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Working Party on the Accession of Vanuatu

DRAFT REPORT OF THE WORKING PARTY ON THE ACCESSION OF VANUATU

INTRODUCTION

1. The Government of the Republic of Vanuatu applied for accession to the World Trade Organization in June 1995. At its meeting on 11 July 1995, the General Council established a Working Party to examine the application of the Government of Vanuatu to accede to the World Trade Organization 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/VUT/3/Rev.5.

2. The Working Party met on 3 July 1996 and [.....] under the Chairmanship of H.E. Mrs. S.B.A. Syahrudin (Indonesia). In addition, the Working Party held several informal sessions between the formal meetings to clarify positions and work on the draft report of the Working Party.

DOCUMENTATION PROVIDED

3. The Working Party had before it, to serve as a basis for its discussions, a Memorandum on the Foreign Trade Régime of Vanuatu, the questions submitted by Members on the foreign trade régime of Vanuatu, together with the replies thereto, and other information provided by the authorities of Vanuatu (WT/ACC/VUT/2, WT/ACC/VUT/4, WT/ACC/VUT/6 and WT/ACC/VUT/7), including the legislative texts and other documentation listed in Annex I.

INTRODUCTORY STATEMENTS

4. The representative of Vanuatu recalled that his country was a small least-developed country composed of a large number of islands located in the centre of the Pacific Ocean. Vanuatu had a total population of about 180,000 people living on 68 of these islands, and a per capita annual income of US\$1,150 (in 1999). Vanuatu could only support very low living standards. Incomes in the capital, Port Vila, and its other main town, Luganville were above average, especially in the expatriate community.

Outside the urban centres, about 80 per cent of the population depended on the subsistence sector for their livelihood.

5. The economy of Vanuatu was very fragile and the Commonwealth Secretariat had placed the country at the top of its vulnerability index. It was exposed to frequent external and domestic shocks, including natural disasters such as cyclones. Vanuatu was distant from its main markets, and exported a narrow range of goods, of which copra was the most important (44 per cent of export earnings in 1998), followed by kava (23 per cent), sawn timber (13 per cent), beef (8 per cent), cocoa (4 per cent) and seashells (2 per cent). In 1998, Vanuatu's main export markets were the European Union (34 per cent), Bangladesh (18 per cent), Japan (11 per cent), New Caledonia (3 per cent) and Australia (3 per cent) and its main suppliers: Australia (43 per cent), New Zealand (11 per cent), New Caledonia (7 per cent), Japan (6 per cent), France (6 per cent), Fiji (5 per cent) and Singapore (3 per cent). Because the manufacturing sector was extremely small and Vanuatu imported most of its needs, export earnings covered only one third of the bill for imports. On the other hand, the services account was positive, thanks mainly to receipts from tourism and transportation.

6. Vanuatu had been watching the rapidly evolving global economic scene with much interest. The world economy was becoming increasingly globalized and competition in trade and capital was increasing in intensity. The Government wanted Vanuatu to be part of the global trading and financial system in order to share in the growth expected in the wake of the newly established world multilateral trading system. However, he stressed that with the broad potential advantages offered by WTO membership, Vanuatu had a keen interest in integrating its economy into the multilateral trading system. He was conscious that integration into the multilateral trading system would require much work to restructure the economy and the domestic policy framework to achieve policies and legislative structures consistent with the obligations of the WTO. However, a rule-based system had particular attractions to small countries such as Vanuatu, as it promised fair and equitable treatment for all Governments, big and small, strong and weak. Accordingly, Vanuatu expected to accede on terms appropriate to its status as a least-developed country and in particular to be accorded the special and differential rights accorded to these countries in WTO Agreements.

7. In their opening remarks, members of the Working Party welcomed the request from Vanuatu to accede to the WTO. Experience had shown that the accession process, while sometimes complex, often served to guide the establishment of trade policies within well-tested paths that supported economic development and growth. Members were ready to provide experience and support to Vanuatu throughout the accession, and work constructively with Vanuatu in establishing appropriate terms of accession in a timely manner. Some members pointed to Vanuatu's status as a least-developed country,

and would take this into account in determining the commitments and concessions that they would be seeking from Vanuatu.

8. The Working Party reviewed the economic policies and foreign trade regime of Vanuatu 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 Vanuatu's foreign trade regime, and on the terms and conditions of Vanuatu's accession to the WTO are summarized below.

ECONOMIC POLICIES

Monetary and Fiscal Policy

9. The representative of Vanuatu said that Vanuatu had a conservative approach to fiscal policy, with a somewhat narrow tax base. Commitments under the World Trade Organization would have a direct impact on the yield of indirect taxes. The structure of the tax system was being reformed to ensure the revenue needs of the Government, while promoting economic efficiency, domestic savings, risk taking and investment activities.

10. Vanuatu levied no personal or corporate income taxes, no estate or gift duties, and no capital gains taxes on residents or non-residents. Taxes applied by Vanuatu included rent tax; contributions to the National Provident Fund; land taxes; municipal taxes; stamp duties; fees, taxes and stamp duties on the registration of motor vehicles and issuance of driver's licence; taxes relating to the extraction of minerals; tax on logging licence; tax on licence for commercial fishing in Vanuatu's Economic Zone; business licence fees; hotel and licensed premises tax; taxes on insurance; gambling taxes; building construction permit fees; navigation and port charges; work permit fees; residence permit fees; aviation charges; departure tax; and – since 1 August 1998 – value added tax.

Foreign Exchange and Payments

11. The representative of Vanuatu said that Vanuatu had no foreign exchange controls. All inward and outward movements of capital were unrestricted. There were no restrictions on payments for invisibles, and exchange proceeds need not be surrendered. No prescription requirements applied for payment of currency. The Vanuatu authorities made no distinction between accounts of residents or non-residents; all accounts could be debited or credited freely. Vanuatu had become a member of the IMF in 1981, and had formally accepted the obligations of Article VIII, Sections 2, 3 and 4 of the Articles of Agreement of the IMF as from 1 December 1982.

12. The external value of the currency of Vanuatu - the Vatu - was determined on the basis of a (trade and tourism) transactions-weighted basket of currencies of Vanuatu's major trading partners. The Reserve Bank of Vanuatu traded foreign exchange daily with commercial banks, the Government and the Vanuatu Commodities Marketing Board (VCMB). No subsidies or taxes were levied on purchases or sales of foreign exchange.

Investment Regime

13. The Foreign Investment Act No. 15 of 1998 encouraged investment in Vanuatu. However, the Act prohibited investment in activities such as manufacture of nuclear weapons, chemical weapons, arms, and dumping or storage of nuclear waste and toxic chemicals. It also excluded foreign nationals from investing in small-scale businesses that could be carried out by Vanuatu nationals.

14. The Foreign Investment (Amendment) Act No.1 of 1999 together with the Foreign Investment (Amendment) Act No. 6 of 2001 had further liberalised and rationalised foreign investment in Vanuatu. The negative list of businesses reserved for Ni-Vanuatu was much shorter than in the past (see Annex 2). For instance, investments in hotels and motels that used to be restricted to nationals had now been opened up to foreign investment if the investment exceeded 5 million Vatu (VT), approximately US\$35,000, in the rural sector and VT 10 million (US\$70,000 – and annual turnover of VT 20 million or more) in the urban sector.

15. The new Act and subsequent amendments eliminated the discretion of the Government and decisions of the Vanuatu Investment Promotion Authority were now based on objective criteria. The new Act also addressed important issues such as labour laws, immigration, and business legislation including land laws. It streamlined investment procedures with regard to administrative duties, approvals, land disputes and industrial disputes. Investors in some services sectors were, of course, also subject to measures regulating these individual sectors. These measures are dealt with below in the section of this report on Policies Affecting Trade in Services.

16. The issuance of work permits was regulated by the Labour (Work Permits) Act. This included a reserved list of professions, now modified by the Foreign Investment (Amendment) Act and comprising able seaman/ordinary seaman; bricklayer; bus driver; clerical supervisor; dock worker; driver; hotel receptionist; housemaid; lorry and van driver; mason; painter; portable saw-miller; receptionist; street vendor; typist and waitress/waiter.

17. The issuance of residence permits to foreigners was linked to investment in Vanuatu. An investment of VT 5 million (US\$35,000) in cash or other assets in Vanuatu entitled a foreigner to a one-

year residence permit. A higher initial investment, and an undertaking to maintain the investment at this level, ensured the individual of a longer residence permit. Maximum-length residence permits (15 years) were issued to foreigners having invested more than VT 100 million (US\$700,000) in Vanuatu. The initial fee for one year and subsequent annual renewal amounted to VT 20,000 (US\$140).

18. All land belonged to the indigenous population of Vanuatu. Customary ownership was complicated, resulting in frequent disputes concerning ownership and boundaries. These disputes were settled by resort to customary law. Foreigners had the right to lease land. Their rights were governed by the Land Lease Act Cap 163. Once registered, a lease was governed by the laws of Vanuatu. The Foreign Investment (Amendment) Act provided that disputes related to leases were first considered by the Vanuatu Investment Promotion Authority and then, if necessary, by the courts. A Subsidiary Land Rent Payment of 2 to 4 per cent of gross annual turnover, paid to the custom landowners, applied to tourism leases.

State Ownership and Privatization

19. The representative of Vanuatu said that the Government owned outright or had part interest in 18 companies. Six companies – Air Vanuatu (Operations) Ltd, Vanuatu Internal Air Services Ltd, Vanuatu Livestock Development Ltd, Airports Vanuatu Ltd, Vanuatu Post Ltd, and National Bank of Vanuatu – were wholly-owned, while the Government was majority owner of Metenesel Estates Ltd (99.41 per cent) and Vanuatu Abbatoirs Ltd. (85.4 per cent). The Government held minority stakes in Ifira Wharf and Stevedoring (1994) Ltd, Northern Islands Stevedoring Ltd, Telecom Vanuatu Ltd, Union Electrique du Vanuatu Ltd and Global Manufacturing and Trading Ltd, as well as in two companies scheduled for voluntary liquidation (Ifira Wharf and Stevedoring Ltd and Ifira General Services Ltd). The Government also had ownership interest in three companies – Bel-Mol Cattle Company Ltd, New Resources (Vanuatu) Ltd, and South Pacific Fishing Companies Ltd – which were either in receivership, liquidation or dormant/struck-off. In addition, five statutory bodies (National Housing Corporation, Vanuatu Broadcasting and Television Corporation, Vanuatu Commodities Marketing Board, Vanuatu Financial Services Commission, and Asset Management Unit) operated in Vanuatu. The Government of Vanuatu had embarked on a policy to privatize and corporatize four principal entities engaged in the supply of water, electricity, stevedoring, and television and broadcasting. It had no immediate plans to remove monopolies in the provision of water, electricity and telecommunications. In line with Government policy to strengthen the private sector, it had taken action to establish the Vanuatu Chamber of Commerce and Industry to act as a catalyst for private sector issues and reform.

Competition and Pricing Policies

20. The representative of Vanuatu was asked whether basic utilities, such as electricity and telephone, which enjoyed monopolies could increase prices whenever they liked. The representative of Vanuatu said that the balance between efficient management of resources and costs to the consumer was delicate, and had not been examined carefully by the Government so far. It recognized that reductions in costs could only occur with effective competition in the market. However, this was frequently difficult to achieve in a country small in size and population. He confirmed that Vanuatu did not maintain any system of price controls nor did Vanuatu have legislation to effect it.

21. The representative of Vanuatu stated that if price controls were introduced in the future, Vanuatu would apply such measures in a WTO-consistent fashion, and take into account the interests of exporting WTO Members as provided for in Article III:9 of the GATT 1994. Vanuatu would also publish the list of any goods and services subject to price controls in its Official Gazette. The Working Party took note of these commitments.

FRAMEWORK FOR MAKING AND ENFORCING POLICIES

Powers of Executive, Legislative and Judiciary, Administration of Policies on WTO-Related Issues

22. The representative of Vanuatu said that the Republic of Vanuatu was a parliamentary democracy which had obtained independence in 1980. The national political structure, as provided in the Constitution, consisted of a legislative, an executive and a judiciary branch. The legislature consisted of a single chamber with 52 Members. The electoral system provided for proportional representation. The Executive consisted of the Prime Minister and the council of Ministers and the Judiciary of a Chief Justice and three Judges. The Government was advised on custom and tradition by the National Council of Chiefs. The main Ministries responsible for the implementation of policies affecting trade were the Ministry of Trade, Industry and Investment; the Ministry of Finance and Economic Management; and the Ministry of Agriculture, Forestry and Fisheries.

23. The representative of Vanuatu said that existing Vanuatu Law contained a standard common law right of judicial review. The judicial system in Vanuatu required only the existence of just cause for review, and the judiciary would entertain reviews of administrative as well as ministerial decisions made in all such cases. The new Customs Act (Section 103(3)), which had been gazetted in October 1999, provided the right of appeal against decisions of Customs. Appeals against decisions of the Director of Customs could be made to the Supreme Court of Vanuatu within 28 days of the date on which the appellant had been notified of the decision to be appealed against, or within any further period allowed

by the Supreme Court. The Supreme Court could confirm, reverse or modify the decision appealed against, or refer the matter back to the Director of Customs with directions to reconsider the whole or any specified part of the matter. In relation to other legal instruments, Article 5(1)(k) of the Vanuatu Constitution provided that equal treatment under the law of administrative action was a fundamental right, and a person whose rights had been infringed could apply to the Supreme Court to enforce that right. Individual pieces of legislation also provided for the right of appeal, for example, the Business Licence Act allowed a decision not to issue, renew or transfer a business licence to be appealed to the Minister, and the Minister's decision could be appealed to the Supreme Court.

24. The representative of Vanuatu confirmed that, from the date of its accession, its laws would give foreign and domestic importers and exporters the right to appeal administrative action relating to matters subject to WTO provisions to an independent body in full conformity with WTO obligations, including Article X:3(b) of the GATT 1994. The Working Party took note of this commitment.

25. The representative of Vanuatu said the Government had decided to establish six regional provinces in late 1994 with a view to accelerate and improve administration and other important processes in the provinces. In consistency with Vanuatu's laws, each respective province had autonomous power to enact by-laws and other administrative matters pertaining to taxes and other business and commercial undertakings. He noted that under the Decentralization Act No. 1 of 1994, any potential tax, fee or levy raised by provincial governments required the approval of the Government through the Ministry of Home Affairs, which would evaluate its consistency with WTO provisions prior to allowing its implementation. An overview of trade-related legislation introduced by Vanuatu to implement WTO requirements is presented in Table 1.

26. In response to a specific question from a Member, the representative of Vanuatu said that the Vanuatu Constitution required treaties to be ratified. Vanuatu had ratified several international agreements. Ratification procedures involved the preparation of a short Bill with the treaty attached to it in French language as well as in English. Bills were subject to debate in Parliament prior to their passage. An Act Bill passed by Parliament would subsequently be forwarded to the President for assent, and publication in the Official Gazette, which was mandatory, would be the final step before its entry into force.

27. The representative of Vanuatu stated that if laws or other acts of Vanuatu should be found to contradict international treaties or agreements, the provisions of the international treaty or agreement, such as the WTO, would apply. The representative of Vanuatu confirmed that sub-central entities had no autonomous authority over issues of subsidies, taxation, trade policy or any other measures covered by WTO provisions. He confirmed that the provisions of the WTO Agreement, including Vanuatu's

Protocol, shall be applied uniformly throughout its customs territory and other territories under Vanuatu's control, including in regions engaging in border trade or frontier traffic, special economic zones, and other areas where special regimes for tariffs, taxes and regulations are established. He added that when apprised 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.

POLICIES AFFECTING TRADE IN GOODS

IMPORT REGULATION

Trading Rights (the right to import and export)

28. The representative of Vanuatu said the Business Licence Act regulated the licensing of all business in Vanuatu. The Act provided that, subject to certain exemptions, no person, company or association could carry out a business without a licence issued under the Act. The Act had recently been amended. In the past, any natural or legal person had required a licence to import for direct retail or wholesale trade, and one-year licences were granted by the Minister of Finance upon application and against payment of an annual fee of VT 50,000 (about US\$400) plus 2.5 per cent of the value of the transactions. The fee structure had been changed and the ad valorem element had been eliminated. At present, a licence to engage in direct retail or wholesale trade was issued upon payment of a one-time fee of VT 10,000 (about US\$70). No distinction was now made between the right to trade in domestic or imported products and the licence gave the right to import goods originating in any country. The business licensing system was maintained for revenue purposes. Licences were normally issued within four weeks from the date of application. Licences would only be granted to ni-Vanuatu and resident natural or legal persons who had complied with the requirements of the Business Licences Act, and – for non-citizens or non-resident foreign investors – with the requirements of the Foreign Investment Act of 1998. Under the Import of Goods Control Act, the Minister of Trade could limit the type or quantity of goods to be imported by the licence holder, but these provisions had never been used. He confirmed that Vanuatu would review these provisions in the context of a future review of the Imports of Goods Control Act.

29. In reply to questions, Vanuatu said that it does allow foreign and domestic persons to import and export and that it had no registration or other requirements to engage in importing and exporting other than those described in the previous paragraph.

30. A member observed that no distinction is made in Vanuatu law between the right to import and the right to distribute goods in Vanuatu and that, if the availability of imported goods to Vanuatu distributors is limited through restrictions on who can import, the protections of Articles III and XI of GATT 1994 will be undermined. This member accordingly requested that alterations be made to Vanuatu legislation to remove all such restrictions.

31. In reply, the representative of Vanuatu said that Schedule 1 of the Business Licence Act of 1998 defined 11 classes of business licence and a number of sub-categories within those classes. Category D1 (Importers) and Category D3 (Retailers and Wholesalers) were relevant to distribution. A Category D1 licence covered direct importation for resale (without transformation), wholesale or retail - including acting as agent in buying or selling merchandise to other businesses - of merchandise of any description with a few exceptions, notably for petroleum products, motor vehicles, tractors and self-propelled machines and spare parts which fell under a different licence category. Businesses in the merchandising trades who held a Category D1 licence were also required to hold a D3 (Retailer or Wholesaler) licence, as appropriate. Category D3 licences were required for businesses selling merchandise of every description wholesale or retail, except petroleum products and items subject to a Pharmacist and Druggist licence. Vanuatu had no special category of business licence for franchising, but its legislation did not prohibit local or foreign participation in franchising.

32. Category D1 and D3 licences were issued against an annual fee of VT 10,200 (US\$72) and VT 20,400 (US\$145), respectively, to ni-Vanuatu citizens, non-citizen residents and non-resident foreign investors. Non-citizens and non-resident foreign investors having received an approval certificate from the Vanuatu Investment Promotion Authority paid an additional annual fee of VT 91,800 (US\$640). The approval certificates were issued in a transparent and automatic manner in accordance with the Foreign Investment Act 1998.

33. The representative of Vanuatu confirmed that, subsequent to a revenue study and no later than June 2002, the Vanuatu authorities will issue upon request to any domestic or foreign entity automatically, promptly and on terms and in a manner no less favourable than for other categories of business licence, a new category of business licence enabling holders to engage in the importation and exportation of goods. To ensure this, the Business Licence Act will be amended no later than June 2002. In addition, the Vanuatu authorities will review the fee structure for business licences and adjust it to ensure that businesses engaged in the merchandising trades are not required to purchase two business licences in order to import. The Working Party took note of these commitments.

34. The representative of Vanuatu confirmed that from the date of accession, Vanuatu would ensure that its laws and regulations relating to the right to trade in goods and all fees, charges and taxes levied

on such rights would be in full conformity with its WTO obligations, including Articles VIII:1(a), XI:1 and III:2 and 4 of the GATT 1994 and that it would implement such laws and regulations in full conformity with these obligations. The Working Party took note of these commitments.

Ordinary Customs Duties

35. The representative of Vanuatu said that Vanuatu had adopted the Harmonised Commodity Description and Coding System (HS) in 1989, and applied it with certain modifications as some subdivisions at the six-digit level had been regrouped into the four-digit HS level. Vanuatu had applied the six-digit level classification HS (96) as from 1 July 1998, with seventh and eight-digit levels reflecting national classifications.

36. The representative of Vanuatu said that, like many other least developed countries, his Government was obliged to rely on the customs tariff for a large part of its revenue and that this would continue to be the case in the foreseeable future despite all the Government's efforts to adopt a more modern tax structure. At present, tariffs alone accounted for approximately 35 per cent of Vanuatu's total government revenue, including grants. While the tariffs also provided an incentive to local production, in practice only an extremely limited number of goods were actually produced in Vanuatu. This made it clear that, with very few exceptions, the tariff had very little protective effect and did not act as a barrier to imports. Most tariffs were *ad valorem* rates. Specific duty rates were levied on beer, wines, spirits, tobacco products and hydrocarbon oils.

37. Requests for the examination of proposals for tariff protection were assessed by the Department of Industry. For the manufacturing industry, practice would be to grant protection for a minimum of three years, to be reviewed annually thereafter.

Other Duties and Charges Levied on Imports but not on Domestic Production (except charges for services rendered)

38. In answer to questions, the representative of Vanuatu said that the Import Duties Act of 1998 had abolished a 5 per cent service tax levied on imports of most products, as of 1 July 1998. There was no stamp duty for imports.

39. The representative of Vanuatu confirmed that, in the past, the importation of rice, sugar, flour, tobacco products and canned mackerel had been licensed by the Vanuatu Cooperative Federation against payment of 3 or 4 per cent commission on the c.i.f. value, in order to enable the Federation to repay its outstanding debts. These requirements had now been abolished and the Federation had ceased to operate commercially. He confirmed that Vanuatu currently applied no "other duty and charge" referred to in Article II:1(b) of GATT 1994.

40. The representative of Vanuatu stated that the application of any "other duties and charges" other than normal customs duties and fees and charges for services rendered would be in accordance with WTO provisions from the date of accession. He further confirmed that Vanuatu has bound "other duties and charges" as defined in Article II:1(b) of GATT 1994 at zero in its Goods Schedule. The Working Party took note of this commitment.

Tariff Rate Quotas, Tariff Exemptions

41. The representative of Vanuatu said that goods imported for agriculture, horticulture, livestock or forestry could be exempted from import duty. By joint decision, the Directors of Customs and Agriculture could also exempt from import duties plant, machinery, materials and equipment (including purpose-designed vehicles), including spare parts and accessories. Provided the goods were intended exclusively for use in a development project approved by the Director of Agriculture, the exemption could also be extended to fuel oils for static machinery and vehicles engaged primarily in off-road applications.

42. Schedule III of the Vanuatu Customs Tariff provided that import duty exemptions or reductions might be granted on goods which could be considered beneficial for the economic development of Vanuatu, including raw materials and equipment for manufacturing, goods destined for new tourism developments, finance or commercial sectors, mineral exploration, fisheries and inter-island shipping. Goods imported for use by diplomatic missions or other approved organizations, for example as donations, aid or disaster relief, were also admissible free of duty or tax by virtue of international conventions or agreements.

43. The representative of Vanuatu confirmed that, upon accession, it would only grant duty exemptions on an MFN basis, in accordance with the provisions of Article I of GATT 1994. All exemptions, whether granted or declined under Section III of the Vanuatu Customs Tariff, would be notified by publication in the Government Gazette.

44. A member encouraged strongly the Government of Vanuatu to revise its import tax law to limit, to the greatest extent possible, the use of import tariff exemptions. Rather than using a complex and potentially discriminatory tariff exemption scheme, the Government of Vanuatu should give careful consideration to providing low bound tariff rates to import items which served as inputs for those enterprises for which the Government would seek to encourage operations.

45. The representative of Vanuatu replied that his Government had recently taken steps to lower tariffs on inputs used in the production process substantially but reiterated the importance of tariff revenues for his country. The Vanuatu Customs Tariff, Schedule III, section 1 (Economic Reliefs), X.1

which regulated the import duty exemptions policy for goods imported for manufacturing or processing had been revised in 1998 to make the duty exemption policy more transparent, and had reduced the scope for discretion. Decisions were now based on objective criteria for evaluating the contribution that individual exemptions would make to the economic development of the country. These criteria did not discriminate between products originating in different countries. They included; the quality of the product, the size of the investment in productive capacity, participation of Ni Vanuatu, the location of the business, workers employed, and training opportunities provided. Decisions could be subject to judicial review. Details of the system were provided to the Working Party.

46. Applicants were required to complete the "Vanuatu Duty Exemption Application Form" to obtain an import duty exemption. The form could be obtained from the Department of Trade and Industry, Customs, Fisheries, Minerals and Tourism Departments. Each respective line department, e.g. tourism or minerals, considered the application which, if supported by the line department, would be forwarded to the Director of Customs for consideration by the Duty Exemptions Committee, comprising representatives of Finance, Customs and Trade.

47. The representative of Vanuatu stated that upon accession to the WTO, any tariff exemptions would only be implemented in conformity with the relevant WTO provisions including Article I of the GATT 1994 and the TRIMs Agreement. The Working Party took note of this commitment.

Fees and Charges for Services Rendered

48. The representative of Vanuatu said that, as a result of recent modifications, the only charge collected to cover the cost of the services rendered was of about US\$3.50 (VT500) per customs declaration. He added that port and marine services were provided by the Ifira Wharf and Stevedoring Limited and the Northern Islands Stevedoring Limited on a purely commercial basis. These companies were not controlled by the Government. Details of the port handling charges are presented in Table 2. There are separate charges for exports and imports. He confirmed that Vanuatu does not impose any fees or charges for services rendered to imports or exports other than those listed in Table 2.

49. The representative of Vanuatu stated that all fees and charges for services related to imports and exports would be operated in conformity with the provisions of the WTO Agreement, in particular Articles VIII and X of GATT 1994. The representative of Vanuatu also stated that, from the date of accession, Vanuatu would not apply, introduce or reintroduce any fees and charges for services rendered that were applied to imports on an ad valorem basis, or allow firms providing customs or port services on its behalf to apply such fees or charges. Information regarding the application and level of such fees and

charges, revenues collected and their use, would be provided to WTO Members on request. The Working Party took note of these commitments.

Application of Internal Taxes to Imports

50. The representative of Vanuatu said that domestically-produced beer was subject to an excise tax of VT 80 per litre, but there was no excise on imported beer. While this was not inconsistent with WTO requirements, the excise tax on imported and domestically-produced beer would be equalized upon Vanuatu's accession to the WTO. No other products were at present subject to excise tax.

51. Vanuatu had introduced value added tax on 1 August 1998, replacing a turnover tax. VAT was levied at a single rate of 12.5 per cent. The tax was trade neutral in full observance of the obligations under Articles I and III of the GATT 1994. Signatories of the Melanesian Spearhead Group Agreement and Fiji were subject to VAT. Exports were zero-rated.

52. The representative of Vanuatu stated that from the date of accession Vanuatu would apply its domestic taxes in full compliance with the relevant provisions of the WTO, including Articles I and III of GATT 1994, in a non-discriminatory manner to imports from all WTO Members and to domestically-produced goods. The Working Party took note of this commitment.

Quantitative Import Restrictions, including Prohibitions, Quotas and Licensing Systems

53. The representative of Vanuatu said that prohibitions affected importation of obscene or indecent material, narcotics and dangerous drugs, and right-hand drive motor vehicles. The Ministry of Home Affairs authorized imports of firearms and ammunition, licences being strictly controlled for reasons of public security and safety. The Ministry of Home Affairs also issued automatic licences for importation of liquor and spirits in order to monitor trade. Information on import licensing procedures according to the format applicable to WTO Members was provided to the Working Party in document WT/ACC/VUT/7, Annex I. Non-tariff measures applied by Vanuatu prior to accession are enumerated in Table 3.

Table 3: Non-tariff Measures Applied by Vanuatu Prior to Accession

Item	HS 96 Classification	Non-Tariff Measure	Justification
Screen printed T-shirts (with Vanuatu motif and embroidery)	61.09	Import licence – Ban	Removal and replacement with tariff of VT 500 per unit or 70%, whichever is greater
Firearms and ammunition	93.04-93.06	Import licence	Article XX
Liquor and spirits	22.08	Import licence-automatic	Article XX
Pornographic material	N.A.	Import ban	Article XX(a)
Narcotics	N.A.	Import ban/licence	Article XX
Rice	10.06	Subject to import licence issued by Vanuatu Co-op Fed. with commission of 3 to 4 per cent	Measure eliminated
Flour	11.05-11.06	"	"
Sugar	17.01	"	"
Canned fish	16.04	"	"
Tobacco products	24.01-24.03	"	"
Plants and other products controlled by CITES	N.A.	Import licence from the Vanuatu Quarantine Service	Article XX

54. The representative of Vanuatu said that under the Import of Goods Control Act, the Minister of Trade could restrict or prohibit importation of goods into Vanuatu (or specified parts thereof) for the purpose of protecting and stimulating local industry. However, these provisions had been found to be of little practical value and had rarely been used. Once Vanuatu was a Member of WTO, the powers under this Act would be used only in strict conformity with WTO provisions.

55. In reply to specific questions, the representative of Vanuatu confirmed that importation of potatoes had until recently been prohibited during the harvest months (August-March), but that this seasonal restriction no longer applied. It had been replaced with an equivalent tariff. Import orders restricting importation of screen-printed T-shirts with Vanuatu motif had also been abolished and replaced by equivalent tariffs. As noted above under the heading "Other Duties and Charges", import orders restricting imports of rice, sugar, flour, tobacco products and canned mackerel and associated non-automatic import licences had also recently been abolished and replaced by tariff equivalents. Import requirements related to Sanitary and Phytosanitary measures are dealt within the relevant section below.

56. The representative of Vanuatu confirmed that Vanuatu would, from the date of accession, not introduce, re-introduce or apply quantitative restrictions on imports, or other non-tariff measures such as

licensing, quotas, prohibitions, bans and other restrictions having equivalent effect that cannot be justified under the provisions of the WTO Agreement. He further confirmed that the legal authority of the Government of Vanuatu to restrict or prohibit importation of goods into Vanuatu would be applied from the date of accession in conformity with the requirements of the WTO, in particular Articles XI, XII, XIII, XVIII, XIX, XX, and XXI of the GATT 1994, and the Agreements on Agriculture, the Application of Sanitary and Phytosanitary Measures, Import Licensing Procedures, Safeguards, and Technical Barriers to Trade. The Working Party took note of these commitments.

Customs Valuation

57. Early in the accession process the representative of Vanuatu provided information on implementation and administration of the Customs Valuation Agreement according to the format applicable to WTO Members in document WT/ACC/VUT/7, Annex II. At that time, current regulations were contained in Schedule III of the Import Duties (Consolidation) Act [Cap.91] which were based on the Brussels Definition of Value.

58. Some members said that Vanuatu should outline plans to undertake a thoroughgoing needs assessment with regard to customs procedures, administration and practices, with a view to full implementation of the Customs Valuation Agreement. Some members said that Vanuatu should clarify whether it would intend to invoke the provisions of the Customs Valuation Agreement providing special and differential treatment for developing countries, e.g., the transitions/reservations on computed value method, minimum values, reversal of sequential order, etc.

59. In reply, the representative of Vanuatu said that the Import Duties (Consolidation) (Customs Valuation Amendment) Act of 1999 had been passed to bring Schedule III into conformity with the provisions of the WTO Customs Valuation Agreement. Vanuatu had also introduced the ASYCUDA programme in 1999 with financial assistance from Australia and technical assistance from UNCTAD in order to facilitate the proper implementation of the customs valuation system. Vanuatu Customs officers had participated in a number of training courses in 1999 and 2000 in order to be ready to implement the Import Duties (Consolidation) (Customs Valuation Amendment) Act of 1999.

60. A member expressed concern that Article 12 of the Agreement (transparency) was not covered in the legislation provided. The representative of Vanuatu replied that other legislation provided for the transparency provision in Article 12. Section 8 of the Acts of Parliament Act (CAP 116) provides that Acts must be published and section 13 of the Interpretation Act (CAP 132) provides that subordinate legislation must be published. A member expressed some additional minor technical concerns about

Import Duties (Consolidation) (Customs Valuation Amendment) Act of 1999. The representative of Vanuatu undertook to make the necessary amendments to the legislation to satisfy these concerns.

61. The representative of Vanuatu confirmed that Vanuatu would fully apply the WTO provisions concerning customs valuation no later than 1 January 2001, including the Agreement on the Implementation of Article VII of the GATT 1994, as well as the provisions for the Valuation of Carrier Media Bearing Software for Data Processing Equipment (Decision 4.1). The Working Party took note of these commitments.

Rules of Origin

62. The representative of Vanuatu said that, collection of trade statistics apart, Vanuatu only used rules of origin in the Melanesian Spearhead Group Agreement and in its bilateral trade agreement with Fiji (see section on Trade Agreements below). These were based upon a change in HS classification at the six-digit level. There was no conflict between these rules and the WTO Agreement on Rules of Origin, and the Department of Customs has the capacity to give an advance ruling on origin should an exporter or importer desire it. In answer to questions and comments, the delegation of Vanuatu again stressed that rules of origin, particularly non-preferential rules of origin, played a very limited role in its trade policy. It did not, for instance, have provision for the use of trade remedies, such as anti-dumping duties.

63. The representative of Vanuatu stated that from the date of accession, Vanuatu's preferential and non-preferential rules of origin would comply fully with the WTO Agreement on Rules of Origin. The requirements of Article 2(h) and Annex II, paragraph 3(d) of the Agreement which require provision upon request of an assessment of the origin of the import and outline the terms under which it will be provided, would also be implemented prior to accession. Vanuatu would abide by the relevant WTO provisions on transparency and the provision of information about its rules of origin and their application. The Working Party took note of these commitments.

Other Customs Formalities

64. The representative of Vanuatu said that although Vanuatu was not a member of the World Customs Organization its systems and procedures related to its other customs formalities were based on the Kyoto Convention on the Simplification and Harmonization of Customs Procedures.

Preshipment Inspection

65. The representative of Vanuatu said that Vanuatu did not carry out preshipment inspection of imports and had no plans to do so.

66. The representative of Vanuatu stated that if pre-shipment inspection requirements were introduced, they would be temporary and in conformity with the requirements of the Agreement on Pre-shipment Inspection. Vanuatu would take full responsibility to ensure that such enterprises operating on its behalf complied with the provisions of WTO Agreements. Decisions by such firms could be appealed by importers in the same way as administrative decisions taken by the Vanuatu Government. The Working Party took note of these commitments.

Anti-Dumping, Countervailing Duties, Safeguard Regimes

67. The representative of Vanuatu said that Vanuatu had no provisions in its legislation for anti-dumping and countervailing measures at present, and that there were no plans to introduce such legislation. His Government reserved the right to employ anti-dumping duties, countervailing duties and safeguard provisions in a manner consistent with its WTO obligations. Any measures that would be introduced would be notified to the relevant WTO Committee.

68. The representative of Vanuatu stated that Vanuatu would not apply any anti-dumping, countervailing or safeguard measures until it had implemented appropriate laws in conformity with the provisions of the WTO Agreements on these matters. Vanuatu would ensure the full conformity of any such legislation with the relevant WTO provisions, including Article VI and XIX of the GATT 1994 and the Agreement on the Implementation of Article VI, the Agreement on Subsidies and Countervailing Measures and the Agreement on Safeguards. After such legislation was implemented, Vanuatu would only apply any anti-dumping duties, countervailing duties and safeguard measures in full conformity with the relevant WTO provisions. The Working Party took note of these commitments.

EXPORT REGULATION

69. The representative of Vanuatu said that exporters of Vanuatu goods which they had not produced themselves on a commercial basis were exempted from business licences. Exporters of kava needed to obtain an authority from the Vanuatu Quarantine Services at a cost of VT30,000 (US\$208). Kava exporters were also required to pay a facility fee of VT80,000 (US\$555), payable in instalments, to the Vanuatu Quarantine Services. Coffee was also subject to export licensing, revenue from which covered the cost of quality control. Vanuatu had abolished taxes on exports of copra (4 per cent), kava (3 per cent), beef (2 per cent), and cocoa (7 per cent). Export taxes were still collected on logs and unworked seashells. The export of logs was currently banned for environmental reasons. The manufacturing sector was basically exempt from import duties and taxes on raw materials imported for manufacture, process and export under the Inward Processing Relief Standards. The representative of Vanuatu said Vanuatu had no export subsidies.

70. The representative of Vanuatu stated that, from the date of accession, Vanuatu would ensure that it applied its laws and regulations governing export measures and would act in conformity with the relevant provisions of the WTO, including Articles I and XI of GATT 1994 and the Agreement on Subsidies and Countervailing Measures. The Working Party took note of this commitment.

INTERNAL POLICIES AFFECTING FOREIGN TRADE IN GOODS

Industrial Policy, including Subsidies

71. The representative of Vanuatu said that self reliance, defined as meeting import requirements from foreign exchange earnings and fiscal requirements from domestic revenues, was a long-term economic objective. Some projects had been set up to encourage local manufacturing and especially small-scale industries, including high quality bags and leather products, aluminum boats, beer and juice, some textiles and clothing items, coverings, fibreglass products, quality furniture, quality preservative-free natural dairy products, and coconut-based quality soap, cooking oil and hair lotion.

72. At the beginning of 1997, the Government had established an on-going Comprehensive Reform Programme, focusing on outward-looking reform of the private and public sector. Emphasis was put on competitive production of goods for export, assisted by a more open trade regime. Industrial projects could be supported through special loans at relatively low interest rates from commercial banks and special exemptions accorded by the customs and tax authorities, but the Development Bank of Vanuatu, which had in the past provided low-interest loans for industrial projects, no longer existed.

73. The representative of Vanuatu stated that any subsidy programmes would be administered in line with the Agreement on Subsidies and Countervailing Measures and that any such programmes would be notified to the Committee on Subsidies and Countervailing Measures upon Vanuatu's accession to WTO. The Working Party took note of this commitment.

Technical Barriers to Trade

74. The representative of Vanuatu provided information on technical barriers to trade in the format applicable to WTO members (document WT/ACC/VUT/6, Annex VIII). The National Building Code required construction in the main towns to meet certain standards (necessary to protect life from cyclones and earthquakes). This was administered by the city councils of Port Vila and Luganville. Apart from these and some basic health standards administered by the Ministry of Health, which in his view did not create any unnecessary obstacles to international trade as required by the Agreement on Technical Barriers to Trade, Vanuatu maintained no technical regulations or standards. As a least developed country, Vanuatu had no option but to leave most technical standards issues as a private contractual matter between buyer and seller.

75. Vanuatu was not represented directly or through the South Pacific Forum at any international standards bodies, such as the ISO. However, given the rapid changes presently occurring with regard to standards and their regulation globally, Vanuatu expected to take a more active role in this area in future. As a result, the Forum Economic Ministers Meeting held in Fiji in July 1998 had mandated the undertaking of a study of whether trade facilitation measures in standards could be achieved through a regional facility. Vanuatu had established an enquiry point, as required by Article 10 of the TBT Agreement, within the Department of Trade, Industry and Investment (documents WT/ACC/VUT/9/Add.5 and WT/ACC/VUT/10). The Director of the Department would fulfill all WTO's TBT notification and enquiry point obligations. The enquiry point was fully functioning.

76. The representative of Vanuatu stated that Vanuatu would apply the Agreement on Technical Barriers to Trade from the date of its accession without any transitional period. The Working Party took note of this commitment.

Sanitary and Phytosanitary Measures

77. The representative of Vanuatu said that Vanuatu had a very favourable pest status. This was one of the very few benefits of its isolation in the south Pacific and was a valuable national asset to be measured, utilized and preserved. Its sanitary and phytosanitary (SPS) measures had to reflect this need. The legislative basis for Vanuatu's sanitary and phytosanitary measures consisted of the Animal Importation and Quarantine Act of 1988, and regulations in Order No. 14 of 1994; the Plant Protection Act No. 14 of 1997, and the Imports Specification (Plants) Manual; and the Food Control Act No. 21 of 1993 gazetted in July 1999. Copies of these were provided to the Working Party, together with other documentation illustrating how these were implemented.

78. The representative of Vanuatu said that the Vanuatu Quarantine and Inspection Services were responsible for implementing SPS provisions on animals and plants, while the Department of Health had responsibility for food control. Vanuatu's SPS measures were transparent. The SPS enquiry point had been established. The task had been entrusted to the Director of the Vanuatu Quarantine and Inspection Service, who would also be responsible for making notifications to WTO and ensuring that the transparency obligations of the SPS Agreement would be met.

79. Under the Animal Importation Act and the Plant Protection Act, listed items posing a negligible risk may be imported without a permit. Imports of other items coming under the Acts were subject to a permit, issued once the safety of the product has been determined. This was common practice internationally and particularly necessary in Vanuatu which was largely disease and pest free. It was, to

give one example, recognized by the Office International des Epizooties (OIE) as being free of all list A OIE diseases.

80. All imported animals were examined at the point of entry by a veterinarian from the Department of Livestock. Animal products, plants and plant products were examined by a member of the Quarantine and Inspection Services. Reports from the OIE detailed the health status for determining source country risk, and Vanuatu would not accept animals from countries without a health status report. Vanuatu would not accept plant products if the risk analysis demonstrated that they represented a risk. At the request of importers, protocols were developed with other countries for the importation of animals and animal products as well as plant and plant products when the pests concerned was of particular concern to Vanuatu. These set out the steps to be taken in the exporting country to eliminate the risk. Vanuatu would normally not develop protocols with countries having endemic OIE List A diseases as Vanuatu had no high-security quarantine facilities to handle imports from countries with serious animal diseases.

81. The Food (Control) Act restricted businesses and persons from displaying, storing or selling food unfit for human consumption. These provisions were enforced through municipal health standards.

82. Within the limits of its resources as a least-developed country, Vanuatu took part in the relevant international organizations. On the animal side, Vanuatu was an active member of OIE, for instance, by sending monthly reports to OIE on its disease status, having joined the organization in 1983. Vanuatu had been a member of the Codex Alimentarius Commission since 1995. Vanuatu was also a member of the newly formed Pacific Plant Protection Organization (PPPO), and had applied for membership in the International Plant Protection Convention (IPPC) in 1995.

83. Vanuatu's SPS measures were based only upon scientific evidence of potential risk and had no other foundation. Whenever possible, Vanuatu based its national measures on international standards, guidelines, or recommendations. It followed OIE guidelines for all list A and B diseases and the code of practice contained in the Imports Specification (Plants) Manual conformed to IPPC standards, which cover the main products. In practice, it followed Codex food standards.

84. Assistance in setting regulations was also obtained from the South Pacific Communities, as well as the relevant services of Australia and New Zealand. The SPC provided scientific advice and technical assistance and training to its members. The Plant Protection Unit of the South Pacific Commission had established a list of prohibitions applying across the Pacific island countries producing similar crops in comparable climate and environment. The list was provided to the Working Party (document WT/ACC/VUT/7, Annex IV).

85. Vanuatu had the capability of doing risk assessments for itself. Being a small least-developed country, it frequently based these on risk assessments made by other countries where conditions were similar to its own. It understood that developed countries sometimes did the same. The countries in its region considered that there was need for co-operation on this matter. To this end, studies had been commissioned by the Secretariats of the South Pacific Forum and the Pacific Communities on possible means to develop a regional capacity.

86. Vanuatu was making other efforts to improve its current measures. It was, for instance, developing guidelines based on scientific principles to formulate procedures for safe importation of plants and plant products with the assistance of New Zealand. In future, principles to be applied included area of freedom, treatment (heat treatment) and tissue cultured materials, which should eliminate the risk of introduction of new pests. It was also drafting an import specification manual based on scientific information to further improve conformity with IPPC standards.

87. The representative of Vanuatu said that Vanuatu's SPS enquiry point had been formally established on 26 February 2001 (documents WT/ACC/VUT/9/Add.5 and WT/ACC/VUT/10) and was fully operational. In order to ensure that the SPS Agreement was effectively implemented as from the date of Vanuatu's accession, procedures provided that (i) information on proposed SPS measures which might have a significant effect on trade were published and notified to WTO, copies of the proposed regulations were provided to other WTO Members on request, a reasonable time was allowed for Members to comment and for these comments to be taken into account, but that urgent matters of health were dealt with; (ii) SPS measures were based on scientific evidence; (iii) to the extent possible, SPS measures were based on international standards, guidelines and recommendations; (iv) SPS measures of other countries were accepted as equivalent if these measures achieved the level of protection appropriate to Vanuatu; (v) SPS measures were based on an assessment of the risks to human, animal or plant life or health; (vi) SPS measures take into account the regional characteristics both of the areas from which imported products originate and the areas for which they are destined; (vii) SPS measures do not arbitrarily or unjustifiably discriminate between different WTO Members or between domestic and foreign suppliers; and (viii) that relevant control, inspection and approval procedures comply with the provisions of the SPS Agreement.

88. The representative of Vanuatu stated that Vanuatu would apply the Agreement on the Application of Sanitary and Phytosanitary Measures from the date of its accession without any transitional period. The Working Party took note of this commitment.

Trade-Related Investment Measures

89. The representative of Vanuatu said that Vanuatu applied no trade-related investment measures proscribed under the GATT 1994. Import duty relief for industries was not linked in any way to local content requirements.

90. The representative of Vanuatu said that Vanuatu 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.

State-Trading Entities

91. The representative of Vanuatu stated that of the enterprises listed in the section on State Owned Enterprises and Privatization only the Vanuatu Commodities Marketing Board had exclusive rights relating to the import or export of goods. Vanuatu had provided information on State-trading enterprises in the format applicable to WTO Members, detailing the operations of the VCMB, in document WT/ACC/VUT/7, Annex III. The VCMB had been established in 1981 to buy, sell and stabilize prices for copra, cocoa and kava. The VCMB had sole purchasing rights on copra and cocoa for export. It had licensed 25 kava exporters and issued export licences for kava against a fee of VT 30,000 (US\$208).

92. Until recently, all coffee produced by small-holders had been sold to the Tanna Coffee Development Company (TCDC), but the TCDC had been privatized and all its exclusive rights and privileges revoked. It was not a state trading enterprise. Any company could now produce, export or import coffee to or from Vanuatu. The representative of Vanuatu confirmed that Vanuatu intended to notify the Vanuatu Commodity Marketing Board as a state-trading organization under Article XVII of GATT 1994.

93. The representative of Vanuatu confirmed that it would apply its laws and regulations governing the trading activities of State-owned enterprises and other enterprises with special or exclusive privileges and would act in full conformity with the provisions of the WTO Agreement, in particular Article XVII of the GATT 1994 and the Understanding on that Article and Article VIII of the GATS. He further confirmed that Vanuatu would notify any enterprise falling within the scope of Article XVII. The Working Party took note of these commitments.

Free Zones, Special Economic Areas

94. The representative of Vanuatu said that the Government's Council of Ministers had approved the establishment of free industrial zones on several islands, including Santo, Efate, Malekula and Tanna in September 1993. UNIDO had completed a feasibility study of the project, but further study would be

required to determine whether the project was viable. Plans to establish a free trade zone on Santo Island had also been discussed. However, no free zones had been established to date and Vanuatu had no intention to establish any such zones in the near term.

95. The representative of Vanuatu said that any free zones or special economic areas which it established would be fully subject to the coverage of its commitments in its Protocol of Accession to the WTO Agreement and that Vanuatu would ensure enforcement of its WTO obligations in those zones or areas. In addition, goods produced in any such 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 Vanuatu, including the application of tariffs and taxes. The Working Party took note of these commitments.

Government Procurement

96. The representative of Vanuatu said Vanuatu practised open tendering and competitive bidding in the context of a small island economy. The Financial Regulations of the Republic of Vanuatu (Chapter 22, Regulations 361, 364, 365 and 368) provided the guidelines for government procurement. A Central Tender Board in the Department of Finance evaluated tenders and awarded contracts. The Central Tender Board comprised the Director of Finance or his representative, the director of the department procuring the goods or services, and a representative of the Ministry responsible for the department procuring the goods or services. All written contracts worth more than VT 3 million (US\$21,000) required approval by the Attorney General before the contract was signed. A minimum of three written tenders were required for specific works or services exceeding VT 1 million (US\$7,000). Notice of invitation to tender was given at least two weeks before the closing date, normally by advertisement in the national press. The Financial Regulations contained no dispute settlement provisions; aggrieved individuals or companies could resort to the judicial system.

97. The guidelines stipulated that for works or services worth VT 50,000 (US\$350) to VT 1 million (US\$7,000) at least three written quotations should be obtained wherever possible, and the procurement order should be placed by the Accounting Office (normally the director of the department). A minimum of two quotations were required for works or services not exceeding VT 50,000, and the procurement order could be placed by senior department staff. The guidelines also stipulated that goods and services should be procured through the Government Central Store wherever possible. The central store purchased stationery and other supplies used by the Government on a purely commercial basis. The Central Government Store did not sell to the public, or to non-governmental entities.

98. Some members said that adoption of the disciplines of the Agreement on Government Procurement would benefit Vanuatu and asked whether Vanuatu intended to accede to this Agreement. The representative of Vanuatu said that Vanuatu did not intend to apply for accession to that Agreement at this stage. He confirmed that the financial regulations of Vanuatu did not permit discrimination against foreign suppliers and that no such discrimination will be introduced in the future. The Working Party took note of this commitment.

Transit

99. The representative of Vanuatu said that little trade transited through Vanuatu, which therefore had no need for specific regulations on the matter. However, transit trade was allowed under international customs practices.

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

Agricultural Policies

101. The representative of Vanuatu said that agriculture played a dominant rôle in the economy. The main cash crop was copra. Cocoa cultivation and beef production was growing in importance. The beef industry was concentrated on Espiritu Santo, where Vanuatu's major slaughterhouse, constructed to international standards, was located.

102. Vanuatu provided virtually no monetary grants to agricultural producers, but agricultural producers were among the businesses eligible for incentives offered through the Business Licence Committee and Customs Department. These incentives included exemption from business licence requirements, special loans at relatively low rates of interest from commercial banks, and special exemptions accorded by the customs and tax authorities.

103. Vanuatu also had aid-financed programs of domestic support for agriculture. The Department of Agriculture oversaw the provision of a small subsidy of VT50 (about US\$0.35) per coconut seedling. Government policy had also been to ensure that small-holders of coffee were provided with free planting materials and a subsidy on the purchasing price. In addition, the Vanuatu Commodities Marketing Board regulated the "beach" (farm-gate) price of copra on an ad hoc basis by using surpluses generated from trading activities and transfers of Lomé Convention funds from the commodity price stabilisation scheme (Stabex) of the European Communities. In 1996, the Government had used approximately VT10

million as a once-off payment to support copra prices. Since 1984, the VCMB had accumulated losses approaching US\$20 million, but relatively high world market prices for copra and cocoa in recent years had reduced the need for price support to these sectors in Vanuatu. The VCMB was now fully obliged by statute to fund its own activities without any subsidy.

104. Vanuatu's commitments on agricultural tariffs, on domestic support for agriculture which qualify for the de minimis level of support of 10 per cent that is available to developing countries, and on agricultural export subsidies, are in the Schedule of Concessions and Commitments on Goods annexed to the draft Protocol of Accession to the WTO reproduced in the Appendix to this report.

Trade-Related Intellectual Property Regime

105. In early discussions of this subject in the Working party, the representative of Vanuatu said that Vanuatu had for some time maintained two pieces of legislation, governing patents and trademarks. Patent legislation was based on the Registration of United Kingdom Patents Act [Cap.80], providing that a patent registered in the United Kingdom was similarly workable in Vanuatu. The Registration of United Kingdom Trade Marks Act [Cap.81] had the same legal status in Vanuatu. A trademark remained protected as long as such registration remained in force in the United Kingdom. Vanuatu had no legislation concerning copyright and related rights, the protection of layout-designs (topographies) of integrated circuits, geographical indications, industrial designs, and trade secrets and undisclosed information. Infringements of intellectual property rights had so far been foreign to the legal system of Vanuatu, although courts had the authority to give orders and provide remedies for holders of patents and trademarks.

106. Vanuatu would also have to examine the extent to which amendments were also required in related legislation, such as the Criminal Procedure Code and the Penal Code (to ensure conformity with Article 61 of the TRIPS Agreement) and the Customs Act (to ensure that customs officers had adequate legal authority to facilitate the protection of intellectual property rights holders from counterfeits and trade mark piracy). Concerning enforcement, officers would need to be trained in several government departments. Most important was the training and recruitment of an officer in the Vanuatu Financial Services Commission to be in charge of the day-to-day implementation of patents and trademarks administration. Other offices requiring training included the Department of Customs, the Department of Trade and the Police and Attorney-General's chambers. At present these key divisions lacked expertise about the obligations created under the TRIPS Agreement. Vanuatu recognized that membership of the Paris, Berne, Geneva, Brussels, UPOV and WIPO Conventions would facilitate compliance with the TRIPS Agreement and would accede to these treaties within two years of the date of accession.

107. In later discussions, the representative of Vanuatu reported on the major effort that his Government had already made to ensure passage of WTO-compatible legislation setting basic standards for the protection of intellectual property giving effect to the TRIPS Agreement. Draft legislation would be transmitted to members of the Working Party for comment, and would be passed by Parliament by the time Vanuatu acceded to WTO. Vanuatu had already transmitted laws or draft laws on copyright, patents, trademarks, designs, trade secrets and geographical indications. Members of the Working Party had been invited to forward any comments on these laws and draft laws to the Government of Vanuatu so that these could be taken into account before they were presented to Parliament for final approval. He added that Parliament had passed new laws on copyright and related rights, layout designs of integrated circuits, geographical indications (wine), and trade secrets in 2000. Bills on trademarks, patents and industrial designs - which completed the legislative programme on TRIPS - were scheduled for consideration by Parliament in November 2001.

108. The representative of Vanuatu thanked the governments concerned for the technical assistance that they had provided and for their recognition that more would be required. For the reasons given above, the Government of Vanuatu requested that the Working Party grant a two-year transitional period from the date of its accession to obtain technical assistance and equip the administration to implement fully the obligations of the TRIPS Agreement. He confirmed that, if such a transitional period were granted, Articles 3, 4 and 5 of the Agreement, providing for, inter alia, national treatment and MFN treatment under current legislation in place would apply, and Vanuatu would ensure that any changes made in its laws, regulations and practice in this period would not result in a lesser degree of consistency with the provisions of the TRIPS Agreement that existed on the date of accession. In addition, Vanuatu would not grant patents, trademarks, or copyrights, or marketing approvals for pharmaceutical or agricultural chemicals inconsistent with the provisions of the TRIPS Agreement.

109. The representative of Vanuatu also stated that, should a transition be granted, existing rates of infringement would not in his view significantly increase over the two year transition period and that any infringement of intellectual property rights would be addressed immediately in cooperation and with assistance from affected right holders. Vanuatu would protect against unfair commercial use of undisclosed test or other data submitted in support of applications for marketing approval of pharmaceutical or of agricultural chemical products which utilize new chemical entities, by providing that no person other than the person that submitted such data may, without the permission of the latter person, rely on such data in support of an application for product approval for a period of at least five years from the date on which Vanuatu granted marketing approval to the person that produced the data. Prior to issuance of marketing approval of any pharmaceutical and agricultural chemicals products, the relevant Ministries in Vanuatu would determine the existence of a patent covering a product for which an

application for marketing approval had been filed by a party other than the patentee, and must not approve such application for marketing approval until the date of the expiration of such patent. He added that Vanuatu 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 period is assured. In response to requests from delegations for more specificity, the representative of Vanuatu 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 4).

Table 4: TRIPS Action Plan

Action	Deadline
Parliamentary consideration of TRIPS-consistent legislation on copyright and related rights, patents, trademarks, industrial designs, geographical indications, layout designs of integrated circuits, and protection of undisclosed information (trade secrets)	Between November 2000 and November 2001
Passage of and gazetting of legislation	Prior to date of accession
Establishment of implementing regulations. Establishment of any necessary additional legislation and regulations to provide a legal basis for enforcement mechanisms.	No later than one year from accession.
Establishment of Intellectual Property (IP) Office, recruitment of personnel, obtaining facilities and equipment.	No later than one and a half years from accession.
Development of manuals and operating procedures.	No later than one and a half years from accession.
Training of at least 15 officials, customs officers and private sector people as well as educators in TRIPS issues.	No later than two years from accession.
Readiness to participate in regional and international IP administrative cooperation (Forum Island countries, PCT, Madrid Protocol, etc.).	No later than two years from accession.
Membership in the Paris, Berne, Geneva, Brussels, UPOV and WIPO Conventions	No later than two years from accession

110. The representative of Vanuatu stated that legislation on copyright and related rights, patents, trademarks, industrial designs, geographical indications, layout designs of integrated circuits, and protection of undisclosed information (trade secrets) conforming to the requirements of the Agreement on Trade-Related Intellectual Property Rights would be enacted by the date of Vanuatu's accession to the WTO. Vanuatu would apply the Agreement on Trade-Related Intellectual Property Rights no later than two years after the date of its accession according to the action plan in Table 4, with the

understanding that during this period protection for intellectual property rights listed in paragraphs 108 and 109 would be applied in Vanuatu. The Working Party took note of this commitment.

Policies Affecting Trade in Services

111. The representative of Vanuatu said that tourism had accounted for 44 per cent of Vanuatu's receipts from services in 1998, followed by transportation (20 per cent), financial services (6 per cent), government services (6 per cent), miscellaneous business services (4 per cent) and communications (3 per cent).

112. The Finance Centre of Vanuatu, protected by strict professional secrecy and the absence of foreign exchange control and direct taxation, contributed significantly to national income and government revenue. The Government was committed to making Vanuatu the foremost investment centre in the Pacific. Offshore banks were supervised and regulated by the Vanuatu Financial Services Commission. Banks carrying on business in Vanuatu were supervised and regulated by the Central Reserve Bank. The legislative framework had recently been improved by the passage of the Financial Institutions Act of 1999, which had been sent to the WTO Secretariat for the information of delegations. To obtain a permit to operate, banks had to meet requirements designed to ensure that banks would act prudently. These requirements were based on the work of the Basle Committee set up by the G7 to codify best practice for the conduct of banking business, including core principles for banking supervision. The new legislation had, for example, eliminated the difference between the capital requirements for locally-owned and foreign-owned banks, and paid up capital and unimpaired reserves of VT 200 million were now necessary for all banks and branches of banks. For the commitments to be undertaken by Vanuatu in the banking sector, see the Schedule of Specific Commitments annexed to the Draft Protocol of Accession at the end of this report.

113. Exclusive suppliers or monopolies existed in telecommunications, electricity supply, water supply and internal air transport. Telecom Vanuatu Limited was the sole supplier of communication services. The Government held one third of the shares of the company, the remainder was owned by foreign investors. Electricity and water services were provided by Union Electrique du Vanuatu Limited. Vanair Limited was the sole supplier of domestic air services, while international flights were shared between Air Vanuatu Limited, Solomon Airlines, Air Pacific and Air Caledonie.

114. With these exceptions, commercial presence of foreign services suppliers on the territory of Vanuatu was largely unrestricted, and there were no prohibitions regarding the establishment of foreign service suppliers. Vanuatu maintained no numerical quotas or economic needs tests relating to the

supply of services. Vanuatu maintained no prohibitions or limitations on consumption of services abroad by its nationals. Travelling abroad was subject to an airport departure tax of US\$17.

115. Regarding the presence of foreign natural persons, the Labour Commissioner issued work permits provided a post could not be filled by skilled local labour, in which case job training should be provided. Companies were required to advertise all vacant positions in the local press, and if no suitably qualified local candidate responded, a non-Vanuatu citizen could be hired. Vanuatu has recently revised its system for approving or refusing work permits to ensure transparency and full right of judicial review. Any foreign natural person could obtain a one-year residence permit against a minimum investment in Vanuatu of about US\$35,000 (VT 5 million).

116. The residence permit requirements did not apply for obtaining a licence to practice a profession. A list of Acts constituting the regulatory regime for business services was provided in document WT/ACC/VUT/4 (pp. 44-45). Approval by professional associations was required for certain types of services, notably for legal services (the Legal Practitioners Board), medical and dental services (the Medical Practitioners Board), engineering and architecture (the Survey Board), and accounting. Cross-border supply of legal services was allowed, but only through an existing firm in Vanuatu. Resident foreign lawyers, graduated from an institution recognized by the Law Council and having undergone two-year post-graduate training in Vanuatu, could provide exactly the same services as domestic lawyers. There were no limitations on the access of foreign service providers in educational services.

117. Vanuatu's Schedule of Specific Commitments on Services is annexed to its draft Protocol of Accession reproduced in the Appendix to this Report. This Schedule of Specific Commitments on Services contains the legally binding market access commitments of Vanuatu in respect of services.

Publication

118. The representative of Vanuatu provided information to the Working Party on the publication of laws and regulations. All laws are published in the Official Gazette and do not come into force before such publication.

119. The representative of Vanuatu stated that, at the latest from the date of accession, all laws and other normative acts related to trade would be published in the Official Gazette promptly and no law, rule, etc. related to international trade would become effective prior to such publication. He further stated that Vanuatu would fully implement Article X of the GATT 1994 and the other transparency requirements in WTO Agreements requiring notification and publication. The Working Party took note of these commitments.

Notification

120. The representative of Vanuatu said that at the latest upon entry into force of the Protocol of Accession, Vanuatu would submit all initial notifications required by any Agreement constituting part of the WTO Agreement. Any regulations subsequently enacted by Vanuatu 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.

Trade Agreements

121. The representative of Vanuatu said that Vanuatu's exports benefitted from the SPARTECA Agreement with Australia and New Zealand and the ACP-EU Partnership Agreement (the Cotonou Agreement). The Melanesian Spearhead Group (MSG) Trade Agreement provided for certain goods to be traded free of duty between Vanuatu, Solomon Islands and Papua New Guinea. In September 1994, the MSG States had agreed that only three products from each member would be covered in the initial phase of the agreement (beef and beef products, tea and canned tuna). MSG Heads of Government had agreed in June 1999 to a timetable of implementation of free trade in goods. PNG and Fiji would move to a negative list by 2003, at which time trade in substantially all goods would be free of duty. The two least developed countries in the MSG - Vanuatu and Solomon Islands - would implement these obligations by 2005. Imports from MSG countries were subject to all domestic taxes. The Government of Fiji was notifying the MSG Trade Agreement to the Committee on Trade and Development on behalf of the Melanesian Spearhead Group. Vanuatu said that the Agreement was in conformity with the relevant provisions of WTO.

122. A bilateral trade agreement with Fiji had been set up by the Prime Ministers of the two countries in July 1999. The objective of the Agreement is to improve the trade relations between the two countries by facilitating the flow of goods. The Agreement was, in his view, consistent with Article XXIV of the GATT 1994. As a full Member of WTO, Fiji would notify the text of the Agreement to WTO. Vanuatu had signed agreements on technical cooperation with Fiji and Papua New Guinea, a technical aid cooperation agreement with New Caledonia, and an agreement on economic and technical cooperation with China in 1992. Vanuatu had concluded air services agreements with Fiji and Australia.

123. The representative of Vanuatu stated that his Government would observe the provisions of the WTO including Article XXIV of the GATT 1994 and Article V of the GATS in its trade agreements, 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 Vanuatu was a member were met from the date of accession. The Working Party took note of these commitments.

CONCLUSIONS

124. The Working Party took note of the explanations and statements of Vanuatu concerning its foreign trade regime, as reflected in this report. The Working Party took note of the commitments given by Vanuatu in relation to certain specific matters which are reproduced in paragraphs 21, 24, 27, 33, 34, 40, 47, 49, 52, 56, 61, 63, 66, 68, 70, 73, 76, 88, 90, 93, 95, 98, 100, 110, 119, 120 and 123 of this report. The Working Party took note that these commitments had been incorporated in paragraph 2 of the Protocol of Accession of Vanuatu to the WTO.

125. Having carried out the examination of the foreign trade régime of Vanuatu and in the light of the explanations, commitments and concessions made by the representative of Vanuatu, the Working Party reached the conclusion that Vanuatu 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 Vanuatu's Schedule of Concessions and Commitments on Goods (document WT/ACC/VUT/[13]/Add.1) and its Schedule of Specific Commitments on Services (document WT/ACC/VUT/[13]/Add.2) that are annexed to the 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 Vanuatu 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 Vanuatu to the Marrakesh Agreement Establishing the WTO.

ANNEX 1

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

- Comprehensive Economic Reform Programme (draft);
- Summary of Legislative Reforms Necessary as a Result of Accession to the WTO;
- Public Finance and Economic Management (Amendment) Act No. 10 of 1999;
- Public Finance and Economic Management (Amendment) Act No. 12 of 2000;
- Foreign Investment Act No. 15 of 1998;
- Foreign Investment (Amendment) Act No. 1 of 1999;
- Foreign Investment (Amendment) Act No. 6 of 2001;
- Business Licence (Localization of Businesses) Order No. 79 of 1983;
- Amendment to Business Licence (Localization of Businesses) Order No. 79, of 1993;
- The Business Licence Act (Chapter 173), Schedule 1 - Rates of Business Fees;
- Bill for the Business Licence Act No. 19 of 1998;
- Business Licence Act No. 19 of 1998;
- Bill for the Business Licence (Amendment) Act No. 90/1999 and explanatory note;
- Business Licence (Amendment) Act No. 6 of 2000 and explanatory note;
- Bill for the Customs Act No. - of 1999;
- Customs Act No. 15 of 1999;
- Decentralization and Local Government Regions Act No. 1 of 1994;
- Customs Import and Export Duty Tariff 1995/1996;
- The Duty Exemption Policy and application form for exemption of customs duty;
- The Duty Exemption Policy – Manufacture & Process Sector as per the Vanuatu Customs Tariff, Schedule III, Section 1, X.1 of 1998;
- Duty concessions guidelines (Schedule III Application Form);
- The Dues, Fees and Charges Order No. 14 of 2 October 1982;
- Bill for the Value Added Tax Act No.12 of 1998 and Explanatory Note;
- Value Added Tax Act No. 12 of 1998 (consolidated to 29 January 2001);
- Import of Goods (Miscellaneous Control) (Repeal) Order No. 13 of 1999;
- The Import of Motor Vehicles (Control) Act No. 30 of 1992;
- Import Duties (Consolidation) (Customs Valuation Amendment) Act No. 8 of 1999;
- Import Duties (Consolidation) (Customs Valuation Amendment) Act No. 9 of 1999;
- Bill for Import Duties (Consolidation) (Customs Valuation Amendment) of 1999 and Explanatory Note;
- Explanation of the Prohibited Plants List prepared by the Department of Agriculture and Horticulture, Plant Protection and Quarantine Division;
- Independent assessment of Vanuatu Quarantine & Inspection Services (31 August 1999);
- Animal Importation & Quarantine Act (Cap.201), Revised Edition 1988 and Regulations under the Act;
- Schedules setting out quarantine requirements for the importation of selected products into Vanuatu: No.45, goats from Australia; No. 46, caprine embryos from the Republic of South Africa: and No. 47, bovine embryos from USA;
- Conditions for vessels carrying live animals;
- Decision Pathway for Pest Risk Assessment for Pacific Island Countries;
- Plant Protection Act No. 14 of 1997 and Manual for its implementation dated 30 September 1997;
- Vanuatu Quarantine & Inspection Services - import documentation;
- The Vanuatu Government Financial Regulations regarding Purchase of Goods and Services, Chapter 22;
- Bill for the Copyright Act No. - of 1999 (draft as at 28 August 1999);
- Bill for the Copyright Act of 1999 and Explanatory Note;
- Copyright and Related Rights Act No. 42 of 2000;

- Bill for the Trademarks Act of 1999 and Explanatory Note;
- Draft Bill for the Trademarks Act of 2001 and explanatory note;
- Bill for the Geographical Indications (Wine) Act No. __ of 2000 (and Explanatory Note);
- Geographical Indications (Wine) Act No. 53 of 2000;
- Bill for the Patents Act of 1999 and Explanatory Note;
- Bill for the Patents Act of 2001 and explanatory note;
- Bill for the Designs Act of 2000 and Explanatory Note;
- Draft Bill for the Designs Act of 2001 and explanatory note;
- Bill for the Circuit Layouts Act No. 51 of 2000 and explanatory note;
- Bill for the Trade Secrets Act No. __ of 1999 (and Explanatory Note);
- Bill for the Trade Secrets Act No. 52 of 2000 and explanatory note;
- Description of the structure and competence of the Land Surveyors Board;
- Financial Institutions Act of 1999;
- Reserve Bank of Vanuatu Policy Guidelines 1 to 4;.
- Trade Agreement Among the Melanesian Spearhead Group Countries of 23 June 1993;
- Extracts of the Laws of the Republic of Vanuatu concerning Customs, Road Traffic (Control), Export Duties, Obscenity, Agricultural Fees, Import Duties (Consolidation), Hotels and Licensed Premises Tax, Gaming (Control), Business Licence, Import of Goods (Control), Video Cassettes (Tax on Hiring), Cheque Tax, Rent Taxation, Amusement Machines Tax, Banking, Immigration, Stamp Duties, Trust Companies, Airport Departure Tax (International Flights), Electricity Supply, Registration of United Kingdom Trade Marks, Registration of United Kingdom Patents, Insurance, Price Control, Partnership, Passports, Citizenship (Entitled Persons), Citizenship, Coastal Trading (Control), Central Bank of Vanuatu, International Financial Institutions, Diplomatic Privileges & Immunities, Telecommunications, Post Office, Labour (Work Permits), and Companies;
- Trade Data 1994-96 (diskette);
- Statistics Office: Vanuatu National Agriculture Census 1994 - Main Report;
- Statistics Office: Copra and Cocoa, Annual Report 1994;
- Statistics Office: Statistical Indicators, October-December 1995; and
- Statistics Office: Detailed Commodity Tables of Overseas Trade of Vanuatu, Annual Report 1993.

ANNEX 2

Reserved Investments

1. Tourism

- (a) Local tour agent if the annual turnover is less than VT 20million
- (b) Local tour operator if the investment is less than VT 50 million
- (c) Commercial cultural feasts (Melanesian, Polynesian etc.)
- (d) Guest houses if the number of beds is less than 50 or less than 10 rooms or annual turnover is less than VT 20 million
- (e) Bungalows if the annual turnover is less than VT 30 million
- (f) Hotels and motels if the total value of the investment is less than VT 10 million or the annual turnover is less than VT 20 million

2. Trade

- (a) Export of sandalwood in stick and chips form
- (b) Local trading of sandalwood
- (c) Export of seeds and other minor forest products
- (d) Second hand clothing shops
- (e) Export of kava in root, chips and stick form

3. Manufacturing

- (a) Manufacture of handicraft and artefacts

4. Services

- (a) Kava bars
- (b) Open air vendors
- (c) Mobile shops
- (d) Door to door sales
- (e) Road transport operators - public taxi and bus services
- (f) Private security services including security guards
- (g) Category F of Business Licensing Act No. 19 of 1998 of less than VT 5 million turnover per year
- (h) Retail shops including general merchandise trading shops where the annual turnover is less than VT 30 million, excluding specialty shops
- (i) Coastal shipping of less than 80 tonnes, excluding vessels used for tourism purposes
- (j) Electricians and electro-technicians meeting prescribed standards
- (k) Residential building and construction meeting prescribed standards

5. Fishing

- (a) Fishing within archipelagic waters within the meaning of the Maritime Zones Act [CAP 138] and the first 6 nautical miles of the territorial sea within the meaning of that Act

Table 1: Legislation Introduced as a Result of Accession to the WTO

WTO Agreement or other subject-matter	Laws and other legal provisions addressing and covering the subject matter	Status of indicated legislation	Comment
General	Trade Law		Subsequent legislation to be revised where found to be incompatible with WTO provisions
National treatment	Import Duties (Consolidation) Act [Cap.91]	Amended	Point system based on nationality abolished.
Relationship central vs. sub-central government	Provincial Government Act 1994		Provinces are not permitted to raise import duties or import taxes.
Trading Rights	Business Licence Act 1998		To be amended by 1 June 2002 to ensure national treatment
Import duties		Amended in 1998	Substantial across-the-board reductions in tariffs
Other duties and charges	Import Duties (Consolidation) Act [Cap.91]	Amended in 1998	Service tax abolished (rolled into new tariff rates)
	Import of Goods Control Act No. 176 [Cap.176]	Amended in 1998	3-4% commission issued by the Vanuatu Cooperative Federation abolished and rolled into the tariff rate.
Duty exemptions	Vanuatu Customs Tariff, Schedule III, section 1 (Economic Reliefs)	Amended in 1998	Policy made more transparent and the scope for discretion reduced
Internal taxation	Value Added Tax Act No. 12 of 1998 and Explanatory Note	Effective 1 August 1998	Rate of 12.5% applied to goods and most services
Agreement on Import Licensing Procedures	Import of Goods Control Act No. 176 [Cap.176]		Bans (potatoes, T-shirts) and import Orders eliminated
Agreement on Implementation of Article VII of the GATT 1994 (customs valuation)	Import Duties (Consolidation)(Customs Valuation Amendment) Act of 1999	Effective 1 January 2001	Ensures full compliance with the WTO Agreement
Agreement on Technical Barriers to Trade (establishment of TBT enquiry point)	Decision of the Ministry of Trade, Commerce and Industry	Effective 19 September 2001	The Director of the Department of Trade, Industry and Investment appointed as TBT enquiry point

WTO Agreement or other subject-matter	Laws and other legal provisions addressing and covering the subject matter	Status of indicated legislation	Comment
Agreement on the Application of Sanitary and Phytosanitary Measures	<p>Animal Importation and Quarantine Act of 1988; Order No. 14 of 1994; Plant Protection Act No. 14 of 1997; Imports Specification (Plants) Manual; Food Control Act No. 21 of 1993</p> <p><u>Participation in international fora:</u> OIE FAO Codex Alimentarius Commission IPPC</p> <p>Pacific Plant Protection Organization (PPPO)</p>	<p>Member since 1983 Member since 1995</p> <p>Application lodged in 1999</p>	The Director of the Vanuatu Quarantine and Inspection Services is the SPS enquiry point (decision of 26 February 2001)
TRIPS Agreement	<p>Copyright and Related Rights Act No. 42 of 2000; Circuit Layouts Act No. 51 of 2000; Trade Secrets Act No. 52 of 2000; Geographical Indications (Wine) Act No. 53 of 2000;</p> <p>Bill for the Trademarks Act of 2001; Bill for the Patents Act of 2001 Bill for the Designs Act of 2001</p>	<p>Assent given on 29 December 2000</p> <p>Scheduled for Parliamentary debate in November 2001</p>	See Table 4
Trade Agreements (Article XXIV of the GATT 1994)	MSG Agreement		To be brought into longer term conformity with WTO.

Table 2: General Tariff for Handling Charges

Off Loading or Loading Main Wharf and Storage of Goods in Shed and/or Open Area.

Description of Merchandise	Basis of Charge	Tariff (VT)
GENERAL TARIFF UP TO 2 TONS PER UNIT WEIGHT EXPORTATION.		
General cargo except following merchandises	CUBIC/T	1,401
Copra ex quay	CUBIC/T	997
Copra under hooke	CUBIC/T	817
Coffee, cocoa, shells taros	CUBIC/T	946
Tinned food	CUBIC/T	946
Refrigerated or frozen meats	CUBIC/T	1,290
Refrigerated or frozen goods	CUBIC/T	1,290
Logs ex quay	CUBIC/T	779
Logs under hook water side	CUBIC/T	591
Sawn timber in bundles	CUBIC/T	1,008
IMPORTATION		
General cargo except the following merchandise	CUBIC/T	1,401
Frozen or refrigerated merchandise	CUBIC/T	1,558
Ammunition or explosives	CUBIC/T	3,538
Glass and marble in plates or slabs	CUBIC/T	2,379
Empty drums or barrels (11 gls)	CUBIC/T	95
Horses and cattle	UNIT	1,922
Pigs and sheep	UNIT	481
Cement in bag loose	TON	1,493
Palletized cement or plaster bags (minimum 50T)	CUBIC/T	1,139
Mail Bag	UNIT	47
Homogenous lot of palletized goods over 50T	CUBIC/T	1,263
Unpackaged or containerised motocars	UNIT	7,009
Pick-up truck, bus up to 2000 kgs	CUBIC	7,710
Minimum charge per bill of lading	UNIT	315
Unpacked truck, bus up to 2.000 kgs	CUBIC	701 + surcharge heavy lift
Trailer, caravans towable machines on wheels	CUBIC	701 + surcharge heavy lift
Boat, launch (unpackaged)	CUBIC	839 + surcharge heavy lift
Boat, launch (with slings)	CUBIC	757 + surcharge heavy lift
Heavy equipment	CUBIC	839 + surcharge heavy lift
Heavy equipment (with slings)	CUBIC	757 + surcharge heavy lift
Special case: for off loading or loading on barge of heavy automotive equipment 15 per cent reduction (over 10 T or 20 m3)		

Description of Merchandise	Basis of Charge	Tariff (VT)
Full Containers FCL		
Named FCL or FCL/FCL - LCL/FCL, pier to house, quay to door, signifies for the purposes of application of the present tariff, that the unopened container is off-loaded and stowed in the port area, from where it must be taken in charge by the consignee. If this container has to be unpacked, it will be subject to the following charge in addition to the full container tariff:		
-	Vt. 2,884 per 9C/m	
-	Vt. 6,389 per 20'.	
<u>ISO NORM</u>		
a) 8' container	Unit Vt.	7,703
b) 20' container	Unit Vt.	26,279
c) 20' full container of animal feed (cattle cake make from flour) (bulk or bags)	Unit Vt.	21,024
d) 20' full loaded of rice-bag or sugar-bag	Unit Vt.	25,227
e) 20' full loaded of flour bag	Unit Vt.	22,425
<u>Other full Containers</u>		
General cargo tariff with 50 per cent rebate, calculated on the outside volume of the container.		
Empty Containers (See general instructions)		
4 c/m or netted side	Unit Vt.	1,243
8' or netted sides	Unit Vt.	2,489
10'	Unit Vt.	3,731
20'	Unit Vt.	6,221
30'	Unit Vt.	8,710
Empty Cattle Boxes or Bare stalls		
. c/m	Vt.	227
<u>Heavy Lifts</u>		
Any package of a unit weight of 2T or over will be charged at the rate applicable to their category, and a surtax added as under, applicable on tonnage unit gross weight:		
* From 2 to 3 tons	Vt.	230
* From 3 to 5 tons	Vt.	703
* From 5 to 8 tons	Vt.	977
* From 8 to 20 tons	Vt.	1,251
* Above 20 tons, price to be discussed with the client. However, palletised goods of 2 tons and 2,5 tons, unit weight, will not be subject to this surtax.		
Returning Empty Pallets (Australia)	Vt.	64
Stevedoring Pallets	Vt.	154
<u>Special Cases:</u>		
1. Refrigerated or frozen goods, will be held at the customers disposal within 2 hours after their unloading.		
2. Cement the stevedore may either require the customers of the cement to remove it immediately, or have it removed on the customers behalf at his cost.		
3. By agreement with the Customs Department, the Director of the Port, may authorize the immediate removal of particular lots of merchandise.		

APPENDIX

Draft Decision

ACCESSION OF VANUATU

Decision of [date of decision]

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;

Noting the results of the negotiations directed toward the establishment of the terms of accession of Vanuatu to the WTO Agreement and having prepared a Protocol for the Accession of Vanuatu (WT/ACC/VUT/[...]).

Decides as follows:

1. Vanuatu may accede to the WTO Agreement on the terms and conditions set out in the Protocol annexed to this decision.

**DRAFT PROTOCOL OF ACCESSION OF VANUATU
TO THE MARRAKESH AGREEMENT ESTABLISHING
THE WORLD TRADE ORGANIZATION**

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 "WTO Agreement"), and the Republic of Vanuatu (hereinafter referred to as "Vanuatu"),

Taking note of the Report of the Working Party on the Accession of Vanuatu to the WTO in document WT/ACC/VUT/[13] (hereinafter referred to as the "Working Party Report"),

Having regard to the results of the negotiations on the accession of Vanuatu to the WTO,

Agree as follows:

Part I - General

1. Upon entry into force of this Protocol, Vanuatu 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 Vanuatu accedes shall be the WTO 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 [124] of the Working Party Report, shall be an integral part of the WTO Agreement.
3. Except as otherwise provided for in the paragraphs referred to in paragraph [124] 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 Vanuatu as if it had accepted that Agreement on the date of its entry into force.
4. Vanuatu may maintain a measure inconsistent with paragraph 1 of Article II of the GATS provided that such a measure is 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 annexed 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 Vanuatu. The staging of 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 Vanuatu until [*date to be provided by Vanuatu*].

8. This Protocol shall enter into force on the thirtieth day following the day of its acceptance.
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 thereto pursuant to paragraph 7 to each member of the WTO and Vanuatu.
10. This Protocol shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.
11. Done at Geneva this ... day of two thousand and, 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 or more of these languages.

ANNEX

SCHEDULE - REPUBLIC OF VANUATU

Part I - Goods

[document WT/ACC/VUT/13/Add.1]

Part II – Services

[document WT/ACC/VUT/13/Add.2]
