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**Working Party on the
Accession of Vanuatu**

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Additional Questions and Replies

The Department of Trade, Industry and Investment of the Government of Vanuatu has submitted the following replies to additional questions concerning the Memorandum on the Foreign Trade Regime of Vanuatu (WT/ACC/VUT/2), the Questions and Replies thereon (WT/ACC/VUT/4) and Additional Questions and Replies (WT/ACC/VUT/6), with the request that they be circulated to Working Party members.

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I. INTRODUCTION

Question 1.

Without access to key documents which have been cited by Vanuatu, including some which are yet to be developed, a full assessment of Vanuatu's trade regime and its WTO consistency cannot be made. In particular, it would help the examination if Vanuatu could supply responses to three questionnaires in WT/ACC/1 format so that WTO Members can make known any concerns that they may have well in advance of the next meeting of the Working Party. The questionnaires are:

- (i) the import licensing questionnaire (in the format described at Annex 3);
- (ii) the customs valuation questionnaire (in the format described at Annex 4); and
- (iii) the State-trading questionnaire (in the format described at Annex 6).

Answer

- (i) Please see the attached Annex I which is the reply to the import licensing questionnaire (Annex 3 of WT/ACC/1).
- (ii) Please see the attached Annex II which is in reply to the customs valuation questionnaire (Annex 4 of WT/ACC/1).
- (iii) Please note that Annex VII of Vanuatu's last set of questions (document WT/ACC/VUT/6) was the reply to the State-trading questionnaire. We attach this once again as Annex III.

Question 2.

We would suggest that full details of Vanuatu's proposals for transitional arrangements be submitted well in advance of the next meeting of the Working Party in order that WTO Members will have an opportunity to reflect and respond. While it may be possible to negotiate short transitions to implement some WTO provisions, Vanuatu should not expect permanent exemptions from any of the WTO requirements applicable to LLDCs.

Answer

The paper which covers the action programme for the passage of WTO consistent legislation and the list of transitional arrangements required for their proper implementation will be forwarded to the Secretariat shortly.

Question 3.

Please describe the steps that have so far been taken to implement the Comprehensive Reform Programme.

Answer

The reform of the public service has already commenced. The Vanuatu Budgetary process has moved from line to programme budgeting. The draft value-added tax legislation is complete (available in the Secretariat (Accessions Division, Room 1126) for consultation) and is expected to go

before Parliament before May and will be implemented by July. There are several pieces that are scheduled to go before Parliament in the May sitting. Copies of the following proposed legislation are also available in the Secretariat (Accessions Division, Room 1126) for consultation:

- Leadership Code;
- Ombudsman Act;
- Foreign Investment Act;
- Immigration Act;
- Work Permits Act;
- Public Service Act.

The Government has implemented a Department of Strategic Management which provides advice to the Office of the Prime Minister. There will be a substantial down-sizing of the number of ministries as well as support staff.

Question 4.

Please provide an update on the status of the legislation described in Annex I, which is designed to bring much of Vanuatu's trade regime into compliance with WTO obligations.

Answer

The comprehensive reform programme is described in Annex I (WT/ACC/VUT/6). We assume that the question refers to Annex II which refers to the laws that are to be brought into compliance with WTO obligations. We have sought the assistance of WIPO, the Australian Government and the Commonwealth Fund for Technical Cooperation (CFTC) to prepare draft legislation in compliance with the legislative changes agreed in Annex II. All the reforms agreed under the Comprehensive Reform Programme (CRP) are currently being implemented. We expect the legislation to be in place by the end of the year subject to the provision of technical assistance and the Government's legislative agenda which is expected to be quite heavy.

The legislative reforms that are discussed in the CRP will go before the Vanuatu Parliament in the May to July sittings of Parliament. The reforms that are necessary to bring certain specific laws into compliance with WTO obligations are expected to be brought to Parliament in the final sitting in November 1998.

II. ECONOMY AND FOREIGN TRADE

Question 5.

What is the current status of Vanuatu's legislation to implement a value-added tax regime? Please provide a general description of the value-added tax legislation, including rates and exemptions, as well as provide a copy of the legislation to the WTO Secretariat for review by the Working Party.

Answer

The draft value-added tax has been released (available in the Accessions Division, Room 1126 for consultation) for public comment and we expect passage through Parliament and implementation by 1 August. There has as yet been no firm decision on the rate of VAT but it is

expected to be between 10-12.5 per cent. The actual rate will depend upon the views provided by the private sector. The VAT is a consumption base VAT. Exports are zero rated.

Question 6.

Vanuatu has indicated that a tax reform strategy is currently being formulated and that it is yet to determine its policy on VAT. Vanuatu will need to supply information on, and appropriate assurances regarding, its planned VAT system which will satisfy WTO Members that national treatment and most-favoured nation treatment will be provided on a comprehensive basis in the value-added taxation of imported goods. National treatment and most-favoured nation treatment will be required with respect to the VAT rates that are applied to purchases of imported goods and services as well as with respect to any VAT concessions or exemptions.

Answer

The Government of Vanuatu is committed to implementing VAT that is trade neutral and will fully implement its obligations under Articles I and III of the GATT. There will be no discrimination on source and signatories of the Melanesian Spearhead Group Agreement will also be subject to VAT and well as signatories of any other preferential agreement.

2. Foreign Trade

Question 7.

In Vanuatu's reply to question 7 of WT/ACC/VUT/6, the National Government of Vanuatu has committed to removing the authority of provincial governments to raise import duties or import taxes.

- (i) Where do matters currently stand in relation to this commitment?**
- (ii) What control does the National Government of Vanuatu have which will enable it to ensure that other taxation practices of the provincial governments are WTO consistent?**

Answer

(i) The Government of Vanuatu will implement legislation under its WTO obligations to remove any authority for provincial governments to tax imports or exports. This will be undertaken under a technical assistance programme that has been requested from the Australian Government and CFTC and has been described above.

(ii) The Government of Vanuatu will implement legislative measures that will assure that provincial governments will not introduce taxation measures that are in violation of Vanuatu's commitments to the WTO. This will be undertaken by revising the provincial government legislation obliging all provincial governments to submit new fiscal measures to the Minister of Home Affairs who, acting on advice from the Attorney General's Office, will determine its WTO compatibility.

- III. TRADE REGIME FOR GOODS**
- A. FOREIGN TRADE REGIME**
- 1. Import Regulations**
- (a) The evolution of the customs tariff regulation**

Question 8.

Please create and provide to the Secretariat, for review by the Working Party, an electronic copy of the Vanuatu customs tariff. Thank you for providing an electronic copy of the trade data for years 1994-1996.

Answer

An electronic format of the Vanuatu customs tariff is available in the Secretariat (Accessions Division, Room 1126) for consultation.

Question 9.

According to the response to question 12 of WT/ACC/VUT/6, the Government of Vanuatu intends to withdraw its guidelines for import tariff exemptions and draw up clear and transparent guidelines as part of the new investment code that will be drawn up under the Comprehensive Reform Programme. The information provided in Annex I regarding the Comprehensive Reform Programme notes that a review of import tariffs to flatten and lower rates and eliminate most exemptions was to have been completed as of 1 October 1997. In order to ensure transparency, we strongly encourage 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 imports items which serve as inputs for those enterprises for which the Government seeks to encourage operations.

What is the current status of this review? Has the Tax Policy Unit, Customs, Attorney-General, prepared a list of recommendations for legislative changes? Please describe the changes that have been recommended for inclusion in the new investment code and the legislative status for these improvements.

Answer

The Government of Vanuatu intends to implement new legislation in precisely the manner described in the question. Tariffs will be lowered and inputs used in the production process for operations that the Government wishes to encourage, will see their tariff lowered substantially. Exemptions will be limited to the extent possible and guidelines for these exemptions will be made available as soon as they are completed. This review and the guidelines are expected to be completed before July 1998 when the new legislation is brought before the Vanuatu Parliament.

Question 10.

According to Section I of Schedule III of Vanuatu's Customs Import and Export Duty Tariff, the Minister for Finance of Vanuatu may, as he sees fit, exempt the following goods from the payment of import duty:

- any goods for use in a manufacturing or processing operation;
- any goods imported for a development project in the finance or commercial sectors, tourism or mineral exploration; and
- any imported capital goods, parts and accessories, and fuel-oils for agriculture, horticulture, livestock raising, forestry, inter-island shipping and fishing.

These provisions give the Ministry wide powers of discretion over the liability of Vanuatu industry for payment of import duty. We would like to know how the requirements of Article X of GATT 1994 will be met after accession in relation to how the Minister's powers are exercised, bearing in mind the requirement under this Article that notice of administrative rulings of general application affecting rates of duty shall be published promptly. We have a number of questions relating to how these arrangements will operate after WTO accession.

- Will exemptions be notified publicly by means of the publication of an official notice of a Ministerial decision in a timely manner?
- Will full details of each exemption be provided in such notification, including the entity to which exemptions have been provided, details of the products which have been exempted from payment of import duty, the period of time for which the exemptions will apply, details of any conditions that will need to be satisfied for exemptions to be provided (including any circumstances under which exemptions will be withdrawn) and for continuation of exemptions after expiry of the period of time for existing exemptions, and the reasons for granting the exemptions?

Answer

The aggregate data will be published on the value of exemptions that are granted by the Foreign Investment Board. Exemptions information will only be made available in a public and aggregate form.

Question 11.

What is the formal application process for import duty exemptions?

Answer

In order to obtain an import duty exemption an applicant must complete the "Vanuatu Duty Exemption Application Form". The form is available from the Department of Trade and Industry, Customs, Fisheries, Minerals and Tourism Departments. Each respective line department, e.g. tourism or minerals, considers the application. The application, if acceptable is supported by the line department and then forwarded to the Minister for Finance and is considered by the Duty Exemptions Committee which comprises representative of Finance, Customs and Trade.

Question 12.

Are there any restrictions on who may apply for import duty exemptions?

Answer

There are no restrictions on who may apply for exemptions but there are restrictions on sectors where non-Ni-Vanuatu citizens may invest. These sectors are outlined below.

Question 13.

Are Ministers compelled under the law to respond to applications for import duty exemptions within a certain period of time?

Answer

There is presently no such obligation. Under the new legislation there will be clearly prescribed deadlines that must be met along with requirements for judicial review.

Question 14.

Do applicants for import duty exemptions or for the continuation of existing exemptions have a right to request the Minister of Finance to review a decision, and is the Minister under any legal obligation to provide a response within a certain period of time?

- **Is there a right of judicial review of any Ministerial decision in relation to the provision, refusal, continuation and withdrawal of such exemptions, as required under Article X:3(b) of GATT 1994?**

Answer

There is a standard common law right of judicial review under existing Vanuatu Law and this will be further strengthened in the reform process. The judicial system in Vanuatu only requires the existence of just cause for review and the judiciary will entertain reviews of administrative as well as ministerial decisions made in all such cases.

Question 15.

We note, in the response to question 14 of WT/ACC/VUT/6, that the Government of Vanuatu does not discriminate on the granting of import duty exemptions to Vanuatu citizens, local producers and on the basis of local ownership. We also note that the Government is willing to commit in its Protocol of Accession that it will complete and implement a non-discriminatory investment code within 18 months of accession.

Why does the Government of Vanuatu feel that it needs 18 months after accession to complete the revision of the investment code? Does the Government have a specific date in mind for the completion of the investment code? Will the Government commit to non-discriminatory application of the import duty exemptions until such time as the new investment code is completed and implemented?

Answer

The Government of Vanuatu has already prepared legislation which completely revises its investment, business licence, work permit and immigration act. These will now be passed before the July sitting of Parliament and hence these reforms will be complete prior to accession

Question 16.

What is the current status of Vanuatu's investment code and revision of foreign investment, immigration and labour laws? Please provide copies of this legislation to the WTO Secretariat for review by the Working Party.

Answer

The draft legislation is available in the Secretariat (Accessions Division, Room 1126) for consultation.

Question 17.

According to the response to question 13 of WT/ACC/VUT/6, the Vanuatu Customs Tariff Act was to have been provided in Annex IV. However, this item did not appear to be actually included among the annexes provided to the Secretariat. Please provide a copy of the Vanuatu Customs Tariff Act to the Secretariat for review by the Working Party.

Answer

A copy of the Vanuatu Customs Tariff Act is available in the Secretariat (Accessions Division, Room 1126) for consultation. Please note that a new draft tariff schedule is also available.

Question 18.

Is Vanuatu currently using the 1996 HS tariff system to the 8-digit level? If not, please describe fully any discrepancies.

Answer

Vanuatu will be employing HS96 to six-digit level from 1 July 1998. The seven- and eight-digit level reflects national classifications.

Question 19.

Please provide the base duty rates (column 3), which appears to be missing for all items in WT/ACC/VUT/6.

Answer

One assumes that the question relates to the actual applied rates in Vanuatu. A copy of the customs tariff is available in the Secretariat (Accessions Division, Room 1126) for consultation.

(c) **Import charges and fees**

Question 20.

According to the response to questions 22 and 24 of WT/ACC/VUT/6, the Government of Vanuatu intends to introduce a service tax of 1 per cent of c.i.f. value of imports in its customs tariff schedule. The 1 per cent *ad valorem* service tax appears to violate the GATT Article VIII requirement that fees and charges on importation shall be limited in amount to the approximate cost of services rendered. Additionally, these charges should not act as a taxation on imports or exports for fiscal purposes. The Government of Vanuatu should develop a schedule of fees based upon the costs involved in providing the particular services to be performed.

Answer

The Government of Vanuatu will not charge a service fee based on any *ad valorem* calculation but will be based only on the specific cost of services rendered. Please note the revised tariff binding offer. This new system will be in place by 1999.

Question 21.

The "service tax" (inappropriately shown at column 9 of Vanuatu's Schedule of Commitments for Goods) will need to be made fully consistent with the requirements of Article VIII of GATT 1994. Its present *ad valorem* form fails to meet those requirements because an *ad valorem* charge can exceed the cost of the service rendered, especially as the charge is in proportion to the value of shipments whereas the cost of processing an import document (for example) is not related to the value of a shipment. Such charges really need to be collected as a specific duty which equates to the actual cost of the service. We would appreciate Vanuatu's advice on when and how this will be achieved.

Answer

The Government of Vanuatu will not charge a service fee based on any *ad valorem* calculation but will be based only on the specific cost of services rendered. Please note the revised tariff binding offer. This new system will be in place by 1999.

Question 22.

According to the responses to questions 25-27 of WT/ACC/VUT/6, the 3 per cent commission for rice flour, sugar and canned mackerel, and the 4 per cent commission for tobacco, payable to the Vanuatu Cooperative Federation, will be incorporated into the import tariff and be abolished. Do the duty rates for these items that is proposed in WT/ACC/SPEC/VUT/2/Rev.1 reflect this change?

Answer

The offer in WT/ACC/SPEC/VUT/2/Rev.1 reflects these changes.

Question 23.

The proposed tariff schedule, WT/ACC/VUT/6, has two columns, a bound rate of duty and a bound rate of duty surcharge. How is the duty surcharge applied? Is it applied as a percentage of the amount of customs duty (i.e., 10 per cent surcharge times 20 per cent customs rate times the customs value, in the case of live poultry)? Why did Vanuatu not simply increase the proposed customs rate to reflect the amount of the duty surcharge (i.e. 22 per cent, in the case of live poultry)? Please confirm that the duty surcharge for items that are being proposed for staging to zero duties (i.e., information technology products and civil aircraft), will not be subject to a duty surcharge when the zero customs duty is fully phased-in. Vanuatu should eliminate the duty surcharge column and have only one bound duty rate.

Answer

The surcharge is based upon c.i.f. not c.i.f. plus duty and is applied as a revenue measure in light of the system of exemptions. It is expected that the surcharge will not be exempted in future. Vanuatu is implementing these measures in order to decrease the cost of communication with the outside world and hence has no interest in raising revenues in this area.

(d) Taxation regime**Question 24.**

According to the response to question 30 of WT/ACC/VUT/6 and the Vanuatu Comprehensive Reform Programme, the Tax Policy Unit, Attorney-General, was responsible for the replacement of the turnover tax and minor taxes with a value-added tax, as of 1 January 1998. What is the current status of this proposal to replace the turnover tax with the VAT. Please describe the general provisions of the VAT Law and provide a copy of the law or draft legislation for review by the Working Party. Please identify and describe fully any areas in which the VAT Law does not conform with the requirements of GATT Article III.

Answer

Please note the answers to the identical questions posed in section (a) above. The VAT Law is in full conformity with Article III obligations and will now be implemented by 1 August 1998.

Question 25.

According to the response to question 33 of WT/ACC/VUT/6, there is an excise tax on domestically-produced beer. Is imported beer subject to any taxes other than the customs duty and duty surcharge? If so, please describe.

Answer

There is no excise on imported beer. However, in order to fulfil Vanuatu's obligations under Article III of the GATT 1947 Vanuatu will commit in its Protocol of Accession to impose the same excise on domestic and imported beer. No other products are subject to excise tax.

(f) Non-tariff measures, quotas and licensing system

Question 26.

The Minister of Trade of Vanuatu is able to restrict or prohibit the importation of goods on the grounds that the goods compete with local industry. Vanuatu has not indicated to WTO Members the legislation under which the Minister of Trade has the power to do this, has not provided a copy of the legislation, has not provided a list of the imports that are currently prohibited in this way, and has not provided a list of the imports that may be subject to such prohibitions in the future. Vanuatu has also not provided any information on how the provisions of Articles X and XI of GATT 1994 will be satisfied in the event of the use of these powers.

The WTO justification for this import prohibition power put forward by Vanuatu indicates that Vanuatu would wish to continue this practice after accession under the infant industry provisions of Article XVIII of GATT 1994. We believe that this is inappropriate and have asked Vanuatu to revoke the power of the Minister of Trade to restrict or prohibit the importation of goods on the grounds that the goods concerned compete with local industry, or to adjust these powers so that action would only be taken in a manner consistent with the WTO Agreement (for example, under Article XIX of GATT 1994 and the Safeguards Agreement).

The infant industry provisions of the GATT were negotiated in different economic times and are an anachronism. They are no longer used, nor should they be. The multilateral trading system is based on the provision of industry protection through tariffs (which are a transparent, simple, price-based measure, unlike quantitative restrictions). Any planned policies to develop industries through WTO-inconsistent trade measures should be made known to WTO Members prior to accession. The appropriate time and place for Vanuatu to seek to accommodate its industry protection needs is in the context of the market access/tariff negotiations phase of this accession. If there should be a subsequent need to provide increased tariffs, Vanuatu would need to use Article XXVIII of GATT 1994 to renegotiate its commitments.

Answer

The Minister of Trade of the Government of Vanuatu has the power under the Imports of Goods Control Act to restrict the entry of goods competing with domestic production. This measure is currently employed to restrict imports of a very limited range of goods such as screen printed T-shirts. (Copies of this legislation were sent to the WTO in 1996). Vanuatu will lift the import ban on T-shirts with Vanuatu motif or embroidery and replace this with a tariff of Vatu 500 per unit or 70 per cent whichever is greater. Vanuatu commits to use the Import of Goods Control Act in a manner consistent with its WTO obligations.

Question 27.

The position is still not clear regarding Vanuatu's NTMs that have no valid WTO justification. Such NTMs would include, *inter alia*, quantitative restrictions and measures that are inconsistent with Article XI of GATT 1994, including price controls that would distort the relationship between domestic and international prices. They would also include measures that are inconsistent with the SPS, TBT, Subsidies and Countervailing Measures, Import Licensing and Agriculture Agreements. Vanuatu will need to supply to WTO Members complete detailed information on its NTMs. This information will need to be supplied at an early stage so that

WTO Members can make known any concerns that they may have well in advance of the next meeting of the Working Party. Vanuatu will need to set out in tabulated form:

- (i) the products that are affected by NTMs (referenced to the tariff lines for those products);**
- (ii) a description of the NTMs applying to each product; and**
- (iii) either Vanuatu's WTO justification of the NTM, or the timetable for its removal (e.g., before accession, upon accession).**

Answer

Vanuatu does not have nor does it maintain a system of price controls nor does it have legislation to effect it. The table below outlines all NTMs and measures that will be taken to deal with all outstanding measures that are not consistent with existing WTO provisions.

NTMs - Justification and/or Required Actions

Item	HS 96 Classification	Non-Tariff Measure	Justification/Timetable for Removal
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	NA	Import ban	Article XX(a)
Rice	10.06	Subject to import licence issued by Vanuatu Co-op Fed with commission of 3-4%	The Government of Vanuatu commits to eliminate these commissions and remove these NTMs prior to accession.
Flour	11.05-11.06	"	"
Sugar	17.01	"	"
Canned fish	1604	"	"
Tobacco products	24.01-24.03	"	"
Plants and other products controlled by CITES	NA	Import licence from the Vanuatu Quarantine Service	Article XX - pending WTO/CTE decision

Question 28.

We are pleased to note that Vanuatu has eliminated its seasonal restrictions on potatoes. According to the response to question 38 of WT/ACC/VUT/6, Vanuatu will move to either

impose tariffs on rice, sugar, flour, canned mackerel, tobacco products and T-shirts or eliminate the import orders and other protective measures altogether. What is the current status of the Government of Vanuatu's efforts to eliminate the use of "import orders" for these products?

Answer

The Government of Vanuatu ensures the Working Party that the import orders will be rescinded prior to accession.

Question 29.

We understand that import licensing is not applied in Vanuatu at present, although provision exists to introduce it. Vanuatu will need to provide a commitment that import licensing will conform to WTO requirements, including the Agreement on Import Licensing Procedures. We also note that Vanuatu has committed to the abolition of the non-automatic licensing of imported rice, flour, canned mackerel, sugar, tobacco products and potatoes (reply to question 54 of WT/ACC/VUT/6 refers). Where do matters currently stand in relation to this commitment?

Answer

The Government of Vanuatu is committed to the abolition of these NTMs as a condition of accession and further commits that any future import licences that may be required will be in conformity with its obligations under the Agreement on Import Licensing Procedures.

(g) Customs valuation

Question 30.

According to the response to question 59 of WT/ACC/VUT/6, the Government of Vanuatu intends to incorporate the WTO Agreement on Customs Valuation into domestic law by the year 2000. We are sympathetic to Vanuatu's expressed desire to receive technical assistance and training of its customs staff in order to implement the WTO Customs Agreement. Nevertheless, we consider the Customs Valuation Agreement to be among the most important agreements reached during the Uruguay Round and we expect all acceding countries to implement the Agreement in its entirety as of the date of accession. Please provide a complete update on the steps that Vanuatu has already taken and a schedule of the remaining steps necessary to revise its existing Customs Code in order to incorporate the WTO Customs Valuation Agreement (CVA). Please provide the Secretariat, for review by the Working Party, a copy of the draft customs valuation legislation and regulations.

Answer

The Government of Vanuatu is sympathetic to the concerns of WTO Members in this area. However, Vanuatu is an LDC but it is willing to commit to have the legislation on Customs Valuation in place prior to accession. There is a Commonwealth Fund for Technical Co-operation team that will be in Vanuatu in April 1998 to provide training which will be supplemented by regional training at the Forum Secretariat. In 1999 the Government of Vanuatu will be seeking technical assistance for in-country training of officials to implement obligations under the CVA. It is technically feasible to have all legislation in place by the second half of 1998 if technical assistance is provided. However, the Government of Vanuatu cannot technically have officials trained and the legislation in place before January 2000 and will therefore seek a transition period of three years in order to implement the CVA.

Question 31.

We understand that Vanuatu has not yet implemented the Customs Valuation Agreement, and would be interested to know:

- **whether Vanuatu is prepared to write into its Protocol of Accession a commitment to fully implement the Customs Valuation Agreement by the year 2000;**
- **the details of any proposal for transitional arrangements, including information on progress with designing and implementing new procedures consistent with the Customs Valuation Agreement, future steps and the areas of the Agreement which it expects to have difficulty implementing, and how Vanuatu expects to overcome these difficulties;**
- **whether Vanuatu intends to invoke the other 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; and**
- **Vanuatu's plans to undertake a thoroughgoing needs assessment with regards to customs legislation, procedures, administration and practices, with a view to full implementation of the Customs Valuation Agreement.**

Answer

See the answer to question 30.

(h) Rules of origin

Question 32.

According to the response to question 61 of WT/ACC/VUT/6, the Government of Vanuatu is relying on World Customs Organization recommendations for the development of rules of origin. Please provide an update on the status of these changes (i.e., have the WCO recommendations been received, has legislative or regulatory drafting begun)? When does the Government of Vanuatu expect to implement the WTO Agreement on Rules of Origin?

Answer

There appears to be a misunderstanding of the Government of Vanuatu's response to question 61. The Government of Vanuatu is relying upon the harmonised WTO/WCO rules of origin which it will employ in its own trade regime once the rules have been finalised. These rules of origin, as the Working Party is no doubt aware, are not yet complete and when they are the Government of Vanuatu undertakes, where applicable, to bring its trade legislation as well as regional arrangements into conformity with the harmonised rules of origin. Through the Melanesian Spearhead Group, and in co-operation with its Melanesian partners, the Government of Vanuatu proposes to bring the MSG Trade Agreement into conformity with the WTO rules of origin.

The rules of origin that the Government of Vanuatu employs in both its multilateral and its bilateral treaty arrangements are based upon a change in HS classification at six-digit level between input and output.

(j) Standards and certification

Question 33.

According to the response to questions 64 and 66 of WT/ACC/VUT/6, Vanuatu does not have laws providing for the determination and regulation of standards beyond sanitary and phytosanitary standards. Vanuatu also does not belong to any international standards bodies, other than the OIE and organizations involved in sanitary and phytosanitary standards. Please describe the steps that Vanuatu has already taken to establish a standards system that will conform with the requirements of the WTO Agreement on Technical Barriers to Trade. Which aspects of the TBT Agreement does the Government of Vanuatu expect to be the most difficult to implement and why?

Answer

The Government of Vanuatu, as stated quite clearly in WT/ACC/VUT/6, maintains no standards regime apart from health and construction standards. The Government of Vanuatu does not see these standards as posing any potential barrier to trade as defined in the TBT Agreement. The Government of Vanuatu feels that given its current stage of development it has no option but to leave most technical standards issues as a private contractual matter between buyer and seller. The technical capacity to create, administer and police such standards does not exist at this stage. The Government of Vanuatu commits that in the event that it does create such standards in future that these will be in conformity with its WTO obligations under the TBT Agreement.

Question 34.

Has Vanuatu begun to establish an enquiry point, as required by Article 10 of the TBT Agreement?

Answer

The Government of Vanuatu has established an enquiry point for all standards. Please note that the Government of Vanuatu has completed and circulated the TBT questionnaire (i.e., Annex 5 of WT/ACC/1) as Annex VIII (WT/ACC/VUT/6). The agency dealing with this is the Department of Trade and the contact point is the Director of Trade who will in future fulfil all TBT notification and enquiry point obligations to WTO Members. This point is fully functioning.

Question 35.

Is Vanuatu represented at any international standards organizations by any regional entities, such as the South Pacific Forum? What plans does Vanuatu have for becoming a member of international standards organizations, such as the ISO?

Answer

The Government of Vanuatu is not represented either directly or through the Forum at any international standards bodies such as the ISO.

(k) **Sanitary and phytosanitary measures**

Question 36.

The examination of Vanuatu's SPS measures against WTO requirements has not proceeded very far. Essential information will need to be supplied at an early stage so that WTO Members can make known any concerns they may have well in advance of the next meeting of the Working Party. The following information gaps need to be filled:

- (i) full details of all sanitary and phytosanitary measures, including prohibitions or other restrictions such as certification requirements, or of legislation which has any impact on sanitary/phytosanitary measures (e.g., the health law);**
- (ii) an explanation of the role and authority of the South Pacific Commission in determining sanitary/phytosanitary measures for Vanuatu;**
- (iii) Vanuatu's justifications, on scientific grounds and in terms of the conditions prevailing in Vanuatu, of any restrictions or prohibitions it applies, including any variations from relevant standards, recommendations or guidelines of bodies such as the IPPC and Codex; and**
- (iv) details of mechanisms in place, or progress toward the establishment of such mechanisms, designed to implement the requirements of the SPS Agreement; this would include, for instance, arrangements for the application, enforcement and review of SPS measures as well as procedures for acceptance of the SPS procedures of other WTO Members, where the latter can demonstrate that their measures meet Vanuatu's appropriate level of SPS protection.**

Answer

(i) With regards to details of general SPS measures, refer to CAP 34, Sections 1 and 2 of the Import of Plants Act. Under Section 1 of the legislation no person is permitted to import plants without applying for and receiving an import licence from the Director of Agriculture. Under the legislation (available in the Accessions Division, Room 1126 for consultation) the Minister has the authority to prohibit imports.

The Convention on International Trade of Endangered Species (CITES) and the International Trade of Fauna and Flora Act 1993 restricted the importation of some plant species, for instance orchids and tree ferns.

All imports into Vanuatu require a phytosanitary certification from the country of origin, and must conform with Vanuatu import requirements.

The health legislation of Vanuatu, as described in WT/ACC/VUT/6, only prohibits the importation of food products that are not fit for human consumption.

(ii) The Secretariat of the Pacific Community (SPC) has no legal role in setting SPS standards for Vanuatu. The SPC provides scientific advice and technical assistance to member countries on SPS measures. It also provides technical assistance and training in these areas.

(iii) Please see Annex IV hereto which offers a justification for each item which is currently restricted.

(iv) Vanuatu currently lacks national capability (human resource and equipment) to conduct scientific tests to determine entry of imported goods. However, the Government of Vanuatu allows imports of restricted plants and plant products if the exporting country meets specific import requirements such as pathogen tested tissue culture, processed foods. With the assistance of New Zealand, Vanuatu is developing guidelines based on scientific principles to formulate procedures for the safe importation of plant and plant products (Annex VII). Scientific principles which will be applied in future are: area of freedom, treatment (heat treatment), tissue cultured materials which should eliminate the risk of new pests introductions.

Under the SPC training programmes have been set in place which will enhance the ability of quarantine services in Vanuatu to implement legislation.

Question 37.

According to the information provided in Annex VII, “List of Quarantine Restrictions”, Vanuatu prohibits the importation of live animals and animal products, as well as 30 plant and plant products. We are concerned that the Government of Vanuatu is using sanitary and phytosanitary standards inappropriately. The WTO Agreement on Sanitary and Phytosanitary Measures provides that these measures shall only be applied to the extent necessary to protect human, animal or plant life or health, is based on scientific principles and is not maintained without sufficient scientific evidence. Please describe the steps that Vanuatu is currently taking to implement the WTO Sanitary and Phytosanitary Agreement.

Answer

See the answer to question 36.

Question 38.

We note that Vanuatu is planning to join the International Plant Protection Convention (IPPC), the Asia and Pacific Plant Protection Commission (APPC) and the Codex Alimentarius Commission (Codex). Has Vanuatu applied for membership in the IPPC, APPC or Codex?

Answer

Vanuatu through the Ministry of Foreign Affairs has applied for membership to the IPPC, APPC and Codex in 1997. To date Vanuatu has received no replies.

Question 39.

For each of the products listed in Annex VII, “List of Quarantine Restrictions”, please describe any less-trade restrictive measures that were considered, such as limiting import restrictions from specified geographical areas, and the reasons they were not adopted.

Answer

We envisage that under the Bilateral Quarantine Agreement (BQA) we have with New Zealand, the current list of restricted plant and plant products will be revised. The decision to import will be based on Pest Risk Assessment (PRA) on a case-by-case basis.

(l) Safeguards, anti-dumping and countervailing duties

Question 40.

We note in the responses to questions 74-77 of WT/ACC/VUT/6, that Vanuatu is not considering having any anti-dumping, countervailing or safeguard measures legislation. Will the Government of Vanuatu commit to the non-application of any anti-dumping, countervailing or safeguard measures until WTO-consistent legislation is enacted and notified to the appropriate WTO committee?

Answer

The Government of Vanuatu commits to the application of only WTO-consistent trade measures and laws as it pertains to anti-dumping and safeguard measures. The Government of Vanuatu reserves the right to introduce WTO-consistent legislation on anti-dumping and safeguard measures. Any measures that will be introduced will be submitted to the Committee on Safeguards.

Question 41.

Vanuatu has stated that "... it retains the right to introduce safeguard provisions in its legislation in a manner consistent with its WTO obligations". Vanuatu will need to affirm that it will not introduce safeguard measures unless it has first introduced legislation and procedures that are fully consistent with the requirements of the WTO, including Article XIX of GATT 1994 and the Agreement on Safeguards. Alternatively, Vanuatu will need to provide the Working Party with details of its plans for safeguards covering, inter alia, the nature of the safeguards that Vanuatu will introduce, the circumstances in which safeguards may be activated and the legal basis for them. It would be acceptable for Vanuatu to join the WTO without appropriate safeguard measures in place. However, after accession, Vanuatu would need to enact legislation and devise procedures and submit these for the approval of the WTO Committee on Safeguards before action could be taken to impose measures on imports.

Answer

See above.

B. Other Policies Affecting Foreign Trade

2. Agricultural Policy

Question 42.

Vanuatu should submit a response to the questionnaire on agricultural supports and subsidies (WT/ACC/4) in advance of its next Working Party meeting.

Answer

This will be submitted to the Working Party prior to the Working Party meeting scheduled for September.

Question 43.

According to the response to question 60 in WT/ACC/VUT/4, there are no export subsidies in Vanuatu. Export subsidies are the most trade distorting forms of agricultural support. Since

Vanuatu does not presently have export subsidies, we do not believe it has the right to now establish them. We strongly encourage Vanuatu to maintain its export subsidy-free regime and bind its export subsidy commitment at zero.

Answer

The question of export subsidies is quite academic as Vanuatu has never employed export subsidies and does not have the resources to do so. Vanuatu will comply with all future obligations in the area of export subsidies once they have been negotiated at multilateral trade negotiations.

Question 44.

Vanuatu has no right of access to Uruguay Round methodologies such as the special agricultural safeguard, although if it did, Vanuatu would of course need to provide the Working Party with full details of how it would activate, apply and withdraw such safeguards and the basis for such processes in domestic law.

Answer

The Government of Vanuatu will not use special safeguard measures.

5. Foreign and Domestic Investment Policy

Question 45.

According to the response to question 90 of WT/ACC/VUT/6, there is currently a negative list of business ventures and activities that can only be pursued by indigenous Ni-Vanuatu, which includes service sectors such as taxis, buses, kava exports, rural transportation, mobile vendors, small retail and to some extent small bakeries. Please provide a copy of the list of business ventures and activities that can be pursued only by indigenous Ni-Vanuatu.

Answer

There exists a negative list of investments in the proposed Investment Code legislation that the Government of Vanuatu proposes to prohibit. These include:

- manufacture of nuclear weapons;
- manufacture of chemical weapons;
- arms manufacture;
- dumping and storage of nuclear waste; and,
- dumping or storage of toxic chemicals.

There also exists a reserved list of professions in the Labour (Work Permits) Act.

- | | |
|--------------------------------|-------------------------|
| - able seaman/ordinary seaman; | - hotel receptionist; |
| - boatswain; | - housemaid; |
| - bus driver; | - lorry and van driver; |
| - carpenter/joiner; | - receptionist; |
| - clerical supervisor; | - street vendor; |
| - dock worker; | - typist; |
| - driver; | - waitress/waiter; |

- earth moving and related machinery operator;
- bar tender.

Businesses reserved for Ni-Vanuatu currently include:

- the export of kava;
- owning taxis or buses; and,
- owning kava bars.

Question 46.

Please identify and describe any import or export activities, other than kava export, which are reserved solely for indigenous Ni-Vanuatu.

Answer

For the purposes of investment policy there is no category of "indigenous Ni-Vanuatu". The only difference is between Ni-Vanuatu and non-citizens. The only export sector where non-citizens are excluded is the export of raw kava. Proscribed sectors such as kava exports and copra are, under the Business Licence Act, excluded to non-Ni-Vanuatu.

Question 47.

Will Vanuatu's new foreign investment law eliminate the discretion of the Business Licence Committee and Minister of Finance to approve foreign business and investment activities?

Answer

The proposed legislation will eliminate the discretion of the Minister of Finance in most investment activities. At present only in the financial sector will the Minister continue to have discretionary authority. If the Minister refuses to grant a business licence, in future he will have to provide a justification and his decision will be subject to judicial review.

Question 48.

Vanuatu has indicated that an investment code is under preparation which would address important issues such as labour laws, immigration, business legislation including land laws, and foreign investment, and streamline investment procedures with regard to administrative duties, approvals, land disputes, industrial disputes and political interference (paragraph 12 of the WTO Secretariat Factual Summary). We note that there has been a delay in presenting the draft investment code to Parliament. Can Vanuatu advise the current situation?

We believe that completion of the investment code will be crucial for ensuring that there are codified and transparent procedures for foreign investment in the services sector and that laws governing this investment are legally enforceable and free from administrative discretion and other forms of interference. Without the investment code, it would be difficult to be confident that the commitments Vanuatu is offering to undertake with respect to the establishment of commercial presence could be made effective.

Answer

In relation to earlier questions, the Government of Vanuatu has indicated that it has already prepared draft legislation, copies of which are available in the Secretariat (Accessions Division, Room 1126) for consultation. We expect this legislation will come into force by the end of this year.

6. Government Procurement

Question 49.

We are disappointed that Vanuatu does not intend to join the Agreement on Government Procurement (GPA) in the context of its accession to the WTO. We are strongly urging all acceding countries to join the WTO GPA. Vanuatu should reconsider its decision and commit to acceding to the GPA prior to WTO accession. The WTO GPA works to assure that countries bidding on government procurement projects in foreign countries will have a transparent and open process with recourse to unbiased dispute settlement procedures. Greater transparency and rule of law reinforce good government and economic efficiency.

Answer

The Government of Vanuatu believes that the current system of tender in Vanuatu is open and transparent. The Government of Vanuatu agrees to comply with all covered multilateral Agreements of the WTO.

7. State-Trading Enterprises

Question 50.

According to the response to question 101 of WT/ACC/VUT/6, Vanuatu intends to notify the Vanuatu Commodities Marketing Board (VCMB) pursuant to GATT Article XVII, because it is the sole exporter of coca, copra and kava. Please submit the State trading questionnaire for VCMB prior to the next meeting of the Working Party.

Answer

Please see Annex III hereto.

Question 51.

We also noted in the response to question 101 of WT/ACC/VUT/6 that Vanuatu does not intend to notify the Tanna Coffee Development (TCDC) enterprise because it is not exporting coffee now. While TCDC is not exporting coffee at the present time, it nevertheless appears to be a State-trading enterprise within the meaning of the definition provided by paragraph of the Understanding on the Interpretation of GATT Article XVII, because it has been granted an “exclusive or special rights and privileges (monopoly on the purchase of coffee for exports) ... in the exercise of which it can influence through their purchases and sales the level or direction of imports and exports”. Since TCDC has a monopoly on purchases of coffee for export, it is effectively influencing the level of coffee exports. Please complete and submit the State-trading questionnaire for TCDC prior to the next Working Party meeting.

Answer

TCDC has now been privatized and has no exclusive or special privilege arrangements and has no monopoly rights on coffee. As a condition of privatization all rights and privileges of the previous company, i.e., TCDC, were revoked and any company may now produce, export or import coffee to or from Vanuatu.

Question 52.

According to the response to question 97 of WT/ACC/VUT/6, the Central Stores purchases stationery and other supplies used by the Government of Vanuatu. There is no obligation for government departments to purchase supplies from the Central Store. Does the Central Store sell stationery and other supplies to the public or any non-governmental entities? Are the Central Stores obliged to adhere to the tendering and transparency rules for government procurement that are provided by Chapter 22, Regulation 361-368, of the Financial Regulations, in making its purchases? Please identify any products, other than stationery, which the Central Stores are authorized to purchase on behalf of the Government of Vanuatu.

Answer

The Central Government Store does not sell to the public and non-governmental entities. The Central Government Store is also governed by Chapter 22 of the Financial Regulations. The Central Government Store also supplies office equipment such as furniture to the Government.

V. TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY REGIME**Question 53.**

In its answer to question 105 in document WT/ACC/VUT/4, Vanuatu states that since achieving independence in 1980 it has not produced any intellectual property legislation. Does this mean that IPR protection does not exist at all or is there just a lack of new laws?

Answer

Intellectual property legislation exists in Vanuatu but no new legislation has been introduced. There is also a Patent and Trademark Office. Existing legislation is not WTO compatible as it was prepared before the Uruguay Round. Vanuatu now plans to introduce TRIPS-consistent legislation prior to its accession to the WTO.

Question 54.

We were disappointed to note, in the responses to questions 103-110 of WT/ACC/VUT/6, that the Government of Vanuatu does not intend to implement the WTO TRIPS Agreement until three years after accession. We consider the WTO TRIPS Agreement to be among the most important of the Agreements reached during the Uruguay Round and a fundamental obligation undertaken by all WTO Members. We therefore expect all acceding countries, including Vanuatu, to adopt and implement WTO TRIPS-compatible legislation covering all types of intellectual property prior to WTO accession.

Answer

The Government of Vanuatu has sought technical assistance from WIPO to draft legislation on intellectual property that is TRIPS compatible by the end of 1998. WIPO will advise on technical aspects of the implementation of the legislation. There is an action plan which explains the timetable for the passage of all WTO-related legislation which will be forwarded to the Secretariat shortly. The current patent and trademark office will require considerable strengthening.

Question 55.

An undertaking to fully implement the TRIPS Agreement within three years of accession (replies to questions 103, 104, 108 and 110 of WT/ACC/VUT/6 refer) seems reasonable for an LLDC in the early stages of TRIPS implementation if a valid justification for the transition in terms of need has been provided and if the transition is consistent with the requirements of Articles 65 and 66 of the TRIPS Agreement. A key issue associated with such an undertaking is Vanuatu's capacity to effectively implement these disciplines within the proposed time-frame. Vanuatu will need to promptly provide the following information to WTO Members so that they can make known any concerns that they may have with Vanuatu's proposal well in advance of the next meeting of the Working Party:

- (i) full details of Vanuatu's plans for TRIPS implementation, including for accession to all of the conventions under the TRIPS Agreement (including the conventions that were not specifically mentioned in Vanuatu's replies to questions 106, 108, 109 and 110 of WT/ACC/VUT/6); and the steps that will enable the judiciary and the enforcement authorities to enforce Vanuatu's intellectual property legislation;**
- (ii) the steps that Vanuatu has already taken towards TRIPS implementation; and**
- (iii) Vanuatu's unmet technical assistance needs in relation to TRIPS and its plans to ensure that all such needs will be met before its proposed transition expires.**

Answer

(i) The Government of Vanuatu has agreed to pass domestic legislation by the end of 1998 providing protection of intellectual property for all areas covered by the TRIPS Agreement. However, implementation of the legislation will require some time as those who are directly concerned with this area, such as the patents office, customs and police require special training courses.

(ii) The Government of Vanuatu has sought technical assistance from WIPO in this area. We are expecting draft legislation by the end of May for which we will seek legal advice and then, if acceptable provide draft copies to WTO Members for comments. We shall assure that the proposed drafts are in full conformity with our obligations under the TRIPS Agreement.

(iii) Vanuatu may require extra technical assistance especially in terms of explaining the implications of the TRIPS legislation to the most important elements of the public service as well as the public at large. We may be seeking technical assistance for in-country training seminars in the area of TRIPS. Such assistance will be requested from the Government of Australia and the CFTC on a region-wide basis by the South Pacific Forum Secretariat.

Question 56.

Prior to the second Working Party meeting, Vanuatu should prepare a report on the status of new and amending legislation designed to ensure conformity with WTO TRIPS requirements. This report should provide a timetable for drafting and enacting legislation for each type of intellectual property, as well as identifying the governmental body which is responsible for drafting of the legislation. Please submit copies of such draft legislation to the Secretariat for review and comment by Working Party members.

Answer

The draft report will be forwarded to the Secretariat shortly.

Question 57.

We note in the responses to WT/ACC/VUT/6 that the Government of Vanuatu has already approached WIPO for technical assistance to revise domestic legislation to assure compliance with the TRIPS provisions. Additionally, we commend Vanuatu for its decision to accede to WIPO and the Paris and Berne Conventions. What is the current status of Vanuatu's request for WIPO technical assistance? What is the status of Vanuatu's applications to join WIPO and the Paris and Bern Conventions?

Answer

Vanuatu has not yet sought membership in these conventions or in WIPO.

Question 58.

Does Vanuatu intend to become member of any international convention in the area of IP (answer to questions 105 and 110 in document WT/ACC/VUT/6)?

Answer

In our response to question 101 (WT/ACC/VUT/6) Vanuatu stated that it intends to become a member of the Paris and Berne Conventions.

Patents

Question 59.

Could Vanuatu be more detailed in its answer to question 101 in document WT/ACC/VUT/4 on government use and compulsory licences (Article 31 of the TRIPS Agreement)?

Answer

Compulsory licences have not been an issue in Vanuatu at all and given the current level of development where there is very little manufacturing or other non-agricultural production it is not envisaged that it will be an issue of concern in the foreseeable future.

Question 60.

Could Vanuatu give further information on whether importation of the product incorporating the patent invention satisfies local working? In what way is the obligation to work the patent satisfied (reply to question 102 in document WT/ACC/VUT/4)?

Answer

The question is unclear and we seek formal clarification from the Working Party.

Layout designs (topographies) of integrated circuits

Question 61.

Does Vanuatu intend to introduce legislation regarding the protection of layout designs? What is the time-frame (see question 103 in document WT/ACC/VUT/4)?

Answer

With the assistance of WIPO, Vanuatu will introduce TRIPS consistent legislation that will provide protection for all recognised forms of intellectual property. All TRIPS consistent legislation will be in place prior to accession.

Geographical indications

Question 62.

Does Vanuatu envisage introducing a system of protection for geographical indications? What is the possible time-frame (question 104 in document WT/ACC/VUT/4)?

Answer

With the assistance of WIPO, Vanuatu will introduce TRIPS consistent legislation that will provide protection for all recognised forms of intellectual property. All TRIPS consistent legislation will be in place prior to accession.

Industrial designs

Question 63.

Does Vanuatu envisage introducing protection? What could be a possible time-frame (question 106 in document WT/ACC/VUT/4)?

Answer

With the assistance of WIPO, Vanuatu will introduce TRIPS-consistent legislation that will provide protection for all recognised forms of intellectual property. All TRIPS-consistent legislation will be in place prior to accession.

Trademarks and service marks

Question 64.

Does Vanuatu intend to amend the UK Trademarks Act No. 8 of 1982 in order to introduce the obligations deriving from the TRIPS Agreement, Articles 15-21 (question 107 in document WT/ACC/VUT/4)?

Answer

Yes, the Government of Vanuatu will repeal this legislation and introduce new TRIPS-consistent trademark legislation that fulfils all of its obligations under the WTO.

Copyright and related rights

Question 65.

Which two acts is Vanuatu referring to in the answer to question 108 in document WT/ACC/VUT/4?

Answer

The two acts referred to in question 108 are the Registration of UK Trademarks Act No. 8 of 1982 and the Registration of UK Patents Acts (Cap.80) No. 11 of 1982.

Question 66.

Does Vanuatu intend to introduce protection for copyright and related rights?

Answer

Vanuatu intends to introduce TRIPS-consistent legislation which will protect copyright and related rights.

Question 67.

Does Vanuatu intend to introduce protection of databases?

Answer

Vanuatu intends to introduce TRIPS-consistent legislation which will protect databases.

Enforcement

Question 68.

Does Vanuatu intend to introduce a system for enforcement of intellectual property rights as foreseen in Part III of the TRIPS Agreement?

Answer

Vanuatu intends to introduce TRIPS-consistent legislation which will enforce intellectual property rights as foreseen in Part III of the TRIPS Agreement.

VI. TRADE-RELATED SERVICES REGIME

Question 69.

We have a number of concerns about the policies and procedures for issuing work and residence permits:

- (i) for residence permits, Vanuatu has indicated that issue of these permits is linked to investment and that the length of stay is determined by the value of initial investment (paragraph 14 of Factual Summary). We consider it inappropriate to link the length of stay with the value of the initial investment. For the services sector and in a country the size of Vanuatu, many instruments could be expected to be relatively small scale. However, we do not believe that the investment should be considered less “valuable” in any sense nor should it be assumed that it will be of shorter duration. Will Vanuatu consider changing these requirements with a view to improving the current situation?**
- (ii) it is unclear how other categories of foreign service suppliers gain residence permits. For example, we believe that it is important that intracorporate transferees who are not undertaking any independent investment be permitted to gain residence permits. Can Vanuatu clarify please?**
- (iii) we note that persons gaining residence permits are not automatically entitled to work permits. Can Vanuatu clarify the procedures and criteria for obtaining work permits?**
- (iv) there would appear to be a lack of transparency and considerable discretion involved in the process of obtaining and enforcing rights secured under both residence and work permits. Does Vanuatu intend to improve this situation?**

Answer

(i) and (ii) There appears to be a misunderstanding about the requirements for receiving a work permit for an employee and a similar work and residence permit for those beginning a business or who are self-employed. A resident and work permit for those who are employees or intracorporate transferees does not require those employees to undertake an investment in Vanuatu. This is only required from those who are starting a business in Vanuatu. As long as the employer can demonstrate that there are no Ni-Vanuatu available with similar qualifications then a residence and work permit will be granted.

(iii) Please under the revised draft Work Permit and Immigration Acts the right of residence and work permits are automatic upon production of an approval certificate from the Foreign Investment Board (please see draft amendments which are scheduled to go to Parliament in the first half of the year, which are available in the Accessions Division, Room 1126 for consultation). However, there are a large number of people who reside in Vanuatu, as is the case in any country, that do not seek employment and should they seek employment this is, like in other countries determined on whether there are any suitably qualified nationals.

(iv) The Working Party will note that Vanuatu has greatly improved the rights of investors in the draft revised legislation which is available in the Secretariat (Accessions Division, Room 1126) for consultation.

Question 70.

Vanuatu has indicated that with respect to work permits, amendments to the Labour Law will provide greater transparency regarding requirements to invest in Vanuatu, limit the ministerial discretionary powers as required in the existing Labour Act; establish long-term work permits for those undertaking investments; and provide for genuine rights of appeal in disputes arising over work permit decisions (paragraph 15 of Factual Summary). We believe that it is important that these amendments are implemented to the Labour Act and that Vanuatu consider the scope for addressing the other concerns raised.

Answer

The Working Party will note the reforms enclosed in the draft Work Permits and Immigration Act which will go before Parliament in July 1998 and which are available in the Secretariat (Accessions Division, Room 1126) for consultation.

Question 71.

We have some concerns about the system of customary ownership. Vanuatu has indicated that all land in Vanuatu is owned by the indigenous population and that foreigners must negotiate leases on this land from the customary owners. It was further noted that customary ownership is complicated resulting from frequent disputes concerning ownership and boundaries and that these are resolved by resort to customary law (paragraph 16 of Factual Summary). While we can accept the position that foreign investors must lease land, we are concerned about the difficulties that could be encountered in the processes for the negotiation of land leases and resolving disputes over customary ownership, and about the legal enforcement and protection mechanisms available for the final lease agreements. Will Vanuatu consider means of codifying these processes in a transparent and readily enforceable manner to facilitate foreign investment in the services sector (for example, in tourism)?

Answer

Pending.

Financial services

Question 72.

We would appreciate advice on the new capital adequacy policies when they are available. We would like to strongly urge Vanuatu to base the capital adequacy ratios on Basel risk-weighted asset methodology and to ensure that these ratios are implemented on a national treatment basis (paragraph 68 of Factual Summary)?

Answer

Pending.

Telecommunications

Question 73.

We note that Vanuatu does not currently have any plans to eliminate the monopoly of Telecom Vanuatu Limited on communication services. We would urge Vanuatu to consider the benefits to business of eliminating this monopoly. As a first step, Vanuatu could allow competition in value-added telecommunication services (paragraph 69 of Factual Summary).

Answer

The Government of Vanuatu, with the assistance of the World Bank, is currently reviewing its relationship with existing infrastructure service providers including telecommunications and electricity.

Professional services

Question 74.

Could Vanuatu clarify the situation regarding residency permits for suppliers of professional services? Vanuatu has indicated that residence permits are not required for obtaining a licence to practice a profession (paragraph 70 of Factual Summary). However, in a previous version of Vanuatu's offer there was an entry for legal and accounting services stating that "where an owner-manager is granted a business licence a residence permit will also be granted". Could Vanuatu also clarify for which profession/services a "business licence" is required and indicate the appropriate regulatory agency?

Answer

There appears to be some confusion about the requirements for work and residence in Vanuatu. For an employee there is no requirement of obtaining a residence permit. For example, a doctor wishing to practice medicine in Vanuatu as an employee of a hospital does not require a residence permit. As long as the individual is not practising in an area that is reserved and there are no suitably qualified Ni-Vanuatu then the foreign national will receive a work permit. However in the case of an foreign national who wishes to be self employed and, in the case above, open a private medical practice then the resident will have to invest a minimum of Vatu 5 million (US\$40,000) in order to receive a residence permit.

ANNEX I
(as in the format of Annex 3 of WT/ACC/1)

INFORMATION ON IMPORT LICENSING PROCEDURES

I. OUTLINE OF SYSTEM

Under the terms of the Import of Goods Control Act No. 19 of 1984 the Minister of Trade and Industry has the authority to issue import orders and issue licences to control the importation of goods into Vanuatu.

Licences to import firearms and ammunition are issued by the Commissioner of Police.

Licences/permits for the import of live animals and plants, as provided by the Plant Protection Act and Animal Importation and Quarantine Act, require licences to be issued by the Head of Quarantine. In the case of the importation of plants, licences are issued by the Head of the Vanuatu Quarantine service and in the case of the importation of live animals, licences can be issued by the Veterinary Officer.

Licences/permits for the import of alcohol are controlled by the Municipal Clerk and the Ministry of Finance.

II. PURPOSES AND COVERAGE OF LICENSING

1. Product coverage:

- Import of Goods Control Act;
- T-shirts and singlets bearing a Vanuatu motif or logo;
- rice, flour, canned mackerel, sugar and tobacco products;
- import of firearms and ammunition covers all such products;
- import of animals and plant products covers all such products; and,
- import of alcohol.

2. The system applies to all imports irrespective of origin.

3. Purpose of system:

- Import of Goods Control Act,
- T-shirts and singlets bearing a Vanuatu motif or logo:

The import of these products are banned in order to protect domestic producers.

- Rice, flour, canned mackerel, sugar and tobacco products:

The import licence for these products is issued following the payment of a 3-4 per cent commission to the Vanuatu Co-operative Federation (Vanuatu is committed to repeal this as a condition of accession).

- Import of firearms and ammunition covers all such products:

Protection of civil society. No alternative measure is envisioned or acceptable.

- Import of animals and plant products covers all such products:
Protection of human and animal health and the environment. No alternative measure is envisioned or acceptable.
- Import of all spirits:
Protection of human health. The restrictions are aimed at HS Classification 22.08, i.e. spirits.
- 4. Legal basis:
 - Import of Goods Control Act,
 - T-shirts and singlets bearing a Vanuatu motif or logo:
 - Import of Goods Control Order No. 47 of 1986.
 - Rice, flour, canned mackerel, sugar and tobacco products:
 - Import of Goods Control Order No. 28 of 1987.
 - Import of firearms and ammunition covers all such products:
 - The Firearms Act No. 7 of 1987
 - Import of animals and plant products covers all such products:
 - Plant Protection Act,
 - Animal Importation and Quarantine Act,
 - Import of Alcohol is covered under the Liquor Licensing Act [CAP.52]. Alcohol Importation Act [Cap. 8].

This system cannot be abolished without legislative changes approved by Parliament.

III. PROCEDURES

1. There are no quantitative restrictions in Vanuatu except for the ban on the import of T-shirts and singlets. There are no quantitative restrictions on the importation of alcohol.

2. Type of commodity

- Rice, flour, canned mackerel, sugar and tobacco products:

Import licences are granted immediately upon presentation of the receipt of payment of Commission from the Vanuatu Cooperative Federation. There are no limitations on seasonal imports. The importer must approach VCF and then, upon payment of commission is automatically granted an import licence (Vanuatu has agreed to abolish this system as a condition of accession).

- Import of firearms and ammunition:

Licence is issued by the Commissioner of Police upon satisfactory justification for the need to import such items. Right of ownership of a firearm is not automatic in Vanuatu. The import licence

is then presented to customs upon clearance. The issuance of such licences are very uncommon in Vanuatu and there is no rapid process for receiving such a licence

- Import of plant materials:

Licences are granted upon completion of a pest risk analysis. The importer then obtains a permit to import which certifies the criteria and conditions for import which are then to the exporting country. Once these conditions are met in the exporting country a phytosanitary certificate certifying compliance with the conditions of the import permit is issued. Upon arrival the goods are inspected to assure compliance with the conditions in the import permit.

- Import of live animals:

The importation of live animals into Vanuatu requires an import licence/permit. This is obtained from the animal health service of the Department of Livestock

- Import of alcohol:

This licence is issued by the Clerk of the Municipality in which the importer is resident under the provisions of the Liquor Licensing Act. The importation of alcohol under the Alcohol Importation Act is regulated by the Ministry of Finance.

3. An applicant will receive an import permit if he/she meets criteria stipulated in the legislation. Failure to receive an import licence is not normally accompanied with a written explanation for the reason for the denial. The methods of appeal that are normally available in Vanuatu first administrative via the respective Director General of the relevant department. If such administrative redress is unacceptable then there exists the right of legal redress in the event of denial of rights under Vanuatu Law.

IV. ELIGIBILITY OF IMPORTERS TO APPLY FOR LICENCE

All persons, firms and institutions are eligible for a licence under non-restrictive systems. There are no registration fees. No published list of authorised importers is published in Vanuatu.

VI. DOCUMENTATION AND OTHER REQUIREMENTS FOR APPLICATION FOR LICENCE FEE

1. Rice, flour, canned mackerel, sugar and tobacco products:

- (i) a sample application form is enclosed in Annex 1;
- (ii) at importation the licence reference must be quoted which can then be verified from customs records. The usual documentation such as a bill of lading and invoices are also required;
- (iii) there are no licence fees or administrative charge;
- (iv) there are no advance payment requirements associated with the issue of licences.

2. Importation of firearms and ammunition:

- (i) a sample application form is enclosed in Annex 1;

- (ii) at importation the licence reference must be quoted which can then be verified from customs records. The usual documentation such as a bill of lading and invoices are also required;
- (iii) the import licence fee is ...;
- (iv) there are no advance payment requirements associated with the issue of licences.

3. Importation of plants and live animals:

- (i) a sample application form is enclosed in Annex 1;
- (ii) at importation the licence reference must be quoted which can then be verified from customs records. The usual documentation such as a bill of lading and invoices are also required;
- (iii) the import licence fee is ...;
- (iv) there are no advance payment requirements associated with the issue of licences.

4. Import of alcohol:

- (i) sample application forms are enclosed in Annex 1;
- (ii) at importation the licence reference must be quoted which can then be verified from customs records. The usual documentation such as a bill of lading and invoices are also required;
- (iii) there is no import licence fee from the either the municipality or from the Ministry of Finance;
- (iv) there are no advance payment requirements associated with the issue of licences.

VII. CONDITIONS OF LICENSING

- 1. Licences are not limited by period unless so requested by the applicant.
- 2. There is no penalty for non-utilization of a licence.
- 3. Licences are not transferable between importers.
- 4. There are no quantitative restrictions and there are no other conditions, apart from the conditions of import and the description of the product.

VIII. OTHER PROCEDURAL REQUIREMENTS

- 1. There are no other administrative procedures required prior to importation.
- 2. There are no foreign exchange controls in Vanuatu.

ANNEX II
(as in the format of Annex 4 of WT/ACC/1)

INFORMATION ON IMPLEMENTATION AND
ADMINISTRATION OF THE CUSTOMS VALUATION AGREEMENT

1. Questions concerning Article 1:

(a) Sales between related persons:

(i) Are sales between related persons subject to special provisions?

The value for customs purposes is the c.i.f. value which would be taken as the price which they would fetch on a sale in the open market between an independent buyer and seller. Sales between related persons where the price may not represent an acceptable value for customs purposes and if the invoice price is less than the price which would be charged to an independent customer, the latter price, adjusted to the c.i.f. level becomes the acceptable level.

(ii) Is the fact of intercompany prices prima facie considered as grounds for regarding the respective prices as being influenced?

No, under existing customs valuation practice in Vanuatu such a conclusion must be covered by sufficient evidence.

(iii) What is the provision for giving the communication of the afore-mentioned grounds in writing if the importer so requests?

There is no provision in the current legislation but this will be included in a future change to the valuation rules to comply with WTO requirements.

(iv) How has Article 1.2(b) been implemented?

The fact that a buyer and seller are related is not grounds for regarding the transaction value as unacceptable. It has to be examined and unless customs have information that this is not the case then the transaction value shall be employed for calculating the value for duty (VFD).

(b) Price of lost or damaged goods?

Are there any special provisions or practical arrangements concerning the valuation of lost or damaged goods?

There are no special provisions concerning the valuation of lost or damaged goods but the practical arrangements are that the value for customs purposes is for the importation of goods supposing that all goods are being imported with no loss or damaged goods. Should this happen, there is a calculation of the unit c.i.f. value of the lost or damaged goods which is then deducted from the original value to arrive at the new c.i.f. value.

2. How has the provision of Article 4 to allow the importer an option to reverse the order of application of Articles 5 and 6 implemented?

This is not currently provided under the existing customs regulations but will be covered under any revised rules. Those rules when drawn up will comply with the provisions of Articles 4, 5 and 6.

3. How has Article 5.2 been implemented?

Whilst the current Vanuatu provisions do not cover such a situation, in practice should such a situation arise, the rules of Article 5.2 will apply. In our future revision of the valuation regime this will be bring the customs valuation regime into conformity with Article 5.2.

4. How has Article 6.2 been implemented?

Whilst the current Vanuatu provisions do not cover such a situation, in practice should such a situation arise the rules of Article 6.2 will apply. In our future revision of the customs valuation regime this will be in conformity to Article 6.2.

5. Questions concerning Article 7:

(a) What provisions have been made for making value determinations pursuant to Article 7?

There are no present provisions but we undertake to comply with this provision when revising the customs valuation regime.

(b) What provision for informing the importer of the customs value determined under Article 7?

Not provided under the present regime but we undertake to comply with the provisions of the WTO Agreement when revising the customs valuation regime.

(c) Are the prohibitions found in Article 7.2 delineated?

We agree with the provisions of 7.2 and whilst this is not covered in our current legislation this is to be complied with in our revision exercise.

6. How have the options found in Article 8.2 been handled? In the case of f.o.b. application are ex-factory prices also accepted?

Vanuatu's value for custom purposes is based on cost, insurance and freight and will continue to do so in the future. Where goods are not sold on c.i.f. terms, additions have to be made to the invoice to bring it up to the level of the c.i.f. price. These additions include packing, carriage to and charges at port of shipment, foreign duties and taxes, freight and insurance, commissions or other remuneration, royalty or licence fees, tooling or design costs and inspection fees, cost of materials, equipment or services provided by the importer, or on his behalf, in connection with the production, purchase, delivery or resale of the goods.

7. Where is the rate of exchange published, as required by Article 9.1?

The conversion rate is published by customs and is available 7 days before the application of the rates and are changed when there is an exchange rate variation of 3 per cent of the customs published rate vis-à-vis the buying and selling commercial rate.

8. What steps have been taken to ensure confidentiality, as required by Article 10?

This is an integral part of our client relations and all such documents are covered under the provisions of staff regulations and official secrets regulations. Under these regulations staff members of the Vanuatu Customs Service are prohibited from disclosing confidential information except in the case of a judicial or criminal investigation.

9. Questions concerning Article 11:

(a) What rights of appeal are open to the importer or any other person?

The Vanuatu judicial process provides for compliance to Article 11.

(b) How is he to be informed of his right to further appeal?

This is also through the judicial process.

10. Provide information on the publication, as required by Article 12, of:

(a)(i) the relevant national laws;

The laws of Vanuatu, including customs valuation are published by the Government and are publicly available. The laws of Vanuatu do not come into force until such time as they are published.

(ii) the regulations concerning the application of the Agreement;

The current customs regulations are published and when they are revised to be brought into conformity with the obligations of the CVA they will be published.

(iii) the judicial decision and administrative rulings of general application relating to the Agreement;

The judicial decision of the courts are all published.

(iv) general or specific laws being referred to in the rules of implementation or application.

All general and specific laws are published in Vanuatu.

(b) Is the publication of further rules anticipated? Which topics would they cover?

No.

11. Questions concerning Article 13:

(a) How is the obligation of Article 13 (last sentence) being dealt with in the respective legislation?

The current legislation covers such a situation but in practice an importer at present can release goods from customs with prior payment of duty and also an undertaking to pay any outstanding balance in the event of a valuation being greater than transaction value. These WTO obligations will be fully met when the Customs Act is revised to render it compatible with CVA.

(b) Have additional explanations been laid down?

No.

12. Questions concerning Article 16:

(a) Does the respective national legislation contain a provision requiring customs authorities to give an explanation in writing as to how the customs value was determined?

There are none at present but Vanuatu undertakes to comply with WTO requirements when new legislation is drawn up in this area. In all future legislation the importer shall have recourse to the rights found in Article 16.

(b) Are there any further regulations concerning as above-mentioned request?

No.

13. How have the Interpretative Notes of the Agreement been included?

The substance of the Interpretative Notes of Annex I have not been included but this will be done when Vanuatu legislation is brought into conformity with its WTO obligations.

14. How have the provisions of the Decision of 26 April 1984 on the Treatment of Interest Charges in the Customs Value of Imported Goods (Val/6/Rev.1) been implemented?

Pending.

15. For those countries applying paragraph 2 of the Decision of 24 September 1984 on the Valuation of Carrier Media Bearing Software for Data Processing Equipment (Val/8), how have the provisions of this paragraph been implemented?

Pending.

ANNEX III

(as in the format of Annex 6 WT/ACC/1)

QUESTIONNAIRE ON STATE TRADING

I. ENUMERATION OF STATE TRADING ENTERPRISES

The Government of Vanuatu operates only one State-trading company as defined in the GATT - the Vanuatu Commodity Marketing Board (VCMB). The VCMB is not formally owned by the Government but by the growers who are the majority representatives on the board of directors. The only entity permitted to export copra and cocoa. It also issues licences to Ni-Vanuatu exporters to export kava. There are currently 25 such licences.

II. REASON AND PURPOSE FOR INTRODUCING AND MAINTAINING STATE-TRADING ENTERPRISES

There are two reasons why the Government of Vanuatu has operated a State-trading company for these three products:

1. These products are all produced largely by Ni-Vanuatu small holders who, prior to independence, often received low prices in comparison to the prevailing market prices. The VCMB was thus in part established to prevent monopolistic practices in commodity trade in small and far flung islands.
2. The Government wanted to ensure that those living on the most distant and remote islands were not penalised by extremely high transport costs. To alleviate this the Government instituted a system of cross-subsidies to lower internal transport costs to main costs.
3. In the late 1970's, Vanuatu copra began to acquire a reputation for low quality and high levels of aflatoxin. One of the main purposes of the VCMB has been to try to assure the quality of copra so as to maintain the prices received on world markets.
4. The Government of Vanuatu wanted to operate a system of price supports using the facilities that were available under the Stabex Fund from the European Communities under the Lomé Convention.

This system of stabilisation only exists for copra now. The stabilisation system for cocoa has been abolished and prices are set purely by market rates. The copra stabilisation it is largely self-financing based on the levies of the VCMB being repaid to farmers when prices are low.

III. DESCRIPTION OF THE FUNCTIONING OF STATE-TRADING ENTERPRISES

1. Copra and Cocoa

The VCMB buys and exports all of Vanuatu's copra. Prices are established on the basis of a relatively fixed price which is linked to the prevailing market prices as published by FOSFA for copra. A break-even analysis for the company showing the return to VCMB for copra is available in the Secretariat (Accessions Division, Room 1126) for consultation. The surplus in the break even analysis is held in a buffer in the event that the market prices drives copra below Vatu 26,000 per ton. However, when the buffer fund is exhausted the company has no further resources and internal farm gate prices are adjusted to world market levels. The VCMB Act 1982 [Cap.133] Section 6(2) states:

"In carrying out its functions under this Act, the Board shall so conduct its affairs as to avoid any need to rely on government grants and subsidies".

The company receives no subsidy from the Government. It does however receive *ad hoc* payments from the European Communities' Stabex Fund when the Government decides that this is justifiable by virtue of the world copra price. In 1996 the VCMB received Vatu 100 million from Stabex which is 8 per cent of 1996 exports of copra.

For cocoa, the VCMB trades directly at free market prices and there is no stabilisation fund as exists with copra.

Long term contracts are not negotiated at fixed prices and State-trading methods are not used to fulfil contractual obligations entered into by the Government.

2. Kava

The VCMB does not formally market kava but simply licences and controls the trade. In 1997 there were 25 licensed traders who pay 7.5 per cent of the value of their exports to the VCMB as commission.

IV. STATISTICAL INFORMATION

Below are the volume and value of Vanuatu copra, cocoa and kava exports. The VCMB exports 100 per cent of the first two crops and issues licences and receives 7.5 per cent commission on 100 per cent of the export of kava.

	Copra (tons)	Copra (vatu millions)	Cocoa (tons)	Cocoa (vatu millions)	Kava (tons)	Kava (vatu millions)
1994	26441	894	1706	226	85	57
1995	28520	1100	1035	126	52	48
1996	30026	1240	1247	165	64	73

Source: Statistics Office, Vanuatu

ANNEX IV

EXPLANATION OF THE PROHIBITED/RESTRICTED PLANTS LIST

GOVERNMENT OF THE REPUBLIC OF VANUATU

Department of Agriculture and Horticulture

Plant Protection and Quarantine Division

The following list of prohibited plants and materials is based on current knowledge of the importance and distribution of plant pests and diseases in relation to Vanuatu's present and potential agricultural base. As knowledge increases and/or there are changes in pest distributions, commodities may be withdrawn from the list or new ones added. Prohibition includes live plants, fruit, seed, leaves and other parts either green or dried unless otherwise stated.

Plants and plant products not specifically mentioned on this list are permitted to enter Vanuatu under quarantine control: i.e., with a provisional import permit from the quarantine service, a phytosanitary certificate from the country of origin, treatment at source if specified in the permit, inspection on arrival, consequent release with or without treatment or destruction as necessary.

Aroids **Taro Family including *Caldium* - *Arum* - *Anthurium* - *Calla* - *Alocasia* and *Colocasia* and many ornamentals**

Most important subsistence food crops in Vanuatu. Taro and other aroids can be affected by many extremely serious diseases and pests; viruses such as *alomae*, *bobone* and *dasheen* mosaic (DMV); fungus diseases such as *Phytophthora* leaf blight and *Pythium* root rot; insects such as *Papuana* beetle and various nematodes. These pests and diseases are not found in all parts of the region. For example, *alomae*, *bobone* and 29 fungal diseases of taro that are present in the Solomon Islands have not been recorded in Vanuatu. The status of virus diseases of related ornamentals is unknown and these plants could only be imported as virus-free tissue cultured material from an internationally approved supplier.

Aquatic plants **Except for known safe species**

These may become weeds of waterways, such as water hyacinth which has already been introduced to Vanuatu. Other dangers would be from bulrushes brought as ornamentals or 'Kariba weed' (*Salvinia molesta*) an aquatic fern whose spores can survive desiccation and be transported on the hulls of boats. Ballast water from ships could be a source of exotic toxic dinoflagellates and marine algae.

Avocado ***Persea* species**

A common cash crop with export potential, already regularly traded to New Caledonia. Fresh fruit from neighbouring countries, especially Australia, could harbour fruit fly species not present in Vanuatu. Stem-end rot, which has characteristic symptomology, (*Dothiorella aromatica*) has not been recorded in Vanuatu.

Banana ***Musa* species**

This is a major subsistence crop in Vanuatu. Devastating diseases are present in Fiji and Australia. Both countries have Banana bunchy top virus (BBTV) for which there is no treatment. It causes severe stunting and death of banana trees. All planting material is banned. Another virus

disease, banana streak, is not present in the region. In Fiji there is a serious bacterial disease called Moko which could be carried on any part of the plant including fruit. Panama disease (a *Fusarium* wilt) is present in Australia but not Vanuatu. It can kill all tall cultivars. These diseases can also be carried by related plants in the Heliconiaceae (Heliconias) and the Zingiberaceae (Ginger and related ornamentals).

Breadfruit ***Artocarpus* species (includes Jackfruit and Breadnut)**

Host for some fruit fly species. Disease status insufficiently researched.

Cacti **Some *Opuntia* and *Harrisia* species**

Possible carriers of viruses.

Cassava ***Manihot esculenta*, Manioc**

An important staple food crop in Vanuatu. Many pests and diseases found elsewhere in the region have not been recorded from Vanuatu. For example the fungus *Phoma tropica* recorded from Fiji and the Solomon Islands; the nematode, *Hemicriconemoides* found in Papua New Guinea, Fiji, Western Samoa and Kiribati. There are 12 nematode pests and 5 fungi of cassava recorded in Fiji but not from Vanuatu; 4 fungi and 1 nematode found on cassava in the Solomon Islands have not been found here.

Citrus **Except fruits from reputable sources (Australia and New Zealand)**

Citrus fruits are hosts of exotic fruit flies. Of particular danger on produce of Australian origin is Queensland fruit fly: commercial shipments that are certified free of quarantine pests are permitted; private imports from supermarkets are liable to be destroyed. Planting material only permitted if certified free of *Tristezia* virus and bacterial canker (e.g. from Corsica) and initially grown in quarantine isolation. Vanuatu is free of these major diseases.

Cocoa ***Theobroma cacao* - except processed**

Vanuatu is virtually pest and disease free for this crop, enabling “green” chemical free production. e.g. Fiji records 12 nematodes and 10 fungi, and the Solomon Islands 16 fungi and 2 bacteria that are not known from Vanuatu.

Coconut ***Cocos nucifera* - except processed**

Coconuts are Vanuatu’s most important cash crop. Recent research has shown that coconuts and other palms in the Asia-Pacific Region contain a range of viroid-like particles, e.g. all exotic coconuts grown in Vanuatu die as they are not resistant to the local virus. Until more is known about the pathogenicity of these particles, all international movement of palms is halted. Tissue cultured material is not available as yet. Two lethal diseases of coconuts, Kadang Kadang in the Philippines and Lethal Yellowing in Africa and the Americas are extremely serious but geographically distant. The Solomon Islands has two serious pests that do not occur in Vanuatu; a sucking bug, *Amblypelta cocophaga* that causes premature nut fall and the New Guinea rhinoceros beetle *Scapanes australis*. Other pests absent from Vanuatu, but widespread in the region are *Aleurodicus dispersus* (spiralling whitefly), *Chrysomphalus aonidum* (Florida red scale) and *Pinnaspis buxi* (coconut scale). The mite, *Aceria guerreronis*, is a pest of quarantine importance present outside the region. There are many fungal and nematode pathogens attacking the leaves and stems of coconuts, but only a few are likely

to occur in fruit; however, they could be present on artifacts of coconut wood and leaf, e.g. *Marasmiellus cocophilus* (lethal bole rot) and *M. inoderma* (seedling blight).

Coffee ***Coffea* spp. - except processed**

Vanuatu is free of the major pest *Hypothenemus hampei* (coffee berry borer) which is present in New Caledonia, Africa and Central America. Import of green coffee beans could bring coffee berry disease (*Colletotrichum coffeanum*) from Africa and *Mycena* leaf spot from the Americas.

Cotton ***Gossypium* spp. - except processed**

The four major pan-tropical diseases of cotton, wet weather blight, *Fusarium* wilt, *Verticillium* wilt and bacterial blight are not recorded in Vanuatu. Cotton probably spread across Oceania over 2000 years ago. *G. barbadense* is found widely in Vanuatu, both wild and as an ornamental. This is the prized "Sea Island" variety which was commercially produced in the 1860s and from 1910-1938. Globally, more pesticides are sprayed on cotton than any other crop, but only one disease has been isolated from cotton in Vanuatu. The ban is to protect this disease-free status for the future when world cotton prices may be higher and Vanuatu labour costs lower.

Ginger **All members of the Family *Zingiberaceae* - except processed**

Ginger is an important cash crop in parts of Vanuatu. Not all pests and diseases are equally distributed in the region. For example, Fiji has 19 nematodes and fungi on ginger that have not been recorded on this crop in Vanuatu. Viruses occur in the family and information on these is sparse, but they could be transmitted from the unprocessed culinary material as it can be planted and grown. This family includes a large number of ornamentals that would only be permitted entry as certified disease free tissue cultured material. The family is also a host of some banana pathogens.

Heliconia **All members of the family *Heliconiaceae* except as pathogen-tested tissue cultures**

This family is closely related to the Musaceae and is a host to many of the serious banana pests and diseases. See 'Banana' above.

Kava ***Piper methysticum* - except processed**

A very important cash crop in Vanuatu. The pests and diseases of the species have not been studied in the region and all parts of the plant are prohibited except for dried and powdered root. There is a risk of pests adapting to *Piper nigrum*.

Mango ***Mangifera indica* - except processed. Fresh fruit or plants only possible under stringent controls**

Fresh fruit are hosts for numerous fruit flies. Within the region the following are found that do not occur in Vanuatu: *Bactrocera bryoniae*, *B. cucurbitae*, (melon fly), *B. dorsalis* (oriental fruit fly), *B. facialis*, *B. frauenfeldi* (mango fly), *B. frenchi*, *B. froggatti*, *B. jarisi*, *B. kirki*, *B. melanotus*, *B. passiflorae*, *B. psidii*, *B. tryoni* (Queensland fruit fly). *Ceratitidis capitata* (Mediterranean fruit fly) which is present in Western Australia and Hawaii. All consignments of fruit need approved treatment or certification that they originated from a fruit fly-free area. There are many other important insects, especially scales, mealybugs, moths, weevils, thrips and mites, which are pests of the leaves, stems and fruit of mango, e.g. *Noorda albizonalis* (red-banded mango caterpillar) which damages the fruit and has a restricted distribution in the region. Other pests of quarantine importance are *Aleurodicus dispersus* (spiralling whitefly), *Idioscopus clypealis* (mango hopper) and *Sternochetus frigidus*

(mango weevil). Anthracnose, caused by the fungus *Colletotrichum gloeosporioides*, infects fruits, and is already widely distributed. However, strains from different locations have widely varying pathogenicity.

Vegetative importations are only possible under the supervision of the Quarantine services and should be limited to small quantities of budwood.

Palm plants **Family Palmaceae**

All imports of palm trees or fruits or living parts thereof are prohibited until the viroid situation is better understood. See 'coconut' above.

Passion Fruit ***Passiflora* spp. - except processed or pathogen tested germplasm certified disease free**

A developing cash crop in Vanuatu. A host of fruit flies. Danger of *Batrocera tryoni* on Australian produce. Presently free of the major fruit and leaf diseases and pests found elsewhere, e.g. the passionvine bug (*Leptoglossus australis*), Septoria spot (*Septoria passiflorae*), Phytophthora blight (*Phytophthora nicotianae*), woodiness virus, scab or base rot, all found in Australia.

Paw Paw ***Carica papaya***

The commonest fruit tree in Vanuatu. A potential host for exotic fruit flies. Budwood could carry viruses such as bunchy top and mosaic and their insect vectors.

Pepper plants ***Piper* species, except as pathogen tested germplasm**

There are about 8 species of *Piper* in addition to *P. nigrum* (black pepper) originating in the Afro-Asia region and used as spices. Also widely spread is the betel pepper, *Piper betle*, which occurs wild here and is occasionally cultivated. Black pepper is a common cash crop in Vanuatu with considerable potential for future expansion. The prohibition is to protect this industry from exotic pests and diseases. There is a risk of pests adapting to *Piper methysticum*.

Pineapple ***Ananas* species**

An important cash crop in Vanuatu that suffers few diseases, e.g. there are 3 fungal pathogens in the Solomon Islands and 19 nematodes and fungi in Fiji that do not occur on pineapples in Vanuatu. It is also a host of exotic fruit flies in other countries.

Rice **Except processed grain**

Paddy rice, rice hulls and bran can harbour serious pests that have not yet found their way to Vanuatu. Foremost amongst these would be *Trogoderma grammarium*, the khapra beetle, which attacks both live plants and stored products. Polished rice from some parts of Asia should be fumigated at source. Contaminated shipments will be destroyed on arrival.

Sugarcane ***Saccharum* spp.**

Sugarcane, *Saccharum officinarum*, is a common constituent of the traditional mixed garden together with 'naviso', *Saccharum edule*. Although about 20 diseases and several insects attack sugarcane in Vanuatu, none of these are too serious. The debilitating diseases, bacterial ratoon stunt, and mosaic virus have not been recorded. They must be excluded.

Sweet potato *Ipomoea batatas* Except pathogen tested tissue cultures

Ipomoea batatas is an important subsistence crop in Vanuatu. Several fungal diseases and nematodes occur in neighbouring States but not in Vanuatu; e.g. 2 species in the Solomon Islands, about 20 in Fiji and over 35 in Papua New Guinea. The sweet potato weevil, *Cylas formicarius*, is a very serious pest that is found widely throughout the tropics and in all South Pacific States except Nauru, Pitcairn, Tokelau and Vanuatu.

Taro Except pathogen tested tissue cultures

See 'Aroids' above.

Timber Including bamboo and parts of trees, except processed and treated

The timber industry is of considerable importance to Vanuatu with a good potential for increased plantation production in the future. Timber consists of many forms: logs, rough-cut and dressed timber, furniture, prefabricated parts of houses, packing cases, wooden handicrafts, reconstituted timber products and dunnage. There is a serious quarantine risk, particularly of insects that attack timber, logs and forest trees. The quarantine risk is substantially increased if bark, leaves, seed pods, pine cones, etc. contaminate the consignment. Bark provides an excellent habitat for many insects and pathogens, some of which may attack other crops. The following timber pests have not been found in Vanuatu but occur in countries from which timber may be imported; the termites *Coptotermes formosanus*, *C. acinaciformis*, *Cryptotermes brevis*, *C. cynocephalus* and *Mastotermes darwiniensis*; the boring beetles *Hylotrupes bajulus*, *Stromatium bar-batum* and several species of ambrosia beetles (*Xylotrupes* and *Platypus* spp.) and the powder post beetles *Heterobostrychus aequalis*, *Dinoderus minutus* and *Sinoxylon anale*. Wood wasps, mahogany shoot borer and carpenter ants have not been recorded in Vanuatu.

Several fungal pathogens cause root, butt and stem rots of trees and leaf blights and could be spread in bark attached to timber and logs, e.g. *Ganoderma* spp. and *Rigidoporus* spp. Consignments of timber and logs could also harbour rodents, snakes and snails. Sawn timbers and manufactured hardwood products are permitted if suitably treated at source.

Tobacco Except processed

Tobacco is a traditional garden crop grown for local use. It is largely disease free and the prohibition is to protect this status and other Solanaceous crops for which tobacco can be an alternative disease host.

Yams Except pathogen tested tissue culture

Several pests and diseases of this major Vanuatu crop that are found in neighbouring countries do not occur here. New germplasm can only be imported as tissue cultured material from recognised laboratories. Related ornamentals in the family Dioscoreaceae are also banned unless certified virus free. Some pests have a restricted regional distribution.

Other plants and plant products

Since early 1993 there has been a total ban on fresh lychi fruit from Australia and New Caledonia because of persistent and heavy infestation with fruit fly on intercepted imports. Fresh lychis are only permitted from fruit-fly free countries.

Soil

Soil from all origins is a very dangerous contaminant that can harbour nematodes, fungi, mites, insects, molluscs and weeds. It is prohibited in all forms. Second hand vehicles, bicycles, motorbikes, sports goods and shoes brought to Vanuatu must be clean or they will be seized and cleaned at the owners' expense. Permitted plants must be imported bare-root or as cuttings.

Straw Hay - Chaff - Rice straw

Straw is sometimes used as packaging, particularly for fragile items from Asia and China. Frequently the grasses used are weeds and contain mature seed heads as well as harbouring a range of pests. All imported straw will be destroyed.
