considered WTO consistent, e.g., in terms of Article XI or of compliance with the Agreement on Import Licensing Procedures upon accession. We suggest the following text:

88bis The representative of Cape Verde confirmed that his government would eliminate from the date of accession, and would not introduce, reintroduce or apply, quantitative restrictions on imports or other non-tariff measures such as quotas, bans, permits, prior authorization requirements, licensing requirements or other requirements or restrictions having equivalent effect that could not be justified under the provisions of the WTO Agreements. The import licensing regime from the date of accession would be fully in accordance with all relevant provisions of the WTO, including the Agreement on Import Licensing Procedures. He further confirmed that the legal authority of the Government of Cape Verde to suspend imports or to apply licensing requirements that could be used to suspend, ban or otherwise restrict the quantity of trade would be applied from the date of accession in conformity with the provisions of WTO Agreements, including GATT 1994, the Agreements on Import Licensing Procedures and Safeguards, and the Understanding on Balance-of-payments Provisions of the GATT 1994.

Answer:

Cape Verde thanks the Members for their suggestions and accepts the commitment language suggested.

Question 100

Concerning Table 8:

Please elaborate on the purpose and WTO justification for the import prohibition listed in item 20. Paragraph 83: "Substantive criteria" is applied in granting import permits for tobacco, which is also produced in Cape Verde. Please provide a detailed description of the process to import tobacco and cite legislation that makes this process compliant with the Agreement on Licensing.

Answer:

As stated in paragraph 83, Cape Verdian Tobacco Company has exclusive rights to produce and import tobacco in Cape Verde. There is an agreement (contract) between Cape Verdian Tobacco and the Government, which lasts until 2012. (Official Bulletin No. 20, II Series, 20 May 1997)

Question 101

Table 8: Please provide explanations for the prohibitions of numbers 1, 6, 7, 16, 18, 19, 20, and 21. For example, item one states, "animals and animal products from foreign areas where there is epizooty" are prohibited in Cape Verde. Does this include all epizootic diseases? Has Cape Verde done risk assessments on all animal diseases to have such a prohibition?

Answer:

It does not include all the epizooties. The prohibition applies to the epizooties for which Cape Verde is not immune and that are considered dangerous to the effective national livestock (animal health), plants, vegetables (flora) that affect the national economy.

Cape Verde respects and abides the principle of risk analysis and the international norms pertaining to the trade in animals and products of animal origin defined by the OIE, of plants and vegetables, by the

IPCC committee, FAO, WTO, with regard to the sanitary and phytosanitary situation and the sanitary and phytosanitary policy measures applied by the exporting country.

Products in line 6, 7, 18 and 19 in Table 8 should be removed.

- **Customs valuation**

Question 102

We note Cape Verde's request for a transitional period until 2009 for the full implementation of the Customs Valuation Agreement. We reserve our position to come back on this issue and to give comments on the action plan, as well as the new draft Customs Code.

Answer:

Cape Verde thanks the Members for their comments, and accepts the commitment to respond to the questions on the Action Plan for the implementation of the GATT Agreement on Value and the Customs Code, as soon as they are formalized.

Question 103

We note Cape Verde's confirmation in its revised action plan of the commitment proposed for the implementation of the Agreement on Customs Valuation.

Paragraph 95 should be amended to incorporate the commitments in paragraphs 92-94, not 92 and 94.

Answer:

The action plan for the implementation of the GATT Agreement on customs value shall be reviewed with a view to include the commitments contained in paragraphs 92 to 94 of the Working Party Report.

- **Rules of origin**

Question 104

We would appreciate to have the position of Cape Verde on whether it would consider the EC as one entity for origin purposes.

Answer:

The Rules of Origin are not precise and they are being reviewed. It is not known when the definitive conclusions of the study currently under way shall be ended. What is in effect are the provisions of Annex II to the Agreement on Rules of Origin.

In the absence of specific provisions from the WTO, on the matter, the issue may be the object of negotiations.

Question 105

Article 20 Cape Verde's Draft Customs Code states that origin is conferred "where the [product] was totally produced or where it suffered the last transformation" as long as the conditions listed in the article are fulfilled.

Please clarify in paragraph (a) what is meant by "the transformation results in specific properties and composition." Does this paragraph refer to substantial transformation?

Answer:

The paragraph refers to "substantial transformation". To be considered as such, a transformation or fabrication complement should be such that the product resulting there from presents specific properties and composition of its own that it not have before the transformation or fabrication complement.

Question 106

Article 20 Cape Verde's Draft Customs Code states that origin is conferred "where the [product] was totally produced or where it suffered the last transformation," as long as the conditions listed in the article are fulfilled.

Please clarify in paragraph (b) "Economically justifiable." What is meant by "normal production process?"

Answer:

Normal production process is the process that leads to passing the products from the raw material stage to the finished product stage.

Question 107

Article 20 Cape Verde's Draft Customs Code states that origin is conferred "where the [product] was totally produced or where it suffered the last transformation," as long as the conditions listed in the article are fulfilled.

Please clarify what is meant in paragraph (c) by "It took place in an enterprise equipped to that effect."

Answer:

The object of the condition expressed in paragraph c) is to prevent a good produced by a company from been presented as originating in a country, when that company is manifestly unable to do the transformation or to manufacture the good.

Question 108

Article 20 Cape Verde's Draft Customs Code states that origin is conferred "where the [product] was totally produced or where it suffered the last transformation," as long as the conditions listed in the article are fulfilled.

Please describe how this requirement is met in practice.

Answer:

A good's origin is the country where it was wholly produced or manufactured in accordance with the criteria established for the purpose of application of the customs table, as well as of any other measures related to trade.

In the event that the good is not wholly produced in a country and two or more countries intervened in its production, the good originating in the country where the last transformation took economically justified substantial transformation took place, performed in an enterprise equipped to that effect and from which results in obtaining a new product or represents an important phase of the manufacture.

The transformation or manufacture complement for the purpose of determining the origin has been accompanied by four simultaneous conditions:

- a. It must be substantial;
- b. It must be economically justifiable;
- c. Have been performed in an enterprise equipped to that end; and
- d. Have resulted into a new product.

Question 109

Article 24 of the draft Customs Code states that the origin of goods must be proven through a certificate of origin or equivalent document, issued by a "competent entity."

Please clarify the definition of "competent entity?"

Answer:

"Competent entity" refers to the entity authorized by the Government to issue certificates of origin, depending on the nature of the product.

Question 110

Per the statement at the end of paragraph 98, we suggest the following commitment text:

99bis The representative of Cape Verde stated that, from the date of accession, Cape Verde's laws and regulations for preferential and non-preferential rules of origin would comply fully with the WTO Agreement on Rules of Origin. He further confirmed that Cape Verde's rules of origin would be established in law and notified to the WTO Secretariat and the Committee on Rules of Origin by the time of accession. The requirements of Article 2(h) and Annex HI, Paragraph 3(d) of the Agreement would be fully implemented prior to accession. He also stated that, from the date of accession, the Customs Authorities would provide for an assessment of the origin of the import upon the request of an exporter, importer or any person with a justifiable cause. Any request for such an assessment would be accepted even before trade in the goods concerned began. Any such assessment would be binding for three years. The Working Party took note of these commitments.

Answer:

Cape Verde agrees with the commitment language suggested.

- **Other customs formalities**

Question 111

Paragraph 100 indicates that the General Directorate of Commerce must approve an import declaration for any shipment that exceeds CVE 100,000.

What is the purpose of this approval? Please describe the process for obtaining this approval. How long does it take? Can the General Directorate of Commerce disapprove an import declaration? If so, on what basis? What provisions for appeal exist if an import declaration is disapproved?

Answer:

Cape Verde is pleased to inform that Decree Law No. 51/2003 which regulates the foreign trade regime that instituted the Foreign Trade Commerce Title (TCE) requirement is awaiting final approval by the Government.

Decree Law No. 51/2003 is under revision and the revised version eliminates the TCE requirement for all goods except those subject to sanitary or security control.

- **Preshipment inspection**

Question 112

We welcome the statement in paragraph 102, but would suggest a revision of the commitment language in paragraph 103 along the following lines:

[103. The representative of Cape Verde stated that if preshipment inspection requirements were introduced, they would be temporary and in conformity with the requirements of the Agreement on Preshipment Inspection and other WTO relevant agreements. Cape Verde would take full responsibility to ensure that such enterprises operating on its behalf complied with the provisions of WTO Agreements including the Agreements on Technical Barriers to Trade, Sanitary and Phytosanitary Measures, Import Licensing Procedures, the Implementation of Article VII, Rules of Origin, the Implementation of Article VI (Antidumping), Subsidies and Countervailing Measures, Safeguards, and Agriculture. The establishment of charges and fees would be consistent with Article VIII of the GATT 1994 and Cape Verde would ensure that the due process and transparency requirements of the WTO Agreements, in particular Article X of the GATT 1994 would be applied. Decisions by such firms could be appealed by importers in the same way as administrative decisions taken by the Government of Cape Verde. The Working Party took note of these commitments.]

Answer:

Cape Verde agrees with the commitment language suggested.

- **Anti-dumping, countervailing duties, and safeguard regimes**

Question 113

We take note of the commitment in paragraph 106.

Answer:

No answer needed.

Question 114

Cape Verde states that it intends to "develop and revise" its existing safeguard actions when it accedes to the WTO. How will this be possible if it doesn't have in place WTO-consistent safeguard legislation?

Answer:

Cape Verde intends to draft WTO consistent safeguard legislation, subsequent to accession.

B. EXPORT REGULATION

- **Export subsidies**

Question 115

Paragraph 115: We would urge Cape Verde to provide comprehensive information on all subsidies and incentives. When Cape Verde thinks such a list could be available to the Working party?

Answer:

Law on Industry allows exemption of import of raw materials, equipment and construction materials during the building phase. Cape Verde does not consider this a subsidy. It is available to foreign and domestic investors.

Tax exemption on all companies is not tied to exports.

Please note Franc Enterprises are export only firms.

Question 116

In paragraph 110 of the Draft Working Party Report it states that Decree Law No. 32115 of 7 July 1942, "though legally still in effect, had in practice been abrogated and was no longer used actively." Please explain whether this legislation will be repealed or whether it will continue to be in effect. If Decree Law No. 32115 of 7 July 1942 remains in effect, please provide the Working Party the text of this legislation.

Answer:

The drawback regime approved by Decree No. 32115 of 7 July 1942 ceased to be applied many years ago due to the introduction of new regime, more favorable to the producers, namely Decree Law No. 108/89 of 30 December 1989 that established the Industrial Statute and Law No. 99/IV/93, of 31 December 1993 that approves the juridical regime of the Free enterprise.

Question 117

We appreciate the information that Cape Verde has provided in paragraphs 110 and 111 of its Draft Working Party Report regarding Law No. 92/IV/93 of 15 December 1993 and Decree Law

No.1 08/89. We are in the process of evaluating this legislation and will provide further questions regarding these programs at a later date.

Answer:

Cape Verde is pleased that Members are evaluating the above-cited legislation, and looks forward to receiving questions (if any) regarding these programs.

Question 118

We would like to thank Cape Verde for providing its legislation regarding the CAPEVERDE Investments program. We are in the process of reviewing the legislation and will provide further questions on this program at a later date. However, based on the information provided on this program in the reply to Question 17 of document WT/ACC/CPV/20, it appears that investments under this program are appraised by several criteria, one of which is national value added. We would like to note that to the extent that this program provides a benefit to companies contingent on the use of domestic over imported goods, this program would be an prohibited subsidy as provided under Article 3 of the Agreement on Subsidies and Countervailing Measures.

Answer:

Cape Verde thanks Members for their comments and note on export subsidies.

Question 119

We welcome Cape Verde's acknowledgement in paragraph 115 that it needs to provide the Working Party with a comprehensive description of its subsidy programs. We look forward to receiving that document and commenting upon it.

Answer:

Subsequent to the Working Party Meeting of 14 July 2005, Cape Verde prepared a comprehensive Action Plan for the revision of the incentives to national production and to foreign investment. A copy of the Action Plan is attached to this response.

Plan of Action for the Revision of the Incentives to National Production and to Foreign Investment

Actions	Materials	Implementation	
		Deadlines	Technical assistance
Evaluation of the Situation	Incentives to national production	31/12/2005	Yes
	Incentives to foreign investment	31/12/2005	Yes
Collection of Statistical Data	Incentives to national production	31/12/2005	Yes
	Incentives to foreign investment	31/12/2005	Yes
Definition of the ambit of the plan and of the technical assistance for the restructuring	Incentives to national production	30/06/2006	Yes
	Incentives to foreign investment	30/06/2006	Yes
Results of the study	Presentation and discussion (public in seminary or restricted?)	31/07/2006	Yes

Actions	Materials	Implementation	
		Deadlines	Technical assistance
Critical implementation of the conclusions and recommendations	Existing means to be restored and/or additional means to be made available and structured	31/08/2006	Yes
Revision of the legislation	Incentives to national production	31/12/2006	Yes
	Incentives to foreign investment	31/12/2006	Yes
A posteriori monitorization	Incentives to national production	31/12/2007	Yes
	Incentives to foreign investment	31/12/2007	Yes

DGIE, 10 June 2005

Question 120

When does Cape Verde anticipate filing this subsidy notification?

Answer:

See answer to Question No. 119.

Question 121

Given Cape Verde's impending graduation from LDC status, we will seek a commitment that all aspects of Article 3 under the SCM Agreement, which includes the prohibition of subsidies contingent upon export performance, as enumerated in Article 3.1(a), must be accepted. Therefore, we seek a commitment from Cape Verde not to introduce new subsidies prohibited by the ASCM henceforth and to eliminate by a date certain existing prohibited subsidies.

Answer:

Cape Verde agrees with the commitment language suggested.

Question 122

This proposed language may require modification depending on the information provided in Cape Verde's anticipated subsidy notification.

Answer:

No answer needed.

C. INTERNAL POLICIES AFFECTING FOREIGN TRADE IN GOODS

- **Industrial Policy, including subsidies**

Question 123

We would urge Cape Verde to provide comprehensive information on all subsidies and incentives, including incentives mentioned in paragraphs 116 to 120.

Answer:

Subsequent to the Working Party Meeting of 14 July 2005, Cape Verde prepared a comprehensive Action Plan for the revision of the incentives to national production and to foreign investment. A copy of the Action Plan is attached to this response.

Plan of Action for the Revision of the Incentives to National Production and to Foreign Investment

Actions	Materials	Implementation	
		Deadlines	Technical assistance
Evaluation of the Situation	Incentives to national production	31/12/2005	Yes
	Incentives to foreign investment	31/12/2005	Yes
Collection of Statistical Data	Incentives to national production	31/12/2005	Yes
	Incentives to foreign investment	31/12/2005	Yes
Definition of the ambit of the plan and of the technical assistance for the restructuring	Incentives to national production	30/06/2006	Yes
	Incentives to foreign investment	30/06/2006	Yes
Results of the study	Presentation and discussion (public in seminary or restricted?)	31/07/2006	Yes
Critical implementation of the conclusions and recommendations	Existing means to be restored and/or additional means to be made available and structured	31/08/2006	Yes
Revision of the legislation	Incentives to national production	31/12/2006	Yes
	Incentives to foreign investment	31/12/2006	Yes
A posteriori monitorization	Incentives to national production	31/12/2007	Yes
	Incentives to foreign investment	31/12/2007	Yes

DGIE, 10 June 2005

Question 124

It would appear that some investment incentives described in this section may be contingent upon export performance and/or use of local content. We look forward to receiving and reviewing Cape Verde's subsidies notification at the earliest opportunity.

Answer:

Cape Verde will prepare and submit its subsidies notification at the earliest opportunity.

Question 125

The draft commitment language in paragraph 122 may need revision depending on the content of Cape Verde's subsidy notification.

Answer:

See answer to Question No. 119.

Cape Verde agrees that the language of paragraph 122 will have to be revised in light of the new Action Plan.

Question 126

Paragraph 122: We support the statement in this text, but recognize that Cape Verde has considered seeking transitional arrangements for these measures in light of its imminent graduation from LDC status. We seek a comprehensive and specific proposal from Cape Verde on this issue, for all the subsidy measures described in this section and in the sections on Export Subsidies and Free Zones.

Answer:

See answer to Question No. 119 and No. 125.

The Action Plan on revision of incentives has now been forwarded to the WTO. The Action Plan sets forth a work program to review incentives with a view to their elimination, as well as a revision of the applicable CV legislation.

- **Technical barriers to trade, standards, and certification**

Question 127

We note the commitment of Cape Verde to recognise products certified in other countries' authorized certifying body.

Answer:

No Answer required.

Question 128

We note that, at present, Cape Verde does not appear to apply any technical requirements either to imports or to domestically produced goods. We also note that Cape Verde does not appear to be doing anything in violation of the TBT Agreement.

Answer:

Cape Verde appreciates the "note".

Question 129

We welcome Cape Verde's establishment of a TBT enquiry point, its intent to provide for prior publication for public comment of draft technical regulations, standards, and conformity assessment requirements as soon as possible based on technical assistance.

Answer:

Cape Verde appreciates the comments and intends to provide draft technical regulation, standards and conformity assessment as soon as possible, based on technical assistance provided and available.

Question 130

In the absence of additional legislation to govern the development and application of standards, technical regulations, and conformity assessment procedures in developing new requirements,

Cape Verde should not create unnecessary obstacle to trade and should apply principles of national treatment, MFN treatment, and transparency.

Answer:

Cape Verde appreciates the comments and agrees to not create unnecessary obstacles to trade, and apply principles of national treatment, MFN treatment and transparency.

Question 131

Cape Verde should recognize that its obligations under that agreement will begin with accession to the WTO. Cape Verde will need a commitment that captures these elements and confirm that from accession it will not implement a measure covered by the TBT Agreement that is inconsistent with that agreement.

Answer:

Cape Verde recognizes its obligations under this agreement will begin with accession to the WTO, and confirms that from accession Cape Verde will not implement any measure covered by the TBT Agreement that is inconsistent with the Agreement.

Question 132

We will provide draft text in this regard following this meeting.

Answer:

Cape Verde looks forward to receiving the draft text to be provided.

- **Sanitary and phytosanitary measures**

Question 133

We note Cape Verde request for a transition period until 2010 to ensure full conformity with the SPS Agreement and reserve our position to submit further comments on this section.

Answer:

Cape Verde thanks the Member for its comment, and awaits further comments on this section.

Question 134

It would be beneficial if the Members could review draft legislation related to sanitary and phytosanitary measures, to ensure that new science-based legal requirements on food safety, animal and plant health are consistent with international standards.

Answer:

These comments are noted and welcomed.

Question 135

In this regard, we have begun a review of Cape Verde's draft Livestock Law and anticipate providing comments on it by the end of July.

Answer:

Cape Verde thanks Members for their review of the draft Livestock Law, and looks forward to receiving comments.

Question 136

We commend Cape Verde for moving forward on becoming a member of the OIE. How far is Cape Verde in this process?

Answer:

Cape Verde thanks Members for their commendation for moving forward on becoming a member of the OIE.

Cape Verde's request is in the Ministry of Foreign Affairs being processed.

Question 137

We remind Cape Verde to notify to the WTO when the Enquiry Point for SPS changes to the Ministry of Environment, Agriculture, and Fisheries.

Answer:

Cape Verde agrees to promptly notify the WTO when the Enquiry Point for SPS changes from the Ministry of Environment, Agriculture and Fisheries.

Question 138

We thank Cape Verde for submission of its recent SPS action plan. This action plan is a marked improvement from Cape Verde's previous SPS checklist and further demonstrates Cape Verde's commitment to bring its laws and regulations into compliance with the SPS Agreement.

Answer:

The action plan presented represents Cape Verde's manifest will to cooperate with other International Institutions and Organizations, with technical assistance in producing the required legislations and regulations, and to harmonize its existing SPS legislation to bring in conformity with the international norms in effect, so that when the proposed time-limit of 2010 is reached Cape Verde is apt to comply in full with the SPS measures.

It should be emphasized that the different laws, norms and regulations shall be implemented in phases (transitory phase) in conformity with the action plan proposed in WT/ACC/CPV/10/Rev.1.

Question 139

Cape Verde has highlighted specific efforts, results and timeframes to bring its sanitary and phytosanitary system into compliance with the SPS Agreement. These are very positive developments. We would like to reserve comments on these specific measures at this time and instead focus on two of Cape Verde's specific requests, for technical assistance and for a transition period until 2010.

Answer:

The proposals for regulation and harmonization of the national laws with international norms (FAO - Codex alimentarius, WTO; OIE , WHO, IPCC, etc.) shall require international technical assistance.

The international experts (lawyers, experts in animal and vegetable quarantine, specialists in risk analysis, specialists in epidemiology, microbiology...) shall work with the consultants/national personnel in their specific action areas.

The creation of the infrastructural conditions and the acquisition of equipments for the operation of laboratories, existing quarantine stations and other to be open and the epidemiological vigilance.

The improvement and strengthening of the quality control unit, laboratories, quarantine system and field veterinary system.

The specialized training on the outside with a 2-4 years duration, internships of short to medium duration (in-country and on the outside), local training of national staff, economic operators, and public in general in different areas with special emphasis on quarantine management, meat inspection, veterinary and vegetable research, animal and vegetable disease risk assessment, quality control, etc.

The raising of awareness and the dissemination of the SPS and TBT measures to the staff personnel, the public in general, economic operators, farmers and animal breeders, etc., is a task that requires contacts through mass media, instructional meetings/gatherings.

The reorganization/organization of all these systems in consonance with the SPS measures requires a transition period for Cape Verde for the creation of solid bases *vis-à-vis* the implementation of SPS measures.

In order to have harmonization between the planned/executed/implementation and efficacy in compliance with its obligations, Cape Verde shall need, for the reasons indicated above, a transition period that should run until 2010.

Question 140

Cape Verde has already indicated that it could establish and operate a single enquiry point for SPS information and participate in international standard-setting bodies (OIE, Codex) upon accession.

Answer:

Beginning in January 2006, Cape Verde expects to have appointed (see action plan presented in WT/ACC/CPV/10/Rev.1) a focal point for matters related to OIE, FAO, WHO, Codex, as well as to have created an office to that effect.

The DGASP, MAAP's focal point has been participating in international and local events (ECOWAS, CILLS) in matters related to IPCC.

Question 141

Prior to or upon accession, we would also like to suggest that Cape Verde commit to provisionally adopt international standards, guidelines, and recommendations where possible. If no standards exist for some specific items, Cape Verde may provisionally adopt WTO-compliant sanitary or phytosanitary measures from other WTO Members.

Answer:

Cape Verde offers its thanks for the suggestions presented for the applications of the norms and standards of the WTO Members.

Cape Verde informs that in spite of the non-existence of national norms for all the products and specific items, the Cape Verdian legislations on the matter of SPS ensue also for the application of norms from FAO, WTO, WHO, O.I.E, Codex Alimentarius, IPCC, norm and Directives from the European Union and compliance with regional and bilateral agreements.

It is based on these legal provisions that Cape Verde has been applying the SPS measures in the international and the national trade.

Question 142

With implementation of these commitments and appropriate technical assistance, Cape Verde would be in a position to accelerate its complete adoption of the SPS Agreement by 1 January 2009.

Answer:

With the international technical assistance assured and financed, Cape Verde shall be in the condition to accelerate the implementation of the measures in January 2009, in conformity with the action plan proposed.

- **Trade-related investment measures**

Question 143

We welcome Cape Verde's statement in paragraph 131 and would like to propose that Cape Verde commit to comply fully with the TRIMs Agreement upon accession to the WTO.

Answer:

Cape Verde thanks Members for their comments. Cape Verde has no TRIMs measures at this time. If Cape Verde adopts TRIMs measures, they will be in full compliance with the WTO TRIMs Agreement.

- **State Trading Entities**

Question 144

We appreciate that the importation of rice, corn, sugar and wheat flour are no longer subject to state trading (paragraph 136 of WT/ACC/SPEC/CPV/4).

It would be useful if the essentials of the import regime for these products set out in Decree Law No. 29/2002 and Ministerial Ordinance No. 6/2004 could be described in the report.

Answer:

1. The Cape Verdean legislation currently in effect requires de following conditions for registration as an importer of staple goods:

- (a) Be a commercial importer under the terms of the commercial legislation;
 - (b) Have the capacity to distribute 30 per cent of the annual volume of imported staple goods, in islands other than S. Tiago and S. Vincente;
 - (c) Have warehouses appropriate for the storage of the staple goods proposed to be imported;
 - (d) Annual renewal of the registration as an importer of staple goods, by payment of the annual fee of CVE 20,000 and CVE 2,000 in emoluments (Re. Ordinance No. 2/99, of 8 February);
 - (e) Duty to send to ANSA – National Agency for Food Security – monthly information on their stock in the diverse islands.
2. Note: Decree Law No. 29/2002, of 9 December and Ordinance No. 2/99 of 8 February have been revised. A new law is now in the approval process by the Cape Verde Parliament. The new law eliminates the 30 per cent requirement indicated in subparagraph b) No. 1.

Question 145

We look forward to seeing Cape Verde's notification on state trading.

Answer:

The Government of Cape Verde confirms that there are no state owned enterprises other than those listed in the Paragraph 28, Table 2 of WT/ACC/SPEC/CPV/4.

Cape Verde further confirms that EMPROFAC is currently in the process of privatization.

Cape Verde commits itself to notified WTO when the privatization process is concluded.

Question 146

Paragraph 133: Shell and ENOCOL enjoy concession rights to import and distribute petroleum derivatives. What are the corporate structures of Shell and ENOCOL in Cape Verde? How are their concession rights not special trading privileges as defined by Article XVII of the GATT?

Answer:

See answer to Question No. 13.

Cape Verde confirms that the corporate structure outlined in Question No. 13 applies as well to ENACOL and Shell.

Cape Verde is pleased to inform Members that SHELL and ENACOL are not State Trading Enterprises. They are private enterprises and as such they purchase their products in the International Market in open and fair competition, which they distribute in Cape Verde in accordance with a Covenant that grants them exclusively distribution for a limited period (up to 2007).

Question 147

Paragraph 134: Cape Verdean Tobacco enjoys the exclusive right to import tobacco. Please explain why the Government of Cape Verde believes that these exclusive rights do not place Cape Verdean Tobacco's operations under the purview of Article XVII of the GATT.

Answer:

In truth, the Compainha Caboverdiana de Tabacos, Lda enjoys a monopoly in production and importation of tobacco in the entire national territory, in accordance with Clause 2 of the contract signed on 2 May 1997, between the referred company and the Government of Cape Verde. The referred to contract precedes the date of presentation of Cape Verde's Foreign Trade Memorandum to the WTO. That being the case, in elaborating the contract the non-discrimination principle consecrated in GATT's Article XVII was not adhered to. The Government is studying the situation with a view to finding a solution.

Question 148

We recommend that this section be combined with the section on State-owned enterprises and privatization.

Answer:

No answer needed.

Question 149

We look forward to the opportunity of reviewing Cape Verde's State trading notification at the earliest opportunity. Based on the information provided so far, we believe that Shell, ENOCOL, EMPROFAC, and Cape Verdean Tobacco should be notified as State Trading Enterprises to the WTO under Article XII of the GATT.

Answer:

Please see answer to Question No. 13.

Cape Verde believes that these companies are no longer State Trading Enterprises. Therefore, notification pursuant to Article XII is not necessary.

- **Free zones, special economic areas**

Question 150

Paragraphs 138 to 142: We would urge Cape Verde to revise its policy related to free zones, and the system of "free enterprises" to bring them into compliance with the WTO Subsidies Agreement.

Answer:

Cape Verde commits to revising its policy related to Free Zones, and the system of "Free Enterprises", and to bring them into compliance with the WTO Agreement on Subsidies and Countervailing Measures, upon accession.

Question 151

How many companies have been designated as "free enterprises?" Please list the companies that enjoy "free enterprise" privileges and the sectors in which they operate. Please describe how the duty exemptions "free enterprises" enjoy are managed? What does "Raw materials

and intermediate products used in goods exported by a free enterprise could be imported through a suspension of the customs regime" mean? Please describe this process.

Answer:

There are five free enterprises in activity today.

In the garments area the following companies operate:

Cape Verde Clothing Company
Euro-Africa Ltd
Verde Vest

In the Footwear area:

Universos

In Shoe Parts Manufacturing:

ICCO

The franc enterprises enjoy total customs duties exemption and other impositions, current and future, applicable to importation of the following goods, when destined to the operation of the same: Construction materials, including metal structures, for the installation, expansion or renovation of their establishments; machines, apparatuses, instruments and utensils, as well as the respective accessories and spare parts for buildings and equipment destined for their establishments; cargo handling equipment and transports for goods for the exclusive use of the enterprise, necessary to the development of their activities; fuel and lubricants, except for gasoline, utilized strictly in the production of electrical energy and desalinated water for self-consumption.

"Raw materials and intermediate products used in goods exported by a free enterprise could be imported through a suspension of the customs regime" means that the materials are imported in a customs regime that permits their storage, circulation or transformation within the customs territory, with suspension of the duties, fees and prohibitions if the same materials are destined to be exported, reexported or launched in the internal market.

The raw materials and subsidiaries and finished and semi-finished products, utilized strictly in production of goods to be exported are admitted under the suspensive customs regime. They are cleared from customs with the suspension of all duties and fees immediately upon unloading, by way of a simplified declaration, and transported to a warehouse of the beneficiary enterprise and are taken from there, under customs supervision, to the manufacturing area. The final product is then exported, also under customs supervision. The customs supervision in both operations permits the control of the application/destination of the imported materials/final products, to prevent the unauthorized use of the privilege.

Note: 15 per cent of the of the previous year productions of the Free enterprises can be sold in the local market if solicited by the enterprise and approved by the Minister of Finance, upon payment of the importation duties and other customs impositions.

Question 152

We request that Cape Verde include all information on its incentives related to free zones, special economic areas, and "franc" or 'free' enterprises in its subsidies notification. We concur

with the view expressed in the final paragraph of the section that the "free enterprise" criteria appear to be inconsistent with the provisions of the ASCM. We welcome Cape Verde's commitment to eliminate prohibited subsidies by a date certain.

Answer:

Please see answer to Question No. 119.

The referenced Action Plan will review all incentive programs in Cape Verde with a view towards their elimination or conformity with the SCM Agreement.

- Government procurement

Question 153

Could Cape Verde explain the legislative and regulative framework for the procurement of construction services.

Answer:

Cape Verde informs that:

- The activities of Public Works Contractors and Private Construction Undertakings are regulated through Decree Law No. 87/89, of 24 November 1989;
- That punctual alterations were introduced by Decree Law No. 61-A/99, of 25 October 1999, to remove restrictions on nationality requirements for shareholders of civil construction companies with access to the Capeverdian market; and
- The law requires that all companies or branches thereof, operating in Cape Verde, be constituted in conformity with Cape Verdian Law, with a main office in Cape Verde, and obtain the necessary authorizations required by law.

Contracts for the execution of construction works with outside financing, are not required to comply with the above.

Question 154

Could Cape Verde explain whether there are exemptions from the obligation to publish in advance all tenders?

Answer:

Cape Verde follows the World Bank guidelines. It is obligatory to publish all tenders in advance.

However, a tender under CVE 100,000 (approximately US\$ 1,000) is an exception.

For the under US\$ 1,000 projects, the General Directorate of Patrimony contacts three local suppliers for bids.

Question 155

Are foreign suppliers, and suppliers of foreign goods and services, eligible to participate in all public tenders in Cape Verde, and if so, under which conditions?

Answer:

As stated in the answer to Question No. 154, Cape Verde follows the World Bank guidelines. The World Bank has four procedures for adjudicating contracts for the supply of goods and services, as follows: (1) International tender; (2) National tender; (3) Request for quotes from suppliers; and (4) International consultations.

National tender applies to products available in the Cape Verdian market. National tenders are published in local newspapers and request bids from suppliers. In such cases, suppliers can obtain the goods or services from whatever source, including foreign sources.

Question 156

Does the Cape Verde procurement regime offer unsuccessful bidders the possibility to have their situation reviewed, and if so, by which body?

Answer:

The Cape Verde procurement regime establishes an evaluation committee, the rules for review by unsuccessful bidders are set forth in the tender document. An unsuccessful bidder must follow the procedures, which essentially are first, a review by the evaluation committee, and if the results are unsatisfactory the issue goes to the minister of the appropriate ministry.

If the unsuccessful bidder is still not satisfied with the decision of the Minister, then an appeal to the Court may be filed.

Question 157

We invite Cape Verde to participate in the WTO Agreement on Government Procurement as an observer as a prelude to future participation as a Member in this agreement.

Answer:

Cape Verde thanks Members for their comment and will take the suggestion under consideration.

- **Transit**

Question 158

We suggest the following language for a commitment for this section.

"The representative of Cape Verde confirmed that his Government would apply any laws, regulations and practices governing transit operations and would act in full conformity with the provisions of the WTO Agreement, in particular Article V of the GATT 1994. The Working Party took note of this commitment."

Answer:

The Government of Cape Verde agrees with the suggested language for a commitment for transit.

- **Agricultural Policies**

(a) **Imports**

Question 159

We would appreciate clarification that the requirement described in paragraph 147 of WT/ACC/SPEC/CPV/4 for manufacturers to nominate their own use-by dates is not based on any mandatory periods of shelf life for particular products.

Answer:

The restriction or prohibition (absolute or relative) on importation of animals, food or products of animal origin, plants, vegetables are applied to species of animals, plagues reputed to be dangerous to the livestock population and the national flora or originating in countries where zoonoses or grave, rapidly spreading zoonoses exist.

All the importation of animals, food of animal origin, plants, vegetables or products of vegetable origin must be accompanied by an international sanitary (salubrity)/phytosanitary certificate, issued, signed and stamped by the Official Sanitary Authorities (animals and products of animal origin) or Phytosanitary Authorities (plants and vegetables).

The consumer's right to information (date of production, validity date, method of conservation, ingredients, etc...) should be indicated on the package/label.

Question 160

We would like to remind Cape Verde that quantitative restrictions are not permitted under the Agreement on Agriculture. If prohibitions are implemented, Cape Verde must complete a risk assessment to justify the prohibitions.

Answer:

Cape Verde thanks Members for this reminder and confirms that if quantitative restrictions under the Agreement on Agriculture are implemented, Cape Verde will complete a risk assessment to justify the prohibition.

Question 161

Note, this entire section should be moved. The first half of the paragraph, ending at "... certificate of origin" should be under the SPS section. The remaining sentences should be under TBT, as shelf life and labeling are TBT issues.

Answer:

Cape Verde agrees with the suggested alteration.

Question 162

Comments on Cape Verde's Domestic Support Tables (WT/ACC/SPEC/CPV/I/Rev.1).

Thank you for the revised tables. We know that these tables are complex and time-consuming to prepare, even for developed countries, and we appreciate the hard work. We only have a few clarifying questions about the data and notified measures.

Answer:

Question does not require a response.

Question 163

Comments on Cape Verde's Domestic Support Tables (WT/ACC/SPEC/CPV/I/Rev.1).

Please make sure that monetary values and units of Green Box Measures are correct. For example, did Cape Verde spend \$261 billion CVE (US\$3 billion) in 1998 on environmental measures and \$523 billion CVE (US\$6 billion) for infrastructure services in 1999?

Answer:

Cape Verde clarifies that the amounts indicated in the Table pertaining to Green Box measures are expressed in millions of CVE and not in billions of CVE and the question suggests.

Thus, the amount of 30.907 should read CVE 30,907,000 CVE and not CVE 30,907,000,000.

DOMESTIC SUPPORT: CAPE VERDE

REPORTING PERIOD: 1998 – 2003

(excluding 2000 due to unavailable data; 2003 data refer to the first semester only)

Measures exempt from the reduction commitment – "Green Box"

Measure type	Name and description of measure with reference to criteria in Annex 2 of the Agreement on Agriculture	Monetary value of measure in year in question (in Millions of CVE) ¹	Data sources
1	2	3	4
General services	Research – research pertaining to agriculture in arid zones, applied research in horticulture, roots and tubercles, irrigation, and integrated production and protection of the cultures.		Ministry of Environment, Agriculture, and Fisheries; and Ministry of Finance
	1998	30.907	
	1999	16.950	
	2001	20.468	
	2002	4.000	
	2003	12.560	

¹ US\$ 1 is equal to approximately CVE 86.

Measure type	Name and description of measure with reference to criteria in Annex 2 of the Agreement on Agriculture	Monetary value of measure in year in question (in Millions of CVE) ¹	Data sources
1	2	3	4
	Extension – includes making available the means to facilitate the transfer of information; training of the extentionists; production and diffusion of awareness programs, and information to the farmers.		
	1998	18.649	
	1999	16.737	
	2001	7.797	
	2002	0.900	
	2003	4.598	
	Infra-structures – rural engineering projects, such as soil and water conservation, construction of dikes, water collection structures, reservoirs, and mobilization of water for irrigation.		
	1998	474.382	
	1999	523.212	
	2001	494.462	
	2002	496.613	
	2003	0.54	
	Support to the development of agricultural production – dissemination of localized irrigation systems, promotion of hydroponics and aeroponics diversification of rain fed agriculture, agricultural surveys, development of fruit agriculture..		
	1998	36.084	
	1999	27.257	
	2001	14.003	
	2002	38.232	
	2003	57.295	

Measure type	Name and description of measure with reference to criteria in Annex 2 of the Agreement on Agriculture	Monetary value of measure in year in question (in Millions of CVE) ¹	Data sources
1	2	3	4
	Support to the development of livestock – Training of inspectors; animal sanitation; improvement in the conditions of slaughter; improvement in the production, collection and conservation of animal feed; development of apiculture and of rabbit breeding; support to the transformation and improvement of products of animal origin.		
	1998	7.156	
	1999	2.400	
	2001	0	
	2002	13.344	
	2003	30.981	

Question 164

Comments on Cape Verde's Domestic Support Tables (WT/ACC/SPEC/CPV/I/Rev.1).

Please provide total amounts of Green Box Measures for each year for which complete data is available.

Answer:

Please see answer to Question No. 163. The amounts indicated in the Table provided in the answer to Questions No. 163 are, in effect, the amounts spent. The information provided is contained in the official report from Cape Verde's Ministry of Agriculture.

Question 165

Comments on Cape Verde's Domestic Support Tables (WT/ACC/SPEC/CPV/I/Rev.1).

Please provide Annex 2 criteria for the measures "Support to the development of agricultural production" and "Support to the development of livestock". Did any of these measures consist of direct payments to agricultural producers? If so, these should be listed separately under direct payments.

Answer:

Please see answer to Question No. 163. Information regarding the supports in question is supplied in the Table of the Government of Cape Verde Investment Program seeking to develop agriculture and livestock.

Cape Verde confirms that none of the measures applied consists in direct payments to the producers.

- (c) **Internal policies**
- **Textiles Regime**

Question 166

We would appreciate if this section could include any statistics on the level of investment in Cape Verde's textile and garment industry and Cape Verde's trade in textiles and garments.

Answer:

The level of investment in Cape Verde's textile and garment industry was US\$ 5,060,000 during the period of 2000 to 2004.

The level of trade in Cape Verde textile and garment industry was CVE 3,366,826,392 during the period 2000 through the first semester of 2005.

V. TRADE-RELATED INTELLECTUAL PROPERTY RIGHTS REGIME

- **GENERAL**
- **Industrial Property Protection**

Question 167

We welcome Cape Verde's intentions to be in conformity with the provisions of TRIPS by December 2006 and reserve our position to submit more comments on this section at a later stage.

Answer:

Cape Verde confirms that the Industrial Property Code is completed and in the final stages of approval within the Government. It is envisaged that parliamentary approval of the Industrial Property Code will be given before December 2005.

Cape Verde thanks the Member for its position and looks forward to comments at a later date.

Question 168

We thank Cape Verde for providing the replies to additional questions in WT/ACC/CPV/19 and WT/ACC/CPV/20, and for providing a copy of the draft new Industrial Property Code. We are still reviewing the new draft Industrial Property Code and may have additional comments and questions following this Working Party meeting.

Does Cape Verde still expect to promulgate a new Law on Industrial Property in July 2005?

Answer:

No. However, the draft Code is completed and is expected to be passed by the Parliament by December 2005.

- **Participation in international intellectual property agreements**

Question 169

We note Cape Verde's intention to join the Paris Convention for the Protection of Industrial Property and would welcome a status report on this.

Does Cape Verde intend to accede to the International Union for the Protection of Plant Varieties (UPOV Convention), the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (Budapest Treaty), and/or the Patent Cooperation Treaty (PCT)?

Answer:

At this time, the Government of Cape Verde has no intention of acceding to the above-mentioned conventions and treaties. However, these are important conventions/treaties to the Intellectual Property sector of all countries. Therefore, Cape Verde would like to advise that the Government will take under consideration accession to these conventions/treaties.

Question 170

According to Paragraph 160 of the draft working party report on the Accession of Cape Verde (document WT/ACC/SPEC/CPV/4), we understand that Cape Verde does "not intend to ratify and implement the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty".

We strongly encourage Cape Verde to reconsider its position. We would like to suggest that Cape Verde could modernize its Intellectual Property laws by not only ratifying the aforementioned Conventions, but also acceding to the Geneva Phonograms Convention.

Answer:

Cape Verde thanks the Member for this statement and suggestion.

Cape Verde will take under consideration the suggestion.

- **SUBSTANTIVE STANDARDS OF PROTECTION, INCLUDING PROCEDURES FOR THE ACQUISITION AND MAINTENANCE OF INTELLECTUAL PROPERTY RIGHTS**
- **Copyright and related rights**

Question 171

Paragraph 166 of the Draft Working Party Report states that "The representative of Cape Verde confirmed that in line with Article 10.1 of the TRIPS Agreement, computer programs were protected as literary works in Cape Verde." Please explain how this statement can be reconciled with Article 26 of the draft revised Copyright Act, which provides that the term of protection for computer programs will be 25 years. Under TRIPS Article 9(1) and the Berne Convention, literary works should have a life-plus-50-years term.

Answer:

The confirmation by the Representative in paragraph 166 is correct vis-à-vis computer programs.

Upon reviewing the draft Copyright Act, we noted the 25 year period set forth in Article 24 of the draft. The listing of 25 years was an oversight and should have been 50 years.

The correction will be made in the draft and the final version before approval.

Question 172

Please explain how Article 50(h) of the draft revised Copyright Act, which provides an exception to copyright protection for, among other things, all reproductions for personal use, complies with TRIPS Article 13's requirement that any exception to copyright be limited to "certain special cases which do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the right holder." We are especially concerned that draft Article 50(h) does not require that the work reproduced has been lawfully obtained by the person performing the reproduction.

Answer:

Cape Verde assures Members that when a person does a reproduction of a work unlawfully obtained, this act may be considered as a crime of "reception", defined in the penal code as "the acquisition of objects, products or other things unlawfully obtained". (Article 230 of the Penal Code.)

Question 173

According to Paragraph 166 of the draft working party report on the Accession of Cape Verde (document WT/ACC/SPEC/CPV/4), questions were raised regarding Cape Verde's new Copyright law and its consistency with TRIPS Articles 9, 10, 11, 13, and 14.2.

We are still studying the new Copyright Law and plan to provide written comments.

Answer:

Cape Verde thanks the Member and looks forward to written comments.

- **Trademarks, including service marks**
- **Geographical indications, including appellations of origin**

Question 174

Regarding the new draft law that was provided, a concern exists regarding the relationship between trademarks and geographical indications. It is important that a trademark/geographical indication regime provide priority and exclusivity for both trademarks and geographical indications, as well as providing parity of treatment between trademarks and geographical indications as required under TRIPS.

How will Cape Verde's trademark and geographical indications provisions in its new intellectual property law comply with TRIPS Articles 16(1) and 24(5) of the TRIPS Agreement, preserving the rights of trademark owners? Specifically, it is unclear whether trademarks in

Cape Verde would be protected from confusingly similar and later in time geographical indications.

Answer:

The draft Industrial Property Code foresees the treatment of the trademarks and the geographic indications in equality of circumstances. The new draft code foresees punishment for falsification of the marks and untoward use of the geographic indications. It punishes likewise the imitation of trademarks and does not admit the existence of similar or look-alike marks that may lead the consumer into confusion, therefore protecting the mark that has the right to priority.

- **Requirements on undisclosed information, including trade secrets and test data**

Question 175

As noted earlier, we are still reviewing Cape Verde's draft new Industrial Property Code. It appears that trade secret protection is included in the draft code, but that specific protection for pharmaceutical and agricultural test data against unfair commercial use is not included in the draft. Article 39.3 of TRIPS provides that "Members, when requiring, as a condition of approving the marketing of pharmaceutical or of agricultural chemical products which utilize new chemical entities, the submission of undisclosed test or other data, the origination of which involves a considerable effort, shall protect such data against unfair commercial use." The draft Cape Verde Industrial Property Code does not appear to fulfil this TRIPS requirement. It does not appear to protect against unfair commercial use, but only against disclosure, since there is nothing in the draft about non-reliance by generics on the data submitted by an original drug applicant.

Does Cape Verde permit the registration of generic products? If so, must the applicant for a generic drug approval provide the same data that is required for an original product?

Answer:

The new Industrial Property Code does not foresee this registration. The pharmaceutical sector is being the object of a profound reform, including namely its liberalization.

This issue shall be addressed by the Government, in due time, and the Government shall certainly make a decision more in agreement with the WTO principles.

In the meantime, the draft law foresees, in its Article 56, the following:

When an invention has as object a preparation process for a chemical, pharmaceutical or food product protected by a patent in effect, and whenever the patent of the process represents a notable technical progress as compared to the previous patent, both the owner of the process patent and the owner of the product patent have the right to require mandatory over the patent of the other owner.

When the holder of a plant variety cannot obtain or explore a plant acquisition right without infringing a prior patent, it may require a mandatory licence for the non-exclusive exploration of the invention protected by the patent, to the extent that this licence is necessary to explore the same plant variety, against the payment of an adequate remuneration.

Question 176

As noted earlier, we are still reviewing Cape Verde's draft new Industrial Property Code. It appears that trade secret protection is included in the draft code, but that specific protection for pharmaceutical and agricultural test data against unfair commercial use is not included in the draft. Article 39.3 of TRIPS provides that "Members, when requiring, as a condition of approving the marketing of pharmaceutical or of agricultural chemical products which utilize new chemical entities, the submission of undisclosed test or other data, the origination of which involves a considerable effort, shall protect such data against unfair commercial use." The draft Cape Verde Industrial Property Code does not appear to fulfill this TRIPS requirement. It does not appear to protect against unfair commercial use, but only against disclosure, since there is nothing in the draft about non-reliance by generics on the data submitted by an original drug applicant. Or is the generic applicant permitted to provide an abbreviated drug application?

Answer:

See answer to Question No. 175.

Question 177

As noted earlier, we are still reviewing Cape Verde's draft new Industrial Property Code. It appears that trade secret protection is included in the draft code, but that specific protection for pharmaceutical and agricultural test data against unfair commercial use is not included in the draft. Article 39.3 of TRIPS provides that "Members, when requiring, as a condition of approving the marketing of pharmaceutical or of agricultural chemical products which utilize new chemical entities, the submission of undisclosed test or other data, the origination of which involves a considerable effort, shall protect such data against unfair commercial use." The draft Cape Verde Industrial Property Code does not appear to fulfill this TRIPS requirement. It does not appear to protect against unfair commercial use, but only against disclosure, since there is nothing in the draft about non-reliance by generics on the data submitted by an original drug applicant.

Is any time period provided after registration of an original product in which generic applications will not be considered?

Answer:

See answer to Question No. 175.

- **ENFORCEMENT**

Question 178

Under what authority can customs seize goods that infringe copyright?

Answer:

In the Draft Customs Law of Cape Verde, Chapter XI provides for border enforcement of intellectual property (including infringing copyrights)

Articles 234 to 241 were drafted to be in conformity with the TRIPS Agreement, specifically Section 4, Special Requirements Related to Border Measures.

Question 179

Please indicate how fines or damages are calculated in civil trademark and copyright cases.

Answer:

Established by law in draft code indicating both min and maximum depending on seriousness of the case.

Question 180

Draft Revised Copyright Law (Law No. 101/III/90 of 27 December 1990), Article 101(1) only covers unauthorized reproduction. Please indicate whether there are civil or criminal penalties for violating any of the other rights set forth in Article 49.

Answer:

Cape Verde confirms to that criminal responsibility for violating any of the other rights set forth in Article 49 is covered in Article 108 of the Draft Copyright Law as violations to moral rights, in as much as the right to use the works listed under Article 49 are considered to be moral rights.

Furthermore, civil responsibility would emerge at the same time for the infringement committed, depending on the extension of the damage caused.

Question 181

In the Draft Revised Copyright Law (Law No. 101/III/90 of 27 December 1990), please state the meaning of "a fine of about double" in Article 102(1).

Answer:

Cape Verde would like to inform the United States that there was an error in the translation. The sentence referred to in Article 102(1) should read as follows:

"Recurrences are punished with double the corresponding fine"

Question 182

In the Draft Revised Copyright Law (Law No. 101/III/90 of 27 December 1990), Article 104, please provide the definition of "counterfeit work."

Answer:

Cape Verde informs Members that there was an error in the translation. The sentence in Article 104 should read as follows:

"The same punishment shall apply to those who import, sell or put for sale by any means of distribution to the public, a work *fraudulently produced and or published* in Cape Verde or abroad."

Further, Paragraph 2 of Article 101 of the Draft Copyright Legislation addresses the notion of counterfeit work by stating

It is considered counterfeit all those who fraudulently present or utilize a creation of literary, artistic or scientific work, in part or in full.

Question 183

In the Draft Industrial Property Code of Cape Verde, Article 323, please state the meaning of "a fine of up to 360 days."

Answer:

The penalty is no longer an administrative penalty today, in as much as in October 1995 a fine was instituted. The penalty is therefore a penal penalty.

VI. POLICIES AFFECTING TRADE IN SERVICES

- Legal Services

Question 184

We would like to know the following specific points regarding the supply of services by foreign lawyers on home-country law, international law and third-country law:

- **specific requirements for foreign lawyers to provide these services;**
- **scope of activities that are allowed for foreign lawyers;**
- **possibility for foreign lawyers to associate with local lawyers, and**
- **possibility for foreign lawyers to employ local lawyers.**

We also would like to seek clarification on whether there is nationality requirement to be qualified as a lawyer on the law of Cape Verde

Answer:

Foreign lawyers may perform juridical consultancies on international law and the law of their country of nationality.

Foreign lawyers may associate with local lawyers, and may employ local lawyers.

In order to be a qualified lawyer on the law of Cape Verde, the person must be a Cape Verde citizen or a citizen of the Portuguese speaking countries (CPLP), and resident in Cape Verde.

- Audiovisual Services

Question 185

We request Cape Verde to make commitment on Sound recording services. If there is any law regulating this sub-sector, it would like to know the name and substance of the law.

Answer:

Cape Verde does not have a law regulating the sound recording sector. However a policy decision is being made by the Council of Ministers. The decision will be incorporated into the Services Schedule and available at the next Working Party Meeting.

Question 186

MFN exemptions. The version of 22 May includes MFN exemptions on audio-visual but they do not appear in the 1 June version. Clarification needed and confirmation of the exemptions.

Answer:

A policy decision is being made by the Council of Ministers. The decision will be incorporated into the Services Schedule and available at the next Working Party Meeting.

- **Distribution Services**

Question 187

We request Cape Verde to include reference to CPC 61 (sales of automobiles) in its commitment on Wholesale trade services.

Answer:

Cape Verde will take under consideration the request to include reference to CPC 61 (sales of automobiles) in its commitment on wholesale trade services.

Question 188

We request Cape Verde to include reference to appropriate CPC codes in its commitment on Retailing services.

Answer:

Cape Verde appreciates the comments and request to include reference to appropriate CPC Codes in its commitments on Retailing Services.

There are many CPC Codes in the Retail Trade Services (Division 63). Therefore, Cape Verde requests this Member to specify the Retail Trade Services sectors (preferably by CPC) code for which it has interest.

Question 189

We request Cape Verde to make commitment on Franchising services. If there is any law regulating this sub-sector, we would like to know the name and substance of the law.

Answer:

Cape Verde thanks this Member for its comment. Cape Verde does not have a law on franchising, and will take under consideration the request for a commitment on Franchising services.

- **Maritime Transport Services**

Question 190

We appreciate the commitments made by Cape Verde on International maritime transport services. Having said that, as CPC 745 (Supporting services for maritime transport) does not sufficiently reflect the commercial reality, we recommend that Cape Verde should offer commitment on this subsector according to the attached Model Schedule on Maritime

Transport Services, which was prepared by a number of Members and has been used as a tool for the negotiations on this sector.

Answer:

Cape Verde thanks this Member for its comments and suggestions. Cape Verde will take the suggestion into consideration and will review its own Service Schedule accordingly.

- **Construction Services, Engineering Services and Integrated Engineering Services**

Question 191

We would like to know the specific requirements for obtaining Membership in the Professional Associations, which is necessary to provide services in these sub-sectors. In particular it is concerned if there is any discrimination between domestic and foreign service suppliers on this point.

Answer:

Nationals and foreigners can be members of professional associations by meeting certain qualifications. The major elements are a diploma from a University, and be a resident of Cape Verde.

A foreigner who wants to engage in these activities on a temporary basis must also register as a temporary member of the association.

- **Education Services**

Question 192

We would like to know the reason why the NT column of this sector remains blank. It also requests Cape Verde to make commitment on Other education services.

Answer:

Cape Verde thanks this Member for its comments. The omission of information on the NT column was not intentional the oversight will corrected in the Revised Service Schedule for the next Bilateral Negotiation.

Cape Verde requests that this Member be more specific as to what "Other Educational Services" it wishes Cape Verde to make a commitment on.

- **Financial Services**

Question 193

Banking: Cape Verde states in its Written Answers that it is unable to provide Mode 1 commitments in sub-sector (k). What is the reason for this?

Answer:

A policy decision is being made by the Council of Ministers. The decision will be incorporated into the Services Schedule and available at the next Working Party Meeting.

Question 194

What is the position with regard to sub-sector (I)? - we would like to see Mode 1 commitments in the provision and transfer of financial information.

Answer:

A policy decision is being made by the Council of Ministers. The decision will be incorporated into the Services Schedule and available at the next Working Party Meeting.

Question 195

In the revised offer circulated with track changes (22 June) the joint venture requirement in the chapeau to the Financial Services sector is removed. In the version of 1 June it appears in square brackets. We would like clarification of what is intended and preferably the removal of this restriction.

Answer:

A policy decision is being made by the Council of Ministers. The decision will be incorporated into the Services Schedule and available at the next Working Party Meeting.

Question 196

While we appreciate the commitment that Cape Verde has newly made on MA of Mode 1 in the area of Reinsurance, it continues to request less restrictive commitments on Mode 1 of other sub-sectors.

Answer:

Cape Verde thanks this Member for its comments on Financial Services, and will take into consideration the request for less restrictive commitments of Mode 1 of other sub sectors. It would be helpful if this Member was more specific as to what other sub-sectors you request Cape Verde to make less restrictive commitments on.

- **Tourism and Travel Related Services**

Question 197

Travel agencies and tour operators. We would like to see improved commitments in this area where a number of limitations are scheduled.

Answer:

A policy decision is being made by the Council of Ministers. The decision will be incorporated into the Services Schedule and available at the next Working Party Meeting.

- **Recreational, Cultural and Sporting Services**

Question 198

Would Cape Verde consider taking commitments in News Agency services and some additional commitments in transport, notably (a) Services Auxiliary to all modes of transport (b) storage and warehousing and (c) freight transport agency services?

Answer:

A policy decision is being made by the Council of Ministers. The decision will be incorporated into the Services Schedule and available at the next Working Party Meeting.

VII. TRANSPARENCY

Question 199

Paragraph 205: We applaud Cape Verde's interest in expanding the scope of its transparency institutions, i.e., to make the Official Bulletin available electronically. We would appreciate an update on the fees Cape Verde intends to charge for this service. Does Cape Verde charge set a price for the acquisition of a copy of the Official Gazette?

Answer:

Subscription prices for copies of the Official Bulletin are as follows:

I Series	CVE 5,000 (Annually)
II Series	CVE 3,500 (Annually)
III Series	CVE 3,000 (Annually)

A single copy of an Official Bulletin is sold at the price of CVE 10 per page.

The fee structure for users seeking access to the proposed website of the Official Bulletin has not, as yet, been established.

Question 200

We reiterate our proposal that Cape Verde consider making such electronic availability the basis for a regulatory review mechanism that includes publication for prior comment. This will address transparency requirements in the areas of TBT and SPS, and provide Cape Verde with a valuable tool for good rule making.

Answer:

Cape Verde appreciates the comments and proposal of the Members. Cape Verde is working hard to make the electronic system available as soon as possible. We agree that the electronic system will significantly improve transparency requirements in the areas of TBT and SPS, and provide a valuable tool for good rules making.
