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

**REPORT OF THE WORKING PARTY
ON THE ACCESSION OF CAPE VERDE
TO THE WORLD TRADE ORGANIZATION**

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I. INTRODUCTION

1. The Government of the Republic of Cape Verde applied for accession to the World Trade Organization in November 1999. At its meeting on 17 July 2000, the General Council established a Working Party to examine the application of the Government of Cape Verde to accede to the World Trade Organization (WTO) under Article XII of the Marrakesh Agreement establishing the WTO. The terms of reference and the membership of the Working Party are reproduced in document WT/ACC/CPV/2/Rev. 6.

2. The Working Party met on 26 March and 8 December 2004; 14 July 2005; and 28 June, 26 October, and 6 December 2007 under the Chairmanship of Mr. D. Shark (United States).

DOCUMENTATION PROVIDED

3. The Working Party had before it, to serve as a basis for its discussions, a Memorandum on the Foreign Trade Regime of Cape Verde (WT/ACC/CPV/3), the questions submitted by Members on the foreign trade regime of Cape Verde, together with the replies thereto, and other information provided by the authorities of Cape Verde (WT/ACC/CPV/4; WT/ACC/CPV/5; WT/ACC/CPV/6; WT/ACC/CPV/7; WT/ACC/CPV/8; WT/ACC/CPV/9 and Revisions 1, 2 and 3; WT/ACC/CPV/10 and Revision 1; WT/ACC/CPV/11 and Revision 1; WT/ACC/CPV/12 and Revisions 1 and 2; WT/ACC/CPV/13 and Revision 1; WT/ACC/CPV/14 and Revisions 1, 2 and 3; WT/ACC/CPV/15; WT/ACC/CPV/16; WT/ACC/CPV/19; WT/ACC/CPV/20; WT/ACC/CPV/21 and Revision 1; and WT/ACC/CPV/22 to 29), including the legislative texts and other documentation listed in Annex 1.

INTRODUCTORY STATEMENTS

4. The representative of Cape Verde said that despite Cape Verde's limited natural resources and production base and other constraints faced as a least developed country (LDC), his country had over the past 15 years undertaken measures that had liberalized its economy to foster growth and facilitate trade integration.

5. In view of the Guidelines established by the General Council (WT/L/508), and bearing in mind Cape Verde's current status as an LDC, the representative of Cape Verde called on Members of the Working Party to expedite and be flexible in the negotiations to establish Cape Verde's WTO commitments and to extend special and differential treatment as foreseen in the provisions of the WTO Agreements regarding LDCs. Technical assistance and transition periods were needed to implement some WTO commitments. In this regard, Cape Verde sought support in the areas of intellectual property, mediation and arbitration, agriculture, food safety, sanitary and phytosanitary measures, protection of human health, flora and fauna, technical barriers to trade, and customs procedures. He added that the United Nations General Assembly had taken note of the Economic and Social Council's recommendation to graduate Cape Verde from the group of LDCs (Resolution A/RES/59/210 of 20 December 2004). Consequently, Cape Verde would no longer be classified as an LDC as from 1 January 2008.

6. Members of the WTO welcomed Cape Verde's application to join the Organization. Appreciating the efforts already undertaken by Cape Verde to achieve compliance with WTO rules and principles, some Members noted that further work was needed. In this regard, Members pledged to work constructively with Cape Verde. Some Members indicated that they had, and would, continue to offer technical assistance to facilitate Cape Verde's accession. Members looked forward to Cape Verde's early accession on appropriate terms. Some Members referred to Cape Verde's current status as a least-developed country, and in keeping with the guidelines on LDCs' accessions, would consider this a relevant factor in establishing Cape Verde's terms of accession.

7. The Working Party reviewed the economic policies and foreign trade regime of Cape Verde and the possible terms of a draft Protocol of Accession to the WTO. The views expressed by Members of the Working Party on the various aspects of Cape Verde's foreign trade regime, and on the terms and conditions of Cape Verde's accession to the WTO, are summarized below in paragraphs 8 to 268.

II. ECONOMIC POLICIES

- Monetary and fiscal policy

8. The representative of Cape Verde said that the Bank of Cape Verde (BCV) fulfilled the role of the central bank and in accordance with Law No. 10/VI/2002 of 15 July 2002, worked with the Government in defining and executing monetary and exchange policies, and in guiding and supervising the monetary, financial, and exchange markets. The BCV functioned to maintain price stability whilst simultaneously regulating Cape Verde's money supply. In its latter function, its powers were limited because the Cape Verdean Escudo (CVE) was pegged to the Euro (€) and secured by the Government of Portugal.

9. In the framework of reforms initiated in 1993, the BCV had abandoned administrative methods of monetary controls in 1999, in particular the use of administratively established interest rates and credit limits. Regulation of monetary policy was currently achieved through open market operations, variations in the cash reserve coefficients, and adjustments in the BCV's rediscount rate.

10. As for the financial sector, the Constitution of Cape Verde had been amended in 1989, removing banking activities from the exclusive control of the State (Law No. 52/III/89). Cape Verde currently had four commercial banks, with a total of 35 branches, and a few parabanking and international financial institutions. BCV as the central bank continued to licence qualified banks and other financial institutions to increase competition and to promote the development of a competitive financial sector.

11. The Government's fiscal program sought to expand the provision of key social services, develop Cape Verde's infrastructure, and foster private sector-led economic growth, while maintaining overall fiscal discipline. Cape Verde's fiscal performance had improved in 2001. Currently, the fiscal deficit had been targeted to remain at 3 per cent of GDP (CVE 2.2 billion), having declined from 19 per cent of GDP in 2000. Fiscal policy was geared towards continuing this consolidation.

12. With regard to the taxation regime, Cape Verde had initiated reforms in 1991. Prior to 1991, complex administrative procedures had been used to calculate and estimate taxes, tax fraud, and tax evasion. One of the objectives of the reform program, outlined in the Development Plan (III PND), was to endow Cape Verde with a modern, adequate, simple and efficient taxation system. The new system allowed the State to collect more revenue, establish relatively moderate taxes, and broaden the tax base to include public employees who previously did not pay taxes. The program also included (i) the creation of a more effective collection system; (ii) collection of a Single Tax on Income for individual and collective persons (e.g. partnerships and corporations) rather than the multiple taxes that existed previously; and (iii) the creation and application of a Single Property Tax to substitute various municipal property taxes. Some constraints remained to be overcome, including the lack of adequate information on tax and fiscal obligations, the existence of a large number of undeclared taxpayers, and a lack of qualified personnel to administer the new system.

13. As part of the ongoing reforms, his Government had recently introduced amendments to the Single Tax on Revenue, primarily to update the tax brackets, accelerate tax liquidation, and authorize a fiscal census of taxpayers and enterprises. Cape Verde had adopted a Value Added Tax (VAT), as well as a Special Tax on Consumption (STC).

- **Foreign exchange and payments**

14. The representative of Cape Verde said that his Government had signed an Exchange Cooperation Accord with Portugal, which established a fixed parity between the Cape Verde Escudo (CVE) with the Portuguese Escudo, and subsequently with the Euro (Resolution No. 81/V/98 of 11 May 1998). The fixed rate of exchange was €1 to CVE 110.265. Under the terms of the Accord, Cape Verde had committed itself to adopting macroeconomic guidelines that would safeguard this parity.

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 of the IMF's Articles of Agreement. The implementation of this decision had since been delayed on account of a bilateral Agreement on credits and payment between Cape Verde and Cuba. This bilateral Agreement had recently expired and had not been renewed. He expected the process of implementing the notified decision to be completed by mid-2008.

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, current invisible operations had been liberalized except for transactions exceeding CVE 1 million connected to travelling. Cape Verde applied neither restrictions on the opening of bank accounts in foreign currency nor restrictions to obtain currency to import merchandise. However, if the legitimacy of the stakeholder in a specific operation was questionable, the BCV could, in accordance with the law, impose a prior verification requirement. Transfer operations that could be subject to prior authorization by the BCV were (i) current invisible operations of amounts exceeding CVE 1 million falling under the heading "private unilateral transfers"; (ii) transfers exceeding CVE 5 million as revenues or as payment for services rendered (except for interest payments on previously authorized loans); and (iii) the pre-payment or final settlement of current transactions more than three months in advance when the instalment exceeded CVE 1,000,000 (and 35 per cent of the contractual value). He added that capital operations, with the exception of those executed in the stock market or through duly authorized brokers, were also subject to prior authorization from the BCV. This authorization was automatic as long as the requested accompanying documents were submitted and the necessary requisites established by the law were met. He confirmed that Cape Verde did not maintain foreign exchange restrictions such as mandatory surrender requirements, prior import deposits, or taxes on the acquisition of foreign exchange.

17. A Member requested an explanation for the need to obtain prior authorization for certain transfers and the acquisition of foreign exchange to import merchandise worth more than CVE 5 million. As the authorization was granted automatically when the necessary conditions established by law were met, the representative of Cape Verde was asked to list these conditions. He was also requested to confirm that no requirements or restrictions were imposed on the acquisition of foreign exchange for the payment of foreign services or of investments.

18. In reply, the representative of Cape Verde confirmed that his Government would revise its existing legislation to eliminate the prior authorization requirement for acquiring foreign exchange to pay for imported merchandise worth more than CVE 5 million. He expected the revised legislation to be enacted by December 2007 (and in any case no later than July 2008). He also confirmed that the acquisition of foreign exchange for payment of foreign services or foreign investment was not subject to any requirements or restrictions. The Working Party took note of this commitment.

19. 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.

20. A Member noted 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 instalments if transferring the sum in full would cause a serious disturbance to Cape Verde's balance of payments and asked whether the BCV would seek guidance from the IMF and the WTO Committee on Balance-of-Payments Restrictions before imposing such measures. In reply, the representative of Cape Verde said that this measure was intended to safeguard Cape Verde's balance of payments in exceptional circumstances of grave concern. He confirmed that the IMF and the Committee on Balance-of-Payments Restrictions would be consulted before invoking this measure.

21. A Member sought further information on the circumstances, including judicial and appeal process, under which a foreign account could be frozen. In response, the representative of Cape Verde confirmed that a foreign account could only be frozen on the basis of judicial action and a court decision to that effect.

- **Investment regime**

22. The representative of Cape Verde said that his Government's policy objectives on investment were to promote and encourage a transparent and fair business environment for both domestic and foreign investors, and to increase the role of the private sector in Cape Verde's development process. All sectors were open to investment, unless an activity was considered a threat to national security, public morals, the environment or public health, or was in violation of domestic laws and regulations. Examples of such prohibited activities included the production or importation of handguns, military weapons and hardware, munitions and similar materials; the production or importation of pornographic materials, establishment of houses of ill repute, establishment of illegal gambling houses and similar activities; industries that would degrade the environment such as processing turtle products and/or other endangered species; and the establishment of industries producing and/or distributing illegal drugs and food dangerous to public health. The prohibitions applied equally to domestic and foreign investments.

23. The Centre for Tourism, Investment and Export Promotion of Cape Verde (PROMEX) and its successor the Cape Verde Agency for the Promotion of Investment (Cape Verde Investments), a Government department under the supervision of the Ministry of Economy, Growth and Competitiveness, was the authority charged with promoting trade and investment opportunities. All foreign investments were subject to prior authorization, and the Foreign Investment Law No. 89/IV/93 of 13 December 1993 set out the conditions for foreign direct investment (FDI) in any sector of economic activity. The procedures for authorization of foreign direct investment were stipulated in Regulatory Law No. 1/94 of 3 January 1994, including application forms reproduced in its Annexes 1 and 2. FDI was evaluated on the basis of criteria enumerated in Article 7 of the Regulatory Law. His Government did not mandate any minimum (floor) or maximum (ceiling) value levels of investment in Cape Verde.

24. Investment applications - together with particulars of each investor, details of the project location and, in specific cases, environmental impact studies - were addressed to the Ministry of Finance and Public Administration, through Cape Verde Investments. The specific cases that warranted environmental impact studies were determined by the nature, size or location of the investment. He added that Cape Verde Investments provided investors with minimum criteria needed for inclusion in the environmental study.

25. Having reviewed the Regulatory Law No. 1/94, a Member stated that the criteria for receiving authorization and the information needed for this purpose should be clear and exhaustive, and stipulated in the application forms. The deadline for receiving the authorization stipulated in Articles 3 and 4 was ambiguous, and the provisions of Article 4.3 and 4.4 - which allowed the Investment and Franc Enterprises Investment Committee to solicit complementary information from

the investor, thereby suspending the processing deadline for the application until the information had been provided - were arbitrary and should be deleted from the Law.

26. The representative of Cape Verde replied that Article 3 of Regulatory Law No. 1/94 stipulated a deadline of maximum 30 days for the processing of applications by Cape Verde Investments, provided the investors supplied the information set out in Annexes 1 and 2 of the Law. In case of missing or incomplete data, the Investment and Franc Enterprises Evaluation Committee could request additional information, and the 30 day deadline would be suspended until the foreign investor or his/her legal representative provided the requested data. He considered Articles 4.3 and 4.4 appropriate, as a precise checklist of the information to be submitted pursuant to Annexes 1 and 2 was provided to the applicant as part of the initial interview.

27. Upon granting the authorization, a Certificate of External Investment was sent to the investor or his/her legal representative. This Certificate could be declared null and void if the investment did not occur within a specified deadline. The start-up or reopening of business was subject to inspection by the competent authorities. An investment project was prohibited if the application was rejected. He added that the rejection of an application could be appealed either through the Courts or to the Government. A rejected application could also be presented again for reconsideration.

28. The rights of all investors and the protection of their investment from expropriation or nationalization were guaranteed in Cape Verde. All investors - domestic or foreign, natural or legal persons - were treated equally. If expropriation, in the public interest and according to law, was necessary, it would be fair and equitable, and compensation would have to be paid. A foreign investor had the right to prompt compensation according to the real and actual value of the investment (with interest added until the date of payment) in a freely convertible currency agreed with the Government. The indemnity could be repatriated without any restriction. The amount was established by Agreement between the investor and the Government or, if necessary, referred to arbitration.

29. The existing laws and regulations provided sectors such as tourism, industry, exports and re-exports, and financial institutions with tax incentives and customs duty exemptions, facilities for the transfer of funds and banking, etc. Incentives had also been provided to the transportation industry i.e. maritime, road and air transportation, and to the communications sector (see also the section "Export subsidies and industrial policy, including subsidies"). Fiscal incentives included reductions in contributions and taxes on profits. Customs incentives included suspension of customs duties for raw materials and accessories, and duty exemptions when applicable. Upon request, enterprises duly entered in the fiscal and industrial registry could avail of these benefits within 120 days from the date of export or re-export. He added that when the law had been enacted in 1993, the objective had been to stimulate production for export, and therefore investment directed primarily to the domestic market was not eligible for these incentives. He stated that his Government would undertake a further study on the incentives provided for investment and industry, and would consider the elimination of Cape Verde's export subsidies.

30. A Member requested a comprehensive list of all investment promotion schemes indicating their legal basis, eligibility criteria and budget. Some Members noted that Cape Verde appeared to operate a system of investment incentives constituting prohibited export subsidies, and as Cape Verde was graduating from its LDC status, it would no longer be able to grant such subsidies.

31. The representative of Cape Verde replied that the eligibility criteria for foreign investment were laid down in Article 2 of the Foreign Investment Law No. 89/IV/93 of 13 December 1993. For industrial investment, Article 28 of the Decree-Law No. 108/89 of 30 December 1989 provided the conditions for Industrial Status and access to incentives. Article 2 of the Law No. 99/IV/93 of 31 December 1993 outlined the eligibility criteria for Franc Enterprises. Article 4 of Law

No. 92/IV/93 of 15 December 1993 governed access to incentives for exportation or re-exportation of goods and services. In the tourism sector, the relevant provisions were Articles 3 and 5 of the Law No. 55/VI/2004 of 10 January 2004.

32. He noted that Cape Verde's laws and regulations contained no limitations related to foreign investment, except for the denial of incentives for investments catering exclusively or mainly to the domestic market. He added that incentives for investment in the financial sector were governed by Decree-Law No. 66/97 of 3 November 1997. Joint ventures with foreign investors in financial services were encouraged in accordance with Law No. 47/IV/92 of 6 July 1992. Pursuant to Article 7 of Decree-Law No. 87/89 of 24 November 1989, joint ventures could also be established in construction services.

33. The representative of Cape Verde provided an Action Plan for the Revision of Incentives to National Production and to Foreign Investment in document WT/ACC/CPV/22, and a subsidies notification in document WT/ACC/CPV/27. He explained that the Foreign Investment Law would be replaced by a comprehensive Investment Law that would apply to both domestic and foreign investment. A draft Investment Law would be provided as soon as available.

- **State ownership, privatization and state-trading entities**

34. The representative of Cape Verde said that economic policies in Cape Verde had focused on import substitution and State control of the economy from independence in 1975 to 1989. Several public and mixed enterprises had been created in various sectors, including transportation (sea and air), fuel, agriculture, poultry, livestock production, fishing, pharmaceuticals, civil construction, naval repair, insurance, hotel services and the commercialization of basic goods. The Government had also controlled the financial sector. The State had thus played a significant role in the economy and by the end of 1988, 19 State-owned and 14 mixed enterprises had been created.

35. The State's role in the economy had been substantially diminished since 1991, and the private sector had emerged as the engine for development. Cape Verde had revised its Constitution to redefine the concept of public property to provide a legal framework for market liberalization. In accordance with the revised Constitution and Law No. 93/IV/93 of 15 December 1993, economic sectors were no longer reserved for public activity in order to stimulate the private sector and to promote foreign investment. As a result, more than 20 State-owned enterprises had been privatized (Table 1). Privatization of these enterprises had been undertaken through the sale of shares or the direct sale of the enterprise. The process of liquidation was used in certain cases.

Table 1: Privatized Enterprises

Original enterprise	New privatized enterprise	Privatization		Owners of Shares			Direct sale
		Fully	Partially	State	Nationals	Foreigners	
Agência nacional de viagens	2 new agencies (ANV & ANAV)	Yes			X		Yes
AGRIPEC	Agripec	Yes			X		Yes
CABETUR	Cabetur	Yes			X		Yes
CONCHAVE	Conchave	Yes			X		Yes
ENAVI	Sociave (Mindelo); Enavi (Praia)	Yes			X		Yes
EMPROFAC	7 pharmacies (only the pharmacies)	Yes			X		Yes
FAP	Aripec; Coopechaves; Prolac	Yes			X		Yes
Justino Lopes	Associação sector agrícola Justino Lopes; Carmac; Propec.	Yes			X		Yes

Original enterprise	New privatized enterprise	Privatization		Owners of Shares			Direct sale
		Fully	Partially	State	Nationals	Foreigners	
INTERBASE	Salmar and INTERBASE	Yes				X (Salmar)	Yes (Salmar)
MACSOBIL	Macsobil	Yes			X		Yes
METALCAVE	Metalcave	Yes			X		Yes
MORABEZA	Morabeza	Yes			X		Yes
ONAVE	Recoref; Belcab; Funcave; Lusonave.	Yes			X		Yes
SITA	SITA	Yes			X		Yes
ULTRA	Ultra.	Yes			X		Yes
ELECTRA	Electra.		Yes	X	X	X	Yes
ENACOL	Enacol		Yes	X	X	X	Yes
BCA	Bca.		Yes	X	X	X	Yes
Caixa Económica	Caixa economica.		Yes	X	X	X	Yes
Garantia (insurance company)	Garantia.		Yes	X	X	X	Yes
Promotora	Promotora.		Yes	X	X	X	Yes
Cabo Verde Telecom	Cabo verde telecom.		Yes	X	X	X	Yes
Hotel Belo Horizonte	Hotel Belo Horizonte	Yes				X	Yes
Hotel Praia Mar	Hotel Praia Mar	Yes				X	Yes
CVC	CVC	Yes			X	X	Yes
MOAVE	MOAVE	Yes			X		Yes
Hotel Xaguete	Hotel Xaguete	Yes				X	Yes
INTERBETAO	INTERBETAO	Yes			X		Yes
FAMA	FAMA	Yes			X		Yes
OFICINAS	OFICINAS	Yes			X		Yes
CERIS	CERIS	Yes				X	Yes
EMPA	Liquidated	Yes			NA	NA	Liquidation
TRANSCOR	TRANCOR, S.Vicente	Yes			X		Yes
ARCA VERDE	Liquidated	Yes			NA	NA	Liquidation
SONACOR	Liquidated	Yes			NA	NA	Liquidation

Table 2: Privatization Plans

State-owned enterprises slated for privatization	Capital (US\$ million)	Envisaged Privatization	
		Share	Direct sale
CABNAVE	7 ^{a)}		Sale or concession contract
ENAPOR	9.4 ^{b)}		Concession contract
EMPROFAC	7 ^{c)}	X	Full privatization, sale of shares
TACV (Strategy not yet defined)	11 ^{d)}		Full or partial privatization

- a) Net book Value, Source: Booz-Allen & Hamilton, 2004
b) Source: ENAPOR's Financial Department
c) Source: Euro-Phoenix, 2004
d) TACV Annual Report 2003, Balance Sheet Net Worth

36. In addition to the enterprises listed in Table 1, State-owned enterprises in the early stages of being privatized were TACV (Cape Verde's Air Transportation Company), ENAPOR (the Port Authority), EMPROFAC (Pharmaceuticals), and CABENAVE-SARL (repair docks). He confirmed that foreign investors had participated in Cape Verde's international public tenders and would continue to be eligible to participate freely in the privatization process. The ongoing privatization plans are outlined in Table 2. He added that under the terms of a performance contract signed with his Government, two State-owned enterprises - the Airport Management Company and the Postal Company - were not to be privatized. Postal services were considered a government function. The privatization of the Airport Management Company was not a priority at present, but his Government

would consider the introduction of privately-operated activities within the airport infrastructures. He confirmed that these two enterprises and those listed in Table 2 were the only State-owned enterprises in Cape Verde.

37. The representative of Cape Verde confirmed that his Government would ensure the transparency of its ongoing privatization programme. He stated that his Government would provide annual reports to WTO Members on developments in its privatisation programme as long as the programme would be in existence, and along the lines of the information already provided to the Working Party during the accession process. The Working Party took note of this commitment.

38. The representative of Cape Verde said that the State-owned enterprises abided by the same corporate laws and principles as private companies. The enterprises were organized with Boards of Directors and fiscal councils (internal auditors), and adhered to national accounting standards. The Board of Directors prepared annual reports and audited statements to the shareholders, internal auditors and the tax authorities. The annual reports were published in the Official Bulletin and/or in newspapers. Independent (external) auditors reports were always annexed to the annual reports. Profits were disbursed in proportion to each shareholder's equity (including the State) after the accounts had been presented to the shareholders for approval, and a vote had been taken on retained earnings and dividends.

39. Regarding State trading, the representative of Cape Verde said that weapons and munitions were imported exclusively by the Ministries of Defence and Home Affairs. In accordance with Decree-Law No. 29/93 of 24 May 1993 and Decree-Law No. 3/99 of 1 February 1999, gold for monetary use was imported only by the Central Bank (i.e. BCV). Products such as fuels and lubricants, tobacco and chemical-pharmaceutical products were subject to a special import regime and were imported under an exclusive regime by select enterprises (Shell and ENACOL, Cape Verdean Tobacco Company, and EMPROFAC).

40. Shell and ENACOL were private enterprises. Both companies purchased fuels and lubricants competitively in the international market and sold petroleum products domestically either through retail outlets or directly to airline and shipping interests. Concession rights had granted them exclusive distribution rights for petroleum derivatives until the end of 2006. Since then, the importation of oil products had been effected through international bids, supervised by an independent regulatory agency.

41. The Cape Verdean Tobacco Company (Compainha Caboverdiana de Tabacos) was a private company enjoying a monopoly in the production, importation, commercialization and wholesale distribution of tobacco. These rights or concessions had been bestowed to the Cape Verdean Tobacco Company under the terms of a contract concluded with his Government on 2 May 1997, published in the Official Bulletin No. 20, II Series of 20 May 1999. He added that tobacco production in Cape Verde was insignificant and domestically produced tobacco was not used in industrial production.

42. His Government had created EMPROFAC to ensure citizens' access to basic medicines. EMPROFAC had exclusive rights to import and distribute pharmaceuticals in Cape Verde and to purchase domestically-made products from INPHARMA, a company in which EMPROFAC held 40 per cent of the shares. At present, EMPROFAC imported about 65 per cent of Cape Verde's needs for pharmaceuticals, and sourced the remaining 35 per cent locally. EMPROFAC sold pharmaceuticals imported or bought from INPHARMA to hospitals, the Directorate-General of Pharmacy and private pharmacies. EMPROFAC determined the quantity of imports and set prices on an annual basis based on historic information and in consultation with the Directorate-General of Pharmacy and other purchasers. EMPROFAC imports had amounted to CVE 505,120,500 (€4.58 million) in 1999, CVE 602,285,000 (€5.46 million) in 2000, and CVE 588,614,520

(€5.34 million) in 2001. Purchases were made through a tendering process and an invitation for bids from foreign suppliers. Although EMPROFAC had not concluded any long-term contracts for purchases, the enterprise generally resorted to the same suppliers every year. Comments by the public on EMPROFAC's operations could be directed to the Inspector General of Economic Activities or to the Directorate-General of Pharmacy responsible for overseeing the pharmaceutical sector. He said that his Government had decided to create a regulatory agency for this sector. His Government was also in the process of privatizing EMPROFAC. The privatization would be accompanied by full liberalization of Cape Verde's market for pharmaceuticals. The privatization of EMPROFAC was expected to take place in 2008. A short phase-in period for the transition to a fully liberalized market was being considered, but would only be allowed if deemed indispensable to assist the national industry in coping with the new market conditions.

43. The importation of rice, corn, sugar and wheat flour were no longer subject to State trading. The Public Stock Provisioning Enterprise was no longer in business. The import regime for these products was currently regulated by Decree-Law No. 69/2005 of 31 October 2005. Under previous legislation (Decree-Law No. 29/2002 and Ministerial Ordinance No. 6/2004), importers of staple goods had been required to register as a commercial importers under the terms of Cape Verde's commercial legislation, possess warehouses appropriate for the storage of the goods to be imported, pay registration and annual renewal fees of CVE 20,000 and CVE 2,000 (Ministerial Ordinance No. 2/99 of 8 February 1999), and provide monthly information on stocks held in each of the islands to the National Agency for Food Security. A requirement that the companies should have the capacity to distribute 30 per cent of the annual imports in islands other than Santiago and Sao Vicente would also be revoked under a new Law under consideration by Parliament.

44. Based on the information available, some Members considered that Cape Verde would need to notify Shell, ENACOL, EMPROFAC, and the Cape Verdean Tobacco Company as State trading enterprises under Article XVII of the GATT 1994.

45. The representative of Cape Verde confirmed that Cape Verde would ensure that all State-owned, State-invested, and other enterprises with special or exclusive privileges would make purchases of goods and services, which were not intended for governmental use, and sales in international trade, 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 in accordance with customary practice to compete for such purchases or sales. In addition, Cape Verde would not influence, directly or indirectly, commercial decisions on the part of State-owned, State-invested, and other enterprises with special or exclusive privileges, 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 representative of Cape Verde confirmed that upon accession Cape Verde would notify and provide information on the activities of all State-owned, State-invested, and other enterprises with special or exclusive privileges in accordance with Article XVII of the GATT and the Understanding on that Article. The Working Party took note of these commitments.

- **Pricing policies**

46. The representative of Cape Verde said that pricing policies were governed by Decree-Law No. 52/2003 of 24 November 2003, and price controls for goods and services were regulated by Ministerial Ordinance No. 2/2004 of 19 January 2004. All price controls in Cape Verde were either fixed prices, maximum (ceiling) prices, or negotiated prices. Maximum or fixed prices were established on the basis of production costs and price fluctuations in the international and domestic markets. Mandated profit margin levels were not part of Cape Verde's price regimes. Goods subject to price controls are listed in Table 3. Services subject to price regulation included fixed prices for maritime cabotage services, water supply, electric power supply and fuel supply; maximum prices for taxi services; and negotiated prices for private health care services, communication services, and

passenger transportation services. Minimum prices were not established for any imported or domestically-produced good. Minimum customs values on imported chicken had been abolished upon the expiry of Regulatory Decree No. 2/2002 on 12 August 2004.

47. Prices were administered by autonomous regulatory agencies in consultation with the Upper Council of the Chambers of Commerce. The Government, i.e. the Ministry of Economy, Growth and Competitiveness together with the relevant Ministries, was responsible for the supervision of the regulatory agencies created for the administration of price controls. Pursuant to Decree-Law No. 3/1993 of 15 February 1993, as amended by Decree-Law No. 59/2006 of 26 December 2006, the price regime for drugs (pharmaceuticals) was determined jointly by the Ministers of Health, Industry and Commerce.

48. Administered prices were adjusted when prices in the international market had changed significantly. Adjustments were periodic with no set timeframe and prices had been modified in 1994, 1998, 2003 and 2004. Cape Verde did not apply any variable imposts on imported goods whereby the domestic price could be insulated from changes in international prices. Economic criteria, such as allowing a reasonable rate of return on the investment, were incorporated into the price setting. He added that price controls were administered with transparency. The views of the Chambers of Commerce, relevant Ministries, municipalities and interested consumer associations were taken into consideration in modifying the controlled prices. Laws and regulations establishing or modifying price controls in Cape Verde had always been published in the Official Bulletin before taking effect. The new prices became effective upon publication or shortly thereafter.

49. 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, petrol, gas oil and kerosene were applied at the same point of sale as for domestic production. He confirmed that products affected by price controls were no longer subject to State trading.

50. The representative of Cape Verde confirmed that pricing policy in Cape Verde would be applied in compliance with the provisions of Article III:4 and XI:1 of the GATT 1994 and Article 4 of the Agreement on Agriculture. He further stated that in the application of price controls now or in the future, Cape Verde would apply such measures in a WTO-consistent fashion, and take account of the interests of exporting WTO Members as provided for in Article III:9 of the GATT 1994. Cape Verde would publish the list of goods and services subject to State price control and any changes to this list in its Official Gazette and would continue to do so after accession. The Working Party took note of these commitments.

- **Competition policy**

51. The representative of Cape Verde said that the regulation of competition policy was based on the need for product diversity and economic or technological advances. Decree-Law No. 53/2003 of 24 November 2003 outlined the competition policies of Cape Verde. The General Directorate of Commerce, within the Ministry of Economy, was responsible for planning and enforcing competition policies. A Competition Advisory Council, an independent quasi-judicial government entity envisaged under Cape Verde's competition legislation, was not yet operational due to budgetary, office and manpower constraints. The Council's primary function would be to adjudicate claims of unfair trade, but the Council could also propose draft legislation to the Government. Council Decisions could be appealed to the courts.

III. FRAMEWORK FOR MAKING AND ENFORCING POLICIES

52. The representative of Cape Verde said that Cape Verde's Constitution had been promulgated on 7 March 1980. The Constitution had subsequently been revised in 1981, 1988, 1992, 1995 and again most recently in 1999. The Constitution provided for a separation of executive, legislative and judicial powers. The President of the Republic was the Head of State, elected by popular vote for a five-year term. The President could be re-elected only once.

53. Under the Parliamentary system established in Cape Verde, the executive branch of the Government was headed by the Prime Minister. The Prime Minister was nominated by the President after consultation with parliamentary parties. The leader of the majority party or the coalition of parties with a majority in Parliament was usually selected as Prime Minister.

54. Legislative power resided in the unicameral National Assembly made up of 72 members elected for a five-year term. The laws approved by the National Assembly were forwarded to the President of the Republic who could either promulgate them or send them back for a second reading. Matters referred back by the President needed to be passed by the National Assembly by a two third majority on constitutional matters, or by a simple majority for other matters before becoming law. Since Cape Verde's independence in 1975, all precedent laws, rules, regulations and procedures while not expressly revoked, were valid and in force according to the Decision with Force of Law No. 1/75 of 5 July 1975, except in cases where they were incompatible with Cape Verde's sovereignty.

55. Outlining the procedure for Cape Verde's ratification of its WTO accession package, he said that his Government would verify the accuracy and contents of the negotiated terms, and forward the package together with a draft resolution to the National Assembly for legal and constitutional review and approval. Upon approval, the National Assembly would forward the package to the President who, after statutorily checking the National Assembly Resolution and the package for its legality and compatibility with Cape Verde's Constitution, would ratify the package by a public notice to be published in the Official Journal. Should the President have concerns about the compatibility of the package with Cape Verde's Constitution he could request the Constitutional Court to rule on the matter. The representative of Cape Verde expected the process of domestic ratification to take no more than 90 days. He added that, upon accession to the WTO and in accordance with Articles 12-14 of the Constitution, the provisions of the WTO would supersede domestic law and be an integral part of Cape Verde's legislation.

56. The representative of Cape Verde said that trade policy was the responsibility of the Ministry of Economy, Growth and Competitiveness which coordinated with other ministries having jurisdiction over trade-related matters. An inter-ministerial group was convened for the formulation of trade policy. His Government solicited the views of municipalities and the private sector through industry associations and the Chambers of Commerce. The Council of Ministers had the final authority in formulating trade policy.

57. His Government had created a WTO Unit, reporting directly to the Minister, within the Ministry of Economy, Growth and Competitiveness. The purpose of this unit was to (i) develop trade policy initiatives and make recommendations to the Council of Ministers; (ii) coordinate the implementation of trade policy decisions made by the Council of Ministers; (iii) coordinate WTO related matters within the Government; (iv) prepare notifications to the WTO; and (v) carry out any WTO related functions deemed necessary by the Government or the Council of Ministers.

58. The representative of Cape Verde noted that the WTO accession process had in several instances necessitated the drafting of new legislation or the modification of existing laws and regulations to ensure WTO conformity. New laws currently under review included the Customs Law, the Intellectual Property Law (copyright), and the Law on Foreign Trade. A General Legislative

Action Plan for further legislative reform was submitted in document WT/ACC/CPV/12 and its revisions.

59. The representative of Cape Verde said that no sub-central Government entity in Cape Verde was vested with the authority to create legal requirements in the areas covered by the WTO. Cape Verde was a unitary Republic with a President, the National Assembly, Government and Courts. The central Government had the exclusive authority over all administrative issues of national scope. Local administration was the responsibility of municipalities. All laws and regulations were enforced by the administration or courts.

60. The representative of Cape Verde confirmed that Cape Verde would, upon accession, apply WTO provisions and Cape Verde's Protocol of Accession uniformly throughout the entire customs territory, including in special economic zones, and other areas where special regimes for tariffs, taxes and regulations were established. He added that when apprised or alerted of a situation where WTO provisions were not being applied or were applied in a non-uniform manner, central authorities would act to enforce WTO provisions without requiring affected parties to petition through the courts. The Working Party took note of these commitments.

61. The representative of Cape Verde said that the judicial system consisted of the Constitutional Court; the Supreme Court of Justice; Judicial Courts of the First Instance; the Court of Accounts; Military Courts; and Fiscal and Customs Courts. The Courts of the First Instance were divided into first, second and third class judicial districts, with the Supreme Court of Justice being the court of last instance. Other Courts could be created by law, such as Judicial Courts of Second Instance, Administrative Courts, Arbitration Courts and Conflict Resolution Institutions with jurisdiction upon smaller territorial areas.

62. Matters decided in Third Class courts could be appealed either to First or Second Class courts provided the claim was valued at or above CVE 200,000 (€1,814). Cases decided in the First and Second Class courts could be appealed to the Supreme Court provided the claim was valued at or above CVE 500,000 (€4,535). In conformity with Article X of the GATT 1994, decisions by the Customs or other official entities could be appealed either to the Fiscal and Customs Courts, or to the Common Courts. On matters relating to trade in services and TRIPS, administrative appeals could be directed to the Administrative Court or to the Common Courts. The Administrative Court was not yet operational, and in the interim the Common Courts and the Supreme Court performed its functions. He added that the Administrative Court, once operational, would be an independent judicial body and not part of the executive. The Administrative Court would have jurisdiction over cases or actions initiated against the Government and its members or officers while carrying out their official duties.

63. Specifically regarding appeals against administrative decisions related to trade in goods and services and intellectual property rights, he said that an aggrieved party could appeal in writing against an administrative decision. An appeal could be made directly to the courts, or the matter might be referred to the courts after the administrative remedies had been exhausted. The usual practice was for an aggrieved party to appeal to the administrative body and, if dissatisfied with the outcome, to seek recourse to the courts. He added that issues pertaining to the WTO could be appealed in the Common Courts, in their attribution or role as Administrative Courts, and subsequently to the Supreme Court.

64. He noted that the National Assembly had approved Cape Verde's mediation laws in May 2005 as outlined in the Action Plan (WT/ACC/CPV/13 and Rev.1). The coverage of Decree-Law No. 30/2005 on the creation of mediation centres and Decree-Law No. 31/2005 regulating the use of mediation in the resolution of conflicts included definitions; the general principle of mediation; mediators; representation; compulsory representation; mediation centres and their rules of procedures; pre-mediation and end of the mediation process; and final provisions. He added that Cape Verde's

new arbitration law (Law No. 76/VI/2005) and legislation on arbitration centres had been approved by the National Assembly in August 2005. The coverage of the arbitration law included arbitration conventions; arbiters and establishment of an arbitral Court; operation of the arbitration process; arbitral decisions; and international arbitration or the adaptation of the arbitration law of Cape Verde to the international judicial instruments that regulate international arbitration, i.e. the United Nations' Conventions on International Commercial Arbitration and the Regulation of Arbitration of the International Chamber of Commerce. In response to a specific question, he said that the arbitration law established entities outside the judicial court system of Cape Verde. Moreover, the Law honoured the decisions of arbitration bodies outside Cape Verde, in accordance with the New York Convention.

65. The existing framework for arbitration between foreign investors and the Government of Cape Verde allowed for appeals to be made to international arbitration panels. Certain provisions of the Foreign Investment Law (Law No. 89/IV/93), notably Article 17, provided the legislative basis for such arbitration. His Government was not a member of the International Centre for Settlement of Investment Disputes (ICSID), but the Ministries of Justice and Foreign Affairs were currently considering Cape Verde's possible membership in ICSID as well as the 1958 UN Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Cape Verde was also not a signatory of the 1994 Treaty of Port-Louis and had not joined the Organisation pour l'harmonization des droits d'affaires en Afrique (OHADA). However, a study recommended by the ECOWAS Heads of State was to be carried out on the extension of OHADA to all ECOWAS member States, including Cape Verde.

66. The representative of Cape Verde confirmed that the current Constitution, Laws and regulations provide the necessary institutional base for the prompt administrative and judicial review of the Government's actions. He further confirmed that from the date of accession Cape Verde's laws would provide for the right to appeal administrative rulings on matters subject to WTO provisions to the courts or other independent tribunal in conformity with WTO obligations, including those set out in Article X of the GATT 1994, Article 23 of the Agreement on Subsidies and Countervailing Measures, Article 11 of the Agreement on Implementation of Article VII of the GATT 1994, Article 62 of the Agreement on Trade-Related Aspects of Intellectual Property Rights and Article VI of GATS. The tribunals or procedures would also include actions relating to the implementation of national treatment, conformity assessment, the regulation, control, supply or promotion of a service, including the grant or denial of a licence to provide a service and other matters. The tribunals or procedures responsible for such reviews would be impartial and independent of the agency entrusted with administrative enforcement and shall not have any substantial interest in the outcome of the matter. The review procedure would include the opportunity for appeal, without penalty, by individuals or enterprises affected by any administrative action subject to review. Notice of the decision on appeal would be given to the appellant and the reasons for such a decision would be provided in writing. The Working Party took note of these commitments.

IV. POLICIES AFFECTING TRADE IN GOODS

- Trading rights

67. The representative of Cape Verde said that Cape Verde's legislation distinguished between business registration, performed by the Conservatory of Commercial Registry under the Ministry of Justice, and licensing for commercial activity operated by two Chambers of Commerce on behalf of the Government. The registration of "industrial enterprises" was effected in accordance with the requirements and procedures established in Law No. 50/III/89 of 13 July 1989, Decree-Law No. 108/89 of 30 December 1989, Law No. 89/IV/93 of 13 December 1993, Law No. 92/IV/93 of 15 December 1993, Legislative Decree No. 19/97 of 22 December 1997, and Regulatory Decree No. 1/94 of 3 January 1994. An "industrial enterprise" was allowed only to import raw materials,

semi-manufactured inputs and equipment for its own needs, and could not engage in general importation and distribution of goods in the domestic market.

68. Enterprises engaging in commercial activities - importation, exportation and distribution services - registered with the Department responsible for commerce at the Conservatory of Commercial Registry pursuant to Decree-Law No. 59/1999 and Ministerial Ordinances Nos. 45-A/99 and 45-B/99 of 27 September 1999. In addition, these enterprises needed a permit to be a "commercial operator", delivered by the Chamber of Commerce, Industry and Services of Sotavento for the islands of Santiago, Maio, Fogo and Brava, or the Chamber of Commerce, Industry, Agriculture and Services of Barlavento (covering S. Vicente, S. Antão, St. Nicolau, Sal and Boa Vista). The procedures and requirements for registration of commercial operators were outlined in Decree-Laws Nos. 69/2005 of 31 October 2005 and 3/2006 of 16 January 2006. Industrial enterprises importing for their own needs and tourism establishments did not have to register with the Chamber of Commerce. Although the authority to issue permits had been delegated to the Chamber of Commerce, the Ministry of Economy, Growth and Competitiveness retained the power to monitor and regulate the licensing system.

69. Business registration allowed firms to acquire juridical personality and capacity, either in the form of sole proprietorships, partnerships, limited liability companies, cooperatives, capital stock corporations and public corporations. The processing time for business registrations depended on the diligence of the applicant, but business entities should assume that a registration had been granted if no response had been received within seven working days. An on-line registration system interfacing with the entities involved in the commercial area was being developed and would become operational in the near future. Electronic systems had been installed in Praia, Mindelo, and Sal Island and a program had been drafted to cover the whole country. At present, business registrations at the municipal level were forwarded to, and compiled at, the central office of the Conservatory of Commercial Registry in Praia to ensure that new registrants were authorized to carry out business throughout Cape Verde. Foreign enterprises had to establish themselves through a branch or any other form of commercial representation to register in Cape Verde and engage in import or export operations. International traders once registered with the Conservatory of Commercial Registry and the Chambers of Commerce, were not required to fulfil any other registration requirements.

70. Any interested party could apply to the Chambers of Commerce to become a commercial operator and engage in import and export activities. The registration requirements for commercial operators engaging in exports were identical to those for imports. Exporters serving the United States' market under the African Growth and Opportunities Act (AGOA) registered with the Government department responsible for commerce as exporting begun and deregistered if they ceased exporting. A firm could register as importer, exporter or both, but could not register in one activity and practice the other. The application should specify the products to be imported or exported (by HS Section). An enterprise could engage in both importation and distribution activities by specifying this in the registration documents. As a general rule, an importer had the right to import and distribute goods at the wholesale level. The importer could generally not import to other channels of distribution.

71. Individuals importing goods for personal use were not required to register. Certain activities not considered import operations were also exempt from the registration requirements, including the importation of (i) goods destined for accredited diplomatic and consular representatives in Cape Verde; (ii) religious articles for churches; (iii) materials for the Government's own needs and not to be distributed further; (iv) live animals, seeds, plants, pesticides, fertilizer, reagents and other laboratory materials imported by or on behalf of the Ministry of Environment and Agriculture in experimental farms for the development of the agriculture, forestry and livestock sector; and (v) "consumption goods" to be used by social, cultural, recreational, sports, and non-profit institutions. Non-profit institutions paid custom duties on the imported goods unless the goods were exempt from duty by law, and goods no longer serving their intended purpose could be resold in

Cape Verde against payment of all duties and other impositions, subject to prior approval of the General Director of Customs and in accordance with the Law protecting Arts and Sciences (Law No. 108/V/99 of 2 August 1999).

72. Registration fees fixed by Ordinance No. 40/2004 of 4 October 2004, and collected by the Chambers of Commerce, varied for import and export operations. All firms seeking registration as importers, whether foreign or domestically-owned, paid an annual registration (and renewal) fee of CVE 10,000 (€90.69). Likewise, all firms requesting registration as exporters, whether foreign or domestically owned, paid an annual registration (and renewal) fee of CVE 5,000 (€45.35). The registration fees covered the processing of registration applications, maintaining registration records, maintaining a database of import and export operations, payments for meeting expenses, travel expenses, and the dissemination of information and other activities.

73. Some Members noted that two Chambers of Commerce acted as the Government's agent for commercial licensing, and inquired how Cape Verde ensured that the Chambers granted permits and Licenses in a fair, transparent and non-arbitrary manner, on what grounds the Chambers could reject or delay the processing of an application, whether any economic need test would be applied, and how Cape Verde ensured the right to appeal the decisions of the Chambers of Commerce. An explanation was also sought for the rationale of involving existing operators, presumably members of a Chamber of Commerce, in decisions concerning the admissibility of new entrants – i.e. potential competitors – into the market. Cape Verde was also requested to provide a timetable for the harmonization of its registration fees, in particular the elimination of the difference in the fee for importation and exportation, as the procedures and requirements for import and export permits appeared to be identical.

74. The representative of Cape Verde replied that Decree-Laws Nos. 69/2005 and 3/2006 had revised the regime for obtaining a commercial licence. The general and specific conditions to be fulfilled to be granted a commercial licence were stipulated in Articles 15 and 17 of Decree-Law No. 69/2005 and Article 8 of Decree-Law No. 3/2006. The procedures in Decree-Law No. 3/2006 applied to domestic and foreign operators. The new regime did not specify the conditions under which a Chamber could reject an application, but set out a positive standard of elements and requirements to be included in the application. An incomplete application would be returned to the applicant, who would be invited to provide the missing data. The Chamber of Commerce had no discretion to reject an application for obtaining a commercial licence, and a new market entrant – once he/she fulfilled all stipulated conditions – could not be refused admission. Neither the Conservatory of Commercial Registry nor the Chamber of Commerce applied any economic needs test. An administrative appeal against a licensing decision of the Chamber of Commerce could be filed with the General Directorate of Commerce in the Ministry of Economy, Growth and Competitiveness, and appealed further to the Minister. An applicant could also seek recourse to the courts by filing a civil court case against the Chamber of Commerce within 30 days from the date of rejection of the application. In filing the case, the application could also seek financial compensation for damages. The commercial licensing obligations had been in place since 2001, and the system had so far been operating without complaints from the operators or the new entrants. He stressed that domestic and foreign enterprises paid the same registration fees. However, the fees for importation and exportation would be harmonized, reflecting the cost of the services rendered, in a new Ordinance in preparation.

75. Some Members noted that imports of rice, corn, sugar, and wheat flour had been liberalized from State trading and that the importation of these products had been opened to private enterprises meeting certain criteria, including prior registration, the maintenance of appropriate domestic installations to store the products, and a proven ability to distribute 30 per cent of the annual import volume outside the Santiago and São Vicente islands. These Members sought further clarifications regarding the import regime for staple products, notably whether imports were controlled through

discretionary licensing, any limits applied on the number of enterprises applying for imports, or whether private importers were competing with former State enterprises still in business.

76. The representative of Cape Verde replied that Decree-Law No. 68/2005 - which established the current system of import licensing - applied generally, including to staple goods such as corn, rice, sugar and wheat flour. No State trading enterprises were competing with private importers of staple goods, the number of enterprises applying to import was not limited at present, and imports were not restricted through discretionary licensing. Decree-Law No. 69/2005 had revoked a legal requirement for the importer to distribute no less than 30 per cent of the annual import volume outside Praia and São Vicente.

77. Recalling that the right to import and export goods without investing in the territory of a Member was a fundamental right under the WTO, protected through provisions in Articles III and XI of the GATT 1994, some Members stated that the requirements associated with the right to import into and export from Cape Verde appeared to constitute a WTO-inconsistent restriction on trade, discriminating against imports *vis-à-vis* domestic production. In particular, discriminatory licensing fees and the need for a foreign enterprise to establish a branch or commercial presence in Cape Verde would seem an unnecessary barrier to trade, inconsistent with Article XI of the GATT 1994. Foreign individuals and enterprises without a full commercial presence in Cape Verde should be able to be recognized as "importer or exporters of record", maintain legal ownership and control of the goods, and pay all duties and taxes prior to transferring ownership to a local distributor. In addition, Cape Verde should ensure that "industrial enterprises" would be allowed to import goods to compliment their product line for further sale to the local market, even though such imports could be required to be passed on to local distributors. In the opinion of some Members, trading rights were fundamental rights in the WTO system, and should be granted to other Members upon accession. A transition period for the granting of trading rights would therefore not be appropriate, and Cape Verde should adopt the necessary changes in its legislation prior to accession.

78. In reply, the representative of Cape Verde referred to an earlier action plan to update Cape Verde's commercial legislation (document WT/ACC/CPV/21) and noted that the licensing system for foreign trade operations and commercial operators had been revised through Decree-Laws Nos. 69/2005 and 3/2006. He acknowledged that Cape Verde's legislation still set out basic commercial presence requirements with respect to minimum capital (Article 17.1(a) and 17.2 of Decree-Law No. 69/2005), warehouse ownership (Article 17b.1(b) of the Decree-Law), fees for commercial licensing (Article 32), and registration which could be at odds with Articles III and XI of the GATT 1994. His Government was willing to revise its commercial legislation and related procedures, but would require some time to accomplish this work. He referred to the revised Action Plan on Commerce Legislation, circulated in document WT/ACC/CPV/21/Rev.1, whereby the provisions in Decree-Law No. 69/2005 governing minimum capital, warehousing and fees would be revised by December 2008, and other aspects of Decree-Law No. 69/2005 would be amended by December 2010. He subsequently indicated that Cape Verde was prepared to accelerate that timetable, and make all the necessary changes prior to the date of accession.

79. The representative of Cape Verde confirmed that from the date of accession, Cape Verde would grant any natural or legal person, regardless of physical presence or investment in Cape Verde, the right to be the importer of record of any product allowed to be imported into Cape Verde, at any level of distribution, and that its laws and regulations relating to the right to trade in goods and all fees, charges or taxes levied on such rights would conform fully with its WTO obligations, including Articles VIII:1(a), XI:1, and III:2 and 4 of the GATT 1994, Article III of the General Agreement on Trade in Services, and Article 63 of the Agreement on Trade-Related Aspects of Intellectual Property Rights. He also confirmed that full rights to import and to export would be granted in a non-discriminatory and non-discretionary manner from the date of accession, and any requirements for commercial registration or application for trading rights would be for customs and fiscal purposes

only, would not require investment in Cape Verde nor confer the right to distribute there, and would not constitute a barrier to trade. The Working Party took note of these commitments.

A. IMPORT REGULATIONS

- Ordinary customs duties

- Customs tariff

80. The representative of Cape Verde said that the existing customs legislation was old, fragmented and to some extent outdated. Thus, a new extensive and comprehensive Customs Code was being prepared. The draft Customs Code was submitted to the Working Party for review and comments. He expected the Code to be approved by the National Assembly by December 2008.

81. In accordance with Law No. 85/V/98 of 31 December 1998, Cape Verde had adopted the Economic Community of West African States (ECOWAS) customs nomenclature, which was based on the 1996 version of the Harmonized System (HS) of Commodity Classification. The ECOWAS nomenclature utilised ten digits, with the first six digits indicating the HS chapter, its headings and its sub-headings; the seventh and eighth digits conformed with the ECOWAS statistical classification; and the ninth and tenth digits corresponded to the statistical classification at the national level. ECOWAS had established a roadmap to implement the HS 2002 nomenclature by December 2003. The implementation of this roadmap had been delayed. In June 2007, Cape Verde's Parliament had approved the new Customs Tariff (Law No. 11/VII/07), which was based on HS 2007 nomenclature. The new Customs Tariff had been in force since 1 July 2007. Cape Verde was conducting its bilateral market access negotiations with WTO Members using the HS 2002 nomenclature, and therefore the consolidation of Cape Verde's tariff commitments would need to be transposed, so that the Schedule of Concessions and Commitments on Goods would accordingly be established in HS 2007.

82. Custom duties were applied on imported goods in accordance with the MFN rates currently stipulated in Cape Verde's Customs Tariff. As set out in Law No. 14/VI/2002 of 19 September 2002 and its amendments, customs duties had been reduced on 1 January 2004 and modified in accordance with Law No. 48/VI/2004 of 26 July 2004. The rates had not been increased on any tariff line. Duties on wheat flour had also been modified through Law No. 37/VI/2003 of 31 December 2003. Customs duties were predominantly *ad valorem* with seven tariff bands and base duty rates of zero, 5, 10, 20, 30, 40 and 50 per cent. The trade-weighted tariff average had ranged between 24 per cent in 1995 and about 31 per cent in June 2002. Import duties constituted approximately 50 per cent of the taxes collected at the border in 2002 and early 2003.

83. Asked whether Cape Verde was committed to maintain a common external tariff as a member of the ECOWAS or the West African Economic and Monetary Union (WAEMU), the representative of Cape Verde said that Cape Verde had joined ECOWAS, but not the WAEMU. ECOWAS members did not apply a common external tariff, but plans existed to extend the Common External Tariff (CET) of the WAEMU to the non-WAEMU members of ECOWAS, including Cape Verde, by 2007. Several countries had begun the phasing in of the CET. During a transitional period from 2005 to 2007, countries could be granted waivers on a tariff line basis under so-called Type A and Type B exceptions. Cape Verde had solicited the list of Type A and Type B exceptions from ECOWAS.

84. Preferential duty rates were applied to imports from ECOWAS or under free trade Agreements with African Portuguese speaking countries (Angola, Guinea Bissau, Mozambique and Sao Tome and Principe) and imports from Mauritania. The free trade Agreement with the African Portuguese speaking countries needed a protocol on rules of origin to become fully functional.

- **Other duties and charges**

85. The representative of Cape Verde said that a 35 per cent surtax on goods imported by "informal importers without currency outflows" ("ISDC") had been revoked by Law No. 121/V/2000 of 5 June 2000. He confirmed that Cape Verde applied an ECOWAS Community Levy of 0.5 per cent on all imports from non-ECOWAS countries. This levy was imposed in accordance with ECOWAS Protocol A/P.1/7/96, approved by Resolution No. 67/V/97 of 31 December 1997. As called for in the revised ECOWAS Treaty, this was a West African regional integration levy to promote financial autonomy and raise revenues for ECOWAS activities and institutions.

86. Some Members stated that they would be very concerned at any attempt to seek exemptions from the provisions of Article II:1(b) of the GATT 1994 for particular kinds of measures such as the ECOWAS levy, recalling that the provisions of Article II:1(b) of GATT 1994 had been created to ensure the integrity of commitments on bound tariffs. Cape Verde was encouraged to fund the ECOWAS levy from general taxation revenue, or negotiate its elimination within ECOWAS.

87. 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 Community 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 Community 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.

88. 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. He also confirmed that measures applied to imported goods of the kind described in paragraph 85 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.

- **Tariff rate quotas, tariff exemptions**

89. The representative of Cape Verde said that Cape Verde did not apply tariff rate quotas on imports and had no plans to introduce such quotas in the future.

90. The representative of Cape Verde said that tariff exemptions were provided to encourage domestic economic activity and facilitate infrastructure development in certain sectors, notably equipment for passenger transportation and car rental. Air transportation companies were also exempt from duties for the importation of some equipment and spare parts. Duly registered tourism or industrial enterprises applied for duty exemptions to the Directorate of Customs. Asked to indicate any conditionality associated with these benefits, e.g. export promotion or the use of local content in production, the representative of Cape Verde said that the tariff exemptions accorded to industrial enterprises and projects, tourism establishments, and development projects were dependent on the status of the beneficiaries, none of which were engaged in production for exports nor subject to local content requirements.

91. Tariff exemptions were also permitted for the importation of (i) goods donated to Cape Verde by international organizations; (ii) gifts offered to the Head of State, President of the National Assembly, and members of the Government; (iii) goods donated to religious missions recognized by the State; (iv) donations to the Red Cross, Caritas-Cape Verde and other humanitarian organizations for disaster relief, reconstruction, etc.; (v) goods destined for the use of Heads of State, dignitaries etc.

on official visits to Cape Verde; (vi) goods imported by Embassies, Consulates, Diplomatic Missions and their staff; (viii) luggage and personal effects brought in by passengers within permissible limits; (ix) staple goods such as maize, beans, rice, sugar, wheat, milk or cooking oil provided as food aid to his Government by bilateral donors or international organizations; (x) goods shipped by the Navy in their transit vessels; (xi) tourism and commercial documents; (xii) Flags and the State's seal; (xiii) ship wreckage and ship debris; and (xiv) products destined for international sports events (medals, trophies, pharmaceuticals, etc.).

92. The representative of Cape Verde confirmed that any tariff rate quotas, if introduced in the future, would be applied and administered in conformity with WTO rules and regulations, including MFN and national treatment provisions. The Working Party took note of this commitment.

- **Fees and charges for services rendered**

93. The representative of Cape Verde said that a customs user fee of 1.04 per cent of the CIF value was applied to all imports pursuant to Ministerial Ordinance No. 71/78 of 14 October 1978 as amended by Ministerial Ordinance No. 27/79 of 28 April 1979. The customs user fee had been subjected to a study and compared to the actual costs incurred by the customs authorities. He confirmed that the revenue from this fee was used to pay the overtime salaries of customs and fiscal police officials, and that surplus revenue was transferred to the State budget.

94. Importers were also charged for the purchase of government publications and printed matter. The General Directorate of Customs published an annual "customs bulletin" containing legislative provisions related to customs services, dispatches from Government members, circulars, service orders, etc. This publication was sold at the Customs Treasuries. Forms sold to importers included those purchased for the use of customs services and for carrying out customs-related activities. The proceeds from the sale of government publications and printed matter were used for the publication of new materials.

95. Among other fees or charges for services rendered applied to imports, he identified interest paid by importers for credit on customs duties, a late payment penalty or additional interest for delayed payment of duties and charges, and tax penalties or fines and other judicial charges. Importers granted credit, and who deferred payment of the applicable custom duties, repaid their dues with interest of 10 per cent per annum. Late payment of these dues was subject to a penalty or additional interest; no such charges applied if payment was made within the established deadlines. Tax penalties, fines and other judicial charges applied to importers for the storage of imported goods in customs warehouses beyond the legally established period, and penalties, fines or judicial expenses in connection with customs crimes and contraventions. All these charges were applied uniformly to all imports under similar circumstances.

96. He added that Cape Verde had eliminated various fees and charges imposed on imports, notably a Tonnage Tax levied as a charge per ton on vessels, revoked in accordance with Article 38 of Law No. 14/VI/2002 of 19 September 2002; a Special Storage tax introduced in 1960 for the storage of fuels; a Storage charge by the Customs House for goods stored in its former warehouses; a General Customs Fee or General Emolument Tax of 9 per cent introduced in 1942; and a Stamp Duty of CVE 100 (€0.91), applied to each import and export declaration, and dating back to 1942.

97. Some Members stated that the customs user fee of 1.04 per cent *ad valorem* was clearly inconsistent with Article VIII of GATT 1994 and requested Cape Verde to amend or eliminate this fee. *Ad valorem* fees were by definition not related to the cost of services rendered as they were based on the cost of the import. Cape Verde needed a new customs processing fee approximating the actual cost of processing individual import shipments, e.g. by applying a minimum and maximum charge ensuring that the fee was not another form of tax. If revenues from the fee were used for export

processing, the fee should be applied equally to exports. The fee should not be used to fund customs expenditures not associated with the processing of imports and exports, and there should be no excess revenue to be rebated to the State.

98. The representative of Cape Verde replied that a study undertaken by the General Customs Directorate had concluded that the 1.04 per cent customs user fee was in conformity with Article VIII of the GATT 1994. However, in the light of the comments made by Members, his Government was willing to make the necessary changes in the near term to comply with GATT Article VIII. A new study would have to be undertaken to determine the appropriate level of the customs processing fee, possibly a two-tier (maximum and minimum) charge.

99. The representative of Cape Verde confirmed that his Government would revise its legislation to eliminate or to alter its current customs processing fee of 1.04 per cent *ad valorem* to ensure that by December 2012 its application was in accordance with Article VIII of the GATT 1994, and that from the date of accession any additional fees or charges imposed on or in connection with importation and exportation would be applied in accordance with Article VIII of the GATT 1994. The Working Party took note of this commitment.

- **Application of internal taxes to imports**

100. The representative of Cape Verde said that value added tax (VAT) had been introduced on 1 January 2004 pursuant to the VAT Regulation Law No. 21/IV/2003 of 14 July 2003. VAT was applied at a general rate of 15 per cent on goods and services; enterprises in the tourism sector were subject to VAT at the rate of 6 per cent according to Law No. 53/VI/2005 of 3 January 2005. VAT was computed using the destination principle, thereby exempting exports and taxing imports on the same basis as domestically-produced goods and services. The tax base on imports included customs duties and other applicable border fees. All enterprises were subject to VAT as long as they undertook any taxable or import operation, and were residents or had an establishment or a representation in Cape Verde.

101. The State did not pay VAT on operations in the exercise of its governmental authority. As set out in the VAT Regulation Law, all services provided by non-profit organizations were also exempt from VAT, as long as their objectives were specifically described in the Law as being of a political, labour-union, religious, patriotic, humanitarian, philanthropic, recreational, sporting, cultural, environmental or of a civic nature.

102. As for product-specific VAT exemptions, Cape Verde exempted all staple goods and certain agricultural inputs, enumerated in Tables 4(a) and 4(b). Articles 9 and 12 of the VAT Regulation Law established the criteria for granting such exemptions. In addition, pursuant to Law No. 14/VI/2002 of 9 September 2002, Laws Nos. 21/VI/2003 and 23/VI/2003 of 14 July 2003, and Decree-Law No. 48/2004 of 26 July 2004, certain domestic operations were exempt from VAT. Article 8, subparagraphs (a)-(y), of Law No. 14/VI/2002 listed the exempted domestic operations. The exemptions were applicable to both imports and domestic production and all juridical persons, including foreign nationals, could apply for these VAT exemptions. Exemptions from VAT were not automatic and had to be solicited in accordance with Decree-Law No. 22/2003 of 14 July 2003. The application form (MOD 108, annexed to the Decree-Law) was addressed to the Minister of Finance and Planning. The authority to approve or deny the requests had been delegated to the General Directorates of Customs and Contributions and Taxation, and in practice the decisions would normally be taken by the Directors of Customs or the Heads of the Finance Departments. Applications for VAT exemptions were decided on within five working days. A decision taken by the Director of Customs could be appealed to the General Directorate of Customs. Appeals against decisions of the Heads of the Finance Departments were directed to the General Directorate of Contributions and Taxation,

subsequently to the Minister of Finance, and finally to the Supreme Court. The draft Customs Law included provisions for the reimbursement of VAT in these instances.

103. Noting that Article 8 of the VAT Law generally exempted domestic agricultural, forestry, livestock and fishing activities from the application of VAT, and that Article 9 authorized exemptions for the transmission of "staple goods", a Member stated that VAT exemptions involving non-application of the tax to domestic goods at some point of sale was discriminatory unless the exemption applied equally to similar imported goods. Cape Verde would need to amend its legislation if the legislation did not meet the national treatment requirements of GATT Article III in this regard. In reply, the representative of Cape Verde confirmed that farmers were not subject to VAT as agricultural, forestry, livestock and fishing activities were VAT exempted. He further confirmed that similar imported products, including "staple goods", were also exempt from VAT and that the VAT legislation therefore, in his opinion, met the national treatment requirements of Article III of the GATT 1994.

104. The representative of Cape Verde said that Cape Verde had also applied a Special Tax on Consumption (STC) since 1 January 2004. The products subject to STC were listed in the Annex to the Regulation on Special Consumption Taxes (Law No. 22/IV/2003 of 14 July 2003, as amended by Law No. 37/VI/2003 of 31 December 2003 and Law No. 48/VI/2004 of 26 July 2004). The list and the corresponding tax rates is reproduced in Table 5. The STC was applied at the point of sale for domestic production and at the border for imports.

105. He added that Cape Verde levied an Environmental Tax on imports to support environmental projects. The revenues from this tax were transferred to the municipalities for environmental protection and basic sanitation works. The environmental tax, originally introduced in 1995 through Decree-Law No. 128/IV/95 of 27 June 1995 and abolished on 1 January 2004 with the introduction of VAT, had been reintroduced by Law No. 46/VI/2004 of 12 July 2004. The Environmental Tax was levied on all non-biodegradable wrappers made of metal, glass, plastic and other synthetic materials. The tax amounted to 1 per cent of the CIF value of goods imported in non-biodegradable packages and interior wrappings, and 10 per cent on non-biodegradable packages and interior wrappings imported for packaging goods domestically. In response to a specific query, he said that his Government had decided that the Environmental Tax on national production should be collected by the Customs Services, as the expected revenue would not justify the creation of two structures for the collection of the tax. Asked to provide further details concerning the tax rates and identify the agency determining whether a product would be subject to the tax and whether such decisions could be appealed, the representative of Cape Verde said that Law No. 46/VI/2004 was under revision. In this connection, the environmental tax would also be extended equally to domestic products. The Ministry of Finance was drafting amendments to the Law and implementing regulations. He expected the legislative process to be completed by June 2008.

106. He noted that the introduction of VAT had permitted the consolidation and abolition of several tax measures including a tax on duty-free shops, introduced in 1970 and abolished pursuant to Article 38 of Law No. 14/VI/2002, a Consumption Tax on imported goods, a Special Tax on Consumption on alcohol and tobacco introduced in 1993, a Miscellaneous Tax for the recovery of minor charges, and a Consumption Tax on Local Production created in 1966. He confirmed that VAT, the Special Tax on Consumption, and the Environmental Tax were the only internal taxes currently applied to imports.

107. Some Members stressed that the Special Tax on Consumption should be levied equally to imported and domestic products, provided Cape Verde had domestic production of the goods concerned, otherwise its system could not be considered WTO compatible. Some Members also noted that the Special Tax on Consumption (Table 5) was significantly lower on still wine than on other alcoholic beverages, and inquired whether Cape Verde had domestic production in this category.

The representative of Cape Verde replied that Cape Verde produced beer and small quantities of wine. He confirmed that the Special Tax on Consumption was levied on imported as well as domestically-produced alcoholic beverages pursuant to Article 2.1 of Law No. 22/VI/2003 of 14 July 2003.

108. The representative of Cape Verde confirmed that by June 2008 Cape Verde's laws, regulations and other measures relating to internal taxes and charges levied on imports would be in full conformity with its WTO obligations, including Article III of GATT 1994, and that it would implement such laws, regulations and other measures in full conformity with those obligations. The Working Party took note of these commitments.

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

109. The representative of Cape Verde said that as per Decree-Law No. 3/99 of 1 February 1999, no quantitative import restrictions or quotas were currently in effect in Cape Verde. However, in accordance with the revised ECOWAS Treaty and Decree-Law No. 25/98 of 29 June 1998, some products were subject to international trade restrictions. Article 41 of the revised ECOWAS Treaty permitted measures to be taken to restrict or prohibit imports for (i) national security considerations; (ii) the control of arms, ammunition and other military equipment; (iii) the protection of human, animal or plant health; (iv) the protection of public morals; (v) the protection of Cape Verde's artistic and cultural treasures or property; (vi) the control of narcotics, hazardous and toxic wastes, nuclear or radioactive products or any other material used in the development or exploitation of nuclear energy; and (vii) the transfer of gold, silver and precious or semi-precious stones. Raw diamonds could only be traded with countries participating in the Kimberly Process Certification System pursuant to Decree-Law No. 47/2004 of 15 November 2004. Products subject to international trade restrictions or prohibited in Cape Verde are listed in Tables 6 and 7 respectively.

Table 6: Products subject to International Trade Restrictions

HS Number	Description	Justification
2401; 2402; 2403	Tobacco	Contract between the Government and the Cape Verdean Tobacco Company.
2844.10; 2844.20; 2844.30; 2844.40 and 1844.50	Radioactive Products	International Conventions on non-proliferation of nuclear weapons.
2844.10; 2844.20; 2844.30; 2844.40 and 2844.50	Chemical Radioactive Elements and Radioactive Isotopes	International Conventions on non-proliferation of nuclear weapons.
7102.00	Diamonds	In accordance with Article 41.3 of the Revised ECOWAS Treaty, precious metals for monetary purposes may only be imported by the Central Bank. Jewels may only be imported and sold by jewellers. Raw precious stones and metals may be imported by industries in accordance with International Conventions.
7103.00	Precious and semi-precious stones	
7106.00	Silver	
7108.00	Gold	
8401.00	Nuclear Material	International Conventions on non-proliferation of nuclear weapons.
9301; 9302; 9303; 9307	Weapons	Restrictions for security reasons under ECOWAS Agreement on Non Proliferation
9306.10	Munitions	
9705.00	Collections and specimens for zoology, botany, mineralogy, anatomy collections, or collections of a historic, archaeological, palaeontology, ethnographic or numismatic interest:	Protection of biodiversity and national treasures of cultural, artistic, historic, archaeological value.
9706.00 6	Antiquities more than 100 years old.	Protection of national treasures of artistic, historic, archaeological value

110. Some Members did not find the restrictions on jewels and other precious stones and metals (other than monetary gold and silver) justifiable under WTO provisions. Moreover, Article 41 of the ECOWAS Agreement did not appear to authorize such restrictions. The representative of Cape Verde replied that according to Article 41.3(d) of the ECOWAS Agreement, a member State could introduce or continue to enforce restrictions or prohibitions affecting the transfer of gold, silver and precious and semi-precious stones.

111. The representative of Cape Verde noted that according to Cape Verdean Law only the Government, through the Ministry of Defence and the Ministry of Home Affairs, could import heavy weapons and munitions for defence and security use. ECOWAS controlled the importation of hand-held weapons and munitions. ECOWAS also authorized restrictions on imports, exports and re-exports of gold for monetary use, gold in bars or gold in any other unwrought or semi-manufactured form. In Cape Verde, gold for monetary use was subject to control by the BCV. These restrictions were, in his view, covered by Article XX of the GATT 1994. Also subject to control by the BCV were gold in coins, ingots and other non-worked forms. These restrictions were authorized by Article 1 of Decree-Law No. 25/98 of 29 June 1998, and were intended to fight smuggling, money laundering, and the circumvention of capital account controls. There was no intent to prevent trade in these items, only to verify the purpose for their importation through identification of an appropriate importer. He confirmed that, except for tobacco, none of the goods subject to international trade restrictions were produced in Cape Verde. Tobacco production in Cape Verde was insignificant. A private company - the Cape Verdean Tobacco Company (Sociedade Cabo Verdiana de Tabaco) - held an exclusive right to import tobacco until 2012 in accordance with a contract between the enterprise and his Government and could be considered a state trading enterprise within the meaning of Article XVII of the GATT and the Understanding on that Article. The importation of tobacco would be subject to non-automatic licensing from 2012. Cape Verde prohibited (non-automatic licensing) the importation of nuclear and radioactive products or waste in accordance with international non-proliferation treaties. Other products prohibited in Cape Verde are listed in Table 7.

Table 7: Goods whose importation is prohibited in Cape Verde

Goods whose importation is prohibited in Cape Verde	
1	Animals and animal products from foreign areas where there is epizooty. This prohibition did not apply to all epizooties but only to those which Cape Verde is not immune to and which are considered dangerous to the national livestock (animal health), plants, vegetables (flora) on the principle of risk analysis and international norms and standards.
2	Elder tree berry.
3	Unauthorized foreign lottery tickets or its fractions.
4	Boxes or gathered bales and bundles, with the same mark and packed in one volume containing different or the same kind of goods, which are imported without declaration of the number and the total weight of the boxes or gathered bales.
5	Cannabis Sativa L, known as "Indian Hemp".
6	Imitations of postage-stamp, postmark and other postal stamps in use in Cape Verde
7	Containers manufactured with terneplate packing goods other than mineral oils and, when empty or unassembled, are not consigned exclusively to companies which sell mineral oils.
8	Books when counterfeited editions and fraudulent copies of literary and artistic works protected by law and international conventions.
9	Medicaments of secret composition or not properly registered.
10	Medications of poor quality or out of date; foodstuff harmful or dangerous to public health.
11	Goods with false factory marks, false trade marks or false origin or provenance, contravening laws and international Agreements in effect.
12	Goods brought by ships sailing in contravention of international conventions.
13	Pornographic objects, pictures, books, printed papers, recorded films, drawings, stamps, written libel and publications, offensives to morals and public decency.
14	Plants and any of its parts coming from infected areas of phylloxera or of any other epiphytic disease.

Goods whose importation is prohibited in Cape Verde	
15	Roulettes and other gambling games without previous authorization.
16	Wines and liquors with any geographical denominations legally defined or any others which can occasion mistakes about their real origin, when they are not produced in the wine-growing areas known under those denominations, or with such denominations as "kind of", "type", "rival of", "superior to" and similar logos.
17	Distilled alcoholic drinks which contain essences or chemical products such as: absinth, benzoic aldehyde, salicylic ethers, hyssop and other products recognized as noxious for human health.

112. On import licensing, the representative of Cape Verde said that Decree-Law No. 51/2003 of 24 November 2003 had introduced a non-automatic licensing requirement on all products imported into and exported from Cape Verde, made effective through Ministerial Ordinance No. 13/2004 of 14 June 2004. The Ordinance had revoked Form A of the Foreign Trade Title (FTT) and the FTT – Rectifying Title, and created new forms to be completed as per the instructions annexed to Ministerial Ordinance No. 3/2004 of 26 January 2004. Ministerial Ordinance No. 13/2004 had been applied retroactively to the date when Ministerial Ordinance No. 3/2004 had gone into effect. Travellers luggage and personal effects were exempt from the non-automatic licensing requirement according to Ministerial Ordinance No. 4/2004 of 26 January 2004.

113. Some Members stated that contrary to the "standstill principle", which ensured the neutrality of the negotiation process and the negotiating credibility of an acceding Government, Cape Verde had suddenly and without consultation instituted a non-automatic licensing procedure on all imports and exports. These Members would appreciate an explanation for this step, and further information on the purpose, operation and nature of this non-automatic licensing requirement, notably who would be eligible to apply for the licence, the criteria employed in issuing licenses, and whether Cape Verde intended to narrow the coverage of this licensing regime to a limited number of products of particular interest or concern. Cape Verde was also requested to complete the WTO Import Licensing Questionnaire for this measure. Some Members stated that the application of broad, non-automatic licensing requirements to substantially all trade needed to be justified in terms of specific WTO provisions or be deemed inconsistent *inter alia* with Article XI of the GATT 1994.

114. Having reviewed draft legislation amending Decree-Law No. 51/2003, a Member stated that draft Articles 6 and 7 appeared incompatible with the Agreement on Import Licensing Procedures by not distinguishing clearly between goods subject to automatic and non-automatic licensing. The list of goods subject to licensing and the criteria for obtaining a licence should be clear, exhaustive and publicly available as provided for by the GATT and the Agreement on Import Licensing Procedures. Without such a list and criteria, grant of the licence would be discretionary and therefore not automatic. Cape Verde was also requested to clarify whether a licence was required for each individual import operation, the term of validity of a licence, the application of licence fees and the legal basis for such fees, and to elaborate on the provisions concerning "imports without commercial value". Information should be provided on the criteria used to select imports for this list and the purpose of the non-automatic licensing restrictions. This information should be provided to WTO Members as part of Cape Verde's accession process and in its response to the Questionnaire on Import Licensing.

115. The representative of Cape Verde replied that Decree-Law No. 51/2003 had been replaced by Decree-Law No. 68/2005 of 31 October 2005. However, the new implementing regulations for the new Decree-Law had yet to be prepared and circulated. The revised legislation distinguished between imports subject to non-automatic licensing, automatic licensing and imports totally exempt from licensing. Goods subject to non-automatic licensing are listed in Table 8. Exempt from licensing were imported goods without commercial value (e.g. samples; goods destined for trade fairs and exhibitions; provisions to ships and aircraft; etc.); temporary imports, re-importation, re-exportation, goods in transit and "active and passive improvement operations"; imports subject to special customs

regimes (franc stores, bonded warehouses, franc deposit and special customs storage); manufactured goods to be used for congresses, fairs, international exhibitions and similar events; provisions for ships and aircraft in accordance with applicable legislation; goods apprehended, abandoned, shipwrecked or salvaged and sold at auction; and imports "without expenditure of currency" belonging to air and maritime navigation companies for their exclusive use.

116. Non-automatic licensing was applied to goods subjected to sanitary or phytosanitary requirements, security controls, or mandatory restrictions required by law. In these cases, the applications should be accompanied by a proforma invoice, a certificate of origin, and certificates of compliance issued by the sanitary or phytosanitary authorities, the security control authorities, or other competent authorities depending on the nature of the goods. A non-automatic licence would be delivered within 21 days from the date the customs declaration was presented to the competent authorities. Any person, firm or institution was eligible to apply for an import licence (except persons with a criminal record). There was no fee to be paid. The Chamber of Commerce maintained a list of authorized importers, but the list had not been published. All other licenses delivered under the new regime would be automatic. No application was necessary, and the automatic licence became effective upon presentation of the customs declaration. The new system would eliminate the Foreign Trade Titles (TCE), but TCEs already issued would remain in effect until the end of their validity (i.e. six months from the date of issue). Export operations were exempt from licensing pursuant to Article 9 of Law No. 92/IV/93.

117. A Member pointed out that Article 13 of the draft legislation had contained provisions authorizing the application of non-automatic licensing for the "verification of the technical specifications and of the "standard" qualities of the goods, in accordance with legal and contractual criteria, national or international, and the usual trade practices." This Member stated that the WTO authorized restrictions on imports only for technical issue involving issues of life, health, and safety. Cape Verde had explained that it had no such technical regulations in place. Standards were voluntary, and the WTO contained no provision to authorize customs officials to enforce standards in import contracts. Therefore, it would appear that such restrictions on imports for the reasons stated could not be justified under WTO. The Member requested that Cape Verde ensure the draft law amending Decree-Law No. 51/2003 eliminate authority for Cape Verde customs officials to enforce voluntary standards and that its other provisions would be consistent with Cape Verde's WTO obligations. In reply, the representative of Cape Verde confirmed that the "technical control" provisions contained in an earlier draft had been eliminated in the final version of Decree-Law No. 68/2005.

118. The representative of Cape Verde submitted a completed Questionnaire on Import Licensing Procedures, circulated in document WT/ACC/CPV/25. Automatic Licenses carried no period of validity. Non-automatic Licenses issued for sanitary or phytosanitary reasons were issued for each shipment and valid for the period requested by the importer. Licenses issued for arms or for security were valid for 90 days, extendable for an additional 60 days in exceptional circumstances. Ordinance No. 4/2004 of 24 January 2004 stipulated that goods carried by travellers and destined for personal use were considered to be without commercial value provided the luggage did not exceed 150 kg and CVE 100,000 (€07) in value.

119. Some Members requested Cape Verde to provide precise WTO justifications for the items subject to non-automatic licensing, verifying that the measures were based on SPS, health or security concerns. Additional information should be provided on how Decree-Law No. 68/2005 was being enforced at present, when implementing regulations would be issued for this law, and when modifications to Articles 6, 7 and 8 of the Decree-Law would be completed to ensure compatibility with WTO requirements. A Member noted that no forms appeared to be required for automatic licenses, which would seem to contradict Cape Verde's assertions that certain groups might be ineligible under the automatic system.

120. In reply, the representative of Cape Verde referred to the revised Action Plan in document WT/ACC/CPV/21/Rev.1, according to which amendments to Decree-Law No. 68/2005 would be completed by December 2008.

121. The General Directorate of Commerce under the Ministry of Economy, Growth and Competitiveness was responsible for regulating and implementing the licensing procedures. To obtain the import licence, a licence form (reproduced in Ministerial Ordinance No. 13/2004) had to be completed and submitted for approval to the Department responsible for trade on the island where the importation or trading operation was to take place. There were no fees associated with the import licence.

122. Asked whether the granting of a licence was discretionary, he replied that the granting of a licence was within the competence of the General Directorate of Commerce. The General Directorate of Commerce could delegate this authority to other entities, but these entities would remain under the general guidance of the Directorate in exercising their function. A refusal by the General Directorate of Commerce to grant a licence could be appealed to the Minister of Economy, Growth and Competitiveness. If this appeal was denied by the Minister, the matter could be brought to the Administrative Courts or to the Common Courts.

123. The representative of Cape Verde confirmed that Cape Verde 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 Agreement. The import licensing regime from the date of accession would be fully in accordance with all relevant provisions of the WTO Agreement, 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 Agreement, including the GATT 1994, the Agreements on Import Licensing Procedures and Safeguards, and the Understanding on Balance-of-Payments Provisions of the GATT 1994. The Working Party took note of these commitments.

- **Customs valuation**

124. The representative of Cape Verde said that the Brussels Definition of Value (BDV) currently served as the basis for the calculation of customs duties and other customs charges in line with Decree No. 45.790 of 3 July 1960. With the BDV, the determination of the customs value of imported merchandise was based on its normal value. Cape Verde had applied reference or minimum import prices on poultry (Regulatory Decree No. 2/2002 of 2 August 2002) until 2004, when the measure had been terminated. He confirmed that Cape Verde envisaged the elimination of import reference prices or minimum import prices, as required by the WTO Agreement on the Implementation of Article VII of General Agreement on Tariffs and Trade 1994 (Customs Valuation Agreement).

125. The new Customs Code, to be adopted by December 2008, included valuation rules in Section IV (Customs Value of Goods). He provided an Action Plan for compliance with the WTO Customs Valuation Agreement in document WT/ACC/CPV/14 and its subsequent revisions. As noted in the Action Plan, his Government was requesting a transition period until January 2011 for the full implementation of the Customs Valuation Agreement. In his view, this transition period was needed to establish the necessary institutions and endow the customs administration with personnel, equipment, databases etc. Customs personnel also required training in modern practices to combat fraud, risk evaluation, investigations, post declaration auditing etc. in order to prevent loss of customs revenues from under-invoicing and other fraud. Technical and financial assistance from Members and the relevant international organizations was needed for the training of customs officials dealing

with valuation as well as for the drafting of the new Regulations and Interpretative Notes. A Member requested Cape Verde to make reference to Articles 3 and 7 of the Customs Valuation Agreement and Decision 3.1 and paragraph 2 of Decision 4.1 of the WTO Committee on Customs Valuation in its revised Action Plan.

126. The representative of Cape Verde said that disputes arising from customs valuation decisions were reviewed and decided by the Customs Technical Council, an administrative body including representatives of the Department for Public Administration and the private sector. The customs valuation decisions of the Customs Technical Council could be appealed to the Supreme Court of Justice of Cape Verde.

127. In response to questions concerning elements of the Customs Valuation Agreement already in place and its functioning, the representative of Cape Verde said that in accordance with the current legislative provisions, the right to appeal referred to in Article 11 of the Agreement was ensured as the importer had the right to appeal - first to the Customs Technical Council, and then to the Supreme Court. Thus, the right to appeal to an independent administrative tribunal was already in effect, as were the following other aspects of Cape Verde's customs regime: the protection of confidential information (Article 10) and a surety bond system (Article 13) provided for in Article 76 of the Draft Customs Code; the publication of legislation, regulations and administrative decisions of general application on customs issues including valuation (Article 12), provided for in Article 264 of the Constitution. The definitions provided in Article 15, the importer's right to a written explanation of how the customs value was determined (Article 16), and provisions ensuring the precise implementation of Articles 9-13 related were contained in the new Customs Law which was slated for enactment during 2008. To the extent not already provided for in law, the provisions of Articles 9-13 and 15-16 would be implemented from the date of accession.

128. The representative of Cape Verde requested that the Working Party grant a transitional period from the date of its accession to allow it to obtain and utilize technical assistance to assist in the full implementation of the obligations of the Agreement, including those contained in Articles 1-6, 7, 8, and 14. Full implementation of the Agreement on Customs Valuation would be carried out gradually and progressively and would be completed, at the latest by January 2011, in accordance with the timetable contained in Table 9 below. If such a transitional period were granted, Cape Verde's deviations from the provisions of the Agreement would be strictly limited to these Articles, and all other provisions of the Agreement would be implemented for all imports.

129. During this period, Cape Verde would ensure that its regulations under current legislation in place and additional legislation implemented during the transition concerning customs valuation would be applied on a non-discriminatory MFN basis to all imports. Any changes made in its laws, regulations and practice during the transition period would not result in a lesser degree of consistency with the provisions of the Agreement on Customs Valuation than existed on the date of accession. Cape Verde would participate in the work of the Committee on Customs Valuation and would seek out all available technical assistance, including under Article 20.3 of the Agreement, to ensure that its capacity to fully implement the Agreement upon expiration of the transition period was assured. The representative of Cape Verde presented an Action Plan setting out details of the steps that still remained to be taken in order to achieve this objective and a timetable for each step (Table 9).

Table 9: Action Plan for Implementation of the Agreement on Customs Valuation

Subject	Actions to be developed, including law proposals and regulations on specific topics	Timeframe
Elaborate a Customs Code for Cape Verde, that includes the principles of the Customs Valuation Agreement	A Cape Verde Customs Code elaborated and in conformity with the WTO requisites and the WCA standards	By December 2008
Customs Code	Seminars and workshops on the Customs Code.	By second quarter of 2009
	Adaption and familiarization of the Customs Code, by the user	By third quarter of 2009
	Evaluation of the Customs Code implementation	November 2009
Adaptation to the WTO valuation system	Workshops, seminars, staff study and training visits	2008/2010
Creation of a technologic information base including a data base on risk evaluation	Data base of the evaluation of risks (risk assessment) is fundamental to the implementation of the Customs Valuation Agreement	
A training course on the Customs Valuation Agreement	Seminar/Workshop on the principles of the Customs Valuation Agreement	
Articles 1 to 17 of the Agreement	Implementation and regulations	By December 2010
Technical training on determination of Customs value	Course to train trainers for selected Customs staff identified as having the capacity to teach	October 2008/ December 2010
Creation of a technical information system including a reference data base on the value of identical or similar goods	The data base for the evaluation of identical or similar merchandise is vital to implementation of identical and similar merchandise transactional value (methods 2 and 3 applied sequentially)	2008 to 2010
Training on risk evaluation	Workshops/seminars presented by specialists in "risk evaluation"	
Training on post declaration or post dispatch auditing	Workshops/seminars on post declaration or post dispatch audits	
	Total implementation of the WTO Customs Valuation Agreement	January 2011

130. The representative of Cape Verde stated that legislation on the valuation of imports for customs and taxation purposes conforming to the requirements of the Agreement on Customs Valuation would be enacted prior to Cape Verde's accession to the WTO, but that some of the provisions would not immediately go into effect. Cape Verde would progressively implement the Agreement on Customs Valuation and Annex I (Interpretative Notes) in accordance with the Action Plan in Table 9, and with the understanding that during this period the scope of implementation of other aspects of the Agreement, as described in paragraphs 127 to 129, would be applied by Cape Verde. Cape Verde would also apply Decision 3.1 of the Committee on Customs Valuation (Treatment of Interest Charges in the Customs Value of Imported Goods) and paragraph 2 of the Decision on Valuation of Carrier Media Bearing Software for Data Processing Equipment (Decision 4.1). Full implementation would start from 1 January 2011. The Working Party took note of these commitments.

- **Rules of origin**

131. The representative of Cape Verde said that general non-preferential rules of origin had been established through the Preliminary Instructions on Customs Tariff, annexed to Decree No. 45.790 of

3 July 1960. As a Member of ECOWAS, Cape Verde also followed the ECOWAS Protocol on rules of origin, which he considered to be consistent with the principles set forth in the WTO Agreement on Rules of Origin. According to the ECOWAS protocol, origin was determined on the basis of the wholly obtained, substantial transformation, or value-added criterion. The Preliminary Instructions were being revised, and the Customs Code to be adopted by December 2008 incorporated provisions on rules of origin in Section III, Articles 20 to 24. The new provisions had been drafted to ensure conformity with the WTO Agreement on Rules of Origin. Pursuant to Article 20 of the new Customs Code, Cape Verde determined the origin of manufactured goods according to wholly-obtained or substantial transformation criteria.

132. Having reviewed the draft rules of origin provisions in the Customs Code, a Member requested clarification of terms such as transformation resulting in "specific properties and composition", "economically justifiable" transformation, and manufacturing undertaken in an enterprise "equipped to that effect", and how these requirements were met in practice. Cape Verde was also asked to define more precisely the "competent entity" authorized to issue certificates of origin.

133. In reply, the representative of Cape Verde said that Article 20 of the draft Customs Code intended to confer origin based on substantial transformation, the processing of raw materials into finished products, and that an enterprise would not be wrongly identified as the manufacturer if the enterprise was manifestly unable to perform the manufacturing or transformation process. The competent entity authorized by the Government to issue certificates of origin differed from one product to another.

134. Responding to a specific question, he confirmed that Cape Verde would consider the European Community as one entity for origin purposes.

135. A Member sought confirmation that Cape Verde would revise its Customs Law to incorporate the requirements of Article 2(h) and Annex II, paragraph 3(d) of the WTO Agreement on Rules of Origin, i.e. that for non-preferential and preferential rules of origin, respectively, the customs authority would provide within 150 days, upon the request of an exporter, importer or any person with a justifiable cause, an assessment of the origin of the import and outline the terms under which it would be provided, and that any request for such an assessment would be accepted even before trade in the goods concerned began. The representative of Cape Verde replied that the new Customs Code would include provisions consistent with the WTO Agreement on Rules of Origin, *inter alia* provisions incorporating the requirements of Article 2(h) and Annex II, paragraph 3(d) of the Agreement.

136. The representative of Cape Verde stated that, from July 2008, 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 II, Paragraph 3(d) of the Agreement would be fully implemented by July 2008. He also stated that, by July 2008, 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.

- **Other customs formalities**

137. The representative of Cape Verde said that the owner or consignee of imported goods could initiate procedures for customs clearance before the arrival of merchandise in Cape Verde. Imports

and exports of merchandise for personal use or personal gifts which were not of a commercial character and valued at less than CVE 50,000 (€454) were subject to a simplified declaration. All other merchandise was subject to a more detailed declaration, including information on the product characteristics (weight, size, quantity), tariff type, country of origin, country of exportation, freight, destination, and value. For imports, the declaration had to be accompanied with relevant documentation such as the certificate of origin, commercial invoice, sanitary and phytosanitary certificates, transportation (air or sea) and insurance certificates, the single administrative document (SAD), etc. The import declaration required approval by the General Directorate of Commerce when the merchandise was valued at more than CVE 100,000 (€907) or weighed more than 150 kg.

138. A Member requested Cape Verde to justify the approval requirement for import declarations and provide information on the timeframe involved, the criteria for approving or rejecting the declarations, and the right of appeal. The representative of Cape Verde replied that Decree-Law No. 51/2003 of 24 November 2003, which had instituted this requirement, had been revoked by Decree-Law No. 68/2005 in October 2005.

139. Asked about the time needed to clear goods through customs, the representative of Cape Verde said that the processing of a customs declaration was normally undertaken within 48 hours of its submission by the interested party, after which the owner or consignee of the imported goods would be required to pay the duties and impositions due within ten days. A fine was imposed for delayed or non-payment of the impositions due. Following the payment of the customs duties and unloading and conveyance fees, the merchandise was to be removed from the warehouse within 30 days for air transported cargo, and 90 days for cargo transported by sea. Non-compliance could lead to a report giving official notice and initiation of procedures for public sale of the consignment.

- **Preshipment inspection**

140. The representative of Cape Verde said that Cape Verde currently did not employ any mandatory pre-shipment inspection scheme.

141. 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, the Application of 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.

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

142. The representative of Cape Verde said that Decree-Law No. 46828 and Decree-Law No. 46829 of 5 January 1966, modified by Decree-Law No. 578/70 of 24 November 1970, set out the anti-dumping and countervailing duties regime in Cape Verde. Since 1975, no cases had been filed or investigated as these Laws were obsolete and would have to be revised to comply with the relevant WTO provisions.

143. As promulgated in Decree-Law No. 3/99 of 1 February 1999, a general safeguard-type provision had been included in Article 3 of the Trade Liberalization Law. This provision provided for the application of safeguard measures when the importation of goods caused, or threaten to cause, serious damage to the national economy or to public health. Cape Verde had applied this safeguard type measure on poultry from all countries until 2004, when the measure had been terminated. He added that Cape Verde would continue to develop and revise its safeguard measures regime to comply with the WTO Agreement on Safeguards after accession.

144. The representative of Cape Verde confirmed that Cape Verde would apply safeguard, anti-dumping, or countervailing duty measures only after notifying and implementing laws in conformity with the provisions of WTO Agreements on Safeguards, the Implementation of Article VI of the GATT, and on Subsidies and Countervailing Measures, and that after accession Cape Verde would apply any such measures only in conformity with the relevant WTO provisions. The Working Party took note of these commitments.

B. EXPORT REGULATIONS

- Customs tariffs, fees and charges for services rendered, application of internal taxes to exports

145. The representative of Cape Verde said that Cape Verde applied no export duties. The registration and licensing requirements for engaging in exportation were identical to those for imports. Exported goods complied with formalities on exchange operations and with all quality requirements, rules of origin or other norms required by law or by international accord subscribed to by Cape Verde.

- Export restrictions

146. The representative of Cape Verde said that in accordance with Decree-Law No. 151/87 of 26 December 1987, Cape Verde no longer applied quantitative restrictions on exports nor did Cape Verde participate in any voluntary export restraints or orderly marketing arrangements. Cape Verde did not apply minimum export prices on any product.

147. Cape Verde prohibited the exportation of endangered flora or fauna covered by the Washington Convention (CITES), even though Cape Verde was not a signatory to this Convention. The prohibition was covered by the provisions of Law No. 86/IV/93 of 26 July 1993, and was enforced by customs officers in Cape Verde. For flora and fauna not explicitly prohibited, licenses were issued by the Ministry of Environment and Agriculture.

- Export subsidies and industrial policy, including subsidies

148. The representative of Cape Verde confirmed that the legislative basis for the provision of subsidies comprised (i) the Foreign Investment Law No. 89/IV/93 of 13 December 1993; (ii) Law No. 92/IV/93 of 15 December 1993 (Law on Free or "Franc" Enterprises); (iii) The Industrial Statute, Decree-Law No. 108/89 of 30 December 1989; (iv) the Tourism Utility Law No. 55/VI/2005 of 10 January 2005; (v) Law No. 99/IV/93 of 31 December 1993; and (vi) Decree-Laws Nos. 25/94 and 26/94 of 18 April 1994 on fisheries. Subsidies aimed at promoting investment and boosting exports. He confirmed that no programme conferred benefits on the basis of local content requirements. His Government was in the process of reviewing its subsidies to redress any inconsistencies.

149. Cape Verde's industrial policy focussed on export-led growth and development of the industrial and private sector. Apart from fiscal or customs benefits, other incentives provided for in Cape Verde's subsidies or investment promotion regime were for the purchase of land for the construction of factories; incentives connected with technological or industrial innovation,

professional training of workers and reinvestment; and incentives connected with decentralization i.e. the movement of industries within the national territory of Cape Verde. As a potential new incentive measure, his Government was considering automatic or simplified registration for industrialists and their import operations.

150. Certain domestic economic sectors and activities were supported through incentive programs, financial assistance, access to credit and the supply of equipment. The fisheries sector was assisted through the Fishing Development Fund (FDP) pursuant to Decree-Laws No. 25/94 and 26/94. The support provided by the FDP included fiscal and customs exemptions, preferential credits, grants or subsidies. Incentives accorded to the fisheries sector had amounted to about CVE 90 million during 1995 to 2001. Assistance was only provided to Cape Verdean companies, on submission and approval of a form and contract with the FDP.

151. In the tourism sector, the Law No. 21/IV/1991 of 30 December 1991 and the Tourism Utility Law No. 55/VI/2005 had revoked the Law No. 42/IV/92 of 6 April 1992. The existing legislation provided fiscal benefits to companies and customs duty exemptions for equipment and raw materials imported for the establishment or refurbishment of tourist facilities. The Minister of Finance and Public Administration and the Minister of Economy, Growth and Competitiveness were jointly responsible for monitoring the introduction and provision of these benefits. He added that financial institutions also benefited from fiscal exemptions. Investors in this sector had to apply for authorization from the Ministry of Finance and Public Administration in accordance with the Foreign Investment Law. Incentives to the transportation industry - maritime, road and air transportation - and the telecommunications sector (Law No. 72/95) had also been implemented by Cape Verde.

152. The Foreign Investment Law No. 89/IV/93 and Regulatory Decree No. 1/94 of 3 January 1994 outlined the authorization procedures and conditions governing foreign direct investment. Pursuant to the Industrial Statute (Decree-Law No. 108/89), registered industrial enterprises could benefit from certain incentive schemes, notably a three-year tax exemption on revenues generated. Subsidies granted to industrial activities were not contingent on export performance or local content criteria, but their contribution to Cape Verde's economic development would be evaluated.

153. The representative of Cape Verde said that Cape Verde had no export financing programs. An import duty drawback system had been created by Decree-Law No. 32115 of 7 July 1942, providing for the full or partial reimbursement of import duties on merchandise used in the manufacture of products subsequently exported. The duty drawback law, though legally still in effect, had in practice ceased to be applied and had been replaced by incentives provided through Decree-Law No. 108/89 of 30 December 1989 establishing the Industrial Statute, and Law No. 99/IV/93 of 15 December 1993 approving the regime for Free Enterprises. He confirmed that no duty drawback programs were presently applied to agricultural products. Decree-Law No. 32115 had created a duty drawback scheme for olive oil, vegetable oil for human consumption, tomato ketchup, metal sheets, and cardboard destined for the fish conservation industry. However, this programme had been discontinued. At present, Cape Verde did not envisage creating any new duty drawback law.

154. Law No. 92/IV/93 and Decree-Law No. 108/89 provided fiscal and customs incentives for the export and re-export of goods and services. The fiscal incentives included a five year reduction in contributions and taxes on profits. This five year period could be extended on a year-by-year basis for a maximum of ten years. The customs incentives included duty exemptions on intermediate products and raw materials (except petrol) used in the production of exported goods. Exporters importing merchandise, including raw materials, destined for re-export could do so through a suspension of the customs regime. Customs duties, fees and charges, and other taxes on imported goods that had subsequently been exported, incorporated as raw materials in exports, or used in rendering export services, were refunded upon request within 120 days from the date of export or re-export. Decree-

Law No. 108/89 provided duty exemptions to industrial enterprises for imported raw materials, equipment and construction materials. The tax exemptions were available to all enterprises, whether domestic or foreign-owned, and were not contingent on exports.

155. A Member sought further information on the operation of the duty-drawback scheme, in particular on how Cape Verde ensured that the inputs exempt from import duties under these schemes were used in the production of exports, and how import duties refunded through these programs did not exceed the amount of duties paid or payable. In response, the representative of Cape Verde confirmed that import duties refunded through the pre-independence and now defunct duty drawback scheme never exceeded the amount of duty paid. He considered the duty drawback scheme to be consistent with Annexes I, II and III of the WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement).

156. He added that merchandise could be stored in customs bonded warehouses with customs duties and taxes pending. Two types of warehouses existed in Cape Verde, the storage warehouses for commercial needs and the industrial warehouses for industrial needs. In addition, goods could be "temporarily admitted" for re-export, either unchanged or with active improvement. He confirmed that goods subject to the "temporary admission" regime were free of customs duties and had to be exported. Temporary exports were also permitted whereby the goods were exported for re-import either unchanged or with passive improvement.

157. A Member requested exhaustive information on the incentives and eligibility criteria for the trade promotion programmes operated by Cape Verde Investments. Based on the information available, it would appear that investments were appraised according to several criteria, one of which was national value added. This Member pointed out that a programme would constitute a prohibited subsidy according to Article 3 of the Agreement on Subsidies and Countervailing Measures to the extent that the programme provided a benefit to companies contingent on the use of domestic over imported goods. Cape Verde was invited to provide a comprehensive description of its subsidy programmes to the Working Party. Some Members noted Cape Verde's impending graduation from LDC status and sought a commitment that Cape Verde accept all aspects of Article 3 of the ASCM, including Article 3.1(a) prohibiting subsidies contingent upon export performance.

158. In reply, the representative of Cape Verde said that Cape Verde Investments had been established *inter alia* to promote exports and re-exports. Cape Verde Investments identified local products or enterprises with export potential; organized seminars, conferences and training; participated in trade fairs; researched on potential export markets; and supplied market data to interested entities. He stressed that Cape Verde Investments was an administrative agency promoting investments, and had no means to provide financial assistance in any form. He provided an Action Plan, to be completed by the end of 2007, for the revision of incentives to national production and foreign investment in document WT/ACC/CPV/22. He added that data was being collected to provide comprehensive information on subsidies and incentives provided to national production and foreign investment.

159. The representative of Cape Verde considered Cape Verde's subsidy programs to be in conformity with the provisions of the WTO Agreement on Subsidies and Countervailing Measures as long as Cape Verde benefited from LDC status. In the follow-up to an IMF study, Cape Verde intended to undertake a further study on its investment and industrial policies. Reforms could be undertaken should the studies recommend the amendment of existing laws and regulations on subsidies.

160. Some Members urged Cape Verde to provide comprehensive information on all subsidies and incentives provided. Some investment incentives appeared to be contingent upon export performance and/or local content. Some Members recognized that Cape Verde was considering seeking

transitional arrangements for certain measures in the light of its imminent graduation from LDC status, and requested Cape Verde to table a comprehensive and specific proposal for consideration by the Working Party. Cape Verde was invited to provide a subsidy notification for review of the Working Party. The notification should cover all relevant programmes and describe each measure fully, i.e. programmes (i) legally authorized; (ii) actually providing benefits and being utilized by firms; and (iii) essentially dormant programmes. In the case of subsidies prohibited under the ASCM, Cape Verde should indicate a timeframe for the removal of these subsidies, whether prior to 1 January 2008 or according to a different timetable that could be considered by the Working Party.

161. In reply, the representative of Cape Verde provided an Action Plan for the revision of incentives to national production and to foreign investment, circulated in document WT/ACC/CPV/22, and a subsidies notification for the period 1975-2007 in document WT/ACC/CPV/27. In terms of form of subsidy, the notification identified (i) the income tax exemption on profits provided pursuant to the Foreign Investment Law (five years, with profits taxed at 10 per cent for an additional five years if the profits were reinvested); (ii) duty exemptions according to the Industrial Statute on raw materials and equipment, and income tax exemption on raw materials and subsidiary materials for three to five years (and reduced tax during an additional period for reinvested profits) depending on the island on which the facility was located; (iii) duty exemptions, and exemptions and reductions in the income tax and real estate taxes pursuant to the Tourism Utility Statute; (iv) tax exemptions according to the Free Zone (Franc) Enterprise Statute; (v) incentives for exportation, i.e. reduced income tax (5+5 years) and customs duty exemptions, based on Law No. 92/IV/93; and (vi) duty drawback. In this context, he noted that although the provisions for duty drawback in the 1942 Customs Law of Portugal had never been abrogated by Cape Verde, the provisions had not been used since independence as producers and exporters had availed themselves of alternative incentives. According to the notification, data concerning the amount of subsidies provided, and the possible trade effects of these subsidies, was not available.

162. Some Members noted that the programmes applied pursuant to the Free Zone (Franc) Enterprise Statute and Law No. 92/IV/93 provided prohibited export subsidies and requested Cape Verde to abolish the export subsidies upon accession.

163. The representative of Cape Verde confirmed that Cape Verde would administer its subsidy programmes, including those provided for in (i) the Foreign Investment Law No. 89/IV/93 of 13 December 1993; (ii) Law No. 92/IV/93 of 15 December 1993 (Law on Free or "Franc" Enterprises); (iii) The Industrial Statute, Decree-Law No. 108/89 of 30 December 1989; (iv) the Tourism Utility Law No. 55/VI/2005 of 10 January 2005; and (v) Law No. 99/IV/93 of 31 December 1993, in full conformity with the WTO Agreement on Subsidies and Countervailing Measures, including Article 27.2, from 1 January 2010. The representative of Cape Verde further confirmed that incentives that had been granted to firms and individuals authorized by these laws and programs prior to the date of accession that constituted a prohibited subsidy, within the meaning of Article 3 of the Agreement on Subsidies and Countervailing Measures, would be withdrawn by the earlier of 1 January 2015 or at the end of the term originally granted to these firms and individuals. All necessary information on subsidy programmes would be notified to the Committee on Subsidies and Countervailing Measures in accordance with Article 25 of the Agreement on Subsidies and Countervailing Measures upon entry into force of Cape Verde's Protocol of Accession. Cape Verde also would provide explanatory information in its subsequent notifications under Article 25 to enable other Members to confirm that such programs are being progressively eliminated. The Working Party took note of these commitments.

C. INTERNAL POLICIES AFFECTING FOREIGN TRADE IN GOODS

- Technical barriers to trade, standards and certification

164. The representative of Cape Verde said that the TBT-related fragmentary and incomplete laws and regulations dated back to before the independence of Cape Verde in 1975, and that there were at present no framework legislation, technical regulations, or standards, nor were there any specific plans to establish technical regulations or standards at this stage. Consequently, without the legislative and institutional means, Cape Verde did not apply any technical regulations or standards for either domestic or imported goods. He added that, as safety regulations administered in Cape Verde were fragmentary and incomplete and due to the lack of institutional support, there were currently no safety regulations enforced as part of consumer protection programs. Although Law No. 88/V/98 of 31 December 1998 approved the legal regime for consumers' protection and defence, the National Consumption Council envisaged in the Law was yet to be regulated and created.

165. Following the submission of the TBT check-list (WT/ACC/CPV/6), and in accordance with the Action Plans circulated in document WT/ACC/CPV/11 and subsequent revisions, Cape Verde was in the process of establishing an Enquiry Point for TBT matters within the Ministry of Economy, Growth and Competitiveness, General Directorate of Industry and Energy. This process would be completed by December 2007. For the time being, the contact details of the Enquiry Point were:

The General Directorate of Industry and Energy
P.O. Box No. 15
Achada Santo Antonio
Republic of Cape Verde

Tel: + 238 260 5306
Fax: + 238 261 3315
Email: abrao.lopes@govcv.gov.cv

166. He stressed the importance of technical and financial assistance to build Cape Verde's capacity on TBT issues and to comply with the provisions of the TBT Agreement. Assistance was required in several areas, including in setting up a facility for publication of proposals and to receive and consider public comment on them, and for assessing Cape Verde's needs in the development and application of technical regulations in accordance with the provisions of the TBT Agreement.

167. Having reviewed draft amendments to Cape Verde's import and export licensing regime (Decree-Law No. 51/2003), a Member observed that Cape Verde was considering using non-automatic licensing to enforce TBT-related requirements. This Member recalled that the TBT Agreement did not authorize restrictions on imports unless the technical issue involved matters of life, health, or safety. Cape Verde had acknowledged that it did not have technical regulations, and therefore could not use import measures to enforce "technical control". Moreover, customs officials could not be used to enforce standards as standards, by definition, were voluntary according to the TBT Agreement.

168. In response, the representative of Cape Verde said that Decree-Law No. 51/2003 had been revoked by Decree-Law No. 68/2005 "Foreign Trade Regime". The TBT-related provisions in the draft amendments had not been included in the Decree-Law No. 68/2005 promulgated on 31 October 2005.

169. The representative of Cape Verde confirmed that his Government would comply with the transparency and other general requirements of the TBT Agreement as part of its accession process.

170. Having reviewed Cape Verde's revised Action Plan, some Members noted that, at present, Cape Verde did not appear to apply any technical requirements either to imports or to domestically produced goods. They also noted Cape Verde's establishment of an enquiry point, and 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. They stated that even 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 obstacles to trade and should apply principles of national treatment, MFN treatment, and transparency. They sought a commitment from Cape Verde that in developing its regime concerning the application of standards, technical regulations, and conformity assessment procedures, it would do so in conformity with the provisions of the WTO Agreement on Technical Barriers to Trade and other relevant WTO Agreements. Noting Cape Verde's requests for technical assistance, some Members stressed that Cape Verde should not make implementation of the TBT Agreement contingent on the provision of future technical assistance.

171. The representative of Cape Verde confirmed that if, in the future, technical regulations or standards and conformity assessment procedures were to be introduced, Cape Verde would neither adopt nor implement these regulations, standards or procedures until it had implemented and notified appropriate legislation in conformity with the Agreement on Technical Barriers to Trade. Cape Verde would ensure the full conformity of any such legislation with the Agreement on Technical Barriers to Trade, and that any new laws, regulations or practices, as well as amendments to existing measures, would not result in unnecessary obstacles to trade. Any standards, technical regulations, and conformity assessment procedures adopted would be developed and applied in conformity with the provisions of the Agreement, including publication prior to implementation to allow interested parties the opportunity for review and comment as provided for in the Agreement. Existing or new measures would be applied on a non-discriminatory basis, i.e. providing for national treatment and MFN treatment to all imports. Cape Verde also would monitor the work of the Committee on Technical Barriers to Trade. Cape Verde would not enforce voluntary standards contained in private sector Agreements or other commercial contracts. From the date of accession, its Enquiry Point would be operational and Cape Verde would designate a central government authority responsible for the implementation of notification procedures under the Agreement and an authority responsible for overall monitoring of compliance with its TBT obligations. He added that Cape Verde would seek out all available technical assistance to ensure that its capacity to eventually implement the Agreement is assured. The Working Party took note of these commitments.

- **Sanitary and phytosanitary measures**

172. The representative of Cape Verde said that existing sanitary and phytosanitary (SPS) measures were applied and regulated on the basis of Decree Nos. 62/89 and 63/89 of 14 September 1989, Decree-Law No. 89/92 of 16 July 1992, Legislative-Decree No. 9/97 of 8 May 1997, Decree-Law No. 26/97 of 20 May 1997, Regulatory Decree No. 15/97 of 3 November 1997, and Ministerial Ordinance No. 55/97 of 9 September 1997. Resolution No. 57/97 of 9 September 1997, Decree-law No. 74/97 and Decree-law No. 75/97 of 29 December 1997 had been revoked by Decree-Law No. 8/2002 of 25 February 2002. In the context of establishing a WTO-consistent regime in this area, his Government intended to introduce new science-based legal requirements on food safety, animal and plant health replacing existing decrees by 1 December 2008.

173. Cape Verde was a member of the WHO Codex Alimentarius Commission and the International Plant Protection Convention (IPPC). Cape Verde adopted and applied Codex and IPPC standards. He believed these standards provided an acceptable level of protection in Cape Verde. Cape Verde was in the process of adopting standards and becoming a member of the International

Office of Epizootics (OIE). Although not yet a member of the OIE, Cape Verde held observer status and reported on its sanitary situation annually.

174. Cape Verde was also in the process of creating an enforcement body for the oversight of quarantine and SPS measures. A regulatory agency for food and pharmaceuticals (ARFA – Agência Reguladora de Produtos Farmacêuticos e Alimentares) had been created in October 2004 to regulate the food and drugs sector (Decree-Law No. 42/04). The SPS Enquiry Point had been established in June 2007 through Ordinance No. 13/2007 of 11 June 2007. Responsibility for the operation of the enquiry point rested with the Minister of Environment and Agriculture. The Enquiry Point could be contacted at:

The General Directorate of Agriculture, Forestry and Animal Husbandry
Achada de S. Felipe
Praia
Republic of Cape Verde

Tel: + 238 264 75 44
Fax: + 238 264 75 42
Email: dgaspcv@yahoo.com

175. The representative of Cape Verde noted that, as outlined in the SPS checklist (WT/ACC/CPV/6) submitted by Cape Verde, further work needed to be undertaken to ensure compliance with the SPS Agreement. In particular, additional efforts were needed to meet the transparency obligations of the SPS Agreement; draft legal instruments in line with Articles 2.2, 3.3 and 5.2 of the SPS Agreement, establishing animal and plant health, and food safety regulations to be based on scientific evidence; and to draft legislation on the equivalence provisions of the SPS Agreement. Provisions of the SPS Agreement relating to non-discrimination, regional conditions, control, inspection and approval procedures also needed to be met. Cape Verde intended to adopt international standards except in those instances which may require SPS measures specific to the needs of Cape Verde. In such instances, Cape Verde intended to ensure that such measures will be based on a scientific assessment of risk as well as all other (as appropriate) sections of the SPS Agreement and its annexes. In light of the legal, infrastructural, financial and technical constraints faced by Cape Verde, and as indicated in WT/ACC/CPV/10 and Rev.1, he stated that Cape Verde would provide a detailed programme of gradual implementation of the provisions of the WTO Agreement, starting with the development of a WTO-consistent legal basis for the application of SPS measures and including the creation of appropriate institutions and facilities for transparency, risk assessment, and the determination of equivalence, and to train the officials necessary to manage the system.

176. The representative of Cape Verde requested that the Working Party grant a transitional period from the date of its accession until 1 January 2010 for implementation of the WTO Agreement on Sanitary and Phytosanitary Measures to allow Cape Verde to obtain and utilize technical assistance to fully implement the obligations of the Agreement. During this period, existing measures would be applied on a non-discriminatory basis, i.e., providing for national treatment and MFN treatment to all imports. Measures in place already consistent with the provisions of the Agreement on Sanitary and Phytosanitary Measures would not be subject to transitions, and Cape Verde would ensure that any changes made in its laws, regulations and practice during the transition period would not result in a lesser degree of consistency with the provisions of the Agreement than existed on the date of accession. If necessary, technical regulations and other measures adopted during this period would be developed in conformity with the provisions of the Agreement, otherwise accepted international standards would be adopted. Priority would be given to the establishment of a functioning enquiry point and the notification of all of Cape Verde's SPS measures to the Committee on Sanitary and Phytosanitary Measures. He stressed the importance of technical assistance to be provided during the

period of transition, including under Article 9 of the SPS Agreement, and added that Cape Verde would seek out all available technical assistance to ensure that its capacity to implement the SPS Agreement upon expiration of the transition period was assured. Cape Verde would fully participate in the work of the Committee on Sanitary and Phytosanitary Measures. He drew the attention of Members to the Action Plan in Table 10, setting out details of the steps that still remained to be taken in order to achieve this objective and a timetable for each step.

Table 10: Action Plan for implementation of the SPS Agreement

Action	Deadline
Revision of Regulation of Decree-Law No. 63/89 of 14 September 1989 to provide framework for WTO consistent SPS regime for livestock and revocation of all contrary legislation	Done
Identification of the authority responsible for notifications and publications required by the SPS Agreement and establishment and operation of a single contact point for information	No later than 1 December 2007
Establishment of publication or other facility for prior publication for public review, including method of utilizing public comments.	No later than 1 December 2007
Acquisition of equipment and training of SPS enquiry point personnel	No later than 1 January 2008
Active membership in OIE, FAO, WHO Codex activities and dissemination of information, including website	No later than 1 December 2007
Review of all existing legislation and new amendments to ensure regulations are based on risk assessment and sufficient scientific evidence	No later than 1 December 2008
Development and enactment of basic legislation for SPS regime: - Drafting and enactment of new Laws related to Food Safety, Plant Health and Animal health - Establishment of Regulations and updating existing laws	No later than 1 December 2008
Submission of notifications required by the Agreement to the Committee on SPS	No later than 1 January 2008
Acquisition of laboratory equipment and upgrading of laboratory infrastructure, international accreditation of lab with international standards related to the different requirements included tenders etc.	No later than 1 January 2010
Upgrading and strengthening of quality control, quarantine system and proper border inspection posts, functional Food Authority related to the three areas including proper staffing and training and full compliance and implementation of the WTO Agreement on the Application of Sanitary and Phytosanitary measures	No later than 1 January 2010
Training of staff on SPS implementation	No later than 1 January 2010
Full implementation of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures	No later than 1 January 2010

177. The representative of Cape Verde confirmed that Cape Verde would implement progressively the provisions of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures within the timetable provided for in Table 10, and would ensure full implementation of the Agreement no later than 1 January 2010, and with the understanding that during this period the scope of implementation of other aspects of the Agreement, as described in paragraph 176 would be applied by Cape Verde. He further confirmed that Cape Verde would consult with WTO Members upon request if they deemed that any measures applied during the transition period affected their trade negatively. The Working Party took note of these commitments.

- **Trade-related investment measures**

178. Some Members noted that Cape Verde appeared to have established trade promotion programmes operated by Cape Verde Investments where the benefits distributed were contingent upon the use of domestic over imported goods (see paragraph 157).

179. In reply, the representative of Cape Verde stated that Cape Verde did not apply any measure that could be construed as a prohibited trade-related investment measure under the WTO Agreement on Trade-Related Investment Measures (TRIMs Agreement). Cape Verde did not require the use of domestic over imported goods.

180. The representative of Cape Verde confirmed that Cape Verde would not maintain any measures inconsistent with the TRIMs Agreement and would apply the TRIMs Agreement from the date of accession without recourse to any transitional period. The Working Party took note of this commitment.

- **Free zones, special economic areas**

181. The representative of Cape Verde said that Decree-Law No. 18/2000 of 27 March 2000, Law No. 83/V/98 of 21 December 1998, and Decree-Law No. 48/99 of 2 August 1999 authorized the establishment of a Commercial Franc (Free) Zone, which was defined as a duty free import and export area where permanent trade fairs could be held. However, Cape Verde's Commercial Franc Zone was not yet fully operational.

182. Cape Verde had also designated "free enterprises" or "franc enterprises" benefiting from special fiscal and customs incentives under Law No. 99/IV/93 of 31 December 1993 and pursuant to Decree-Law No. 36/2003 of 29 September 2003; Regulatory Decree No. 6/99 of 21 June 1999; Law No. 50/III/89 of 13 July 1989; Legislative Decree No. 19/97 of 22 December 1997; Resolution No. 43/93 of 31 August 1993; and Resolution No. 3/2004 of 23 February 2004. The Industrial Zone of Lazareto had been created especially for the setting up of free enterprises. Free enterprises could also be established elsewhere in Cape Verde, and would continue to benefit from the earmarked incentives provided for under the Law. Any legally established national or foreign enterprise was eligible for the status of free enterprise, as the Law stated that "all enterprises, producing or trading goods and services, solely for export or sale to other free enterprises installed in Cape Verde, can apply for the free enterprise status." In order to be designated and registered as a free enterprise, the entity applied to the Ministry of Finance and Public Administration through Cape Verde Investments. Upon approval, Cape Verde Investments issued a certificate of free enterprise in accordance with the provisions of Annex 2 of the Law No. 99/IV/93. Five enterprises operating in the garment and footwear industries had been established as "free enterprises".

183. The fiscal incentives for "free enterprises" included total exemption from taxes on profits and dividends distributed for ten years. After ten years, these taxes were not to exceed 15 per cent of the profits. Free enterprises were also exempt from indirect taxes and other levies such as the stamp tax or notary and registration fees. Free enterprises did not have to declare capital gains. Customs incentives included the exemption of all border taxes, custom duties, and charges on the imported goods used directly by the free enterprises such as construction materials, including metal structures, for the installation, expansion or renovation of the free enterprises; machinery, apparatuses and instruments, including accessories and spare parts; cargo handling equipment and means of transport of goods for the exclusive use of the free enterprises; fuels and lubricants (with the exception of petrol), used strictly for electricity generation and energy needs of the free enterprises and for the desalination of water. Raw materials and intermediate products used in goods exported by a free enterprise could be imported through a suspension of the customs regime. Under this regime, the inputs were subject to a simplified declaration, cleared immediately by Customs, the payment of

duties and fees was suspended, and the products imported could be stored, circulated or transformed within the customs territory under the supervision of Customs. Exported products manufactured or re-exported by free enterprises were exempt from customs duties. Free enterprises could also contract foreign workers.

184. In response to a query, the representative of Cape Verde confirmed that the Ministry of Finance and Public Administration could authorize free enterprises to sell up to 15 per cent of the preceding year's production in the local market. Goods destined for the local market were subject to the applicable duties, taxes and other charges.

185. A Member urged Cape Verde to review and revise its policies related to free zones and free enterprises, and questioned whether the criteria for free enterprises were consistent with the WTO Agreement on Subsidies and Countervailing Measures. Cape Verde was invited to provide comprehensive information on all incentives related to free zones, special economic areas, and "franc" or "free" enterprises. Some Members stressed the necessity for Cape Verde to ensure that goods produced in a free zone and imported into the territory of Cape Verde would be subject to normal customs duties applicable to imports. Some Members stated that they would welcome Cape Verde's commitment to eliminate prohibited subsidies by a date certain.

186. In reply, the representative of Cape Verde said that, applied by an LDC, the criteria would in his view be in compliance with the provisions of the Agreement on Subsidies and Countervailing Measures. Nevertheless, as Cape Verde's LDC status was set to expire, his Government was committed to prepare a plan for the gradual elimination of prohibited subsidies. Referring to the action plan circulated in document WT/ACC/CPV/29, the representative of Cape Verde confirmed that Cape Verde would progressively eliminate all measures which meet the definition of a prohibited subsidy, within the meaning of Article 3 of the Agreement on Subsidies and Countervailing Measures, by 1 January 2010. Cape Verde's commitments with respect to subsidies provided for the free or "franc" enterprises and within the free trade zones can be found in paragraph 163.

187. Concerning the free trade zones, including Commercial Franc (Free) Zones, and "free" enterprises or "franc" enterprises designated by the Government, the representative of Cape Verde confirmed that Cape Verde would ensure enforcement of its WTO obligations in its free trade zones from 1 January 2010, including the provisions of the WTO Agreement and Cape Verde's commitments in its Protocol of Accession. In this regard, imports and goods produced in the free trade zones or areas under tax and tariff provisions that exempt imports and imported inputs from tariffs and certain taxes would be subject to normal customs formalities when entering the rest of Cape Verde, including the application of exempted tariffs and taxes. The Working Party took note of these commitments.

- **Government procurement**

188. The representative of Cape Verde said that the Directorate General for State Property solicited bids and oversaw the purchase of goods and services for all government departments. Public works were regulated through Decree-Law No. 87/89 of 24 November 1989. Contracts for construction works with foreign financing were not required to comply with this legislation. Tendering procedures were regulated by Decree-Law No. 31/94 of 2 May 1994. Generally, construction contracts were awarded after a public bidding process had taken place. The contract was awarded to the most advantageous proposal taking several factors into account, including the price, timetable for execution of the project, technical specifications, and other factors of special interest to the public. He confirmed that his Government did not give preference to local goods and services in its government procurement practices.

189. Cape Verde followed World Bank guidelines in the adjudication of government procurement, and contracts were concluded on the basis of international tendering, national tenders, requests for quotations, or international consultation. National tenders applied to products available in the local market. Mandatory publication applied to all procurement exceeding CVE 100,000 (€07); for smaller projects the General Directorate of Patrimony would invite bids from three local suppliers. An evaluation committee had been established to examine the claims of unsuccessful bidders. Still dissatisfied, the bidder could bring the matter before the Minister of the Ministry concerned, and subsequently file an appeal with the Court.

190. A Member invited Cape Verde to participate in the WTO Agreement on Government Procurement as an observer as a prelude to future participation as a Member to this Agreement. Noting that participation in this Agreement was optional for WTO Members, the representative of Cape Verde said that his Government would consider the issue and explore the advantages and disadvantages of joining the Agreement on Government Procurement.

- **Transit**

191. The representative of Cape Verde said that Chapter VIII (Articles 215-220) of the new Customs Code, to be adopted by December 2008, included provisions on the regulation of trade in transit that, in his view, were in conformity with Article V of the GATT 1994. Cape Verde was a member of the World Customs Organization (WCO) and was consulting and seeking technical assistance from the WCO on the regulation of trade in transit.

192. As an ECOWAS Member, Cape Verde was a signatory to the Convention relating to Road Transit of merchandise between ECOWAS Member States of 29 May 1982, and the Additional Convention A/SP.1/5/90 of 30 May 1990 that instituted a mechanism within the ECOWAS Community to guarantee the inter-State road transit of merchandise.

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

- **Agricultural policies**

(a) **Imports**

194. The representative of Cape Verde said that the government Department responsible for Agriculture, Forestry and Livestock could impose quantitative restrictions or prohibitions on the import of vegetables, livestock and other products on the grounds of health and public safety. SPS measures were applied, and food imports needed to meet "Codex" standards. Imported agricultural or animal products were accompanied by a certificate of origin. Imports of animals, food of animal origin, plants, vegetables or products of vegetable origin were accompanied by an international sanitary or phytosanitary certificate issued by the authorities of the exporting country. Based on an inspection, the Cape Verdean authorities issued a certificate to indicate that the products did not constitute a risk to Cape Verde. Imported food products should be labelled to indicate the date of manufacture and the estimated shelf-life, composition, trademark and the manufacturer's name. The use-by-dates stated by the manufacturers were not based on mandatory shelf-life requirements for particular products.

195. A Member reminded Cape Verde that quantitative restrictions were not permitted under the Agreement on Agriculture, and that Cape Verde would need to conduct a risk assessment to justify import prohibitions.

(b) Exports

196. The representative of Cape Verde said that Cape Verde prohibited the export of endangered flora or fauna covered by the International Convention on Endangered Species of Flora and Fauna (Washington Convention). His Government did not provide any credits, credit guarantees or insurance programs for agricultural exports.

(c) Internal policies

197. The representative of Cape Verde said that the agricultural sector played an important role in the national economy, contributing about 11 per cent of the GNP and employing nearly 20 per cent of the labour force in 2000. The import of some agricultural inputs was exempt from customs duties and taxes to support domestic producers. Tariff exemptions were available for breeding livestock, seeds and plants for agriculture, fertilizers and pesticides.

198. The representative of Cape Verde provided information on domestic support and export subsidies in the agricultural sector in document WT/ACC/SPEC/CPV/1 and subsequent revisions. He identified "Green Box" support as expenditure on research, information dissemination through extension and advisory services, support to the development of agriculture and livestock, and infrastructural services serving both environmental and agricultural purposes in view of the limited water resources in Cape Verde. Funding was also provided for the development of agriculture and livestock; reforestation; an annual survey on agriculture production; and the payment of salaries for forest rangers and similar personnel. Salaries and wages accounted for a significant proportion of Cape Verde's expenditure on domestic support. Government expenditure for the support and development of agriculture in Cape Verde amounted to about CVE 560 million (€ million) annually.

199. The representative of Cape Verde confirmed that Cape Verde did not provide any agricultural export subsidies.

200. Cape Verde's commitments on agricultural tariffs and domestic support and export subsidies for agricultural products are contained in the Schedule of Concessions and Commitments on Goods (WT/ACC/CPV/30/Add.1) annexed to Cape Verde's draft Protocol of Accession to the WTO.

- Trade in civil aircraft

201. The representative of Cape Verde said that domestic companies benefited from tariff exemptions for imported aircraft and spare parts. The exemptions were also available to foreign-owned airlines stopping over in Cape Verde for refuelling and repairs.

- Textiles regime

202. The representative of Cape Verde said that trade in textiles was of growing importance and had accounted for almost 50 per cent of total exports in 2001. Investment in the textile and clothing industry had totalled US\$5.06 million over the period 2000 to 2004. From 2000 through to the first half of 2005, Cape Verde's textile and clothing industry had traded goods worth nearly CVE 3.4 billion (€30.5 million). Cape Verde had been certified for apparel benefits under the African Growth and Opportunities Act (AGOA), which gave Cape Verde's textile exports preferential access in the United States. Cape Verde also had preferential (quota and duty-free) access to other markets such as Canada and the European Union.

V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME

- GENERAL

- Industrial property protection

203. The representative of Cape Verde said that his Government attached importance to the development of an industrial property protection system. New legislation was being promulgated by Cape Verde in this area as the existing legal provisions, i.e. Decree No. 30679 of 24 August 1940 (of Portugal), which had been enacted in Cape Verde as the Industrial Property Code of 1959 (Ministerial Ordinance No. 17043 of 14 May 1959), were obsolete and had not been applied since Cape Verde's independence in 1975. A new Industrial Property Code had been published on 20 August 2007 (Legislative Decree No. 4/2007). The new law was based on international experience and - in his opinion - in full conformity with the provisions of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

- Responsible agencies for policy formulation and implementation

204. The representative of Cape Verde stated that the Ministry of Economy, Growth and Competitiveness was the focal point for the protection of industrial property. The Ministry was responsible for formulating and implementing policies in this area, whereas the government Department responsible for Industry and Energy was charged with follow-up and administrative procedures. He added that the Ministry of Culture was the focal point for copyright and related rights in Cape Verde. In 2001, Cape Verde had created the National Institute for Research, Promotion and Cultural Heritage (under the Ministry of Culture) which was responsible for compliance with legislation pertaining to copyright and related rights.

- Participation in international intellectual property agreements

205. The representative of Cape Verde said that Cape Verde had been a member of the World Intellectual Property Organization (WIPO) since 1 July 1997, and participated regularly in WIPO activities, particularly regional seminars for Portuguese-speaking countries. Cape Verde intended to be a member of the main international organizations governing intellectual property, including the African Industrial Property Organization (AIPO).

206. He expected Cape Verde to accede to the Paris Convention for the Protection of Industrial Property in 2008. With respect to copyright and related rights, Cape Verde had acceded to the Berne Convention for the Protection of Literary and Artistic Works in June 1996 and had become a member of the International Convention for the Protection Performers, Producers of Phonograms, and Broadcasting Organizations (Rome Convention) in June 1996. Strongly encouraged to accede to the WIPO Copyright Treaty, the WIPO Performances and Phonograms Treaty and the Geneva Phonograms Convention, he indicated that his Government would consider these matters further. His Government would also take a position on accession to the International Union for the Protection of Plant Varieties (UPOV), the Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the Purposes of Patent Procedure, and the Patent Cooperation Treaty, at a later stage.

207. Cape Verde had developed a multilateral cooperation relationship with WIPO, and a bilateral/regional relationship with Portugal's National Institute of Industrial Property and the African Countries of Portuguese Official Language (PALOP) for training and technical assistance activities.

- **Application of national and MFN treatment to foreign nationals**

208. The representative of Cape Verde said that the 1959 Industrial Property Code provided for equal treatment to all persons, independent of place of residence. The reciprocity regime applied for foreign nationals. New legislation on Industrial Property Protection foresaw equal rights for all beneficiaries, whether national citizens or foreigners. This principle would also be adhered to in Cape Verde's accession to the Paris Convention.

209. With respect to copyright and related rights, Cape Verde legislation neither permitted discriminatory treatment on the basis of the copyright holder's nationality, nor did it permit special treatment to the citizens of any particular country.

- **Fees and taxes**

210. The representative of Cape Verde said that minimal fees and charges set in the outdated 1959 Industrial Property Code had remained in effect until April 2003. His Government had revised these fees through Decree-Law No 7/2003 of 7 April 2003, published in the Official Bulletin of 5 May 2003, and were also updating the fees with the promulgation of the new Industrial Property Code. The previous charges and the revised fees are enumerated in Table 11. The fees and charges were the same for foreigners and Cape Verde nationals.

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

- **Copyright and related rights**

211. The representative of Cape Verde said that the existing Copyright Law had been enacted in Decree No. 107/90 of 8 December 1990. Cape Verde had subsequently acceded to the Berne Convention in June 1996.

212. Some Members requested detailed information on the Copyright Law of Cape Verde, and in particular its conformity with Articles 9, 10, 11, 13 and 14.2 of the TRIPS Agreement. In response, the representative of Cape Verde indicated that some provisions of the Copyright Law might be inconsistent with provisions of the TRIPS Agreement. The Action Plan submitted in document WT/ACC/CPV/9 and subsequent revisions envisaged review and, as necessary, amendment or revision of the Copyright Law by December 2012 to bring it in conformity with the TRIPS Agreement. The proposed timetable for completion of work, as outlined in Cape Verde's Action Plan, depended on the provision of timely and adequate technical assistance. He added that specific elements to be reviewed, and as necessary amended, in the process of revising the Copyright Law included the definition of computer programs; rental rights for computer programs and cinematography works; the length and terms of protection for performers/performances; copyright protection for folklore/traditional culture (a WIPO model law was being examined); and other aspects or provisions identified by Members as not in compliance with the TRIPS Agreement.

213. The representative of Cape Verde confirmed that in line with Article 10.1 of the TRIPS Agreement, computer programs were protected as literary works. He also confirmed that the revised Copyright Law would ensure a life-plus-50-years term of protection for literary works in compliance with Article 9.1 of the TRIPS Agreement and the Berne Convention. The Copyright Law currently allowed "an artist's interpretation or execution" to be protected for a period of 40 years, starting from the first day of the year in which the copyrighted work was generated. He confirmed that this too would be corrected in the revised Copyright Law to bring it into conformity with Article 14.5 of the TRIPS Agreement. Responding to concerns that Article 50(h) of the draft revised

Copyright Law did not require the reproduced work to be lawfully obtained by the person performing the reproduction, he stated that reproduction of a work obtained unlawfully would be considered a "crime of reception" according to Article 230 of the Penal Code.

- **Trademarks, including service marks**

214. The representative of Cape Verde said that the 1959 Industrial Property Code (Chapter III, section II, Articles 86 and 103) provided for the registration and protection of marks. Applications to register a mark were lodged with the Department responsible for Industry. After the application had been submitted, a notice to this effect was published in the Industrial Property Bulletin. The deadline to present complaints or objections was 90 days, after which the Department responsible for Industry would examine and process the application by comparing the mark submitted for registration against already-registered marks.

215. Some Members sought a description of the protectable subject matter for trademark protection in Cape Verde. Further information on the length and terms of protection, procedures for the registration and protection of trademarks, including well-known marks, and the rights that the owner could exercise was requested. Clarification on the arbitration mechanism and penalties for misuse and infringement of trademarks was also sought.

216. In response, the representative of Cape Verde indicated that the 1959 Industrial Property Code had been replaced by a new Industrial Property Code in August 2007. The length and terms of protection, the procedures for the registration and protection of trademarks, including well-known marks, and the rights exercised by the owner were defined in the new code according to international procedures.

- **Geographical indications, including appellations of origin**

217. The representative of Cape Verde said that Geographical Indications had not been covered by the 1959 Industrial Property Code, but provisions had been included in the new Industrial Property Code of August 2007.

218. Having reviewed the draft Industrial Property Code, a Member requested a specific explanation of how Cape Verde would preserve the rights of trademark owners in compliance with Articles 16.1 and 24.5 of the TRIPS Agreement by ensuring the protection of trademarks against confusingly similar and later-in-time geographical indications. In reply, the representative of Cape Verde said that the new code defined clearly the concepts as well as the registration and protection procedures for trademarks and geographical indications.

- **Industrial designs**

219. The representative of Cape Verde said that the 1959 Industrial Property Code (Chapter II, Sections I-IV) provided for the registration and protection of industrial designs. After an application had been submitted, a notice indicating the objective, utility and novelty of the industrial design was published in the Industrial Property Bulletin. The deadline to present complaints or objections was 90 days, after which the request would be processed.

220. Some Members sought further information on the procedures for the protection of industrial designs, and for the protection of textile designs. In reply, the representative of Cape Verde said that the 1959 Industrial Property Code was obsolete, and that Cape Verde had adopted the new Industrial Property Code in conformity with the relevant provisions of the TRIPS Agreement in August 2007.

- **Patents**

221. The representative of Cape Verde said that the 1959 Industrial Property Code (Chapter I, Sections II-IV) provided for the registration of patents. A request for a patent was made in an application with the supporting materials as indicated in Article 15 of the Code. Upon the request of the inventor or his/her legal representative, a "certificate of presentation of the patent request" was issued. After the application had been submitted, a notice with a transcript of the patent claim was published in the Industrial Property Bulletin. The deadline to present objections or complaints was 90 days, after which the Department responsible for Industry would examine and process the request.

222. Some Members requested further information on the existing patent legislation in Cape Verde and in particular its conformity with Articles 27, 28, 29 and 32 of the TRIPS Agreement. Further information was also sought on the rights provided to patent holders, the term of protection, and whether any provisions for extension of the term of protection of patents existed in Cape Verde. Details of provisions and description of conditions (if any) which might permit the use of the patent subject matter without the authorization of the patent holder was solicited.

223. In reply, the representative of Cape Verde stated that the 1959 Industrial Property Code was obsolete. Cape Verde had adopted the new Industrial Property Code in conformity with the provisions of the TRIPS Agreement in August 2007.

- **Plant variety protection**

224. The representative of Cape Verde said that plant variety protection had not been covered in the 1959 Industrial Property Code, and plant variety protection was not specifically addressed in the new Industrial Property Code. He noted that according to Cape Verde's revised legislative action plan, Cape Verde's Industrial Property Code would be in full conformity with the TRIPS Agreement by December 2013.

- **Layout designs of integrated circuits**

225. The representative of Cape Verde said that layout designs of integrated circuits had not been covered in the 1959 Industrial Property Code. The new Industrial Property Code included provisions in conformity with Articles 35 to 38 of the TRIPS Agreement.

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

226. The representative of Cape Verde said that trade secrets and test data were accorded protection through the Penal Code.

227. Some Members sought further information on the protection of undisclosed information in conformity with Article 39 of the TRIPS Agreement, including the citation of the specific provisions in the Penal Code relating to trade secrets or test data. Information was also sought on procedures and protection accorded to test data for pharmaceutical and agricultural chemical products submitted for marketing approval.

228. In reply, the representative of Cape Verde said that the new Industrial Property Code included provisions on the protection of undisclosed information in conformity with the provisions of the TRIPS Agreement. The existing Penal Code was old and was in the process of being revised.

229. Having reviewed the draft Industrial Property Code, a Member noted that the draft law appeared to protect trade secrets against disclosure, but it did not provide specific protection for pharmaceutical and agricultural test data against unfair commercial use as required under Article 39.3

of the TRIPS Agreement. In this context, the representative of Cape Verde was asked to explain whether Cape Verde permitted the registration of generic products; whether the applicant for a generic drug approval needed to provide the same data required for an original product, or could provide an abbreviated drug application; and whether Cape Verde had established any time period after registration of an original product during which generic applications would not be considered.

230. The representative of Cape Verde replied that the new Industrial Property Code did not foresee the registration of generic products.

- **MEASURES TO CONTROL ABUSE OF INTELLECTUAL PROPERTY RIGHTS**

231. The representative of Cape Verde said that measures to control the abuse of industrial property rights were outlined in Title III of the 1959 Industrial Property Code as well as in the new Industrial Property Code of August 2007.

- **ENFORCEMENT**

- **Civil judicial procedures and remedies**

232. The representative of Cape Verde said that civil judicial procedures and remedies were applied in accordance with the Civil Process Code. Under the Copyright Law, civil procedures arising from infringements were independent of criminal procedures. One case on a presumed copyright infringement was currently before the courts, but no definitive judgment had yet been passed. No civil cases had so far been brought concerning trademark infringements.

233. Some Members sought further information on laws, regulations and any conditions under which the right holder could avail of civil judicial procedures and remedies. Further clarification was solicited on Cape Verde's conformity with Article 43.1 of the TRIPS Agreement. In response, the representative of Cape Verde said that Cape Verde had adopted the new Industrial Property Code in conformity with the provisions of the TRIPS Agreement in August 2007.

234. Referring to Article 45.2 of the TRIPS Agreement, the representative of Cape Verde said that according to Articles 9 and 10 of the Civil Code and Cape Verde's laws of judicial procedure a right holder could be awarded the costs and/or attorney's fees at the successful conclusion of a case for copyright or intellectual property rights infringement. Asked how fines or damages were calculated in civil trademark and copyright cases, he said that the draft law established minimum and maximum levels depending on the seriousness of the case.

- **Provisional measures**

235. The representative of Cape Verde said that in accordance with Cape Verde's current procedural law, provisional or precautionary measures could be issued *inaudita altera parte* or without prior notice to the defendant. Provisions in line with Article 50 of the TRIPS Agreement would be included in the new law being drafted.

- **Administrative procedures and remedies**

236. The representative of Cape Verde said that administrative procedures and remedies had not been applied in Cape Verde due to the obsolete and non-functional nature of the 1959 Industrial Property Code, and that this matter had been rectified in the new Code.

- **Special border measures**

237. The representative of Cape Verde said that the 1959 Industrial Property Code had not included any special border measures to prevent the entry of counterfeit or other products violating the principles of industrial property protection. However, the new Industrial Property Code ensured conformity with the provisions of Section 4 of the TRIPS Agreement, including Article 51, on border enforcement of intellectual property rights. Provisions on border enforcement of intellectual property rights would also be included in the new Customs Code. He added that training and counselling of the customs service would be necessary in this area.

238. Some Members sought further information on border enforcement for trademark counterfeiting and copyright piracy. Indications when border protection would be available to other forms of intellectual property were also solicited. Clarification was sought on whether competent authorities could take ex officio action in line with Article 58 of the TRIPS Agreement.

239. In response, the representative of Cape Verde said that Customs Officials could take ex officio action under current customs operating procedures to prevent the importation of goods that infringed intellectual property rights. Cape Verde Customs could seize such goods and the case could be brought before the courts.

- **Criminal procedures**

240. The representative of Cape Verde said that the illicit or unauthorized appropriation, use or diffusion of industrial property or trade secrets was a criminal offence punishable under the terms of the 1959 Industrial Property Code. Article 213 of the 1959 Industrial Property Code stipulated that "any act of unfair competition shall be penalized by a fine of CVE 100 (€0.90) to CVE 10,000 (€90) under current legislation, which may be supplemented by a prison term of 15 days to six months." He acknowledged that the penalties in the 1959 Industrial Property Code had not constituted an effective deterrent. No criminal judicial procedures had been initiated in Cape Verde so far as the application of penalties was not effective and would not discourage illicit practices in the domain of industrial property rights. The criminal procedures and penalties had been reviewed and revised to conform with the TRIPS Agreement with the promulgation of the new Industrial Property Code.

241. For copyright and related rights, the existing Copyright Law allowed for the imposition of penalties against anyone importing, selling or distributing to the public any pirated work, whether the product was produced in Cape Verde or abroad. Copyright violations were punishable by a fine of up to CVE 100,000 (€900). The Copyright Law foresaw penalties up to one year imprisonment and a doubling of fines in the case of recurrence. The copyright holder could also approach a Court to seize samples of usurped or pirated work. As per the Action Plan in document WT/ACC/CPV/9/Rev.3, the Copyright Law would be revised by December 2012, and training and technical assistance was required to ensure compliance with the relevant provisions of the TRIPS Agreement.

242. The representative of Cape Verde submitted information on the implementation of the TRIPS Agreement in document WT/ACC/CPV/5, and said that a timetable for the enactment of legislation that implements the WTO Agreement on TRIPS in Cape Verde's legal regime was provided in the TRIPS Implementation Action Plans circulated in documents WT/ACC/CPV/9 and its Revisions 1, 2 and 3. The new Industrial Property Code (Legislative Decree No. 4/2007) had been promulgated in August 2007. New legislation or amendments with regard to Industrial Property Rights, Copyright, and Trademarks would be submitted to the Council of Ministers and to the National Assembly by December 2012. As per the Action Plan, Cape Verde would seek to implement and be in full conformity with the provisions of the TRIPS Agreement by December 2013, except the obligations covered by Sections 5 and 7 of Part II of the TRIPS Agreement or to enforce rights provided for under these Sections, where the compliance would be achieved by December 2016.

As outlined in the documentation provided, it was necessary to extensively amend current legislation in place, to undertake training of staff, and to secure the necessary resources to join a number of international Agreements and conventions. The timetable for implementation of the TRIPS Agreement foresaw the provision of timely and adequate technical assistance. Technical assistance to meet this goal had been, and would be further solicited from relevant sources, including bilateral donors and the World Intellectual Property Organization.

243. Having reviewed Cape Verde's Action Plan for compliance with the requirements of the TRIPS Agreement, a Member sought a realistic plan laying out the measures that Cape Verde would take over time to bring its regime into compliance with specific provisions of the TRIPS Agreement as soon as possible. The plan would constitute an understanding between Cape Verde and the Working Party on how Cape Verde would use the transition period, and form a blueprint for the use of technical assistance for compliance within the timeframe contemplated. Cape Verde should also provide specific assurances on its application of measures covered by the TRIPS Agreement during any transition period approved by the Working Party. TRIPS-consistent measures already in place should not be subject to transitions, and Articles 3, 4 and 5 of the TRIPS Agreement, providing for *inter alia* national treatment and MFN treatment, should apply from the date of accession. Moreover, Cape Verde should not allow production of goods or works inconsistent with the substantive provisions of the TRIPS Agreement during the transition period.

244. The representative of Cape Verde stated that, for the reasons given above, the Government of Cape Verde requested that the WTO grant a transitional period until 1 January 2013 to obtain technical assistance and equip the administration to implement fully the obligations of the TRIPS Agreement. For the obligations covered by Sections 5 and 7 of Part II of the TRIPS Agreement or to enforce rights provided for under these Sections Cape Verde requested the WTO to recognize its right to an additional transitional period in respect of these obligations, until 1 January 2016, in light of paragraph 7 of the Doha Declaration on the TRIPS Agreement and Public Health. The representative of Cape Verde confirmed that should a transition be granted for the implementation of the WTO Agreement on TRIPS, Cape Verde was prepared to fully apply Articles 3, 4 and 5 of the TRIPS Agreement that provide for, *inter alia*, national treatment and MFN treatment under current legislation in place during any transition period granted. To this end, Cape Verde would amend its legislation on the fees charged to applicants to ensure full national and MFN treatment upon accession. Cape Verde would also ensure that any change made in its laws and regulations during this period would not result in a lesser degree of consistency with the provisions of the TRIPS Agreement.

245. The representative of Cape Verde further confirmed that, should a transition be granted, his Government would ensure that Cape Verde's intellectual property rights regime would not result in a lesser degree of enforcement during any transition period granted; that existing rates of infringement would not significantly increase; and that any infringements of intellectual property rights in this period would be addressed immediately in cooperation with affected right holders. He added that Cape Verde would seek out all available technical assistance to ensure that its capacity to fully enforce its TRIPS-consistent legal regime upon expiration of the transition periods is assured and that Cape Verde would make available TRIPS legislation in draft and promulgated form to the WTO Secretariat for circulation to interested WTO Members. In response to requests from delegations for more specificity, the representative of Cape Verde presented an Action Plan in Table 12 setting out details of the steps that still remained to be taken in order to achieve this objective and a timetable for each step.

Table 12: Action Plan for Implementation of the Agreement on Trade Related Aspects of Intellectual Property Protection

Topic	Laws and Regulations	Timetable
Part A – Industrial Property		
Registered Trademarks, Geographical Indications, Industrial Designs, Patents, Integrated Circuits Diagrams, Confidential Information	Industrial Property Code, approved by Decree No. 30679 of 24 August 1940, ordered applicable to Cape Verde by Ministerial Ordinance No. 17043 of 5 May 1959, published in the Supplement to Official Bulletin (Gazette) No. 19 of 15 May 1959	Since 1954
New Industrial Property Code	Legislative authorization granted by Parliament – National Assembly	Granted in February 2007
	Updating of the Trademark Classification table to bring it in conformity with the NICE International Classification.	Completed in April 2007
	Discussion and approval by the Council of Ministers	Completed July 2007
	Publication of the Industrial Property Code	Completed August 2007
	Industrial Property Code in full conformity with the TRIPS Agreement	December 2013
	Update of the Table of Fees to be paid by applicants for the registration of Industrial Property – Trademarks, Patents, models and industrial designs, etc.	December 2008
	Training of personnel including customs officials and police agents involved in the protection of registered trademarks.	2008-2012
	Training of judges and lawyers	
	Creation of a Registered Trademarks Data Base	
Other	Reorganization and creation of the Industrial Property Departments	
	Computerization of data for the Industrial Property Departments	
	Creation of Rules, Regulations and work (technical) manuals	
	Training (enabling) the public regarding the protection of the Intellectual Property rights.	
Part B – Copyright and Related Rights		
	Laws and Regulations addressing the subject matter	Timetable
	Copyright Law contemplated in Decree No. 107/90 of 8 December 1990, published in Official Bulletin (Gazette) No. 49/1990. The Law needs to be revised to be WTO compliant	In effect
	Discussion and approval of the legislative authorization by the National Assembly	December 2011
	Discussion and approval by the Council of Ministers	July 2012
	Publication of the Copyright Law	December 2012
	Training of the personnel involved in the protection of copyright, customs personnel ¹ and police	2008-2012
	Training of judges and lawyers	
	Creation of the Copyright Information Centre	December 2012
Other	Reorganization and creation of the Copyright Department	December 2012
	Computerization of the Copyright Department	2012
	Rules, regulations and technical (work) manuals	2012
	Training (enabling) the public regarding protection of intellectual property (copyrights).	2008-2012 – Training should be ongoing

¹ This end-date includes special requisites related to the application of border protection.

246. The representative of Cape Verde confirmed that Cape Verde would apply the Agreement on Trade-Related Intellectual Property Rights by no later than 1 January 2013 according to the action plan in Table 12 with the understanding that for the obligations covered by Sections 5 and 7 of Part II of the TRIPS Agreement or to enforce rights provided for under these Sections, Cape Verde would apply the TRIPS Agreement in respect of these obligations no later than 1 January 2016, in light of paragraph 7 of the Doha Declaration on the TRIPS Agreement and Public Health. During this period, protection for intellectual property rights as described in paragraphs 244 and 245 would be applied in Cape Verde. The Working Party took note of this commitment.

VI. POLICIES AFFECTING TRADE IN SERVICES

247. The representative of Cape Verde said that services played an important role in the economy of Cape Verde. Over the period 1998-2002, services had accounted for about 65 per cent of the GDP. The five most significant services sectors were telecommunications, construction and engineering, tourism and related services, transportation, and financial services. He submitted detailed information on policy measures affecting trade in services in document WT/ACC/CPV/4.

248. Several government departments were involved in the regulation of trade in services, including the Ministry of Economy, Growth and Competitiveness; the General Department of Tourism; Cape Verde Investments; the Ministry of Infrastructures, Transport and Sea; the Institute to Assist Small and Medium Enterprises; the Ministry of Finance and Public Administration; the Ministry of Health; the Ministry of Education and Higher Learning; the Ministry of Culture; the Ministry of Agriculture and Environment; the National Food Security Agency; the Bank of Cape Verde; and the Chambers of Commerce. Many professional associations also played a role in this area, including the Bar Association, the Association of Women Lawyers, the Doctor's Association, and the Association of Masons and Carpenters.

249. Although many services had undergone significant liberalization, monopolies remained in the provision of certain basic services, notably in telecommunications (fixed networks), electricity (energy distribution) and water. These monopolies functioned under terms set by concession contracts signed with the Government of Cape Verde.

250. Cape Verde's strategy for growth in the services sector had been to privatize the provision of many services and to open the market to free and fair competition. Cape Verde encouraged foreign investment and pursuant to the Foreign Investment Law No. 89/IV/93 of 13 December 1993, foreigners could invest and work in nearly every service sector. Regulatory Law No. 1/94 set out the procedures for authorization of foreign direct investment.

251. Pursuant to Law No. 47/IV/92 of 6 July 1992 and the privatization process initiated in 1993, joint ventures in financial services were encouraged (though were not mandatory) with a view to building domestic entrepreneurial capacity, and increasing efficiency, productivity and competitiveness of companies. Cape Verdean entrepreneurs with experience in financial services entered into strategic partnerships or joint ventures with foreign investors. In accordance with Article 7 of the Decree-Law No. 87/89 of 24 November 1989, joint ventures could also be established in construction services.

252. He added that other laws and regulations relevant for investment in Cape Verde's service sectors or sub-sectors included the Tourist Utility Statute (Law No. 55/VI/2005 of 10 January 2005); Industrial Statute (Decree-Law No. 108/89 of 30 December 1989); Law No. 92/IV/93 of 15 December 1993 on export and re-export incentives; and Law No. 43/III/88 of 27 December 1988 amended by Law No 32/V/97 of 30 June 1997, Decree-Law No. 66/97 of 3 November 1997 and its amendments regulating financial services. Specific authorization requirements for courier services (currently covered by Decree-Law No. 5/94) were to be published in 2005.

253. Concerning legislation regulating management consulting and related services, the representative of Cape Verde said that these services were covered by Decree-Law 37/92 of 16 April 1992 on Accountants; Law No. 126/IV/95 of 26 June 1995 on Professional Associations; Decree-Law No. 12/2000 of 28 February 2000 on Auditing; Decree-Law No. 51/2000 of 4 December 2000 on Attorneys; and the Code of Commercial Enterprises and Registration of Firms contained in Legislative Decree No. 3/99 of 29 March 1999, which covered other aspects of management consulting services.

254. On legal services, the representative of Cape Verde said that recognition as a qualified lawyer required residency in Cape Verde and citizenship of Cape Verde or a Portuguese-speaking country. Foreign lawyers could provide legal consultancy services on international law and home-country law and be associated with, or employ, local lawyers.

255. Regarding the telecommunications sector, the Institute of Communication and Information Technologies (ICTI) had been created through Regulatory Decree No. 1/2004 of 9 February 2004. The principal objectives of the ICTI were the supervision, technical regulation and inspection of the communications sector as well as the promotion and development of information technologies. In addition to the ICTI and its technical regulation, a separate regulatory body and council had been created for the economic regulation of the telecommunications sector. Both regulatory bodies had their own independent decision-making structures and administrative procedures. Decree-Law No. 70/95 of 20 November 1995 defined value-added services as services that, while having fundamental or complimentary telecommunication services as their sole support, did not require their own telecommunications infrastructure. Authorization to operate value-added services was granted to registered commercial operators and legal enterprises, including foreign owned affiliates that had the provision of telecommunication services as their primary or commercial objective. He stated that the provision of data services covered transmission of these services through any technological means, including internet protocol.

256. The representative of Cape Verde added that his Government continued to move forward on its commitment to market structure and regulatory reform of the telecommunications sector. The Council of Ministers had approved a Declaration on the State's Communication and Information Policy in April 2005 (Resolution No. 13/2005) establishing *inter alia* guidelines for the complete liberalization of the communication and information sector and for the revision of the concession contracts. In the aftermath of the adoption of the Policy Declaration and the guidelines, his Government had approved a new basis for network and electronic communications services through Legislative-Decree No. 7/2005 of 28 November 2005. The legislative Decree eliminated exclusivity rights in international communications as from 1 January 2006, and established a calendar for the complete liberalization of the market as from 1 January 2007. As a result of these actions, Cape Verde's legal and regulatory framework had become consistent with international best practice, and resembled the ICT legal and regulatory framework in many European countries. In 2006, his Government had created the National Communications Agency (ANAC) through Decree-Law No. 31/2006 of 19 June 2006. The purpose of this step was to promote a free competitive environment in the telecommunications sector as well as to modernize the entire communications and information sector. ANAC would become an independent authority with administrative, financial, and patrimonial autonomy, entrusted with the supervision, technical and economic regulation, inspection and representation of the communications sector.

257. On the opening up of the telecommunications sector, the representative of Cape Verde said that invitations to tender for mobile telephone services had been launched and the selection process was in progress. Cabo Verde Telecom had monopoly rights on the provision of fixed network services. These monopoly rights had been established, until 27 November 2021, under a 25 year Concession Agreement (Decree-Law No. 13/96 of 18 March 1996). His Government set the prices for these services. He stated that his Government would make efforts to renegotiate this

Concession Agreement, and that Cape Verde would provide unlimited market access for these services upon termination of the monopoly rights - even if the termination occurred before 27 November 2021. As of 1 January 2006, new and legally independent business units had been separated from Cabo Verde Telecom - CVMóvel, to provide mobile communication services, and CVMultimédia to provide multimedia services (Internet and cable TV). A second GSM licence had been awarded, as well as two licenses for cable TV (one for IPTV and one for DAB-T). One or more internet service providers were also expected to be operational in 2007. The CVMóvel licence, which was about to expire, was likely to be renewed on the same terms and conditions. The process of reviewing the Concession Contract with the concessionaire, and the process of settling the compensation to CVTelecom for the termination of its exclusivity rights were in progress.

258. Concerning tourism and travel related services, the representative of Cape Verde said that revenues from tourism had increased from about CVE 2.9 billion in 1999 to more than CVE 7.5 billion (or 10.2 per cent of GDP) in 2002. Foreign investment in the tourism sector had also grown steadily. Some 4,000 jobs had been created in tourism infrastructure and services over the period 1994-2002. He confirmed that there was no Law in Cape Verde that discriminated against foreign suppliers. "Tourism Utility Status", regulated by Law No. 55/VI/2005, entitled foreign investors and workers to certain fiscal and customs incentives, i.e. duty free import of materials, tax exemptions, profit or salary remittances abroad, etc.

259. He added that Decree-Law No. 4/94 and Regulatory Decree No. 3/94 of 7 February 1994 regulated the activities of tour operators and tourist guides. Tour operators were not wholesale firms but included local operators and the actual organizers of tours. The basic policies on tourism development were provided for in Law No. 21/IV/91 of 30 December 1991. Urban Planning had been undertaken with zones earmarked for tourism development. He added that the preservation of the environment and the eco-system was a priority for Cape Verde. In this context, all hotels with more than 21 beds were required to undertake an environmental impact study. The tourism development policy in Cape Verde also foresaw the preservation and promotion of local culture. In this regard, cultural entertainment groups had been given support.

260. Noting that the government enterprise Cape Verde Airlines (TACV) held a monopoly on domestic air transportation, maintenance and repair, and cargo handling, the representative of Cape Verde said that the privatization of TACV had been re-evaluated following domestic and international developments in 2001. In December 2002, a new Privatization Law had been approved to facilitate the privatization process. The Privatization Office was working at restructuring TACV to make TACV financially secure. Subject to favourable market conditions, the privatization was expected to proceed shortly.

VII. TRANSPARENCY

- Publication of information on trade

261. The representative of Cape Verde said that in accordance with the Constitution, all laws and legal acts, rules, regulations and public notices for the purpose of enforcement were published in the Official Bulletin. He confirmed that all normative acts, including SPS or TBT regulations, customs and judicial rulings of general application were also published in the Official Bulletin. The Official Bulletin was available for sale to the public. The annual subscription charges for Series I, II and III of the Official Bulletin were CVE 8,386, 5,770 and 4,731 respectively, while individual copies were sold for CVE 15 per page. Copies were also available at the National Archives and the National Library of Cape Verde. He confirmed that the Official Bulletin had been available electronically since 2007 through the National Press. He requested financial and technical assistance for the translation of all relevant legislation. Users seeking to access the proposed website of Official Bulletins would be charged for the service. The fee structure for this future service had not been established yet. His

Government would consider a proposal to use electronic availability as a basis for a regulatory review mechanism that included publication for prior comment, thereby addressing the transparency requirements in the areas of TBT and SPS and providing Cape Verde with a valuable tool for good rule making.

262. The representative of Cape Verde confirmed that Cape Verde would, upon accession, fully and promptly implement Article X of the GATT 1994 and other transparency provisions in the WTO Agreements requiring notification and publication. He further confirmed that no law, regulation, judicial decision, administrative rulings, or other measures of general application pertaining to or affecting trade in goods, services and TRIPS, would become effective prior to its publication. The publication of such laws, regulations and other measures would include the effective date of these measures and list the products and/or services affected by the particular measure. He stated further that Cape Verde intended to establish or designate an official journal or web-site, published or updated on a regular basis and readily available to WTO Members, individuals and enterprises, dedicated to the publication of all regulations and other measures pertaining to or affecting trade in goods, services, and TRIPS prior to implementation, and that Cape Verde intended to provide a reasonable period, e.g. no less than 30 days, for comment to the appropriate authorities of Cape Verde before such measures are implemented, except for those regulations and other measures of general application involving national emergency or security, or for which the publication would impede law enforcement or be otherwise contrary to the public interest or prejudice the commercial interests of particular enterprises, public or private. Cape Verde intended to implement this facility as soon as possible, and within the timeframe of its other WTO commitments. The Working Party took note of these commitments.

- **Notifications**

263. The representative of Cape Verde said that, at the latest upon entry into force of the Protocol of Accession, Cape Verde would submit all initial notifications required by any Agreement constituting part of the WTO Agreement. Any regulations subsequently enacted by Cape Verde which gave effect to the laws enacted to implement any Agreement constituting part of the WTO Agreement would also conform to the requirements of that Agreement. The Working Party took note of these commitments.

VIII. TRADE AGREEMENTS

264. The representative of Cape Verde said that Cape Verde was a member of the Economic Community of West African States (ECOWAS). The ECOWAS Treaty called for free trade, free movement of persons, right of residence and establishment, free movement of capital, and an Economic Union with a common currency for the ECOWAS Member States. Cape Verde presently only provided for the free movement of persons among the ECOWAS Member States.

265. All 15 ECOWAS Member States had agreed to establish a Customs Union and adopt a common external tariff, which for the moment was under further study and had not yet been implemented. In accordance with Article 35 of the revised ECOWAS Treaty, signed on 24 July 1993, the Customs Union among the Member-States was to have been established over a ten year period (i.e. by 1 January 2000). Within the Customs Union, all duties and border charges were to be eliminated, and Member-States were accorded duty-free treatment in each other's markets. Non-tariff barriers such as quotas, quantitative restrictions and prohibitions were also to be removed. A common external tariff was to be established which would be applied to imports from outside the Customs Union. He provided a roadmap for implementing the common external tariff and for establishing the Customs Union.

266. Unprocessed goods and traditional handicraft products were covered by Article 36.2 of the revised ECOWAS treaty. These goods were to be accorded duty and quota free treatment within the ECOWAS Community with immediate effect. However, the ECOWAS Heads of State had deferred the implementation of this measure.

267. Cape Verde had concluded a free trade Agreement with a group of African Portuguese-speaking countries - Angola, Guinea Bissau, Mozambique and Sao Tome and Principe. This Agreement had been signed on 30 March 1980. Free trade among the parties had not yet been undertaken. He provided a list of Cape Verde's Foreign Trade Agreements in Annex 8A of document WT/ACC/CPV/3.

268. The representative of Cape Verde confirmed that Cape Verde would observe the provisions of the WTO Agreement, and the 1979 GATT Decision on "Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries" (Enabling Clause), including Article XXIV of the GATT 1994 and Article V of the GATS in trade Agreements to which it belongs, and would ensure that the provisions of these WTO Agreements for notification, consultation, and other requirements concerning free trade areas and customs unions of which Cape Verde was, or may become, a member were met from the date of accession. The Working Party took note of these commitments.

CONCLUSIONS

269. The Working Party took note of the explanations and statements of Cape Verde concerning its foreign trade regime, as reflected in this Report. The Working Party took note of the commitments given by Cape Verde in relation to certain specific matters which are reproduced in paragraphs 18, 37, 45, 50, 60, 66, 79, 88, 92, 99, 108, 123, 130, 136, 141, 144, 163, 171, 177, 180, 187, 193, 246, 262, 263 and 268 of this Report. The Working Party took note that these commitments had been incorporated in paragraph 2 of the Protocol of Accession of Cape Verde to the WTO.

270. Having carried out the examination of the foreign trade regime of Cape Verde and in the light of the explanations, commitments and concessions made by the representative of Cape Verde, the Working Party reached the conclusion that Cape Verde be invited to accede to the Marrakesh Agreement Establishing the WTO under the provisions of Article XII. For this purpose, the Working Party has prepared the draft Decision and Protocol of Accession reproduced in the Appendix to this Report, and takes note of Cape Verde's Schedule of Concessions and Commitments on Goods (document WT/ACC/CPV/30/Add.1) and its Schedule of Specific Commitments on Services (document WT/ACC/CPV/30/Add.2) that are annexed to the draft Protocol. It is proposed that these texts be adopted by the General Council when it adopts the Report. When the Decision is adopted, the Protocol of Accession would be open for acceptance by Cape Verde which would become a Member thirty days after it accepts the said Protocol. The Working Party agreed, therefore, that it had completed its work concerning the negotiations for the accession of Cape Verde to the Marrakesh Agreement Establishing the WTO.

ANNEX 1

Laws, Regulations and Other Information Provided to the Working Party by Cape Verde

- Resolution No. 67/V/97 of 31 December 1997;
- Notice No. 4/98 of the Bank of Cape Verde;
- Decree-Law No. 18/93 "On Banks" of 29 March 1993;
- The Decree-Law of the Republic of Cape Verde No. 29/93 on "Exchange Regime" of 24 May 1993;
- The Law of the Republic of Cape Verde No. 89/IV/93 "On General Conditions for Making Foreign Investments" of 13 December 1993;
- Regulatory Decree No. 1/94 "On Foreign Investment Authorization" of 3 January 1994;
- Regulatory Decree No. 7/2004 "On Statutes of Cabo Verde Investments" of 11 October 2004;
- Regulatory Decree No. 11/93 "On Investment Companies" of 16 July 1993;
- The Legislative Decree of the Republic of Cape Verde No. 14/97 on "Evaluation of the Environmental Impact" of 1 July 1997;
- The Decree-Law of the Republic of Cape Verde No. 52/2003 on "Goods and Services Price Regime" of 24 November 2003;
- The Decree-Law of the Republic of Cape Verde No. 2/2004 on "Price Regime" of 19 January 2004;
- The Law of the Republic of Cape Verde No. 88/V/98 "On Juridical Regime for Consumer Protection and Defence" of 31 December 1998;
- Decree-Law No. 53/2003 "On Competition" of 24 November 2003;
- Decree-Law No. 16/97 "On Administrative appeals" of 10 November 1997;
- Decree-Law No. 18/97 "On Administrative Procedures" of 10 November 1997;
- The Draft Decree-Law "On Mediation";
- The Draft Law "On Fiscal Legislation";
- The Draft Decree-Law "On Mediation Centres";
- The Draft Justification Note for the Arbitration Law;
- The Draft Law "On Arbitration";
- The Draft Law "On Arbitration Centres";
- Law No. 76/VI/2005 "On Arbitration" of 16 August 2005;
- Regulatory Decree No. 8/2005 "On Arbitration Centres" of 10 October 2005;
- Decree-Law No. 30/2005 "On Mediation Centres" of 9 May 2005;
- Decree-Law No. 31/2005 "On Mediation" of 9 May 2005;
- The Draft Justification Note on the Mediation Package;
- Decree-Law No. 68/2005 "Juridical Regime of the External Trade" of 31 October 2005;
- The Revision Proposal of Decree-Law of the Republic of Cape Verde No. 5/99 "On the Commerce Juridical Regime" of 1 February 1999;
- Decree-Law No. 3/2006 "Installation Conditions and Modification of the Commercial Establishment" of 16 January 2006;
- The Resolution of the Republic of Cape Verde No. 31/86 "On Trade Licenses Fees" of 6 September 1986;
- The Decree-Law of the Republic of Cape Verde No. 31/86 on "Taxes and Emoluments of Commercial Licensing" of 6 September 1986;
- Official determination of the Republic of Cape Verde No. 16/99 regarding the competence to grant, renew, refuse, suspend or revoke authorisation for the exercise the wholesale and commercial agent activities of 3 January 2000;
- The Decree-Law of the Republic of Cape Verde No. 3/93, on "Regulation of Pharmaceuticals and Medications" of 2 February 1993;

- The Decree-Law of the Republic of Cape Verde No. 3/98 on "Import Quota Regime" of 1 February 1999;
- The Ministerial Ordinance of the Republic of Cape Verde No. 2/99 on "Prior Registration" of 8 February 1999;
- The Ministerial Ordinance of the Republic of Cape Verde No. 3/2004 on "Foreign Trade Title" of 26 January 2004;
- The Ministerial Ordinance of the Republic of Cape Verde No. 13/2004 on "Foreign Trade Titles" of 14 June 2004;
- The Ministerial Ordinance of the Republic of Cape Verde No. 4/2004 on "Registration and Licensing Procedures" of 26 January 2004;
- The Decree-Law of the Republic of Cape Verde No. 50/2003 on "Juridical Regime of the Commerce Sector" of 24 November 2003;
- Draft Decree-Law "On Juridical Regime of Foreign Trade", amending Decree-Law No. 51/2003;
- Decree-Law No. 59/99 "On Regulations on the Registration of Firms" of 27 September 1999;
- Decree-Law No. 23/VI/2003 "Approving the ICE Regulation" of 14 July 2003;
- The Ministerial Ordinance of the Republic of Cape Verde No. 6/2004 on "Liberalization of Wheat Flour" of 16 February 2004;
- Road Map for the ECOWAS Common External Tariff/Customs Union:
- Protocol "On Conditions Governing the Application of the Community Levy" of 27 July 1996;
- Law No. 14/VI/2002 "On Approval of the Tax Reform System" of 19 September 2002;
- Law No. 14/VI/2002 "On Tax on Expenses – VAT, Article 8: Exemptions in the Internal Operations" of 19 December 2002;
- Decree-Law No. 22/2003 "On VAT Regulation" of 14 July 2003;
- The Decree-Law of the Republic of Cape Verde No. 2/2002, on "Reference Price and Minimum Price on Chicken Meat" of 12 August 2002;
- The Draft Customs Code of the Republic of Cape Verde;
- The Decree-Law of the Republic of Cape Verde No. 108/89 "On the Industrial Activity Statute" dated 30 December 1989;
- The Law of the Republic of Cape Verde No. 92/IV/93 "On Regime of Incentives Applicable to the Export or Re-export of Goods and Services" dated 15 December 1993;
- The Law of the Republic of Cape Verde No. 42/IV/92 "On the Tourism Utility Statute" dated 6 April 1992;
- Draft Ordinance "On Notification Authority and Enquiry Point for SPS";
- The Decree-Law of the Republic of Cape Verde No. 48/99 on "Free Commercial Zones" of 2 August 1999;
- The Law of the Republic of Cape Verde No. 83/V/98 "On the Commercial Franc Zones Regime" of 21 December 1998;
- The Law of the Republic of Cape Verde No. 99/IV/93 "On Free Enterprise Law" of 31 December 1993;
- Draft of Legislation Pertaining to Livestock;
- The Draft Industrial Property Code of Cape Verde;
- Industrial Property Code, Legislative Decree No. 4/2007 of 20 August 2007;
- The Draft Revision of the Law "On Copyrights" No. 101/III/90 of 27 December 1990;
- Legislative Decree No. 9/95 of 27 October 1995;
- Legislative Decree No. 12/97 of 9 June 1997;
- Legislative Decree No. 5/95 of 27 June 1995;
- The Draft Decree-Law "On Financial Management Companies";
- The Draft Law No. 43/III/88 of 27 December 1998;

- The Draft Alteration on Law No. 43/III/88;
- Proposal to Alter Law No. 43/III/88 of 27 December 1988;
- Law No. 32/V/97 amending Law No. 43/III/88;
- Law No. 55/VI/2004 "On Tourism Utility Statute" of 10 January 2004;
- Decree-Law No. 40/2004 "On Conferring to Cabo Verde Investments Transitory Powers to Manage, Administer and Supervise Integral Tourism Development Zones" of 11 October 2004;
- The Draft Alterations to the Law "On Complementary Services"; and
- The Draft Law "On Financial Leasing Companies".

ANNEX 2

Table 3: Price Controls

HS	Product	Level of Application		Type of control	Observations
10.06.30	Rice	1st	CVE 48/kg wholesale, ex-warehouse	Maximum	The prices of rice, granular sugar and maize have been liberalized through Ministerial Ordinance No. 12/2006 of 13 June 2006
			CVE 54/kg Retail, at all islands		
		2nd	CVE 35/kg wholesale, ex-warehouse		
			CVE 38.5/kg Retail, at all islands		
17.01.11 17.01.12 17.01.91 17.01.99	Sugar (Granular)	CVE 55/Kg Wholesale, ex-warehouse CVE 61.5/kg Retail, at all islands		Maximum	
10.05.90	Corn	1st	Wholesale, ex-warehouse: CVE 30/kg	Maximum	
			Retail, at all islands: CVE 33/kg CVE 28/litre		
		2nd	Wholesale, ex-warehouse: CVE 25/kg		
			Retail, at all islands: CVE 28/kg CVE 21/litre		
1101.00	Wheat Flour	Wholesale – CVE 36,000/Metric tonne Price ex-factory in Mindelo and at all ports of other islands.		Maximum	The prices of wheat flour and wheat bran have been liberalized through Ministerial Ordinance No. 12/2006 of 13 June 2006
		Resale, at all islands – CVE 2,035/bags of 50kg			
		CVE 46/Kg – Retail, at all islands			
1103.11.	Wheat Bran	CVE 15,000/Metric tonne Price Wholesale ex-factory.		Maximum	
19.05.10	Bread and bakery	CVE 90/Kg Wholesale - Price ex-factory; CVE 100/Kg Retail		Maximum	The prices of bread and bakery goods have been liberalized through Ministerial Ordinance No. 35/2006 or 19 December 2006
		There are pieces of bread of:			
		Weight	Wholesale		
		500g	CVE 45	CVE 50	
		250g	CVE 22	CVE 25	
		100g	CVE 9	CVE 10	
2710.00	Gas oil	Retail at the fuel station – CVE 63/litre In bulk, ex-warehouse – CVE 62.5/litre		Fixed prices	In force since 7 June 2004 and replaced former prices enacted on 6 August 2003 which reduced prices on 3 February 2003.
2710.00.	Gasoline	Retail at the fuel station – CVE 110/litre In bulk, ex-warehouse – CVE 109.2/litre		Fixed prices	
27.11.13	Butane Gas	Bottle of 3kg = CVE 270 Bottle of 6kg = CVE 570 Bottle of 12.5kg = CVE 1,350 Bottle of 55 kg = CVE 5,940		Fixed prices	
2710.00.	Kerosene	In bulk, ex-warehouse – CVE 39/litre Retail – CVE 44/litre		Fixed prices	In force since 7 June 2004 and replaced former prices enacted on 3 February 2003
27.16.00	Electric power supply	See Map Annexed to Council of Ministers Resolution No. 43/2002, of 30 December 2002		Fixed prices	In force since 1 January 2003 and replaced former prices enacted in 1985

HS	Product	Level of Application	Type of control	Observations
24. 03.10	Tobacco	Contract between the Government and the Cape Verdean Tobacco Company (SCT).	Agreed prices	However, no legal measure has been taken.
30.04.10-90	Drugs	Article 29 of Decree-Law No. 3/1993, of 15 February 1993	Fixed prices	However, no legal measure has been taken.
22.01.10	Water	Map annexed to resolution No. 43/2002 of 30 December 2002	Fixed prices	In force since 1 January 2003 and replaced former prices enacted on 1998

Notes:

- The wholesale prices include the price of the bags.
- Rice and corn are classified according to their quality.
- The prices of potato and onions are liberalized in as much as they are not included in the legislation in effect.
- The calculated prices listed are based on the effective purchase price in the international market plus international freight, insurance, customs duties and other charges (port fees, storage, etc.), the share of financial and investment costs and the margin according to the market practice. The internal structural costs (domestic transport costs and distribution costs) are considered.
- The requirement for importers of Corn, Rice, Sugar and Wheat flour (subject to maximum prices) to distribute 30 per cent of their importation in islands other than Santiago and S. Vincent was revoked by Decree-Law No. 29/2002 of 9 December 2002.
- Notwithstanding the provisions of Decree-Law No. 52/2003 of 24 November 2003, Decree-Law No. 3/1993 of 15 February 1993 and Ministerial Ordinance No. 2/2004 of 19 January 2004, the prices of drugs and tobacco have been fixed by their producers and importers.
- The Government of Cape Verde after consultation with the Chambers of Commerce Upper Council (Conselho Superior das Câmaras de Comércio) establishes the prices on the basis of their agreed margins.
- The prices listed above are generally changed when international price changes have a negative impact on the companies' margin.

Table 4(a): Goods subject to complete exemption or right to deduction

VAT Exemptions

	Article Description	Heading
1. Food Products – No. 28 of Article 9		
1.1	Meat and edible meat offal, from the following Tariff headings:	
1.1.1	of bovine animals, fresh, chilled, frozen,	0201.10.00 to 0202.30.00
1.1.2	of swine, fresh, chilled, frozen,	0203.11.00 to 0203.29.00
1.1.3	of sheep and goats, fresh, chilled, frozen,	0204.10.00 to 0204.50.00
1.1.4	of poultry (roosters, chickens, ducks, geese, turkeys, guineas, domestic species)	0207.11.00 to 0207.36.00
1.1.5	pig fat free of lean meat, and poultry fat, not rendered or otherwise extracted fresh chilled frozen salted in brine dried or smoked	0209.00.00
1.1.6	Meat and edible meat offal, salted, in brine, from swine and bovine animals	0210.11.00 to 0210.20.00
1.2	Fish from the following Tariff headings:	
1.2.1	from the following fish, fresh, frozen or chilled, excluding fish fillets, livers, roes and semen	0302.31.00 to 0302.39.00
1.2.1.1	Tunas and Bonito	0303.41.00 to 0303.49.00
1.2.1.2	Herring	020340, 0303.50.00
1.2.1.3	Mackerel (<i>Scomber scombrus</i> , <i>Scomber australasicus</i> ,	0302.64.00
	<i>Scomber japonicus</i>)	0303.74.00
1.2.2.	Smoked fish, whether or not in fillets, excluding Pacific and Danube salmon	0305.42.00, 0305.49.00
1.2.3	Fish, dried, whether or not salted but not smoked, excluding cod	0305.59.00
1.2.4	Fish, salted but not dried or smoked, and fish in brine, excluding cod, and anchovies	0305.61.00, 0305.69.00
1.3	Milk and dairy products and eggs from the following tariff headings:	
1.3.1	Milk and cream, not concentrated nor containing added sugar or other sweetening matter, in powder, granules or other solid forms	0401.10.00 to 0401.30.00
1.3.2	Milk and cream, concentrated or containing added sugar of other sweetening matter	0402.10.10 to 0402.99.00
1.3.3	Butter milk and curdled milk and cream, yogurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter, or flavoured or containing added fruits or cocoa	0403.10.10 to 0403.90.00
1.3.4	Butter and other fats derived from milk	0405.10.10 to 0405.90.10
1.3.5	Cheese and curd	0406.10.10 to 0406.90.10
1.3.6	Birds eggs, in shell, fresh, preserved or cooked, excluding eggs for hatching	0407.00.00.90
1.4	Vegetables from the following tariff headings:	
1.4.1	Potatoes, fresh or chilled, excluding seed	0701.90.00
1.4.2	Tomatoes, fresh or chilled	0702.00.00
1.4.3	Onions and shallots, garlic, leeks and other alliaceous vegetables fresh or chilled	0703.10.00 to 0703.90.00
1.4.4	Cabbages, cauliflower, kohlrabi, kale and similar edible brassicas, fresh or chilled	0704.10.00 to 0704.90.00
1.4.5	Lettuce and chicory, fresh or chilled	0705.11.00 to 0705.29.00
1.4.6	Carrots, turnips, salad beetroot, salsify, celeriac, radishes and similar edible roots, fresh or chilled.	0706.10.00 to 0706.90.00
1.4.7	Cucumbers including gherkins, fresh or chilled.	0707.00.00
1.4.8	Leguminous vegetables, shelled or unshelled, fresh or chilled	0708.10.00 to 0708.90.00
1.4.9	Fruits of the genus <i>Capsicum</i> (peppers) or of the genus <i>Pimenta</i> (e.g. allspice)	0709.60.00

	Article Description	Heading
1.4.10	Dried leguminous vegetables, shelled, whether or not skinned or split, excluding yellow peas.	0713.10.00 to 0713.90.00
1.4.11	Cassava (manioc)	0714.10.00
	sweet potatoes	0714.20.00
	Yams	0714.90.10
1.5	Fruits	
1.5.1	Fresh Bananas	0803.00.10
		0803.00.20
1.5.2	Guavas mangoes and mangosteens, fresh or dried	0804.50.10, 0804.50.90
1.5.3	Citrus fruit, fresh or dried	0805.10.00 to 0805.90.00
1.5.4	Grapes, fresh	0806.10.00
1.5.5	Melons, watermelons and papayas (pawpaws) fresh.	0807.11.00 to 0807.20.00
1.5.6	Apples, pears and quinces, fresh	0808.10.00, 0808.20.00
1.5.7	Apricots, cherries, peaches, (including nectarines), plums and sloes, fresh	0809.10.00 to 0809.40.00
1.5.8	Other fruit, fresh	
	Strawberries	0810.10.00
	Raspberries, blackberries, mulberries and loganberries	0810.20.00
	Black, white or red currant, including the "cassis"	0810.30.00
	Cranberries, blueberries and other fruits	0810.40.00
	Kiwis	0810.50.00
	Other fruit	0810.90.00
1.6	Cereals from the following tariff headings	
1.6.1	Wheat	1001.90.00
1.6.2	Corn (maize), excluding seed and popcorn	1005.90.00
1.6.3	Rice	1006.10.90 to 1006.40.00
1.6.4	Cane or beet sugar and chemically pure sucrose, in solid form	1701.11.00 to 1701.99.90
1.6.5	Ordinary bread	1905.90.00.91
1.7	Fat or oil from the following tariff headings:	
1.7.1	Pig fat (including lard)	1501.00.00
1.7.2	Soybean oil and its fractions, whether or not refined, but not chemically modified, excluding crude oil	1507.90.00
1.7.3	Peanut oil and its fractions, whether or not refined, but not chemically modified, excluding crude oil	1508.90.10
		1508.90.90
1.7.4	Olive oil and its fractions, whether or not refine, but not chemically modified: Virgin; other, packed for retail in pack containers of less than 5 litres.	1509.10.00 to 1509.90.90
1.7.5	Sunflower-seed oil or safflower and its fractions whether or not refined but not chemically modified, excluding crude oil.	1512.19.00
1.7.6	Margarine, excluding liquid margarine	1517.10.00
2. Goods from No. 15 of Article 9		
2.1	Printed books, brochures, leaflets and similar printed matter, whether or not in single sheets	4901.10.00 to 4901.99.90
2.2	Newspapers, journals and periodicals, whether or not illustrated containing advertising material	4902.10.00
		4902.90.00
2.3	Children's picture, drawing or colouring books	4903.00.00
2.4	Music, printed or in manuscript, whether or not bound or illustrated	4904.00.00
2.5	Maps and hydrographic or similar charts of all kinds, including atlases, wall maps, topographical plans and globes printed	4905.10.00 to 4905.99.00
3. Goods from No. 29 of Article 9		
3.1	Provitamins and vitamins, natural or reproduced by synthesis (including natural concentrates, derivatives thereof used primarily as vitamins, and intermixtures of the foregoing, whether or not in any solvent.	2396.10.00 to 2396.90.00

	Article Description	Heading
3.2	Medicaments, including those for veterinary use, as well as patents and other pharmaceutical products for therapeutic or prophylactic uses	3001.10.00 to 3006.60.00
3.3	X-Ray Film	3701.10.00
3.4	Instruments and appliances used in medical, surgical, dental or veterinary sciences, including scintigraphic apparatus, other electro-medical apparatus and sight testing instruments; parts and accessories thereof.	9018.11.00 to 9018.90.00
3.5	Mechano-therapy appliances; massage apparatus; psychological aptitude-testing apparatus; ozone therapy, oxygen therapy, aerosol therapy, artificial respiration or other therapeutic respiration apparatus.	9019.10.00 to 9019.20.00
3.6	Orthopaedic appliances, including crutches, surgical belts and trusses; artificial parts of the body; hearing aids and other appliances; which are worn or carried or implanted in the body to compensate for a defect or disability.	9021.11.00 to 9021.90.00
3.7	Apparatus based on the use of X-rays or alpha, beta or gamma radiation, whether or not for medical, surgical or veterinary uses, including radiography or radiotherapy apparatus, X-ray tubes and other X-ray generators, control panels and desks, screens, examination or treatment tables, chairs and the like.	9022.12.00 to 9022.90.00
3.8	Thermometers and pyrometers not combined with other instruments	9021.11.00 to 9025.19.00
4. Goods from Nos. 32 and 33 of Article 9		
4.1	Eggs for hatching	0407.00.00
4.2	Seed potatoes	0701.10.00
4.3	Corn seed	1005.10.00
4.4	Bulbs, tubers, tuberous roots, corms, crowns and rhizomes, dormant, in growth or in flower, chicory plants and roots	0601.10.00, 0601.20.00
4.5	Other live plants (including their roots), cuttings and slips, mushroom spawn	0602.10.00 to 0602.90.00
4.4	Vegetable seeds	1209.91.00
4.7	Cereal straw and husks, unprepared, whether or not chopped ground, pressed or in the form of pellets	1213.00.00
4.8	Rutabagas (swedes), mangolds, fodder roots, hay, alfalfa (lucerne) clover, sainfoin, forage kale, lupines, vetches and similar forage products, whether or not in the form of pellets	1214.10.00, 1214.90.00
4.9	Flours, meals and pellets of fish or of crustaceans, molluscs and other aquatic invertebrates	2301.20.00
4.10	Oil cake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of vegetable oils	2304.00.00 to 2306.90.00
4.11	Vegetable materials and vegetable waste, vegetable residues and by-products, whether or not in the form of pellets, of a kind used in animal feeding Preparations of a kind used in animal feeding, excluding dog and cat food	2308.10.00, 2308.90.00
4.12	Preparations of the type utilized in animal feed, except dogs and cats	2309.90.10, 2309.90.90
4.13	Salt tablets for use in animal feed	2501.00.30
4.14	Mineral or chemical fertilizers	3101.00.00 to 3105.90.00
4.15	Insecticides, fungicides, herbicides, anti-sprouting products and plant growth regulators	3808.10.10 to 3808.30.00
4.16	spades, shovels, mattocks, picks, hoes, forks and rakes: axes, bill hooks and similar hewing tools; secateurs and pruners and other hand tools of a kind used for agriculture and horticulture or forestry	8201.10.00 to 8201.90.00
4.17	Liquid elevators	8413.82.00
4.18	Agricultural, horticultural or forestry machinery for soil preparation or cultivation; Lawn or sports ground rollers	8432.10.00 to 8432.90.00

	Article Description	Heading
4.19	Harvesting or threshing machinery including straw or fodder balers; Grass or hay mowers;	8433.11.00 to 8433.59.00 8433.90.00
4.20	Poultry incubators and brooders	8436.21.00
4.21	Tractors	8701.10.00 to 8701.90.00
4.22	Live animals - horses, asses, mules and hinnies, bovine, swine, sheep and goats, chickens, ducks, geese, turkeys and guineas of domestic species.	0101.11.00 to 0105.99.00
5. Goods from No. 35 of Article 9		
5.1	Fish netting and fishing nets	5608.90.10
5.2	Fishing rods	9507.10.00
5.3	Hooks, whether or not in terminals	9507.20.00
5.4	Fishing spools	9507.30.00
5.5	Other fishing articles	9507.90.00

Table 4(b): Exemptions listed in Article 8 of VAT Law

Exemptions in the Internal Operations

The transmission of goods and rendering services, internally, are exempt from VAT, whenever such exemption is justified for technical reasons and reasons of economic or social policy, namely:

- a) The transmissions of goods and rendering of services performed in the ambit of agricultural, forestry, livestock and fishing activities;
- b) The rendering of services and the closely connected transmission of goods performed in the exercise of medical and sanitary activities, educational and professional training, protection to infancy, youth and old age, social security and assistance, habitually pursued by public entities or organisms without... ;
- c) The services provided that consist in classrooms ministered on a personal basis, at the level of pre-school basic education, secondary school, technical professional, medium or higher education;
- d) The services provided by non-profit organizations, that explore establishments or installations destined for the practice of sports, recreational and physical education activities, to persons that practice these activities;
- e) The services provided and the transmissions of goods connected to them, performed by collective persons under public law and non-profit organizations pertaining to congresses, colloquium, conferences, seminars, courses and analogous manifestations of a scientific, cultural, educational or technical nature;
- f) The services provided to the respective promoters by professionals of the respective area, for the execution of theatrical spectacles, choreography, musical spectacles, circus, sports and others, film production, music editing and other sports of sound and image;
- g) The face value transmission of postal stamps in circulation or of stamped amounts, as well as their respective sales commission;
- h) The services provided and the transmission of connected goods, performed by the public postal services, except for telecommunications;
- i) The transmissions of copyright and the authorization for the utilization of intellectual work, defined in Law No. 101/III/90, of 29 December, Copyright Law, when performed by the authors themselves, their heirs or legator;
- j) The transmission done by the artists themselves, their heirs or legatos, of objects of their authorship, under the conditions and limits fixed in the VAT Regulation;
- k) The transmission of newspapers, magazines and books considered of a cultural, educational, technical or recreational nature;
- l) Lending of personnel by religious or philosophical institutions to perform exempt activities or for spiritual assistance purposes;
- m) Rendering services performed in the collective interest of their associates, by non-profit organizations, as long as these organization pursue objectives of a political, syndical, religious, humanitarian, patriotic, philanthropic, recreational, sports, cultural, civic or of representation of economic interests and the sole counterpart is the quota established under the terms of the respective statutes;
- n) The transmissions of goods and the rendering of services performed by entities whose habitual activities are exempt, during occasional demonstrations destined to raise funds for their exclusive profit, in a maximum number to be fixed annually in the VAT Regulation and on the condition that the exemption does not provoke competition distortions;
- o) The exploration of gambling, under the terms foreseen in the appropriate legislation, as well as the respective commissions;
- p) The transmission of staple goods, to be defined specifically in the VAT Regulation;

- q) The transmission of drugs, including those destined for veterinary application, as well as pharmaceutical specialties and other pharmaceutical products destined exclusively for therapeutic or prophylactic purposes;
- r) The transmission of goods and equipment, of seeds, reproductive species, fertilizers, pesticides, herbicides, fungicides and similars, as well as nets, hooks and other fishing apparatus, also to be enumerated specifically in the VAT Regulation;
- s) The transmission of immovables subject to the Single Tax on Patrimony, under the terms of the respective regulation;
- t) The rental of immovables, including, however, in the latter, the situations in which the same are included in commercial, industrial or service rendering services;
- u) Service rendering performed by funeral or cremation enterprises, as well as the transmission of accessory goods to those same services;
- v) The public service of garbage removal;
- w) The transmission of goods affected exclusively to an exempt activity and that when the respective acquisition or affectation was not the object of a deduction law; and
- x) The activities of the public radio and television companies that are not of a commercial character.

Table 5: Special Tax on Consumption (STC)

(Articles 24 and 29 of the Law of Taxes on Expenses)

HS Code	Description	Rates (per cent)
1604.30.00.00	Caviar and caviar substitutes:	10
2203.00.10.00 and 2203.00.90.00	Bottled in recipients of a capacity not exceeding 50 cl - Others	30
2204	- Wine of fresh grapes, including fortified wines; grape must other than that of heading 2009:	
2204.10.00	- Sparkling wine	30
2204.21.00.90 2204.29.00.90	- In containers holding 2 litres or less: - Others	20 20
2205	Vermouth and other wine of fresh grapes flavored with plants or aromatic substances:	
2205.10.00.00	- In containers holding 2 litres or less:	30
2205.90.00.00	- Others	30
2206	Other fermented beverages (for example, cider, perry, mead); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included:	
2206.00.10.00	- Beer excluding the one made of malt	30
2206.00.90.00	- Others	30
2208	Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol.; spirits, liqueurs and other spirituous beverages:	
2208.20.00.00	- Spirits obtained by distilling grape wine or grape marc (grape brandy):	30
2208.30.00.00	- Whiskies:	30
2208.40.00.00	- Rum and tafia:	30
2208.50.00.00	- Gin and Geneva	30
2208.60.00.00	- Vodka	30
2208.70.00.00	- Liqueurs and cordials	30
2208.90.00.90	- Other	30
2402	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes:	
2402.10.00.00	- Tobacco, not stemmed / stripped:	10
2402.20.00.00	- Tobacco, partly or wholly stemmed/stripped	10
2402.90.00.00	- Tobacco refuse:	10
2403	Other manufactured tobacco and manufactured tobacco substitutes; "homogenized" or "reconstituted" tobacco; tobacco extracts and essences:	
2403.10.00.00	Smoking tobacco, whether or not containing tobacco substitutes in any proportion:	10
2710	Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of Petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations; waste oils:	
2710.00.21.00	- Lubricating oils	10
2710.00.29.00	- Others	10
2710.00.32.00	- Gasoline:	10
2710.00.33.00	- Gasoline	10
2710.00.39.00	- Others	10
2710.00.51.00	- Diesel	10
3303	Perfumes and toilet waters:	
3303.00.10.00	- - - Floral or flower waters	10
3303.00.20.00	- - - Floral or flower waters not containing alcohol	10
3303.00.90.00	- - - Others	10

HS Code	Description	Rates (per cent)
3304	Beauty or make-up preparations and preparations for the care of the skin (other than medicaments), including sunscreen or sun tan preparations; manicure or pedicure preparations:	
3304.10.00.00	- Lip make-up preparations	10
3304.20.00.00	- Eye make-up preparations	10
3304.30.00.00	- Manicure or pedicure preparations	10
	- Others:	
3304.91.00.00	- - Powders, whether or not compressed	10
3304.99.00.00	- - Others	10
3604	Fireworks, signaling flares, rain rockets, fog signals and other pyrotechnic articles:	
3604.10.00.00	- Fireworks (display):	10
3604.90.00.00	- Others	10
4302	Tanned or dressed fur skins (including heads, tails, paws and other pieces or cuttings), unassembled, or assembled (without the addition of other materials) other than those of heading 4303:	
4302.11.00.00	- - Of mink	10
4302.12.00.00	- - Of rabbit or hare	10
4302.13.00.00	- - Of lamb, the following: Astrakhan, Broadtail, Caracul, Persian and similar lamb, Indian Chinese, Mongolian or Tibetan lamb	10
4302.19.00.00	- - Others	10
4302.20.00.00	- Heads, tails, paws and other pieces or cuttings, not assembled	10
4302.30.00.00	- Whole skins and pieces or cuttings thereof, assembled	10
4303	Articles of apparel, clothing accessories and other articles of fur skin:	
4303.10.00.00	- Articles of apparel and clothing accessories	10
4303.90.00.00	- Others	10
4304.00.00.00	Artificial fur and articles thereof	10
7101	Pearls, natural or cultured, whether or not worked or grated but not strung, mounted or set; pearls natural or cultured, temporarily string for convenience of transport	
7101.10.00.00	- Natural pearls	10
7101.21.00.00	- - Unworked	10
7101.22.00.00	- - Worked	10
7102	Diamonds, whether or not worked, but not mounted or set:	
7102.10.00.00	- Unsorted	10
7102.31.00.00	- - Unworked or simply sawn, cleaved or bruted	10
7102.39.00.00	- - Other	10
7103	Precious stones (other than diamonds) and semiprecious stones whether or not worked or grated but not strung, mounted or set; ungraded precious stones (other than diamonds and semiprecious stones temporarily strung for convenience of transport:	
7103.10.00.00	- Unworked or simply sawn or roughly shaped.	10
7103.91.00.00	Ruby, sapphire and emerald	10
7103.99.00.00	- - Other	10
7104	Synthetic or reconstructed precious or semi-precious stones, whether or not worked or grated but not strung, mounted or set; ungraded synthetic or reconstructed precious or semiprecious stones, temporarily strung for convenience of transport:	
7104.20.00.00	- Other, unworked or simply sawn or roughly shaped	10
7104.90.00.00	- Other	10
7113	Articles of jewelry and parts thereof, of precious metal or of metal clad with precious metal	
7113.11.00.00	- - Of silver, whether or not plated or clad with other precious metals	10

HS Code	Description	Rates (per cent)
7113.19.00.00	- - Of other precious metals whether or not plated or clad with precious metal	10
7113.20.00.00	- Of base metal clad with precious metal	10
7114	Articles of goldsmith's or silversmith's wares and parts thereof, of precious metal or metal clad with precious metal:	
7114.11.00.00	- - Of silver, whether or not plated or clad with other precious metal:	10
7114.19.00.00	- - Of other precious metals whether or not plated or clad with precious metal	10
7114.20.00.00	- Of base metal clad with precious metal	10
7115	Other articles of precious metal or of metal clad with precious metal	
7115.90.00.00	- Artifacts for technical or laboratory use	10
7116	Articles of natural or cultured pearls, precious or semiprecious stones (natural, synthetic or reconstructed):	
7116.10.00.00	- Of natural or cultured pearls	10
7116.20.00.00	- Of precious or semiprecious stones (natural, synthetic or reconstructed)	10
7117	Imitation jewelry	
7117.11.00.00	- - Cuff links and studs	10
7117.19.00.00	- - Other	10
7117.90.00.00	- Other	10
Ex-87	Automobiles used to transport persons and merchandise up to 5 tons, used, of the headings 8702, 8703, 8704.21.20.11 to 8704.21.20.29 and 8704.31.20.11 to 8704.31.20.29: - Up to four years old - Up to six years old: - Up to ten years old - With more than ten years old: Road tractors for semi-trailers, track-laying tractors, and other tractors, except pedestrian controlled tractors and automobiles for the transport of merchandise with capacity greater than 5 tons, used, from the headings 8701.20.00 to 8710.90.00 and 8704.22.20.11 to 8704.22.20.19, 8704.23.20.11 to 8704.23.20.19, 8704.32.20.11 to 8732.20.19, 8704.90.00.11 to 8704.90.00.19: - Up to four years old - Up to six years old: - Up to ten years old - With more than ten years old:	0 30 60 150 0 10 20 60
8903	Yachts and other vessels for pleasure or sports; row boats and canoes	
8903.91.00.00	- Sail boats with or without auxiliary motors	10
8903.91.00.90	- Sail boats with motors	10
8903.92.00.00	- Motor boats other than outboard motorboats	10
9303	Other firearms and similar devices which operate by the firing of an explosive charge (for example, sporting shotguns and rifles, muzzle loaded firearms Very pistols and other devices designed to project only signal flares, pistols and revolvers for firing blank ammunition, captive bolt humane killers, line-throwing guns):	
9303.10.00.00	- Muzzle loading firearms	10
9303.20.00.00	- Other sporting, hunting or target shooting shot-guns, including combination short-gun rifles	10
9303.30.00.00	- Other sporting, hunting or target-shooting rifles	10
9303.90.00.00	- Other	10
9304.00.00.00	Other firearms (for example: rifles, carbines, and pistols, spring loaded, of air compression or of gas, "matracas") except those of heading 9307	10

HS Code	Description	Rates (per cent)
9701	Paintings, drawings and pastels, executed entirely by hand, other than drawing of heading 4906 and other than hand-painted or hand decorated manufactured articles; collages and similar decorative plaques; all the foregoing, framed or not framed:	
9701.10.00.00	- Paintings, drawings and pastels	10
9701.90.00.00	- Other	10
9702.00.00.00	Original engravings, prints and lithographs, framed and not framed.	10
9703.00.00.00	Original sculpture and statuary, in any material	10
9706.00.00.00	Antiquities of an age exceeding one hundred years.	10

Table 8: Goods subject to non-automatic licensing

HS Code	Description
01.01 to 01.06	Live animals
02.01 to 02.10	Meats and edible offals
03.01 to 03.07	Fish and crustaceans, molluscs and other aquatic invertebrates
04.01	Milk and cream, not concentrated nor containing added sugar or other sweetening matter
04.03	Buttermilk, curdled milk and cream, yogurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa
04.04	Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included
04.05	Butter and other fats and oils derived from milk; dairy spreads
04.06	Cheese and curd
04.07	Birds' eggs, in shell, fresh, preserved or cooked
04.08	Birds' eggs, not in shell, and egg yolks, fresh, dried, cooked by steaming or by boiling in water, molded, frozen or otherwise preserved, whether or not containing added sugar or other sweetening matter
0409.00.00	Natural honey
0410.00.00	Edible products of animal origin, not elsewhere specified or included
0504.00.00	Guts, bladders and stomachs of animals (other than fish), whole and pieces thereof, fresh, chilled, frozen, salted, in brine, dried or smoked
05.11	Animal products not elsewhere specified or included; dead animals of chapter 1 or 3, unfit for human consumption
06.01 to 06.04	Live plants or flower producing products
07.01	Potatoes, fresh or chilled
0702.00.00	Tomatoes, fresh or chilled
07.03	Onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled
07.04	Cabbages, cauliflower, kohlrabi, kale and similar edible brassicas, fresh or chilled
07.05	Lettuce (<i>Lactuca sativa</i>) and chicory (<i>Cichorium spp.</i>), fresh or chilled
07.06	Carrots, turnips, salad beets (salad beetroot), salsify, celeriac, radishes and similar edible roots, fresh or chilled
0707.00.00	Cucumbers, including gherkins, fresh or chilled
07.08	Leguminous vegetables, shelled or unshelled, fresh or chilled
07.09	Other vegetables, fresh or chilled
07.13	Dried leguminous vegetables, shelled, whether or not skinned or split
07.14	Cassava (manioc), arrowroot, salep, Jerusalem artichokes, sweet potatoes and similar roots and tubers with high starch or inulin content fresh, chilled, frozen or dried, whether or not sliced or in the form of pellets; sago pith
08.01	Coconuts, Brazil nuts and cashew nuts, fresh or dried, whether or not shelled or peeled
08.02	Other nuts, fresh or dried, whether or not shelled or peeled
08.03	Bananas and plantains, fresh or dried
08.04	Dates, figs, pineapples, avocados, guavas, mangoes and mangosteens, fresh or dried
08.05	Citrus fruits, fresh or dried
08.06	Grapes, fresh or dried
08.07	Melons (including watermelons) and papayas (papaws), fresh
08.08	Apples, pears and quinces, fresh
08.09	Apricots, cherries, peaches (including nectarines), plums (including prune plums) and sloes, fresh
08.10	Other fruit, fresh
08.13	Fruit, dried, other than that of headings 0801 to 0806; mixtures of nuts or dried fruits of this chapter
09.01	Coffee, whether or not roasted or decaffeinated; coffee husks and skins; coffee substitutes containing coffee in any proportion
10.01 to 10.08	Cereals

HS Code	Description
12.01 to 12.14	Seeds and oleaginous fruits, whether or not broken, grains, seeds and diverse fruits, industrial or medicinal plants, cereal straw and husks, similar forage products, whether or not in the form of pellets
14.01	Vegetable materials of a kind used primarily for plaiting (for example, bamboos, rattans, reeds, rushes, osier, raffia, cleaned, bleached or dyed cereal straw, and lime bark)
1501.00.00	Pig fat (including lard) and poultry fat, other than that of heading 0209 or 1503
15.03 to 15.18	Animal or vegetable oils (destined for human alimentary needs)
16.01	Sausages and similar products, of meat, meat offal or blood; food preparations based on these products
16.02	Other prepared or preserved meat, meat offal or blood
1901.10.00	Preparations for infant use, put up for retail sale: Containing over 10% by weight of milk solids
2207.10.10	Un-denatured ethyl alcohol of an alcoholic strength by volume of 80% vol. or higher for pharmaceutical purposes
23.09	Preparations of a kind used in animal feeding
2501.00.20	Salt destined for human alimentary needs
30.01 to 30.06	Pharmaceutical products
31.01 to 31.05	Fertilizers
3601.00.00	Explosive powders
36.02	Explosive preparations, except explosive powders
38.08	Insecticides, rodenticides, fungicides, herbicides, anti-sprouting products and plant growth regulators, disinfectants and similar products, put up in forms or packings for retail sale or as preparations or articles (for example, sulphur treated bands, wicks and candles, and flypapers)
40.14	Baby bottles, nipples and tits of rubber, vulcanized not hardened
41.01	Raw hides and skins of bovine (including buffalo) or equine animals (fresh, or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment dressed or further prepared), whether or not dehaired or split
41.02	Raw skins of sheep or lambs (fresh, or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment dressed or further prepared), whether or not with wool on or split, other than those excluded by note 1(c) to this chapter
41.03	Other raw hides and skins (fresh, or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment dressed or further prepared), whether or not dehaired or split, other than those excluded by note 1(b) or 1(c) to this chapter
7013.39.00	Baby bottles, of glass
93.01 to 93.07	Weapons and munitions, parts and accessories thereof

Table 11: Registration and renewal fees

Description	Fee applied since 1940	Revised fee (CVE)
Patents		
Request	30\$00	12,000
Annuities	50\$00	* 2,500
Surcharge for payment within 60 days	25\$00	* 4,000
Addition	50\$00	2,400
Annotation of transmission or exploration licence	100\$00	6,000
Revalidation	150\$00	* 7,000
Deposit of utility models		
Request	20\$00	10,000
First five years	40\$00	2,500
Second five-year period	80\$00	3,000
Third five-year period	160\$00	4,000
Fourth five-year period	320\$00	4,000
Fifth and subsequent five-year periods	640\$00	4,000
Annotations of transmission or Licenses for utility models		
Within the first five-year period	75\$00	6,500
Within the second five-year period	150\$00	6,500
Within the third five-year period	300\$00	6,500
Within the fourth five-year period	600\$00	6,500
Within the fifth five-year period	1,200\$00	6,500
Surcharge for renewal within sixty days - 50 per cent the respective five-year fee.		
Deposit of models or industrial drawings		
Request	20\$00	8,000
Initial five-year period, per class	30\$00	2,000
Renewals	50\$00	2,500
Annotation of transmission or licence	50\$00	6,500
Surcharge for renewals within 60 days	15\$00	3,000
Revalidations	90\$00	6,000
National registration of marks		
Request	50\$00	6,500
Registration per class and for each five products	100\$00	7,000
Renewals	200\$00	4,200
Annotations of transmission or modification of the owner's identity	200\$00	6,500
Surcharge for renewal within 60 days	50\$00	5,000
Revalidations	300\$00	8,000
Series of marks		
Request	50\$00	2,000
Registration	150\$00	6,000
Renewals	300\$00	8,000
Annotation of transmissions	350\$00	8,500
Surcharge	75\$00	3,000
Revalidations	450\$00	9,500
Marks of artifices		
Request (per class)	10\$00	4,500
Registrations and renewals	20\$00	5,000
Revalidations	60\$00	6,500
International registration of marks		
Registration	250\$00	8,000
Annotations of transmissions	200\$00	7,000

Description	Fee applied since 1940	Revised fee (CVE)
Registration of awards		
Request	50\$00	5,000
Registration	50\$00	6,000
Annotations of transmissions	40\$00	4,000
Registration of names and insignias		
Request	100\$00	4,000
Registration	200\$00	17,500
Annotation of transmission	200\$00	8,000
Surtax for payment within 60 days	100\$00	20,000
Revalidations	600\$00	25,000
Registration of denominations of origin		
Request	50\$00	4,500
Registration	100\$00	7,500
Other taxes		
Certificates of patent, deposit or registration	50\$00	3,000
Titles	10\$00	2,500
Search:		
- For each year	4\$00	
- Of non-computerized elements	10\$00	8,000
- Of computerized elements		1,500
- Minimum		1,500
Certificates or photocopies:		
- For each	6\$00	1,500
Acceptance of requests:		
- For each request	5\$00	500
Annotation of modification of name, firm, commercial denomination or other elements of the identification of the owner		
- Name of insignia of establishment	200\$00	2,500
- Other categories	100\$00	2,500
Publications		
- Per request	5\$00	3,000
- Reivindications (per word)	10\$00	50
- Engravings (per line)	1\$00	500

DRAFT DECISION

ACCESSION OF THE REPUBLIC OF CAPE VERDE

Decision of [...]

The General Council,

Having regard to paragraph 2 of Article XII and paragraph 1 of Article IX of the Marrakesh Agreement Establishing the World Trade Organization (the "WTO Agreement"), and the Decision-Making Procedures under Articles IX and XII of the WTO Agreement agreed by the General Council (WT/L/93),

Conducting the functions of the Ministerial Conference in the interval between meetings pursuant to paragraph 2 of Article IV of the WTO Agreement,

Taking note of the application of the Republic of Cape Verde for accession to WTO Agreement dated 3 November 1999,

Noting the results of the negotiations directed toward the establishment of the terms of accession of the Republic of Cape Verde to the WTO Agreement and having prepared a Protocol on the Accession of the Republic of Cape Verde,

Decides as follows:

1. The Republic of Cape Verde may accede to the WTO Agreement on the terms and conditions set out in the Protocol annexed to this Decision.

DRAFT PROTOCOL
ON THE ACCESSION OF THE REPUBLIC OF CAPE VERDE

Preamble

The World Trade Organization (hereinafter referred to as the "WTO"), pursuant to the approval of the General Council of the WTO accorded under Article XII of the Marrakesh Agreement Establishing the World Trade Organization (hereinafter referred to as the "WTO Agreement"), and the Republic of Cape Verde,

Taking note of the Report of the Working Party on the Accession of the Republic of Cape Verde to the WTO Agreement reproduced in document WT/ACC/CPV/30, dated 6 December 2007 (hereinafter referred to as the "Working Party Report"),

Having regard to the results of the negotiations on the accession of the Republic of Cape Verde to the WTO Agreement,

Agree as follows:

PART I - GENERAL

1. Upon entry into force of this Protocol pursuant to paragraph 8, the Republic of Cape Verde accedes to the WTO Agreement pursuant to Article XII of that Agreement and thereby becomes a Member of the WTO.
2. The WTO Agreement to which the Republic of Cape Verde accedes shall be the WTO Agreement, including the Explanatory Notes to that Agreement, as rectified, amended or otherwise modified by such legal instruments as may have entered into force before the date of entry into force of this Protocol. This Protocol, which shall include the commitments referred to in paragraph 269 of the Working Party Report, shall be an integral part of the WTO Agreement.
3. Except as otherwise provided for in paragraph 269 of the Working Party Report, those obligations in the Multilateral Trade Agreements annexed to the WTO Agreement that are to be implemented over a period of time starting with the entry into force of that Agreement shall be implemented by the Republic of Cape Verde as if it had accepted that Agreement on the date of its entry into force.
4. The Republic of Cape Verde may maintain a measure inconsistent with paragraph 1 of Article II of the GATS provided that such a measure was recorded in the list of Article II Exemptions annexed to this Protocol and meets the conditions of the Annex to the GATS on Article II Exemptions.

PART II - SCHEDULES

5. The Schedules reproduced in Annex I to this Protocol shall become the Schedule of Concessions and Commitments annexed to the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as the "GATT 1994") and the Schedule of Specific Commitments annexed to the General Agreement on Trade in Services (hereinafter referred to as "GATS") relating to the Republic of Cape Verde. The staging of the concessions and commitments listed in the Schedules shall be implemented as specified in the relevant parts of the respective Schedules.

6. For the purpose of the reference in paragraph 6(a) of Article II of the GATT 1994 to the date of that Agreement, the applicable date in respect of the Schedules of Concessions and Commitments annexed to this Protocol shall be the date of entry into force of this Protocol.

PART III - FINAL PROVISIONS

7. This Protocol shall be open for acceptance, by signature or otherwise, by the Republic of Cape Verde until 30 June 2008.

8. This Protocol shall enter into force on the thirtieth day following the day upon which it shall have been accepted by the Republic of Cape Verde.

9. This Protocol shall be deposited with the Director-General of the WTO. The Director-General of the WTO shall promptly furnish a certified copy of this Protocol and a notification of acceptance by the Republic of Cape Verde thereto pursuant to paragraph 9 to each Member of the WTO and to the Republic of Cape Verde.

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

Done at Geneva this [eighteenth] day of [December 2007] in a single copy in the English, French and Spanish languages, each text being authentic, except that a Schedule annexed hereto may specify that it is authentic in only one of these languages.

ANNEX I

SCHEDULE CLXI – THE REPUBLIC OF CAPE VERDE

Authentic only in the English language.

(Circulated in document WT/ACC/CPV/30/Add.1)

SCHEDULE OF SPECIFIC COMMITMENTS ON SERVICES

LIST OF ARTICLE II EXEMPTIONS

Authentic only in the English language.

(Circulated in document WT/ACC/CPV/30/Add.2)
