

# **WORLD TRADE ORGANIZATION**

RESTRICTED

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**Working Party on the Accession  
of the Kingdom of Saudi Arabia**

**REPORT OF THE WORKING PARTY ON  
THE ACCESSION OF THE KINGDOM OF SAUDI ARABIA  
TO THE WORLD TRADE ORGANIZATION**



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## I. INTRODUCTION

1. On 13 June 1993, the Government of the Kingdom of Saudi Arabia (hereinafter referred to as Saudi Arabia) requested accession to the General Agreement on Tariffs and Trade (GATT 1947). At its meeting on 21 July 1993, the GATT 1947 Council of Representatives established a Working Party to examine the application of the Government of Saudi Arabia to accede to the General Agreement under Article XXXIII, and to submit to the Council recommendations which may include a draft Protocol of Accession. Membership of the Working Party was open to all contracting parties indicating the wish to serve on it. In pursuance of the decision of the General Council of the World Trade Organization (WTO) of 31 January 1995, the GATT 1947 Accession Working Party was transformed into a WTO Accession Working Party. The terms of reference and the membership of the Working Party were reproduced in document WT/ACC/SAU/2/Rev.22.

2. The Working Party met on 2-3 May and 6-8 November 1996; 29-30 May and 2 and 4 December 1997; 17 and 19 November 1998; 22 September 1999; 5 April and 17 October 2000, under the Chairmanship of H.E. Ambassador Mr. J. Weekes (Canada); and on 23-24 October 2003; 25 February, 29 April and 16 June 2004; and 11 and [28] October 2005, under the Chairmanship of H.E. Ambassador Mr. Munir Akram (Pakistan).

### - **Documentation Provided**

3. The Working Party had before it, to serve as a basis for its discussions, a Memorandum on the Foreign Trade Regime of Saudi Arabia (L/7489) and the questions submitted by members on the foreign trade regime of Saudi Arabia, together with the replies thereto (L/7645 and Add.1; WT/ACC/SAU/3; WT/ACC/SAU/6, Add.1-3 and Add.3/Corr.1; WT/ACC/SAU/8 and Corr.1; WT/ACC/SAU/10; WT/ACC/SAU/13, Add.1, Add.1/Corr.1 and Rev.1; WT/ACC/SAU/29, Add.1-4, and Corr.1 and 2; WT/ACC/SAU/35 and Corr.1; WT/ACC/SAU/44; WT/ACC/SAU/46; and WT/ACC/SAU/47 and Corr. 1). The Government of Saudi Arabia also provided the Working Party with information regarding the following:

#### Economic Development Plans

- Sixth Development Plan, Decree No. 142 of 19.11.1413H (10 May 1993)
- Seventh Development Plan, Decree No. 126 of 28.5.1421H (29 August 2000)

## Economic Policies

### - Competition Policies

- Law on Competition Policies, issued pursuant to Royal Decree No. M/25 of 4.5.1421H (22 June 2004)

### - Pricing Policies

- Council of Ministers Resolution No. 68 of 29.5.1412H (1 December 1991)
- Council of Ministers Resolution No. 260 of 23.10.1422H (7 January 2002) (cancelling Council of Ministers Resolution No. 68 of November 1992)
- Supreme Council for the Petroleum and Mineral Affairs Resolution No. 15 of 11.3.1422H (3 June 2001)
- Pharmacy Law, issued pursuant to Royal Decree No. M/18 of 18.3.1398H (25 February 1978)

### - Privatisation

- Economic Reform Program of the Kingdom of Saudi Arabia, WT/ACC/SAU/54 (4 April 2003)
- Council of Ministers Decision No. 219 of 6.9.1423H (11 November 2002) (Privatization Strategy)
- Supreme Economic Council Decision No. 1/23 of 23.3.1423H (4 June 2002)
- Council of Ministers Resolution No. 60 of 1.4.1418H (5 August 1997)
- Council of Ministers Resolution No. 257 of 11.11.1421H (5 February 2001)
- Royal Decree No. 7-B-16941 of 6.11.1417H (15 March 1997)
- Council of Ministers Resolution 169 of 11.8.1419H (30 November 1998) (restructuring electricity sector)

### - Investment Regime

- Foreign Investment Law, Royal Decree No. M/1 of 5.1.1421H (9 April 2000) and implementing regulations issued 14.4.1423H (24 June 2002) (replacing the 1979 Foreign Capital Investment Law)
- "Negative List", issued by Supreme Economic Council Decision No. 17/23 of 1.12.1423H (22 May 1993)
- Foreign Capital Investment Law, Royal Order No. M/4 of 2.2.1399H (1 January 1979)
- Capital Market Law, Royal Decree No. M/30 of 2.6.1424H (13 July 2003)
- Council of Ministers Decision No. 50 of 21.4.1415H (27 September 1994)
- Council of Ministers Bureau Letter 8/490 of 28.6.1414H (13 December 1993)

## Framework For Making and Enforcing Policies

- Basic Law of Governance, Royal Decree No. A/90 of 27.8.1412H (1 March 1992)
- Law of the Shoura Council, Royal Decree No. A/91 of 27.8.1412H (1 March 1992)
- Law of the Council of Ministers, Royal Decree No. A/13 of 27.3.1414H (20 August 1993)
- Commercial Agencies Law, issued pursuant to Royal Decree No. M/11 of 20.2.1382H (22 July 1962)



- Combat of Commercial Fraud Law, Royal Decree No. M/11 of 29.5.1404H (1 March 1984)
- Negotiable Instruments Law, Royal Decree No. M/37 of 11.10.1383H (24 February 1964)
- Board of Grievances Law, issued pursuant to Royal Decree No. M/51 of 17.1.1402H (14 November 1981)
- Council of Ministers Resolution No. 165 of 24.6.1423H (1 September 2002) (implementing the Vienna Convention on the Law of Treaties)

#### Policies Affecting Trade in Goods

##### - Trading Rights

- Law on Commercial Registration, issued pursuant to Royal Decree No. M/1 of 21.2.1416H (19 July 1995)
- Law on Commercial Names, issued pursuant to Royal Decree No. M/15 of 12.8.1420H (20 November 1999) and the associated rules and regulations
- Professional Companies Law, Council of Ministers Resolution No. 16 of 16.2.1412H (26 August 1991)
- Commercial Agencies Law, issued pursuant to Royal Decree No. M/11 of 20.2.1382H (22 July 1962)
- Implementing Regulations for Commercial Agencies Law, Ministerial Resolution No. 1897 of 24.5.1401H (29 March 1981)

##### - Customs Tariffs

- GCC Common Customs Law (1999), ratified by Royal Decree No. M/41 of 3.11.1423H (5 January 2003), and its rules of implementation
- Royal Decree No. 104 of 20.4.1423H (30 June 2002) (applying GCC Common Customs Tariff)
- Royal Decree No. 40 of 12.12.1424H (3 February 2004) (tariff rates for sensitive items)

##### - Fees for Services Rendered

- Council of Ministers Decision No. 5-B-57611 of 28.11.1424H (20 January 2004) (terminating requirement for notarization or consularization)
- Royal Decree No. 7/B/16941 of 6.11.1417H (15 March 1997) (private management of ports)
- Council of Ministers Decision No. 5 of 3.1.1406H (18 September 1985) (requirement for notarization or consularization)

##### - Import Licensing Systems

- Council of Ministers Decision No. 84 of 1.4.1421H (3 July 2000) (Import Licensing Guide)
- The Import Licensing Law, issued pursuant to Council of Ministers Decision No. 88 of 6.4.1423H (16 June 2002) (Import Licensing Procedures)
- Telecommunications Act, Chapter 5
- Response to Questionnaire on Import Licensing Procedures, WT/ACC/SAU/60

- Quantitative Import Restrictions, Including Prohibitions and Quotas
  - Ministry of Commerce and Industry Decision No. 1308 of 27.5.1424H (27 July 2003)

- Customs Valuation
  - Royal Decree No. 190 of 16.12.1409H (19 July 1989)
  - Royal Decree M/41 of 3.11.1423H (5 January 2003) (Common Customs Law of the GCC)
  - Response to Questionnaire on Customs Valuation Procedures
  - Council of Ministers Decree No. 162 of 17.6.1423H (28 August 2002)
  - Ministerial Decision No. 1207 of 9.5.1425H (27 June 2004)

#### Internal Policies Affecting Trade in Goods

- Industrial Policy, Including Subsidies
  - Saudi Industrial Development Fund Law, promulgated by Royal Decree No. M/3 of 26.2.1394H (20 March 1974)

- Technical Barriers to Trade
  - Saudi Arabian Standards Organization (SASO) Technical Directive, Parts 1 through 4, issued 18 July 2000, as amended on 24 May 2004, and as further amended on 18 June and 19 July 2005
  - Lists of SASO standards based on CODEX, ISO, IEC and OIML standards; list of Saudi standards and their corresponding Gulf standards; list of the 2,338 Saudi standards, including a cross-reference to the international standards adopted in their entirety as SASO standards (WT/ACC/SAU/59/Add.5)
  - List of standards deemed to be equivalent to Saudi standards, WT/ACC/SAU/15
  - SASO standards, adopted as GCC Standards and thereby incorporated as national standards in other GCC Countries, WT/ACC/SAU/29 (Annex III)
  - Procedures for the development of SASO standards, WT/ACC/SAU/29 (Annex IV)
  - Comprehensive Guidelines and Procedures concerning the International Conformity Certification Program (ICCP), WT/ACC/SAU/37 and /45
  - Appeals Procedures, included as an Appendix to the ICCP Guidelines

- Preshipment Inspection
  - Council of Ministers Decision No. 213 of 3.8.1424H (30 September 2003) (cancelling the ICCP)
  - Ministerial Decision No. 6386 of 21.6.1425H (8 August 2004) (establishing the ICCP Replacement Committee)

- Sanitary and Phytosanitary Measures
  - Shelf Life of Food Products, WT/ACC/SAU/27
  - Ministerial Decision No. 943 of 2.5.1424H (1 July 2003) ("Sanitary and Phytosanitary Unified Procedures")
  - Council of Ministers Decision No. 109 of 30.4.1424H (30 June 2003)

- Council of Ministers Decision No. 85 of 1.4.1421H (4 July 2000)
- Council of Ministers Decree No. 207 of 26.1.1396H (28 January 1976)
- Royal Decree No. M/10 of 3.3.1392H (16 April 1972)
- Royal Decree No. M/3 of 8.2.1423H (21 April 2002) (Law of Private Laboratories) and Implementing Regulations, issued pursuant to Ministerial Decision No. M/3 of 21.2.1424H (23 April 2003)

- Agricultural Policy

- Tables on domestic support and export subsidies, WT/ACC/SAU/19 and 28; and WT/ACC/SPEC/SAU/1/Rev. 1-10
- Royal Decree No. 58 of 3.12.1382H (6 May 1963) (founding the Saudi Arabian Agricultural Bank)
- Royal Decree No. 184 of 24.9.1419H (14 December 1998) (ending issuance by GFSMO of permits for importing or exporting any product)
- Royal Decree No. 4/B/49434 of 8.12.1423H (10 February 2003) (ending GFSMO receipt of domestic barley)

- Trade in Transit

- Ministerial Decree No. 5618 of 15.11.1424H (8 January 2004)

- Trade Related Intellectual Property Regime

- Copyrights Law, issued pursuant to Royal Decree No. M/41 of 2.7.1424H (30 August 2003), and Implementing Regulations, issued pursuant to Ministerial Decision No. 1688/1 of 10.4.1425H (29 May 2004)
- Law of Trademarks, issued pursuant to Royal Decree No. M/21 of 29.5.1423H (7 August 2002) and Implementing Regulations, issued pursuant to Ministerial Order No. 1723 of 26.7.1423H (4 October 2002)
- Law of Trade Names, issued pursuant to Royal Decree No. M/15 of 12.8.1420H (20 November 1999)
- Law of Commercial Data, issued pursuant to Royal Decree No. M/15 of 15.4.1423H (25 June 2002), and Regulations for the Protection of Confidential Commercial Information, issued pursuant to Council of Ministers Decision No. 50 of 25.2.1426H (4 April 2005), as amended by Ministerial Decision No. 3218 of 25.3.1426H (4 May 2005), and as further amended by Ministerial Decision No. 431 of 1.5.1426H (8 June 2005)
- GCC Patents Law
- Law on Patents, Layout Designs of Integrated Circuits, Plant Varieties and Industrial Designs, issued pursuant to Royal Decree No. M/27 of 29.5.1425H (17 July 2004), and Implementing Regulations, issued pursuant to Ministerial Decision No. 118828/M/10 of 14.11.1425H (26 December 2004)
- Border Measures Regulations, issued pursuant to Ministerial Decision No. 1277 of 15.5.1425H (3 July 2004)

- Policies Affecting Trade in Services

- Cooperative Insurance Companies Control Law, Royal Decree No. M/32 of 2.6.1424 (31 July 2003), and Implementing Regulations, issued pursuant to Ministerial Decision No. 1/596 of 1.3.1425H (20 April 2004), as amended by Royal Decree No. 3120/MB of 4.3.1426H (13 April 2005)

- Council of Ministers Decision No. 222 of 12.8.1422H (29 October 2001) (Compulsory Auto Insurance Act)
- Royal Decree No. M/10 of 1.5.1420H (12 August 1999) (Law of Cooperative Health Insurance)
- Royal Decree No. M/5 of 17.5.1405H (18 January 1986) (establishment of National Company for Co-operative Insurance)
- Banking Control Law
- Labour and Workmen Law, Royal Decree No. M/21 of 6.9.1389H (15 November 1969)
  
- GCC Documents
  - GCC Unified Economic Agreement, signed 11 November 1981
  - Rules for the Coordination of Industrial Establishments in the Gulf Cooperation Council (GCC) States
  - Standard Rules for Giving Priority in Government Purchases to National Products and Products of National Origin of Gulf Cooperation Council States
  - Common Customs Law of the GCC States (1999), ratified by Royal Decree No. M/41 of 3.11.1423H (5 January 2003)
  
- Domestic Development Measures and Documents
  - Law for the Protection and Encouragement of National Industries
  - Saudi Industrial Development Fund Law
  
- Government Procurement
  - Government Purchases Law, issued pursuant to Royal Decree No. M/14 of 7.4.1397H (27 March 1977)
  
- Grievance/Dispute Measures
  - Board of Grievances Law, issued pursuant to Royal Decree No. M/51 of 17.1.1402H (14 November 1981)
  - Rules and Procedures of the Board of Grievances, Council of Ministers Resolution No. 190 of 16.11.1409H (19 June 1989)
  - Law of Arbitration, Royal Decree No. M/46 of 12.7.1403H (24 April 1983)
  
- Other Measures and Documents
  - Import Statistics

4. The representative of Saudi Arabia stated that, over the last 30 years, Saudi Arabia had become a State with a strong economy increasingly based on the private sector with a sophisticated infrastructure. At the same time, government initiatives had been used to influence economic activity when necessary, in order to ensure the protection of the Islamic values of Saudi Arabian society. Economic development of Saudi Arabia had largely depended on the utilization of its large oil and gas reserves. Saudi Arabia was the largest producer of oil in the world and one of the world's largest producers of natural gas. The availability of these resources had given rise to an economy typical of

oil-producing developing countries characterized by a major concentration of exports on a single exhaustible resource and a high propensity to import.

5. The representative of Saudi Arabia informed members of the Working Party that Saudi Arabia had adopted free market principles ensuring that private enterprise would always be the main focus of economic activity, and had established an indicative planning approach to economic and social development based on Islamic values and principles, which guide the development in a coordinated and balanced direction. Economic indicative planning in the Kingdom provided an appropriate conceptual, practical and organizational framework for the development process, with all of its economic, social and institutional dimensions. In addition to the underlying objectives of the preservation of Islamic values and the provision of national security, the consecutive five-year indicative plans aspired to achieve a number of other broad goals. These included diversification of the economy, particularly through laying more emphasis on industry and agriculture, and developing mineral resources; improvement of living standards and quality of life; achievement of balanced growth throughout all regions of the Kingdom; strengthening the role of the private sector, through encouraging its participation in various socio-economic development projects; achievement of social and economic integration among Gulf Cooperation Council (GCC) countries; and supporting economic cooperation with other countries. Other objectives include development and sustenance of the country's physical infrastructure, protection of the environment and development and utilization of human resources through increasing the absorptive capacity of educational institutions. The First and Second Plans had laid the foundation for the Kingdom's transformation into a modern industrialized State. The Third and Fourth Plans had furthered the diversification of the economy, concentrating on infrastructure projects in educational, health, training and other social services and encouraging the growth of the private non-oil sector. The Fifth Development Plan had broadened the main objectives of the previous plans and further strengthened the private sector's role in economic diversification of the Kingdom's economy.

6. He further recalled that the Sixth Development Plan continued the main objectives of the previous development plans. It set out to meet the Kingdom's development needs through maximizing the private sector's contribution in providing jobs, diversifying the economy to lessen its dependence on oil, building new physical infrastructure, improving social services, expanding job opportunities for the Saudi labour force, raising the per-capita income of the population and maintaining a balanced budget over the Plan's period. The development of the country's scientific and technological capabilities and the protection of the environment against pollution, as well as the preservation of the country's natural resources, were also among the general objectives of the Sixth Plan, and later plans. Over the past three decades, non-oil GDP increased more than five-fold and

private investment increased seven-fold. Infant mortality rates dropped by over 80 per cent; the ratio of physicians per person improved by more than 95 per cent. Over the same period, school enrolment rose from 600,000 to more than 4.7 million and Saudi Arabia had among the lowest pupil-teacher ratios in the world.

7. The representative of Saudi Arabia further added that Saudi Arabia had also improved its trade with other nations of the world. In 2004, he reported, Saudi Arabia was the world's 26<sup>th</sup>-largest importer and 16<sup>th</sup>-largest exporter, with a foreign investment balance of US\$ 1.802 billion. The Kingdom's gross domestic product grew from US\$ 20 billion in 1970 to US\$ 320 billion in 2004. Also, he stated, Saudi Arabia maintained one of the least restrictive exchange and trade systems in the world. Indeed, with limited exceptions noted below in this Report, Saudi Arabia only maintained trade restrictions for religious, health or security reasons. In his view, these exceptions are permitted under the WTO Agreements.

8. Members of the Working Party asked Saudi Arabia to provide information regarding the most recent Development Plans. In response, the representative of Saudi Arabia noted that the Seventh Development Plan, Decree No. 126 of 28.5.1421H (29 August 2000), covered the years 2000 through 2004. The Plan focused on increasing the size and strength of the private sector, and developing Saudi Arabia's human resources. In addition, the Plan emphasized increasing the level of efficiency of Saudi Arabia's industrial sector. As with prior plans, a primary goal of the Seventh Plan had been to diversify as well as grow Saudi Arabia's economy.

9. The representative of Saudi Arabia also described aspects of the Eighth Development Plan, covering the years 2005-2009, which was underway. He noted that, under the Plan, Saudi Arabia continued to focus on higher growth rates and increasing investment, foreign as well as domestic. As with the previous Plan, Saudi Arabia continued to develop its human resources. The Eighth Development Plan emphasised committing to a long-term development strategy linked to time frames and quantitative objectives. This aspect of the Plan, he said, allowed Saudi Arabia to measure its progress and to ensure that its policies were appropriate and assisted the Kingdom in achieving its goals.

10. The representative of Saudi Arabia stated that the diversification of the economy could only be achieved through much broader private sector participation in the economy. The private sector had already begun to pursue a wide range of business opportunities unrelated to government expenditures and this trend was expected to accelerate as private sector management, production and marketing capabilities strengthened and the competitive atmosphere improved. Institutional support for private sector-led growth and diversification would be provided by the Government, through liberalization

and facilitation of investment and rapid development of Saudi Arabia's financial sector. Saudi Arabia also recognized the need to build a technology base. Whilst Saudi Arabia had kept up to date with global scientific and technological developments, this had largely been through the import of sophisticated technology owned by foreign partners. Saudi Arabia still needed to improve its indigenous technological capabilities to the level of that existing in developed countries. The Government planned to assist through the implementation of a twenty-year national science and technology plan to commence with the Eighth Development Plan and through the expansion and improvement of educational courses and facilities related to science and technology at all levels, as well as improvement of the overall structural support for private sector initiatives. In addition, Saudi Arabia was aware of the need to impart to its citizens the knowledge and skills that would enable them to participate effectively in all social, economic and cultural activities, as well as to further develop vocational and technical education so that the country's skilled manpower needs could be met.

11. In their opening remarks, members of the Working Party welcomed Saudi Arabia's decision to accede to the WTO and to implement the WTO Agreements expeditiously through the establishment of institutional arrangements and the amendment and adoption of the required legislation and regulations. It was noted that Saudi Arabia had played and was expected to continue to play a significant role in contributing to maintain economic and financial stability and growth, both in the region and globally. Saudi Arabia's accession would reinforce the universality of the WTO and strengthen the multilateral trading system.

12. The Working Party reviewed the economic policies and foreign trade regime of Saudi Arabia and the possible terms of a draft Protocol of Accession. The views expressed by members of the Working Party and the various aspects of Saudi Arabia's foreign trade regime, and on the terms and conditions of Saudi Arabia's accession to the WTO, are summarized below in paragraphs 13 to 314.

## **II. ECONOMIC POLICIES**

### **- Monetary and Fiscal Policies**

13. The representative of Saudi Arabia stated that the Saudi Arabian Monetary Agency (SAMA) is charged with carrying out the Kingdom's monetary policy. The objective of monetary policy is the maintenance of domestic price and exchange rate stability. To promote domestic price stability, SAMA takes measures to ensure that the growth in domestic liquidity is broadly in line with the growth and availability of goods and services in the economy and that the banking system is endowed with adequate liquidity so that the credit needs of all the sectors of the economy are adequately met.

To maintain the stability of the fixed exchange rate, SAMA monitors the Riyal market to ensure its smooth functioning and takes corrective measures if there are any disruptive activities. SAMA has been highly successful in achieving these objectives over the years. Domestic prices have remained highly stable for years, with an average annual increase in the cost of living index of less than one per cent per annum over the last two decades. The exchange rate of the Riyal vis-à-vis the U.S. dollar has also been maintained at Saudi Riyals (SAR) 3.75 per U.S. dollar since 1986. The sustained stability in domestic prices and the exchange rate over a prolonged period of time has greatly facilitated the growth of the Saudi economy.

14. The primary objective of Saudi Arabia's fiscal policy was to encourage economic growth and diversification of the economy and improve living standards through providing education and other public services. Diversification of the economy would further integrate Saudi Arabia into the global economy. He further noted that the preparations for Saudi Arabia's accession to the WTO had further improved the climate for foreign and domestic investment and trade. The major source of the Kingdom's revenues was oil, which accounted for roughly 80 per cent of total revenue; non-oil revenue consisted of corporate taxes, customs duties and miscellaneous administrative fees.

15. In response to requests for information on the national budget, he further noted that revenues for 2004 were SAR 393 billion; expenditures had been projected to be SAR 295 billion, but, due to emergency expenditures, actual expenditures were SAR 336 billion; the remaining revenue was allocated to retire part of the public debt. In the 2005 budget, total revenues were projected at SAR 280 billion and expenditures also were projected at SAR 280 billion, including SAR 75.5 billion for new projects. The appropriation for the 2005 budget included appropriations for the main development and public service sectors as follows: education and manpower development – SAR 70.1 billion; health and social affairs – SAR 27.1 billion; municipality services – SAR 10.65 billion; transportation and telecommunications – SAR 8.85 billion; and water, agriculture and infrastructure – SAR 19.2 billion.

- **Taxation and Zakat**

16. Some members of the Working Party requested information on how "Zakat" applied to Saudi Arabian citizens and how income tax applied to foreigners. These members noted that it appeared that the Zakat and income tax were applied in such a manner that foreign investors typically carried a higher total tax burden than Saudi citizens. The representative of Saudi Arabia stated that there was a general misunderstanding about Zakat and income tax. It was not correct to say that the tax burden (as distinct from the nominal rate) was higher for foreigners than for Saudi nationals or Saudi companies. The percentage of corporate income tax applied to a non-Saudi was 20 per cent of



net profit, while the percentage of Zakat may reach or even exceed 100 per cent of net profit. Also, he reported, it was incorrect to say that all Saudi persons are subject only to Zakat; just like non-Saudis, Saudis engaged in natural gas investment or oil or hydrocarbons production activities are subject to income tax. A non-resident Saudi person who did business in the Kingdom through a permanent establishment and earned income from a source within the Kingdom was subject to tax. Zakat was a religious duty, and because its rate and basis of collection was prescribed by religion, it could not be altered.

17. According to the representative of Saudi Arabia, the main features of Zakat were the following:

- Zakat was applied at a flat rate of 2.5 per cent on the net worth of Saudi natural persons, wholly Saudi-owned companies and Saudi partners in joint ventures (except for rain-fed agricultural products and irrigated agricultural products, for which the rate was 10 per cent and 5 per cent, respectively).
- The base for levy of Zakat, i.e., the assessable amount, was not the income or profits of the assessee. It was much larger and included: capital, retained earnings, reserves and net profits (it did not include fixed assets, investments in other companies, losses carried over from previous years and losses for the fiscal year). There were no exemptions.
- Zakat was payable even if the company did not make a profit.
- Zakat was payable even if the company ceased its activities; it was non-payable only when the company was liquidated.
- Non-payment of Zakat was punishable by seizure of assets and prohibiting the non-payer from leaving Saudi Arabia.

18. In contrast, he noted, income tax and corporate tax had the following features:

- Persons subject to taxation included: (i) shares held by non-Saudis in a company located in Saudi Arabia; (ii) a resident non-Saudi natural person who does business in the Kingdom; (iii) a non-resident who does business in the Kingdom through a permanent establishment; (iv) a non-resident on other income subject to tax from sources within the Kingdom; (v) a Saudi or non-Saudi engaged in natural gas investment activities or oil and hydrocarbon production activities.
- The maximum rate of corporate tax on net profit had been reduced from 45 to 30 per cent, and now stood at a flat rate of 20 per cent, with the special exceptions described below, as per Council of Ministers Decision on 12.1.2004 (in contrast, Zakat was payable on net worth). The tax base of a taxpayer engaged in natural gas investment activities was subject to tax at the rate of 30 per cent; internal rates of return higher than eight per cent were subject to higher taxes. The tax base of a taxpayer engaged in oil and other hydrocarbon production is subject to tax at the rate of 85 per cent.
- Income tax was payable by foreign natural persons, foreign partners and foreign shareholders in business entities, as described above, on their net profit. However, wages and salaries were exempt from taxation.
- Corporate tax was payable by non-Saudi corporations operating inside Saudi Arabia or both inside and outside of Saudi Arabia at the same time, as described above, based on: (i) the total share of foreign partners in the net profits of Saudi corporations

- (limited liability companies and joint-stock companies); and (ii) the total shares of foreign partners in the net profit of Saudi partnerships.
- Unlike Zakat, corporate tax was not payable in relation to any year in which the company did not make a profit or was not in operation.
- For corporate tax, there was a provision for carry forward of losses for unlimited number of years.

19. Members of the Working Party thanked the representative of Saudi Arabia for the above information and requested clarification of how Zakat revenues were collected and allocated to the budget, in particular whether they were allocated to the General Fund, and whether Zakat revenues were required to be used for particular purposes. In response, the representative of Saudi Arabia provided the following information. Zakat revenues were earmarked for the welfare of poor and needy people and disbursed by the Social Welfare Organization under the Ministry of Social Affairs. The entities subject to Zakat are Saudi individuals who conduct business in the Kingdom, Saudi companies of all types that conduct business in the Kingdom and shares of Saudis in joint companies. In response to a further question from a member of the Working Party, he reported that the Department of Zakat and Income Tax (DZIT) was responsible for collecting both Zakat and income tax.

- **Foreign Exchange and Payments**

20. The representative of Saudi Arabia stated that Saudi Arabia maintained no exchange restrictions and imposed no trade restrictions for balance-of-payments reasons. The exchange rate policy of the Kingdom had for a long time been geared to maintaining a stable relationship with the U.S. dollar, which is the intervention currency. As already mentioned, the exchange rate of the Riyal had been maintained at SAR 3.75 to the dollar since 1986. This had created a stable exchange rate environment for the private sector and had also been conducive to foreign investment.

21. The exchange rate of the Riyal was determined by SAMA in light of the economic, trade and balance of payments situation both at home and abroad. Until the end of 2002, the Riyal was effectively (informally) anchored to the U.S. dollar, within the framework of an official link to the SDR. In pursuance of a decision taken by the GCC Heads of State in December 2001, the Riyal, along with other GCC currencies, has become officially (formally) pegged to the U.S. dollar as from the beginning of 2003 in preparation for the monetary union and the single currency for the GCC countries by the year 2010. The choice of U.S. dollar to serve as a common denominator is based on the fact that the U.S. dollar is the intervention currency for all the GCC countries and their foreign reserves for currency cover and balance of payments purposes are largely held in U.S. dollars. Moreover, a stable relationship with the U.S. dollar is of crucial importance not only for fiscal management but also for the traders in their business planning.

22. Since the early 1960s, when Saudi Arabia undertook the obligations of convertibility under Article VIII of the Articles of Agreement of the IMF, the Saudi Riyal has remained fully convertible, with no taxes or subsidies on the purchase and sale of foreign exchange. He reported that currency can be freely purchased and sold in local banks at the official rate. There are no restrictions on payments in Saudi Arabia. Imports, exports, remittances and capital movements from, or to, the Kingdom are free from restrictions. There are also no currency controls that have a direct impact on imports, e.g., there are no surrender requirements, prior deposit for importation, import prepayment requirements or acquisition fees.

23. He noted that Saudi Arabia was a market economy with liberal trade and payment policies. Remittances by expatriate workers are also free of restrictions. These totalled US\$ 14.9 billion in 2003, equivalent to roughly 8.4 per cent of the nominal gross domestic product (GDP). He added that there were no restrictions on current transfers via specific exchange controls.

24. Saudi Arabia's balance of payments position has improved remarkably over the past few years. The current account has been in surplus since 1999. The surplus has risen from 0.3 per cent of GDP in 1999 to 13.8 per cent of GDP in 2003 and is expected to rise further in 2004. Exports of goods and services during 2003 amounted to US\$ 103.6 billion, approximately 48.3 per cent of GDP. Imports of goods and services stood at US\$ 73.9 billion, or 34.5 per cent of GDP. Over the years 1999-2003, the net foreign assets of SAMA, the central bank of the Kingdom, have increased from US\$ 37.9 billion to US\$ 64 billion. This amount is sufficient to cover 10.5 months of imports of goods and services.

- **Competition Policy**

25. The representative of Saudi Arabia stated that, with the exception of certain sectors discussed below, Saudi Arabia's competition policies were based on free-market principles. A Competition Law had been issued pursuant to Royal Decree No. M/25 of 4.5.1425H (22 June 2004), followed by implementing regulations. The Law contained provisions, *inter alia*, on cartel and monopoly-type practices, on mergers and on unfair commercial practices. In response to a question by a member of the Working Party, the representative of Saudi Arabia reported that, although the Law is the first statute banning anti-competitive acts, Islamic law prohibited a number of anti-competitive practices under the general rule requiring fair dealing in all commercial exchanges.

- **Pricing Policies**

26. Members of the Working Party requested information regarding restrictions on prices maintained by the Government of the Kingdom of Saudi Arabia. In response, the representative of Saudi Arabia reported that prices for goods and services in every sector in Saudi Arabia were freely determined by market forces with the exception of the goods and services listed in Annex A of this Report, which were subject to price regulation within Saudi Arabia to maintain price stability. These policies were pursued to secure the needs and welfare of consumers and preserve important social interests of the Kingdom.

27. The representative of Saudi Arabia further reported that price regulations were applied on a non-discriminatory basis, regardless of whether a product or service was supplied by the government or by the private sector and regardless of the nationality of the supplier.

28. In response to a question from a member of the Working Party, the representative of Saudi Arabia stated that all petroleum-based and natural gas-based products in Saudi Arabia were made available to all users regardless of whether the users were Saudi or foreign owned. He noted that currently domestic sales of heavy naphtha were not subject to any discount and were priced at the prevailing international price. Prices of exports of these products, he confirmed, were based entirely on international market conditions.

29. Some members of the Working Party requested information on the pricing of certain feedstock, in particular, methane, ethane, butane, propane and natural gas or liquefied petroleum gas. In response, the representative of Saudi Arabia noted that pricing of natural gas (including methane and ethane) was quite different from the pricing of natural gas liquids (NGLs) (butane, propane and natural gasoline). Natural gas was not sold for export due to the high costs of liquefying, transporting and re-gasifying such gases, and therefore had no international reference price in the Gulf region. Previously, natural gas had been burnt as a waste product, but was later collected and made available to all interested users on a non-discriminatory basis (whether Saudi or non-Saudi), currently at a regulated price of 281 Halalas per million BTU (US\$ 0.75 per million BTU). This decision was taken based on a combination of commercial reasons and environmental concerns. Rather than burn valuable natural resources, Saudi Arabia had taken steps to conserve and exploit those resources consistent with WTO disciplines. Natural gas was used by many sectors, including power companies, desalination plants, cement manufactures and petrochemical plants.

30. The representative of Saudi Arabia originally had noted that Council of Ministers Resolution No. 68 of 29.5.1412H (1 December 1991) set NGL prices 30 per cent lower than the export prices

charged for those products. At a later stage, the representative of Saudi Arabia confirmed that Communication No. 19756/R of 21.11.1422H (4 February 2002) transmitted Council of Ministers Resolution No. 260 of 23.10.1422H (7 January 2002), which cancelled Council of Ministers Resolution No. 68. He confirmed that Council of Ministers Resolution No. 260 served as the basis for applying commercial pricing to NGLs used as feedstock in Saudi Arabia and required that pricing of NGLs supplied to domestic users be commercially based; Decision No. 15 of the Supreme Council for Petroleum Affairs implemented Council of Ministers Resolution No. 260 and reflected a negotiated pricing structure that ensured the full recovery of production costs and a reasonable profit. Under Council of Ministers Resolution No. 260, NGLs were available to all users within Saudi Arabia on a non-discriminatory basis, whether Saudi or non-Saudi.

31. The current commercial pricing structure for NGL sales in Saudi Arabia as set out under Council of Ministers Resolution No. 260 and Decision No. 15 was negotiated between producer and consumers in Saudi Arabia and applied to all NGL users in Saudi Arabia on a non-discriminatory basis. At the request of consumers in Saudi Arabia, the pricing structure was formalized through Council of Ministers Resolution No. 260 and Decision No. 15, which set out a detailed formula for ensuring that domestic NGL prices are based on international market prices, adjusted for the following cost-based and other commercial considerations:

- Cost savings in infrastructure – exporting NGLs requires large investments in and maintenance of refrigeration, storage and terminal facilities. Selling to local users simply requires transferring the NGLs from local gas recovery plants by pipeline. Expenditures in the capital and operating costs of export-related facilities are significant. Lower domestic prices in Saudi Arabia reflect substantial cost savings that permit the producer to recover the full cost of production.
- Cost savings in marketing – export sales require a sizeable marketing staff both in Saudi Arabia and in foreign markets. Marketing costs are not incurred on domestic sales because domestic customers are committed to long-term off-take agreements based on their proximity to NGL supplies and access to local supply infrastructure.
- Commercial advantage associated with long-term contracts – domestic sales reflect additional commercial value because they are based on stable, long-term contracts. These long-term contracts also reduce uncertainty and transaction maintenance costs. Export sales contracts lack the permanency of domestic sales because, unlike domestic customers, foreign buyers can easily change suppliers located in different countries. The lack of long-term contracts for export sales also justifies a significant price-cushion to reduce the seller's business risk.
- Commercial value of reduced volatility – the export market for NGLs is based on their use, principally in East Asia, as fuel rather than as a petrochemical feedstock. The export market is therefore characterized by large seasonal demand swings, with winter fuel demand (outside Saudi Arabia) much higher than summer demand. These variations in demand cause wide seasonal price swings. The domestic demand for

NGLs, in contrast, is focused on industrial feedstock consumption and therefore is stable throughout the year.

- Commercial value of large-volume purchases – Domestic purchasers commit to much larger volumes over the life of long-term contracts than do purchasers under spot or short-term export contracts. Customers who commit to large-volume purchases expect prices to reflect their commitment.

32. The representative of Saudi Arabia explained that due to these market differences, local NGL sales have a higher relative commercial value to the producer than sales to seasonal customers in export markets that purchase NGLs for uses such as fuel, with seasonal swings in demand. He added that producers consider NGLs sold to "industrial" versus "seasonal" customers as different products for purposes of pricing, marketing and corporate planning in general. Since NGLs are produced year-round as a by-product of oil and gas production and cannot be stored for long periods, producers of NGLs place a high commercial value on long-term "off-take agreements" under which consumers commit to buy specific quantities of NGLs year-round. Although shorter term contracts with, or "spot" sales to, seasonal consumers that purchase NGLs for heating or industrial purposes command different prices on international markets depending on seasonal demand, such arrangements are much more variable and therefore have lower relative value to larger producers who must secure off-take for year-round sales. In this sense, the export price of NGLs does not represent the commercial value of sales to local consumers. The commercially negotiated sale price of NGLs in Saudi Arabia reflects the market value to producers of local sales and ensured the full recovery of production costs and a reasonable profit. The representative of Saudi Arabia further explained that it was not appropriate, in the case of Saudi Arabian NGL supply, to address costs associated with investment in the exploration or development of oil and gas fields, as Saudi Arabian NGLs were, and would continue to be, produced only as by-products of oil and gas production rather than as a primary product.

33. In response to concerns expressed by a member of the Working Party, the representative of Saudi Arabia stated that producers/distributors of NGLs in Saudi Arabia would operate, within the relevant regulatory framework, on the basis of normal commercial considerations, based on the full recovery of costs and a reasonable profit. He confirmed that his Government's policy was to ensure that these economic operators, in respect of their supplies of NGLs to industrial users, would fully recover their production and investment costs (fractionation, overheads, financing charges, transportation, maintenance and upgrade of fractionation and distribution infrastructure) and make a profit in the ordinary course of business. The Working Party took note of these commitments.

34. Some members of the Working Party requested information on the pricing of pharmaceuticals in Saudi Arabia. It was these members' understanding that the Government set retail prices for pharmaceuticals and established retail and wholesale margins through law. They requested additional

information from the representative of Saudi Arabia on pharmaceutical pricing practices, in particular how the Government would ensure that its pricing policies would not discriminate against imported products. In addition, members sought information on where price control information was published (now and in the future), and how Saudi Arabia made proposals for establishment or change of prices available for public comment prior to implementation.

35. The representative of Saudi Arabia confirmed that pharmaceutical products were subject to price and profit regulation in the Kingdom. The Pharmacy Law, issued under Royal Decree No. M/18 of 18.3.1398H (25 February 1978), established rules for registration of pharmaceutical products and required that drugs be priced before their sale in retail pharmacies. Under this Royal Decree, pharmaceutical wholesalers and retailers were allowed a 10, 15 or 20 per cent profit margin, as set out in Annex A, depending on the export price (CIF) to Saudi Arabia. He noted that establishing a base price was currently the last step in the registration process for pharmaceuticals. After pharmaceutical products were registered to ensure their safety and quality, registered products were imported without restrictions in the form of import licenses or quotas. The representative of Saudi Arabia confirmed that locally manufactured pharmaceutical products were subject to the same registration processes, but received an additional 10 per cent margin on pricing. He confirmed that this additional margin would be eliminated prior to accession. The Working Party took note of this commitment.

36. In reply to a question from the member of the Working Party, the representative of Saudi Arabia stated that base price for imported pharmaceuticals is determined taking into account: (1) the suggested CIF price for export to Saudi Arabia; (2) export prices to other countries; and (3) therapeutic comparison of similar products. Base prices of domestic pharmaceuticals are based on the registered innovated imported products since most of the domestically produced products are generics. Innovated products manufactured locally under licence agreements are priced similar to imported products. Form 30 is used to get information on prices of pharmaceuticals sold to other countries. Local manufacturers are requested to submit Form 30 for the new innovated products produced locally through licence agreements. He added that proposals from various Ministries to amend the price control setting process had not been adopted. The representative of Saudi Arabia further stated that the Ministry of Health and other agencies participating in the price control and registration process would comply with Saudi Arabia's commitments on transparency and would provide adequate opportunities to interested parties to become familiar with and provide comments on draft proposals. The Working Party took note of this commitment.

37. The representative of Saudi Arabia confirmed that the prices of goods and services listed in Annex A were the only ones currently subject to State price or profit control. He also confirmed that

from the date of accession Saudi Arabia would apply its price regulations and profit controls in a WTO-consistent fashion, taking into account the interests of exporting WTO Members as provided for in Article III:9 of the GATT 1994 and in Article VIII of the General Agreement on Trade in Services (GATS). He also confirmed that Saudi Arabia would publish the price and profit controls of goods and services listed in Annex A, as well as any modifications or additions, in the official gazette, the *Umm al-Qura*, or in another official publication or website accessible to the public, in advance of their implementation. The Working Party took note of these commitments.

- **Privatisation and Enterprises that are State-Owned or –Controlled, or with Special or Exclusive Privileges**

38. The representative of Saudi Arabia stated that a very important component of the Economic Reform Program of the Kingdom of Saudi Arabia (circulated to the members of the Working Party in WT/ACC/SAU/54 (4 April 2003)) was privatisation. An ambitious privatisation strategy was issued by the Supreme Economic Council Decision No. 1/23 of 23.3.1423H (4 June 2002), to ensure a continued increase in the share of the private sector and to expand its participation in the national economy. This would be achieved by adopting the best available modality including transferring certain types of economic activity to the private sector, enhancing the participation of the private sector in economic development and enabling it to carry out its investment and financing role in accordance with the national development plans. The Council of Ministers had approved the privatisation of 20 state-owned utilities, economic activities and services, on the basis of the definition of "privatisation" in Saudi Arabia's Privatisation Strategy approved by the Supreme Economic Council ("Privatisation is the process of transferring ownership or management of public enterprises, projects, and services to the private sector, relying on market mechanisms and competition, through a number of methods, including contracts for managing, operating, leasing, financing or selling all or part of the government's assets to the private sector"). Although the percentages of private ownership had not been set, the end result of the process, in each case, would be to ensure a continued increase in the share of the private sector and to expand its participation in the national economy by adopting the best available modality, including transferring certain types of economic activities to the private sector. In reply to a question from a member of the Working Party, the representative of Saudi Arabia confirmed that leasing constituted privatisation. The 20 state-owned utilities, economic activities and services subject to privatisation were:

1. Water and sewage: Efforts were under way to determine the best type of management contracts and to attract new investors in the field. In Jeddah Industrial City, a build-operate-transfer (BOT) contract was granted to a private entity to rehabilitate, maintain and expand a waste water treatment facility.



2. Desalination: Studies were being conducted to explore how best to proceed with privatisation of desalination activity. The government was encouraging new investment in the field.
  3. Telecommunications: The government already had sold 30 per cent of its share in Saudi Telecom Co. to private owners.
  4. Aviation services: Studies were being conducted at Saudi Arabian Airlines to explore how best to proceed with privatisation in this field.
  5. Railways: Studies were being conducted at the Saudi Railways Organization to explore how best to proceed with privatisation in this area.
  6. Roads, including management, operation, maintenance and construction: The government was encouraging private sector investment in managing and operating existing roads. Studies are underway to explore best management modules for constructing new roads by the private sector.
  7. Airport services: BOT contracts already had been granted to the private sector to rehabilitate and operate facilities at Saudi airports.
  8. Postal services: In January 2003, 100 private sector agencies were set up to handle postal services. The government planned to open this sector to competition.
  9. Grain silos and flour mills: Studies were being conducted at GSFMO to explore how best to proceed with privatisation in this area.
  10. Seaport services: A number of BOT contracts had been granted to the private sector to manage, rehabilitate and provide services at Saudi ports.
  11. Services for industrial cities: A joint-stock company had been established in the twin industrial cities of Jubail and Yanbu to operate, maintain, manage and expand the tasks of infrastructure utilities as part of the privatisation program.
  12. Government shares in corporations such as SABIC and the Saudi Telecommunications Company: Progress is discussed in paragraphs 44 and 51, below.
  13. Government shares in joint investment companies with Arab and Islamic countries: Studies are being conducted regarding how best to issue shares of these companies to the public.
  14. Government-owned hotels: A committee had been formed to establish the value of the total assets of government-owned hotels and to recommend the best way of selling government ownership in those hotels.
  15. Sports clubs: Studies were being conducted regarding sports clubs to determine the best approach of privatizing this area.
  16. Municipal services, including slaughterhouses and waste removal: Studies were underway to structure the privatisation of municipal services.
  17. Educational services, including school construction and transportation and recruitment of Saudis into the private sector: The education sector already had received applications from the private sector to finance the provision of higher-educational services under various management contracts.
  18. Social services: Privatisation of these services is underway.
  19. Agricultural services, such as quarantine and operation of laboratories and clinics: Studies were being conducted regarding agriculture services such as quarantine and clinics to investigate the best privatisation models in this field.
  20. Health services, such as operation of health facilities and patient transportation: The management and operation of some hospitals already had been assumed by the private sector on the basis of management contract models.
39. In response to questions from members of the Working Party, the representative of Saudi Arabia stated that the legal basis for the privatisation program was the Council of Ministers

Resolution No. 60 of 1.4.1418H (5 August 1997). According to this Resolution, the objectives of the privatisation strategy were as follows:

- i. Improving the efficiency of the national economy and enhancing its competitive ability to meet the challenges of regional and international competition.
- ii. Encouraging private sector investment and effective participation in the national economy, and increasing its share of domestic production to achieve growth in the national economy.
- iii. Enlarging the ownership of productive assets by Saudi citizens.
- iv. Encouraging domestic and foreign capital to invest locally.
- v. Increasing employment opportunities, optimizing the use of the national work force, and ensuring the continued equitable increase of individual income.
- vi. Providing services to citizens and investors in a timely and cost-efficient manner.
- vii. Rationalizing public expenditure and reducing the burden on the government budget by giving the private sector opportunities to finance, operate, and maintain certain services that it was able to provide.
- viii. Increasing government revenues from returns on participation in activities to be transferred to the private sector, and from financing compensation obtained, for example, from granting concessions and from the proceeds of the sale of part of government shares.

40. In response to a question from a member of the Working Party, the representative of Saudi Arabia stated that the privatisation strategy and program, referred to in the preceding paragraphs, were complementary. They referred to the objectives, scope and modalities of privatisation. The Council of Ministers issued a list of activities to be privatised, and the Supreme Economic Council developed a strategic plan and timetable for that purpose.

41. According to Council of Ministers Resolution No. 257 of 11.11.1421H (5 February 2001), the Supreme Economic Council of Saudi Arabia was responsible for supervising the privatisation program and monitoring its implementation. In response to a question from a member of the Working Party, the representative of Saudi Arabia stated that a foreign entity could participate as a "strategic partner" and take equity participation through a Saudi limited liability company, but could not otherwise directly purchase shares of state-owned enterprises subject to privatisation. He further stated that objectives (iii) and (iv), above, were complementary and not mutually exclusive. He added that according to the Privatisation Strategy issued by Council of Ministers Decision No. 219 of 6.9.1423H (11 November 2002), its Fourth Objective specifies the policies necessary to encourage domestic and foreign capital investment in privatised enterprises.

42. He further noted that the basic principles that were taken into consideration when implementing the privatisation process were the need for disclosure and transparency, the need for expeditious implementation, the need to change the management pattern and the need to create a regulatory framework for privatised sectors. He further noted that according to the Privatisation

Strategy, the criteria for determining priorities in selecting enterprises to be privatised were based on the positive effect on the national economy, the readiness of the enterprise for privatisation, the social benefits of privatizing the enterprise, the inadequacies of the services provided by the public enterprises, and the absorptive capacity of the capital market.

43. The representative of Saudi Arabia stated that the following implementation steps had been completed to date:

- i. Tasks related to the management, operation and maintenance of port berths, as well as the provision of associated equipment, had been assigned to the private sector in accordance with Royal Decree No. 7-B-16941 of 6.11.1417H (15 March 1997), which assigned to the private sector a greater role in the management and operation of ports, and called for a review of organizational structures and related procedures, a feasibility study on establishing free trade areas at the ports and the linking of the two ports of Jeddah and Dammam by a railroad.
- ii. Efforts are underway to attract private-sector investment in a North-South railroad connection to increase Saudi Arabia's ability to develop its mineral resources.
- iii. The education sector received applications from the private sector to finance the construction of schools and to participate in providing higher education services through private colleges.
- iv. Saudi Arabia has announced that it will privatise Saudi Post. Competition will be allowed in this sector.
- v. Council of Ministers Resolution No. 169 of 11.8.1419H (30 November 1998) approved the restructuring of the electricity sector. Initial investments are to be made within the next few years.
- vi. A Saudi joint-stock utility company had been established in the twin industrial cities of Jubail and Yanbu to operate, maintain, manage and expand the tasks of infrastructure utilities as part of the privatisation program.
- vii. The Saudi Telecommunications Company was established as a business-oriented stock company providing all telecommunications services previously provided by the Ministry of Post, Telephone and Telegraph (MOPTT). In 2002, a 30 per cent stake was sold to Saudi nationals in the private sector.
- viii. In Jeddah Industrial City, a concession structured on a BOT (build-operate-transfer) basis was granted to a private entity to rehabilitate, maintain and expand a waste-water treatment facility. This was completed in March 2002.
- ix. In Jubail, a pilot concession on a build, renovate and transfer basis was being pursued as a part of a joint venture with a salt water concession company. This model will be used for future desalinization plants.

44. The representative of Saudi Arabia gave the following information on enterprises in the Kingdom that are state-owned or controlled, and enterprises with special or exclusive privileges:

- i. Saudi Arabian Basic Industries Corporation (SABIC):

Established in 1976, SABIC remained the main petrochemical producer in Saudi Arabia and the major catalyst producer for a number of downstream petrochemical products. SABIC is the largest non-oil company in the Middle East, with its industrial complexes operated by 16

affiliates. In 2002, SABIC's production capacity reached over 40 million metric tons. SABIC is also a producer of methanol and MTBE. Eight of SABIC's production companies are joint venture partnerships with international companies, including such firms as ExxonMobil, Shell Oil, Hoechst-Celanese and Duck Energy. SABIC is a partner in three joint ventures in Bahrain and has two manufacturing plants in Germany and Holland. SABIC has an ownership interest in the Saudi Arabian Fertilizer Company, which is an exporter of urea, granular fertilizer and urea fertilizer, and is 57 per cent privately owned. SABIC also fully owns Saudi Iron & Steel Company (Hadeed) which is engaged in the manufacture of a variety of steel products. SABIC's paid-up capital is SAR 20.0 billion.

Seventy per cent of SABIC is owned by the Government; the remaining 30 per cent is privatised. The company has been identified for further privatisation, but there is no timetable over which privatisation would occur.

The Government appoints the Chairman of the Board, the CEO and three other Board Members out of a total of seven. The other two Board Members represent the private sector and are nominated and selected by the shareholders' general meeting. The Government is represented on the Board, but does not play any role in setting company policy or in making operational decisions.

SABIC conducts its business based on commercial considerations. It does not enjoy any special or exclusive privileges. There are no legal impediments to competition with SABIC.

ii. Saudi Telecom Company (STC):

Saudi Telecom Company had been established following the decision of the Council of Ministers to transfer the telecommunication division, then operated by the MOPTT, to a public joint-stock company. STC had transformed itself, in a relatively short time, into one of the most technically advanced telecommunication companies in the Middle East region, offering a comprehensive range of services and products that matched other major international telecommunication companies.

Thirty per cent of STC shareholding comprising 90 million shares of SAR 50.00 each has already been sold to the general public (20 per cent) and the General Organization for Social Insurance (GOSI) and Pension Fund (10 per cent). STC's paid-up capital amounts to SAR 15 billion. The Government owns 70 per cent of STC shares. There is no timetable over which further privatisation would occur.

The Board of Directors of STC is headed by a representative from the private sector. Five of nine Directors are government officials, three are from the private sector and one is a member of the Shoura Council. The Government does not play any role in setting company policy or in making operational decisions. STC conducts its business based on commercial considerations. The representative noted that after 2006 no legal impediments to competition with STC will remain as per Saudi Arabia's Schedule of Specific Commitments.

iii. Saudi Electricity Company (SEC):

The Saudi Electricity Company, a Saudi public joint-stock company, was incorporated by Royal Decree M/16 of 6.9.1420H (14 December 1999) by merging all the electric power utilities companies and the General Electricity Corporation (100 per cent owned by the government) and its regional projects of several Government controlled regional electricity corporations into one entity that commenced operation on 5 April 2000. Its objectives, as set forth in its articles of incorporation, include electric power services in Saudi Arabia;

investment in electric power projects within and outside Saudi Arabia; import and export of electric power across Saudi Arabia's borders; investment in projects for supply of fuel to its wholly or partially owned subsidiaries and carrying out and support of research for service enhancement, power conservation, performance upgrade, environment protection and cost reduction.

About 19 per cent and 7 per cent of the company's shareholding is owned by private investors and Saudi Aramco respectively. The paid-up capital amounts to SAR 41.7 billion. About 74 per cent of shares are held by the Government.

The company was identified for privatisation on 11 November 2002, but no timetable has been established over which privatisation would occur.

The Government appoints the Chairman of the Board of SEC, who is the Minister of Water and Electricity. Of the remaining eleven Directors, six are from the private sector and five are government officials. The Ministry of Water and Electricity is not responsible for regulating SEC. The regulating authority for SEC, the Electricity and Cogeneration Authority (ECRA), is not represented on the Board of SEC. The Government does not play any role in the setting company policy or in making operational decisions.

SEC conducts its business based on commercial considerations. It does not enjoy any special or exclusive privileges. There are no legal impediments to competition with SEC.

iv. National Commercial Bank (NCB):

The National Commercial Bank is a Saudi closed joint-stock company formed pursuant to Royal Decree No. M/19 on 31 March 1997. The month of July 1997 had been determined to be the effective date of the Bank's conversion from general partnership to Saudi joint-stock company.

The Bank operates through its 245 branches in Saudi Arabia and two overseas branches (Lebanon & Bahrain). The objective of the Bank is to provide a full range of banking services, including Islamic financing projects. The Bank's paid-up capital stood at SAR 6.0 billion.

The Government owned 69.30 per cent of the stock of NCB, while the remaining stock is owned privately.

The company was identified for further privatisation, but a timetable over which privatisation would occur has not been established.

The Chairman of the Board of Directors is from the private sector. All Board Members, including the Chairman, are elected by the shareholders. Two out of a total of nine Directors are government officials. The Government does not play a role in setting company policy or in making operational decisions. NCB does not enjoy any special or exclusive privileges, and there are no legal impediments to competition with this company. NCB conducts its business based on commercial considerations.

v. Saudi Real Estate Company (SREC):

Established in 1976, the SREC has a paid-up capital of SAR 600 million. It is 64.60 per cent owned by the Government (through the Public Investment Fund). The company's operations and functions include:

- ownership development of lands;
- construction of residential and commercial properties for sale or rent;
- management of real estate owned by the company or others;
- purchase and/or production of building materials and equipment for sale or rent.

The Government appoints the Chairman of the Board of Directors of SREC. It appoints only one of a total of eight Board Members. It does not play any role in setting company policy or in making operational decisions.

SREC conducts its business on a commercial basis, and it does not enjoy any special or exclusive privileges. There are no legal impediments to competition with SREC.

vi. Saudi Arabian Oil Company (Saudi Aramco):

The Saudi Arabian Oil Company (Saudi Aramco) is a State-owned company established by Royal Decree in 1988. The company conducts its activities on a commercial basis subject to government regulations, including those related to the exploitation of national natural resources. The objective and purpose of Saudi Aramco is the exploitation of crude oil and natural gas, including their derivative products. Saudi Aramco is the sole concessionaire producing crude oil in Saudi Arabia with the exception of one enterprise in the Saudi Arabia-Kuwait Divided Zone. Saudi Aramco produced over 95 per cent, by both value and volume, of the crude oil exported from Saudi Arabia and is the only supplier of crude oil for domestic refineries. Saudi Aramco is not the sole concessionaire in the natural gas sector and significant investments by foreign investors relating to the upstream development of non-associated natural gas have been approved and are underway.

Saudi Aramco sells crude oil to domestic refineries, joint venture refineries abroad, and other foreign refineries. The company also sells in Saudi Arabia the output of domestic refineries and shares in the marketing of the output from two refineries operated with joint venture partners. Although owned by the government, Saudi Aramco had always been run by independent management and Board of Directors.

In its purchases, the company follows market-based procurement policies consistent with customary business practices. According to Saudi Aramco's official procurement policies, its major contracting objectives are completion of work on schedule, conformance with demanding technical standards and lowest overall cost to Saudi Aramco. Similar to the practices of international oil companies of WTO Members, Saudi Aramco encourages the development of a strong, broad-based local contractor community in its area of operation. To meet these objectives, Saudi Aramco conducts its purchasing programs in an equitable manner and maintains an environment intended to attract highly qualified, competitive contractors. The representative of Saudi Arabia confirmed that Saudi Aramco's procurement procedures afforded full opportunity for all qualified suppliers of goods and services of WTO Member countries to compete for participation in competitive bidding. The company selects the most technically and financially qualified contractor whose bid represented the least overall cost to Saudi Aramco.

Saudi Aramco is wholly-owned by the Government. The Chairman of the Board of Directors (the Minister of Petroleum and Mineral Resources) and three of the remaining eleven Directors are Government officials, four are members of the company's management and four are from the private sector, including three non-Saudi nationals. Although owned by the Government, Saudi Aramco is run by independent management and Board of Directors. The Government does not play any role in setting company policy or in making operational decisions.

Saudi Aramco conducts its business based on commercial considerations. It enjoys certain concessionary rights and privileges with respect to the production of crude oil, as well as certain exclusive rights and privileges in the gas sector pursuant to Council of Ministers Resolution No. 163 of 20.6.1424H (18 August 2003).

vii. Saudi Arabian Mining Co. (Ma'aden):

Ma'aden was established in 1997 as a closed joint-stock company, owned by the Government with a capital of SAR 4000 million, which would be privatised gradually. It has no monopoly over mineral rights. The company had undertaken several mining activities related to all stages of the mining industry, including development and improvement of the mining industry and products as well as related industries. The company exports gold, copper and zinc, but it does not enjoy a monopoly; exporters in the private sector are allowed to export these products.

Ma'aden is 100 per cent owned by the Government. Ma'aden is subject to privatisation under the Saudi Privatisation Strategy which was approved by the Council of Ministers in 2004. The Precious and Base Metals sector is being prepared for privatisation in 2006. The Phosphate, Bauxite and Industrial Minerals sectors would be privatised in the 2008-2010 period.

Ma'aden is registered as a commercial enterprise with full management powers given to the Board of Directors. The Minister of Petroleum and Mineral Resources is the Chairman of the Board of Directors. Of the remaining eight Directors, three are officials of the Ministry of Petroleum and Mineral Resources, one is the President of Ma'aden, one is from the Saudi Arabian Monetary Agency (SAMA) and three are from the private sector. The Ministry of Petroleum and Mineral Resources regulated the company, but the policy making and operations of the company are the sole responsibility of the Board. The articles of association, including privatisation directives, are issued by the Government.

Ma'aden's by-laws commit it to operate based on commercial considerations. Ma'aden does not enjoy any special or exclusive privileges and there are no legal impediments to competition with this company. A new Mining Law has been issued which has opened the mining sector to the local private sector and foreign companies. The law did not discriminate between local and foreign applicants. Applicants are treated on a first-come-first-served basis.

viii. Saudi Arabian Airlines (SAUDIA):

SAUDIA is 100 per cent owned by the Saudi Government. The responsible ministry is the Ministry of Defence and Civil Aviation. The first steps to privatise SAUDIA were taken in 1994, when SAUDIA laid the groundwork to allow it to operate in accordance with commercial principles in order to meet the challenges of competition in the market. SAUDIA restructured its administrative and executive sectors to reflect commercial principles. SAUDIA was subject to privatisation pursuant to the Privatisation Strategy. The privatisation schedule has not yet been set, although the general objective is to carry out initial steps in a three to five-year period. Separate privatisation timetables are being considered for core operations versus ancillary operations such as catering and ground transportation.

SAUDIA is a public and independent organisation operating under its by-laws and with legal capacity. The company is managed by a Board of Directors, which is presided over by the

Minister of Defence and Aviation and composed of Board Members appointed by resolution of the Council of Ministers. The Director General is appointed by a decision of the Council of Ministers. The Board of Directors manages and controls SAUDIA's business affairs and sets its general policies, independent of the administrative and financial regulations followed by government departments. Of the nine Board Members, three are from the private sector and six are from the Government. The Board of Directors is composed of nine members, which include the company's regulating authority, the Ministry of Defence and Aviation. SAUDIA carries out all activities relating to air, commercial and civil transport, inside and outside of Saudi Arabia. There are no other factors that indicated government control of the enterprise.

ix. Saline Water Conversion Corporation (SWCC):

SWCC is 100 per cent owned by the Government. SWCC is responsible for all government desalination plants located on the east and west coastal areas (Red Sea and Arabian Gulf). Under SWCC, Saudi Arabia's desalinated water output had surpassed one billion cubic meters in 2002. The Kingdom's desalination plants produce and provide drinking water to major urban areas through over 2,000 kilometres of pipelines.

SWCC was subject to privatisation under the Privatisation Strategy. The company conducted an internal study concerning privatisation options and timetables. Once completed, the study was submitted to the Ministry of Water and Electricity for review and approval. It was SWCC's expectation that privatisation would be undertaken within approximately three years.

The Government appoints all seven of the members of the Board of Directors, including the Chairman, all of whom are from governmental ministries. The Minister of Water and Electricity is the Chairman of SWCC Board of directors. The Board of SWCC is responsible for setting the general policies of SWCC. However, operational decisions are made by SWCC management. The Ministry of Water and Electricity and the Ministry of Finance provide some regulatory and procedural oversight of the company.

SWCC delivers desalinated water to the various local water authorities, but does not itself distribute, purchase, sell or receive payment of the water. SWCC is an independent entity under the jurisdiction of the Ministry of Water and Electricity. SWCC's funding comes solely from the Government with a small contribution from sales of excess electricity to the Saudi Electricity Company. SWCC is a governmental organization and did not operate on a commercial basis. SWCC does not enjoy an exclusive concession in this sector, and does not enjoy any other special rights or privileges. In its purchases, SWCC follows market-based procurement policies consistent with customary business practices.

x. Saudi Railways Organization (SRO):

Saudi Railways Organization (SRO) is an autonomous State agency under the jurisdiction of the Ministry of Transportation. The total network consists of 1018 kilometres of railroad line.

SRO is subject to privatisation under the Privatisation Strategy. The company is in the early stages of a process designed to attract private sector developers who will build, own and operate both existing rail lines and newly constructed rail lines within Saudi Arabia. The company is scheduled to hold preliminary meetings with potential bidders for these projects.

The SRO was established by Royal Decree M/3 of 22.1.1386H (13 May 1966), as a wholly owned entity of the Government of Saudi Arabia. The SRO budget is covered by the General Budget of the Government of Saudi Arabia.



The Supreme Economic Council of the Kingdom of Saudi Arabia issued Resolution No. 23/3 on 23.3.1423H (5 June 2002), to upgrade and expand the existing railway network in Saudi Arabia through the construction of the Saudi Landbridge and the Makkah Madinah Railway link on a Build, Operate and Transfer basis. SRO was appointed to this project, according to the abovementioned Resolution as the Executing Agent.

The Government appoints all six Directors, including the Chairman of the Board, who is the Minister of Transportation. The implementing regulation of Royal Decree M/3 of 22.1.1386H (13 May 1966) named the Minister of Transport as the Chairman of the Board of Directors of SRO, and stipulated the structure of the Board of Directors to be composed of, predominantly, senior representatives of various Saudi Arabian Ministries. Of the six Directors, four representatives are appointed by the Ministry of Finance, Ministry of Commerce and Industry, Ministry of Petroleum and Mineral Resources and Ministry of Transportation. The Ministries of Finance and Commerce and Industry have some regulatory oversight of the company.

SRO's policies are set by its Board of Directors. The company's operational decisions are made by the President of SRO. In certain cases, the President obtains the approval of the SRO Board of Directors.

In accordance with Royal Decree M/3 of 22.1.1386H (13 May 1966), SRO is responsible for the implementation and operation of the Railways projects in Saudi Arabia, and projects that are directly related to transportation *via* the Railways network.

The statutes and by-laws of the SRO empower the organization to enter into contracts and undertake the procurement of goods and services for the realization of its declared objectives and the development of its operation and activities.

SRO conducts its business based on commercial considerations. As provided under Royal Decree M/3, SRO is the sole agency in charge of railway transport in Saudi Arabia and all that relates to the operation of railway transport and development thereof. No other private or governmental organization is empowered to carry out similar competing activities. SRO has no stand-alone financial independence and does not have capital denominated in shares of any type.

xi. National Company for Cooperative Insurance (NCCI):

NCCI provides cooperative insurance in the Kingdom. On 29.3.1425H (18 May 2004), the Government announced that it would begin to sell its shares of NCCI to the private sector. The initial public offering of 50 per cent of NCCI's shares was completed in January 2005. Thus, NCCI is 50 per cent owned by the Government. After the initial public offer had been completed, a new Board was elected by the shareholders' general meeting.

The company was identified for further privatisation, but there was no timetable over which privatisation would occur. The Chairman of the Board of Directors is a government official elected by the Board Members. Two of the seven members of NCCI's Board of Directors are government officials. The Government does not play any role in setting company policy or in making operational decisions.

NCCI conducts its business based on commercial considerations, and it does not enjoy any special or exclusive privileges. There are no legal impediments to competition with NCCI.

xii. Grain Silos and Flour Mills Organization (GSFMO):

GSFMO was established by Royal Decree in 1972 to support the development of the domestic agricultural sector, particularly wheat production for national security reasons, by forming a grain storage and flour production conglomerate, as well as by creating a stable market for grains in order to safeguard farmers from price fluctuations. GSFMO was 100 per cent owned by the Government. The Ministry of Agriculture is responsible for the operation of GSFMO and the Minister of Agriculture is the Chairman of the Board of Directors. The Government appoints eight Directors, of whom six are government officials and two are from the private sector.

GSFMO has eleven facilities in Saudi Arabia: six integrated silo, flour mill and feed mill facilities and five silo facilities. Wheat flour produced by GSFMO is subject to price controls with the aim of providing all people (especially the poor) with a stable, low-cost food source.

Although the GSFMO facilities represent all of the mills and silos in Saudi Arabia, no legal measure prevents the construction and operation of additional facilities by the private sector. In addition, as discussed below, all of these facilities were scheduled for privatisation in accordance with the Saudi Privatisation Strategy. Nothing prevents private sector operators from requesting GSFMO to mill their flour, which GSFMO would agree to do at a commercially-agreed rate, although such interest had not arisen in the past because flour was imported by the private sector in processed form.

GSFMO operates on a commercial basis in competition with the private sector. GSFMO had previously imported wheat, wheat flour and barley under special government mandates. GSFMO's mandate to import wheat products was terminated in 1987 by Royal Decree No. 115/8 of 27.1.1407H (2 October 1986); GSFMO's mandate to import barley was terminated in 1999 by Royal Decree No. 184 of 24.9.1419H (14 December 1998). In response to a question, the representative of Saudi Arabia stated that eighteen private firms are importing these products following the termination of GSFMO's monopoly.

Since 1999, GSFMO's international trading activities have been limited to importing corn and soybeans, which are mixed as feed additives and sold to poultry and dairy farmers as animal feed. GSFMO does not receive any financial support or assistance from the Government to import these products, for which it competed with the private sector under international market conditions. GSFMO's import decisions are informed exclusively by conditions of market supply and demand. Furthermore, GSFMO no longer issues licenses or permits of any kind for importing or exporting any products, pursuant to Royal Decree No. 184 of 24.9.1419H (14 December 1998). GSFMO procures wheat from Saudi farmers at regulated prices, but does not export wheat or any other product. In response to a question raised by a member of the Working Party, the representative of Saudi Arabia confirmed that GSFMO receives support for domestic wheat purchases as indicated in Communication from the Kingdom of Saudi Arabia, *Domestic Support and Export Subsidies in the Agricultural Sector* (WT/ACC/SPEC/SAU/1/Rev.9, 28 April 2004).

The representative of Saudi Arabia confirmed that all of GSFMO's operations are subject to privatisation under the Saudi Privatisation Strategy. In this regard, the Minister of Agriculture has requested the World Bank to conduct a detailed study of the optimal strategy of privatisation of GSFMO. The specific form and timetable for privatisation would be based on the results of the World Bank study. The representative of Saudi Arabia undertook to report to WTO Members on the progress of GSFMO's privatisation.

There were no legal impediments to competition with GSFMO.

xiii. Specialized Financial Institutions (SFI):

In the financial sector, there are five Government-owned SFIs:

- a. Saudi Arabian Agricultural Bank (SAAB), subject to privatisation (the schedule had not yet been set);
- b. Saudi Industrial Development Fund (SIDF);
- c. Public Investment Fund (PIF);
- d. Real Estate Development Fund (REDF); and
- e. Ministry of Finance Lending Program.

45. The representative of Saudi Arabia stated that the role of the SAAB is explained in paragraphs 237-238 of the Report; the role of SIDF is explained in paragraph 187 of the Report. The PIF was originally established to finance projects in the public sector. That continues to be the major focus of the PIF. However, its role had evolved. For very large projects which were strategically important, but for which private-sector investors on their own could not raise financing, the PIF provided long-term financing on a commercial basis on the condition of co-financing by commercial banks. Further, the PIF was the custodian of the shares owned by the government in publicly traded companies. It also managed the sale of the shares of government-owned enterprises as the government embarked on privatisation. He stated that the role of the PIF would gradually shrink as the private sector assumed a leading role in the economy and the privatisation program progressed. The representative further stated that the objective of the REDF was to provide interest-free loans to Saudis to build houses for their own use. He also reported that the Ministry of Finance Lending Program was started some 30 years ago to provide funding for some essential sectors where the private sector funding was not forthcoming because of a shortage of funds or non-availability of commercial lending at that time. The lending was now for human resource development. In response to a question from a member of the Working Party, the representative of Saudi Arabia stated that lending for human resource development was aimed at training and upgrading the skills of Saudi work force in the private sector. The lending is available for Saudi employees of all firms in Saudi Arabia, whether Saudi or foreign-owned or joint ventures.

46. The representative said that a major difference in operations of these Funds and in commercial bank lending was that, whereas commercial lending was generally available for short-term financing in Saudi Arabia, these Funds provided medium- and long-term financing. The role of these funds, he said, had evolved in tune with developments in the economy. For example, the role of the REDF would decline substantially due to the fact that its financial resources were limited, while there was a huge demand for the loans. Thus, the fund could meet only a small percentage of requests for housing loans. Consequently, the loans provided by commercial banks were rising. The role of SAAB and SIDF would also keep evolving as the capital market developed and diversified.

47. These funds did not encroach on commercially viable lending, he reported. In fact, they complemented commercial lending. Whereas commercial lending was on a short-term basis in Saudi Arabia, these Funds provided financing on a medium- and long-term basis. Co-financing by commercial banks was a prerequisite for lending by the funds. Thus, at least 50 per cent of financing a project had to be arranged from commercial banks.

48. In response to a question from a member of the Working Party, the representative of Saudi Arabia stated that the specialized financial institutions supplemented lending by the private sector financial institutions and did not encroach upon their business. For example, the Saudi Arabian Agricultural Bank (SAAB) provided loans in the agricultural sector where the private sector banks were traditionally reluctant to offer lending. Similarly, the Saudi Industrial Development Fund (SIDF) provided loans to new industrial enterprises and for replacement and modernization of machinery of existing enterprises focusing principally on segments where private sector banks were shy. As stated earlier, SIDF loans were available, for up to 50 per cent of the project cost only and were available to wholly-owned foreign companies and Saudi-owned companies. SIDF filled the vacuum left by private sector banks. He further stated that loans by PIF were conditioned on co-financing by commercial banks, which clearly showed that specialized financial institutions were not encroaching on the business of private sector banks.

49. The representative of Saudi Arabia further added that the terms and conditions of lending by these institutions were based on viable economic factors, with each institution having its own terms and conditions, tailored to the needs and requirements of particular sectors and ensuring the viability of the financial institutions. In fact, the interest and charges by these institutions are close to the market driven rates.

50. In reply to a further question, the representative of Saudi Arabia stated that there were no plans to privatise the specialized financial institutions, except the SAAB. However, as stated earlier, their role was on the decline and that of the commercial banks was on the rise.

51. The representative of Saudi Arabia informed members of the Working Party that the public enterprises partially privatised according to the definition in the Privatisation Strategy so far included the following:

- i. Saudi Electricity Company (19 per cent private ownership);
- ii. Saudi Arabian Fertilizer Company (57 per cent private ownership);
- iii. Saudi Arabian Basic Industries Corporation (SABIC) (30 per cent private ownership);  
and
- iv. Saudi Telecommunications Company (30 per cent private ownership).

52. The representative of Saudi Arabia confirmed that, from the date of accession, enterprises that are state-owned or -controlled, and enterprises with special or exclusive privileges, as defined in paragraph 44, would make purchases of goods and services, which are not for government use, and sales in international trade in accordance with commercial considerations, including price, quality, availability, marketability and transportation, and would afford enterprises of WTO Members adequate opportunity, in conformity with customary practice, to compete for such purchases or sales. He also confirmed that Saudi Arabia would notify enterprises falling within the scope of Article XVII upon accession to the WTO. With respect to privatisation, the representative of Saudi Arabia confirmed that from the date of accession, Saudi Arabia would provide WTO Members with annual reports on the status of privatisation in the Kingdom. The Working Party took note of these commitments.

- **Investment Regime**

53. The representative of Saudi Arabia informed the Working Party that a new Foreign Investment Law, replacing the Foreign Capital Investment Law, had been promulgated by Royal Decree No. M/1 of 5.1.1421H (9 April 2000). Implementing Regulations under the new Foreign Investment Law had been issued on 24 June 2002. In response to questions from members of the Working Party, the representative of Saudi Arabia noted that the Kingdom had started the process of attracting FDI long ago when it issued the first Foreign Investment Law in 1956. Another Law followed in 1962 and, in 1979, Saudi Arabia issued a more comprehensive Law, which included wide-ranging incentives for investment, such as exemption of customs duties for production inputs, nominal rental rates for land for the establishment of projects, financial assistance in the form of soft loans and exemption of exports from taxes and duties. The 1979 Foreign Capital Investment Law had granted industrial and agricultural projects a 10-year tax holiday and a 5-year tax holiday for other projects, provided that national capital formed 25 per cent of the project capital and on condition that this percentage did not decrease during the holiday period. The Law was amended to grant an additional 10-year tax holiday to expansions of existing projects. But, to enjoy the incentives, the 1979 Law required that foreign investments be: (i) at least 25 per cent Saudi; (ii) among the specified projects of the national development plans; and (iii) of high technical content with foreign expertise to facilitate the transfer of technology.

54. The representative of Saudi Arabia clarified that, to address developments that took place in the international and regional economic landscape, the investment laws were overhauled in April 2000, by the enactment of a new foreign investment law to build on the strengths of the old law and provide additional incentives to increase the level of FDI in the Kingdom. The new 2000

Foreign Investment Law provided the legal structure necessary to attract additional investment. One of the features of the new Law was its departure from tariff incentives and use of other FDI-promoting measures in conformity with the recent global liberalization of trade and investment. A comparison of the old 1979 Law and the new 2000 Law is attached as Annex B (Comparison of the Provisions of the Old 1979 and the New 2000 Foreign Investment Laws). In addition, in response to questions by members of the Working Party, the representative of Saudi Arabia confirmed that the Saudi Arabian General Investment Authority (SAGIA) imposed no other requirements or criteria for new investments or foreign investments, other than those in the Foreign Investment Law of 2000 and its Implementing Regulations.

55. Members of the Working Party requested information on whether GCC nationals received preferential treatment in Saudi Arabia. The representative of Saudi Arabia replied that GCC nationals are treated as Saudi nationals for the purposes of investment.

56. Some members of the Working Party requested clarification of whether there were any formal requirements setting a minimum level of Saudi participation in any business venture. The representative of Saudi Arabia stated that under the new law on foreign investment there was no requirement of a minimum share for Saudi investors. Therefore, foreign investors are no longer required to take local partners and are permitted to own real estate for company and housing purposes. In the past there had been minimum capital investment requirements of SAR 25 million for agricultural projects, SAR 5 million for industrial projects and SAR 2 million for services projects. However, to ensure compatibility with WTO rules, Saudi Arabia had removed these requirements by applying national treatment pursuant to SAGIA Board of Directors Decision No. 1/44 of 19 April 2005, except as noted in Saudi Arabia's Schedule on Specific Commitments in Services. Under the new Foreign Investment Law, a foreign investment may take one of the two following forms:

- i. an enterprise owned by foreign and national investors, i.e., joint ventures, but with no requirement for minimum share for national investors; or
- ii. an enterprise wholly-owned by foreign investors, i.e., 100 per cent foreign shareholders' equity.

57. The Saudi representative stated that a project, whether wholly-owned by foreign investors or a joint-venture, licensed in accordance with the Law, enjoyed all benefits, incentives and guarantees available to a national project. In response to a question from a member of the Working Party, the representative of Saudi Arabia stated that Specialized Financing Institutions were not providing financing for services projects. For example, the Saudi Arabian Agricultural Bank (SAAB) and the Saudi Industrial Development Fund (SIDF) provided financing for agricultural and industrial projects, respectively. Under the new Law, a foreign investor was entitled to transfer, outside the Kingdom of

Saudi Arabia, the proceeds from the sale of his shares or the excess funds from the liquidation of his assets or the profits earned by the enterprise or from the disposal of the business in any other legal manner. Further, the investor was entitled to transfer outside the Kingdom of Saudi Arabia the required funds to settle any contractual obligations related to the project. Article 11 of the new Foreign Investment Law provided legal safeguards against confiscation or expropriation of foreign investments. It was not permissible to confiscate foreign investments, wholly or partially, except by a court order. In addition, it was not permissible to expropriate the ownership of foreign investments, wholly or partially, except for the public interest, and on payment of reasonable compensation in accordance with the law. The representative stated that foreign investment was permissible in all activities, except a short "Negative List", which would be revised and shortened periodically. Members of the Working Party also inquired as to the specific content of the Negative List. In response, the representative of Saudi Arabia stated that the Negative List, which was issued by a decision of the Supreme Economic Council under Article 3 of the Foreign Investment Law, did not target specific companies; rather, it applied to certain limited industrial and services sectors. The Saudi representative reported that the list would be updated prior to accession, to reflect the commitments in Saudi Arabia's Schedule on Specific Commitments in Services annexed to its Protocol of Accession. He further noted that, following accession, Saudi Arabia would annually review and remove additional items from the Negative List each year (beyond Saudi Arabia's WTO commitments), to further liberalize the economy. In response to a further question from a member of the Working Party, he reported that the Negative List currently was being revised by the Supreme Economic Council to remove additional sectors from it and was subject to annual review and revision. The Negative List, including significant exceptions allowing the provision of certain printing and publishing services and certain telecommunications services, was at Annex C.

58. Some members of the Working Party requested clarification of the incentives offered by Saudi Arabia to foreign investors to invest in Saudi Arabia in order to support the inflow of technology and expertise, in particular whether technology transfer was in any way a condition for investment approval in all or certain areas. The representative of Saudi Arabia replied that under the new Foreign Investment Law of 9 April 2000, technology transfer was not a condition for investment approval. A foreign investor had to approach only one authority - the Saudi Arabian General Investment Authority (SAGIA) - to obtain a licence. In reply to a question from a member of the Working Party, the representative of Saudi Arabia stated that Saudi investors are not required to apply and obtain from SAGIA a licence to invest in the Kingdom, but foreign investors are required to apply and obtain a licence from SAGIA. This national treatment limitation was inscribed in Saudi Arabia's Schedule on Specific Commitments in Services. In response to a further question, the representative confirmed that investors could obtain information and assistance, as well as all of the necessary

registration forms, including the forms for specific licenses, from SAGIA. SAGIA was required to decide on the investment application within 30 days from the date all required documents were submitted. SAGIA would also serve as the enquiry point on laws, regulations and procedures relating to foreign investment. The SAGIA licence provided the foreign investor all of the privileges held by local investors. In response to a question from a member of the Working Party regarding whether the SAGIA licence was the only licence or approval required by a foreign investor, the representative from Saudi Arabia stated that, after obtaining the SAGIA licence, the foreign investor was treated the same as any local investor and, thus, for certain businesses, must apply to the Ministry of Commerce and Industry to obtain a commercial registration. For investments in financial, communications, education, information or medical services sectors, investors were required to obtain a licence from SAMA, the Telecommunications Authority and the Ministries of Education, Higher Education, Information and Culture or Health, respectively. In addition, the Ministry of Commerce and Industry issued licenses for foreign investors in professional and consulting services, e.g., engineering and accounting. In other words, he said, a licence was required for each business depending upon the nature of the business. The licensing requirements, he reported, were the same for Saudis and non-Saudis. For example, a company (whether Saudi or non-Saudi) seeking to establish a company and set up a hospital—whether backed by a national or a foreign investor—would need to obtain a company registration and permit from the Ministry of Commerce and Industry and a health practice permit for hospitals from the Ministry of Health. Similar requirements would apply to persons seeking to establish a school or a department store. In response to a further question, the representative noted that the new Foreign Investment Law and the implementing regulations provided that foreign investment ventures had the right to own real estate to the extent necessary to carry out their licensed activities and to accommodate their employees, in accordance with regulations of property ownership for non-Saudis. Further, it was provided that foreign investors had the right to sponsor and bring their non-Saudi employees, subject to the numerical limits set out in Saudi Arabia's Schedule on Specific Commitments in Services and paragraph 66 of the Working Party Report. The representative confirmed that individuals contemplating investing in Saudi Arabia, and their support staff, could obtain visas for a period of up to six months, for single entry or multiple entries, based on a request to SAGIA, the Chamber of Commerce or the Ministry of Foreign Affairs, including Saudi embassies.

59. The representative of Saudi Arabia further noted that the Foreign Investment Law allowed foreign investors to invest in local or foreign ventures, provided that general conditions applicable to new investments were met. A foreign investor could apply for multiple licenses permitting different activities, provided that the foreign investor was not the owner of or a shareholder in a project which was in financial default.



60. Some members of the Working Party asked whether the government had issued licenses to 100 per cent foreign-owned operations. In response the representative of Saudi Arabia stated that 1,540 licenses had been issued for wholly foreign-owned enterprises. In response to further questions, he noted that, under the new Foreign Investment Law of April 2000 "national treatment" was given to foreign investors. He further stated that, in the view of Saudi Arabia, the Foreign Investment Law was fully consistent with the WTO Agreement on Trade-Related Investment Measures (TRIMs Agreement) and that Saudi Arabia did not apply any TRIMs prohibited by the Agreement.

61. In response to questions from some members of the Working Party concerning whether the Government of Saudi Arabia planned to liberalize its stock market and open it to non-Saudi investors, the representative of Saudi Arabia stated that Saudi Arabia was gradually changing its regulations concerning participation of foreign investors in the stock market. Although direct share trading in Saudi Arabia was restricted to Saudi and GCC nationals, there were no restrictions on investment by foreign investors in Government Bonds, Treasury Bills or Saudi mutual funds. There were non-GCC nationals that held shares of public joint-stock companies which were traded in the equity share market, but those non-GCC nationals were required to receive permission from the Capital Market Authority (CMA) prior to buying or selling their shares. In its continuous review and assessment of the development of the financial market, the Kingdom of Saudi Arabia had allowed the establishment of a close-ended fund (SAIF) listed on the London Stock Exchange through which international investors could participate in the Saudi shares market. In November 1999, Saudi Arabia had made further changes to its regulations and now permits foreigners to invest in open-ended mutual funds managed by banks that invest in the Saudi equity shares market. In response to a question from a member of the Working Party, he reported that the rationale for allowing GCC nationals to invest directly in the Saudi Stock Market was the requirement of the GCC Unified Economic Agreement. Given the current level of maturity (size and depth) of the Saudi Stock Market and the volatility of portfolio investment, a policy of gradual liberalization was being followed. In response to a question from a member of the Working Party, the representative of Saudi Arabia stated that foreign investors are permitted to participate directly in the following areas of the capital market: corporate debt, government debt and derivatives thereof, and mutual funds, and that the Government was considering the implications of allowing the participation of foreign investors in the stock market to buy and sell shares. He said that all the pros and cons would be considered before a decision is taken whether or not to open the stock market to foreign investors. The representative stated that no timeframe had been set for this decision.

62. In response to questions from members of the Working Party, the representative of Saudi Arabia reported that the newly adopted Capital Market Law, promulgated by Royal Decree

No. M/30 of 2.6.1424H (13 July 2003), established a strong government regulatory body, the CMA. The CMA had rule-making and enforcement powers necessary to guarantee that the Kingdom's security market was fair, efficient and vibrant. The CMA had the authority to promulgate and enforce rules for the disclosures necessary in connection with the offering of securities, the continuous disclosure obligations of publicly traded companies, disclosures and practices in connection with takeovers of public companies, the regulation of proxy solicitations; and to define and police insider trading and other abusive securities practices. Most notably, the CMA had powers to licence non-bank financial intermediaries engaged in investment banking activities, such as corporate finance, asset management and brokerage activities. Non-bank financial intermediaries had been required to incorporate as public joint-stock companies, with a minimum capital of SAR 50 million. In response to a question from a member of the Working Party, the representative of Saudi Arabia confirmed that there was a minimum capital requirement of SAR 50 million for non-bank financial intermediaries engaged in brokerage business to incorporate as a public joint-stock company. In response to a further question from the same member, the representative of Saudi Arabia stated that the Capital Market Law had no restriction on investment banks underwriting and brokering the initial public offerings of joint-stock companies in Saudi Arabia.

63. The representative of Saudi Arabia further noted that the new Capital Market Law also stipulated the creation of the Saudi Arabian Securities Exchange. The Exchange was the exclusive securities market of the Kingdom. Its nine-member Board of Directors included three public directors representing the Ministry of Finance, SAMA and the Ministry of Commerce and Industry. In addition, the Law empowered the Exchange to establish professional and ethical standards for brokers and required the Exchange to establish as one of its departments the Securities Deposit Centre, which had responsibility for the clearance and settlement of all securities transactions executed on the Exchange. The Centre also maintained the record of ownership for all securities traded on the Exchange. The law also called upon the CMA to establish and maintain a tribunal with exclusive jurisdiction to resolve all disputes involving securities. (The provisions of the Capital Market Law are summarized at Annex D (Summary of the Provisions of the Capital Market Law).)

64. Some members of the Working Party asked whether Saudi Arabia planned to remove its restrictions on foreign investment in exploration and extraction of hydrocarbons. The representative of Saudi Arabia replied that significant investments by foreign investors relating to the upstream development of non-associated gas had been approved; others were underway. He noted that, for reasons of important national policies, restrictions on foreign investment in the upstream sector, though relaxed, could not be completely removed.

65. Some members of the Working Party sought a clarification about an article of the Implementing Regulations which said that licenses granted must not violate Saudi Arabia's regional or international agreements and asked Saudi Arabia to indicate where this might occur. They further requested Saudi Arabia to clarify the relationship of Implementing Regulations to the Foreign Investment Law and enquired whether there were current plans for any additional elaboration of the Regulations. In response to these, the representative of Saudi Arabia stated that Article 5 of the Implementing Regulations provided that granting a foreign investment licence must not contravene international or regional treaties signed by the Kingdom of Saudi Arabia. These included the WTO Agreement, the GCC and other treaties signed by Saudi Arabia. He explained that, for example, Saudi Arabia would not issue any licence to produce chemicals or materials that were restricted under regional or international agreements to which Saudi Arabia was a party. Similarly, Saudi Arabia would not issue licenses to produce materials that were in breach of a regional or international agreement on environmental protection to which Saudi Arabia was a party. With regard to the observations of Working Party members on Implementing Regulations, the representative of Saudi Arabia explained that Implementing Regulations were in the nature of by-laws issued by SAGIA, under Article 17 of the Foreign Investment Law, to implement the Law. He stated that there were no current plans for additional elaboration of the Implementing Regulations.

66. Members of the Working Party asked that Saudi Arabia clarify its rules regarding employment of Saudi nationals. In response, the representative of Saudi Arabia noted that Council of Ministers Decision No. 50 of 21.4.1415H (27 September 1994) and Council of Ministers Bureau Letter 8/490 of 28.6.1414H (13 December 1993) set forth requirements regarding the hiring and employment of Saudi nationals. He emphasized that the rules were designed to increase the employment of Saudi nationals in the Kingdom, and applied to Saudi as well as non-Saudi investors. The rules were as follows:

- i. Companies of all types and activities should endeavour to attract and retain nationals.
- ii. Companies employing 20 or more people should increase the proportion of nationals employed by 5 per cent each year. The 5 per cent figure is subject to modification according to workforce availability, the nature and condition of the work and the availability of Saudis to fill the particular position(s).
- iii. Companies should, while working to reach this average, employ nationals in a variety of positions.
- iv. Companies should not appoint a non-Saudi personnel officer, recruitment officer, receptionist, cashier, civilian security guard and transaction follow-up clerk to government departments.
- v. Violations of i-iv, above, could result in penalties ranging from suspension of approval of requests for workers to deprivation of credit or removal from consideration for governmental tenders or bids.

67. In response to a question from a member of the Working Party, the representative of Saudi Arabia confirmed that the above-noted requirements were still in effect for Foreign Direct Investment. In response to a question from a member of the Working Party, the representative of Saudi Arabia stated that the requirements applied on a national treatment basis whereas the numerical limits set out in the Schedule on Specific Commitments in Services (10 or 15 per cent) applied to foreign service suppliers only and that these were covered by the national treatment limitation on Mode 4.

68. In addition, the Saudi representative reported, under Decision No. 50 and Council of Ministers Bureau Letter No. 8/490, the Ministry of Labour and Social Affairs had established a Committee to implement and oversee the provisions set forth above. The Committee was headed by the Deputy Minister or a person he appointed, and comprised delegates from the Ministry of Interior and the Ministry of Commerce and Industry.

69. The representative of Saudi Arabia noted that, prior to accession to the WTO, the hiring and employment restrictions set forth above would be modified, as necessary, to comply with the provisions of the Saudi commitment on services as described in Saudi Arabia's Schedule on Specific Commitments in Services. The Working Party took note of this commitment.

### **III. FRAMEWORK FOR MAKING AND ENFORCING POLICIES**

70. The representative of Saudi Arabia explained that the Basic Law of Governance, instituted by Royal Decree No. A/90 of 27.8.1412H (1 March 1992), set down the law concerning political authority within Saudi Arabia. Article 56 of the Basic Law of Governance stated that the King was the Chairman of the Council of Ministers and was assisted by Ministers in the performance of his duties. The Basic Law of Governance also stated that the Law of the Council of Ministers laid down the powers of the Council regarding internal and external policies; the organization and coordination of the various Government authorities; and the conditions to be satisfied by, the powers of, the method of responsibility and all affairs of the Ministers.

71. He recalled that, pursuant to Article 17 of the Consultative Council Law, resolutions passed by the Consultative Council were forwarded to the Chairman of the Council of Ministers, who passed them to the Council of Ministers for consideration. When the points of view of both Councils were in agreement, they were enacted after being approved by the King. In case of a difference of opinion, the King approved what he considered appropriate. Article 70 of the Basic Law of Governance and Article 20 of the Council of Ministers Law provide that laws were enacted and amended, and treaties, international agreements and concessions were approved and implemented, by Royal Decrees after having been considered by the Consultative Council and the Council of Ministers, respectively. In

response to a question from the members of the Working Party, the representative of Saudi Arabia confirmed that, under Article 70 of the Basic Law of Governance (Royal Decree No. A/90 of 27.8.1412H (1 March 1992)), Royal Decrees were the legal instrument by which international agreements and treaties were implemented into domestic law. In accordance with the lawmaking process described above, international agreements and treaties were first referred to the Council of Ministers and the Consultative Council for approval. Upon receiving approval of both bodies, the relevant agreement or treaty became part of domestic law by means of Royal Decree. International agreements and treaties did not take precedence over other provisions of domestic law, nor did other provisions of domestic law take precedence over international agreements or treaties. Rather, conflicts or inconsistencies between international agreements and treaties and other provisions of domestic law were resolved in accordance with the same rules of interpretation that were applied to domestic legislation, e.g., more recent laws took precedence over older laws. In response to a question from a member of the Working Party, the representative further noted that the rules of interpretation were as follows: (i) an international agreement could not override a rule of Shari'a (e.g., the prohibition on the importation, sale or consumption of alcoholic beverages could not be supplanted by an international agreement); (ii) given an apparent inconsistency between an international agreement and domestic law, the text of each would be interpreted so as to avoid any conflict; and (iii) where the text did not resolve the conflict, recourse could be had to the intent and purpose of the agreement and the law. Where a conflict still existed, he reported, the conflict would be resolved following the rule that a new law or international agreement to which the Kingdom had agreed was superior to previous laws or international agreements (with the exception noted above that no law or international agreement could overturn a Shari'a rule).

72. In response to a question from members of the Working Party, the representative of Saudi Arabia stated that trade policies were implemented by means of the enactment of an appropriate new law (*nizam*). As part of the lawmaking process, the draft legislation was prepared by the relevant government agency (e.g., the Ministry of Commerce and Industry), which then submitted it to the Council of Ministers and the Consultative Council for comments. Both bodies reviewed the draft law and either agreed with the text put forward by the government agency or proposed changes to it. If the Council of Ministers and the Consultative Council had divergent views of the draft legislation, then those views were communicated to the King who resolved the matter by deciding which view should prevail. The final text of the legislation was then promulgated in the official gazette (*Umm Al-Qura*). The representative of Saudi Arabia further explained that a new law would originate in the ministry having authority over the subject matter of the law. The ministry would submit the draft law to the Council of Ministers, which would conduct an initial review. If the Council approved the draft, it would send the draft to the Bureau of Experts. The Bureau of Experts would review the draft to

ensure that the draft would accomplish its purpose and comply with international legal and/or technical norms. If the Bureau approved the draft law, it would submit it to the Shoura Council, Saudi Arabia's consultative legislative council. The role of the Shoura in this process was to ensure the compatibility of the draft law with international legal norms and with Saudi Arabia's local and international policies. The Shoura Council would then send the law to the Council of Ministers for its final approval. Last, the Council of Ministers, having approved the draft law, would submit it to the King for his assent. After the King issued a Royal Decree enacting the law, the law was returned to the ministry that drafted the law. Subject to the law and the Royal Decree, the ministry would be responsible for all aspects of implementation, including the promulgation of implementing regulations required for implementation within the time period specified in the law and the Royal Decree and, in some cases where necessary, additional laws (subject to approval of the Council of Ministers).

73. The representative of Saudi Arabia further clarified that a law itself specified the date on which it took effect (typically on a certain date after publication in the official gazette). It also specified the agency or agencies that were responsible for drafting and approving the implementing regulations. The purpose of the implementing regulations was to set out the procedural and administrative details by which the provisions of the new law were implemented. They were drafted by the relevant government agency and published in the official gazette. A function of the legislative process was to identify potential conflicts and inconsistencies between the proposed new law and other applicable laws. Therefore the new law, when finally promulgated, generally dealt with such matters, and superseded any conflicting previous law. Occasionally, laws and implementing regulations required further interpretation. These interpretations took the form of ministerial decisions or directives and were generally limited to matters that were not legally significant. The representative of Saudi Arabia confirmed that the process of lawmaking and regulation preparation and drafting that applied to the implementation of trade policies was the same process that applied to the implementation of purely domestic policies.

74. The representative of Saudi Arabia further confirmed that the Kingdom had acceded to the Vienna Convention on the Law of Treaties 1969, pursuant to Council of Ministers Resolution No. 165 of 24.6.1423H (1 September 2002). In response to further questions, the representative of Saudi Arabia stated that Article 70 of the Basic Law of Governance provided that international agreements entered into force as domestic laws following their ratification by Royal Decree and enactment by the Consultative Council and Council of Ministers. As a general rule, should Saudi Arabia's laws or other acts be found to contradict international treaties or agreements, Saudi Arabia would bring its laws or other acts into conformity with such treaties or agreements, and would respond quickly to instances in which inconsistencies were brought to the attention of Saudi

officials. He noted, however, that this principle did not apply in respect of fundamental religious rules and principles, such as prohibiting the consumption of alcohol and pork.

75. A member of the Working Party later inquired as to the hierarchy of Saudi legal instruments. The representative replied that the order was not in all cases firmly established, but generally operated as follows:

- i. Shari'a: Shari'a functioned as the supreme law of the land and was not subject to modification by legislation or international agreement.
- ii. Royal Decree: Royal Decrees were issued by the King to enact primary legislation and amendments approved by the Council of Ministers, and to approve international treaties.
- iii. Royal Order: Royal Orders were issued by the King and could address any matter.
- iv. Council of Ministers Decisions: The Council of Ministers had authority to promulgate Implementing Regulations to address particular matters raised under primary legislation, without a Royal Decree or Order. Council of Ministers Decisions, however, cannot amend or change laws enacted by Royal Decrees.
- v. Ministerial Decisions: Implementing Regulations were made effective through Ministerial Decisions. These could not amend or change enacted laws.
- vi. Circulars: Circulars were issued by Ministries to clarify to the public the rules and regulations that applied pursuant to a particular piece of legislation.

76. The representative of Saudi Arabia described the role and functions of the following cabinet-level councils and authorities:

- i. The Supreme Economic Council (SEC) was established in August 1999 to evaluate economic, trade, industrial, agricultural and labour policies to assess their effectiveness. The SEC also oversaw economic restructuring and privatisation aimed at opening Saudi markets and attracting investment.
- ii. The Saudi Arabian General Investment Authority (SAGIA) was created to further promote foreign investment and serve the business community as a one-stop shop.
- iii. The Supreme Commission of Tourism was established to promote the tourism sector.
- iv. The Food and Drug Authority was established to secure consumer protection regarding the safe use of all foodstuffs, pharmaceuticals and medical equipment.

77. The representative of Saudi Arabia stated that the role and functions of different Ministries and agencies concerned with WTO issues was as follows:

- i. The Ministry of Commerce and Industry was the principal government agency concerned with formulation and conduct of trade policies, and with the development, support and encouragement of commercial activities within the Kingdom. It implemented the laws and regulations relating to trade, in particular the Companies Law, the Law on Commercial Registration and the Law on Commercial Agencies. The Ministry also formulated policies and procedures for the development and promotion of industries. It was responsible, through the Saudi Arabian Standards Organization (SASO), for standards and technical regulations and for ensuring that imported and domestically produced goods meet the technical regulations. The

- Ministry was also responsible for applying the Trademarks Law, as well as policy overview for import licensing.
- ii. The Ministry of Finance was concerned with formulation and conduct of financial and fiscal policies and with international economic issues. It was also the parent Ministry of the Department of Customs (which was charged with the responsibility of implementing the Customs Law and the Customs Tariff of Saudi Arabia), Department of Zakat and Income Tax, Saudi Arabian Agricultural Bank, Saudi Industrial Development Fund, Real Estate Development Fund and Public Investment Fund.
  - iii. The Ministry of Petroleum and Mineral Resources formulated and implemented the oil policies of the Kingdom and supervised concessions in the oil and mining sectors.
  - iv. The Ministry of Agriculture was the principal government body responsible for the development and encouragement of the agricultural sector in Saudi Arabia. It formulated and implemented agricultural policies and was responsible for matters relating to sanitary and phytosanitary measures.
  - v. The Ministry of Health was responsible for supervising the health industry and for matters related to the import and sale of medicines and medical supplies.
  - vi. The Ministry of Information and Culture was responsible for implementation of the Copyrights Law and matters relating thereto.
  - vii. The King Abdulaziz City for Science and Technology (KACST) was responsible for implementation of the Patents Law and matters relating thereto.
  - viii. SASO established and approved voluntary standards and mandatory technical regulations for imported and domestically produced goods. It was also concerned with the sampling, inspection and testing of goods to ensure conformity with standards.
  - ix. The Saudi Arabian Monetary Agency (SAMA) acted as the central bank of Saudi Arabia. It was responsible for monetary and exchange rate policies and the supervision of the banking and cooperative insurance industries.

78. Members of the Working Party inquired as to the role of the Chamber of Commerce in Saudi Arabia. In response, the representative of Saudi Arabia reported that each of the principal commercial centres in Saudi Arabia had its own Chamber of Commerce. He clarified that "commercial centres" were distinct from administrative areas (e.g., provinces); one province might have several commercial centres. Each local Chamber was a private association to which local businesses (including traders, professionals and industrialists) belonged. The Chambers funded their operations by means of annual membership subscriptions, which varied depending on the size (registered capital) of the member business, but were the same for international (i.e., foreign invested firms and joint ventures) and domestic firms. Hence, larger businesses paid higher membership subscriptions than smaller ones; dues ranged from SAR 330/year (smaller retail stores, e.g., a grocery which was not part of a chain) to SAR 900/year (small businesses, e.g., a real estate broker) to SAR 2,100/year (medium-sized businesses, e.g., partnerships and limited liability companies with a registered capital of less than SAR 5 million) to SAR 5,200/year (the largest businesses, e.g., joint-stock companies, banks and limited liability companies with a registered capital of SAR 5 million or more). Apart from paying dues, there were no other Chamber obligations. The requirement was administered by means of the fact that each business (apart from very small businesses) was required to produce evidence of Chamber of Commerce membership in order to obtain commercial registration



from the Ministry of Commerce and Industry. A properly completed application form could not be rejected; the Chamber of Commerce was required to accept all applications that were properly submitted. Commercial registration was required for the reason that it allowed the government to establish the true identity of the business for the purposes of enforcing business-related laws; it allowed the government to ensure that it would track each business, hold the correct business accountable and, if appropriate, prosecute it. Membership in the Chamber was required because the Chamber, by its nature, imposed peer pressure which increased compliance with the laws.

79. The representative of Saudi Arabia further reported that each Chamber was governed by a Board of Directors. The Minister of Commerce and Industry appointed one-third of the Directors; the rest were elected by the members. Chambers of Commerce and Industry were under the supervision of the Ministry of Commerce and Industry which, *inter alia*, provided guidance and monitored the accounts. In reply to a question from a member of the Working Party, the representative of Saudi Arabia stated that the Ministry of Commerce and Industry cooperates with the Chambers of Commerce and Industry in Saudi Arabia in the following areas: (i) gathering and disseminating information; (ii) soliciting their comments on draft laws and regulations; and (iii) creating bilateral business contacts with businessmen in other countries. The Ministry, however, does not influence the decisions of the private sector. He stated that the Chamber performs a valuable notarial service for members by authenticating signatures. He further stated that membership in the Chamber was required because it was a pre-requisite to obtaining association membership in the business community and, therefore, could not be refused. Annual dues for the Chamber varied with the size of the business and members had the right to participate in the organization and administration of the Chamber by means of voting for membership in its governing body. There were currently fourteen Chambers in the Kingdom, located in the following cities: Abha, Ahasa, Dammam, Hail, Jeddah, Majama, Makkah, Medina, Najran, Qassim, Quariyat, Riyadh, Tabuk and Taif.

80. In response to questions from members of the Working Party, the representative of Saudi Arabia stated that the primary legal basis for the trade regime of Saudi Arabia was provided by the following laws, decrees and implementing measures:

- i. Companies Law and Implementing Regulations
- ii. Professional Companies Law and Implementing Regulations
- iii. Commercial Register Law and Implementing Regulations
- iv. Commercial Agencies Law and Implementing Regulations
- v. Trade Names Law and Implementing Regulations
- vi. Negotiable Instruments Law
- vii. Trademarks Law and Implementing Regulations
- viii. Composition with Creditors Law
- ix. Combat of Commercial Fraud Law and Implementing Regulations

- x. Commercial Statements Law
- xi. Import Licensing Guide
- xii. Import Licensing Procedures
- xiii. Patents of Inventions Law and Implementing Regulations
- xiv. Trade Secrets Law
- xv. Copyrights Law and Implementing Regulations
- xvi. GCC Common Customs Law, Implementing Regulations and Principles of Determination of Customs Valuation

81. The Saudi representative reported that a complete list of the principal laws and regulations that form the basis of the Saudi trade regime appears at paragraph 3, above.

82. The representative of Saudi Arabia stated that Saudi Arabia provided for a wide range of judicial, arbitral and administrative procedures with respect to trade matters. An aggrieved party had a final right of appeal against all administrative decisions in matters of trade to a judicial body known as the Board of Grievances. The first channel of redress was to appeal administrative bodies. For example, with regard to matters under the jurisdiction of the Customs Department, such as classification and valuation, there was an administrative system for appeal against rulings. Disputes pertaining to valuation of goods for customs purposes were under the authority of the standing Committee within the Customs Department. Similar dispute settlement systems had been established, for example, with regard to sanitary and phytosanitary measures, licensing, standards and intellectual property rights. Ministries and/or Agencies involved had established internal standing committees of senior officials to review initial administrative decisions. All decisions made by these "standing Committees" could be appealed to the head of the Ministry or Agency concerned.

83. He further stated that if the decision under appeal was maintained by the head of the Ministry or Agency concerned, these decisions were subject to appeal to the Board of Grievances under Article 8(a) of the Board of Grievances Law, issued pursuant to Royal Decree No. M/51 of 17.1.1402H (14 November 1981). The Board of Grievances was an independent tribunal to which appeals were made from all governmental administrative decisions. The jurisdiction of the Board included appeals against all administrative decisions of government departments and government officials, and its decisions were binding on the government office concerned. It was composed of a President, Vice-Presidents and Members. The President was appointed by and reported to the King. The Vice-Presidents and Members were appointed by Royal Decree on the recommendation of the President. The time frames for hearing of appeals and handing down of decisions depended on the volume of work with the Board and on the nature of appeals. Although there were no fixed time frames, the Board was required to supply to all parties to any appeal a judicial judgment which included the reasons for the decision. The time required depended upon the complexity of the case

and similar other factors. Article 47 of the Board of Grievances Law provided for the publications of the judicial decisions.

84. He also noted that the Board's decisions could be challenged and appealed to the Appeals Court (Scrutiny Commission) within the Board of Grievances, which would either confirm or reverse appealed decisions. In all cases, the Appeal Commission's decisions were final and enforceable.

85. The representative of Saudi Arabia confirmed that from the date of accession Saudi Arabia's laws would provide for the right to appeal administrative rulings on matters subject to WTO provisions to an independent tribunal in conformity with WTO obligations, including but not limited to those set out in Article X of the GATT 1994, Article 23 of the Agreement on Subsidies and Countervailing Measures, Article 11 of the Agreement on Implementation of Article VII of the GATT 1994, Article 62 of the Agreement on Trade-Related Aspects of Intellectual Property Rights and Article VI of GATS. The Working Party took note of this commitment.

86. In response to questions from members of the Working Party, the representative of Saudi Arabia indicated the Ministry of Commerce and Industry would continue to oversee and coordinate within the Saudi Government matters relating to the WTO, including implementation and interpretation issues.

87. In response to questions from members of the Working Party, the representative of Saudi Arabia confirmed that only the central government had authority over matters covered by the WTO Agreements and that the central government was superior in authority to sub-central governments. The authority of sub-central governments in Saudi Arabia, he noted, was quite limited in comparison to the situation in many countries. For example, even as regards issues typically classified as local issues, e.g., local construction projects and water and sewage treatment, to the degree that sub-central governments had any role whatsoever, the role was limited by and exercised within tight constraints set by the central government. If a problem arose regarding non-uniform application or failure to apply WTO provisions, interested parties could provide information to the Ministry of Commerce and Industry.

88. The representative of Saudi Arabia confirmed that the provisions of the WTO Agreement, including Saudi Arabia's Protocol, would be applied uniformly throughout Saudi Arabia's customs territory and other territories under Saudi Arabia's control, including in regions engaging in border trade or frontier traffic, special economic zones, and other areas where special regimes for tariffs, taxes and regulations were established. He added that when apprised by a WTO Member of a situation where WTO provisions were not properly applied, e.g., were applied in a non-uniform

manner, central authorities would act to correct the situation and enforce the WTO provisions without requiring formal legal proceedings. The Working Party took note of these commitments.

#### **IV. POLICIES AFFECTING TRADE IN GOODS**

##### **- Trading Rights**

89. The representative of Saudi Arabia noted that members of the Working Party had, in connection with trading rights (the right to import and export), requested an explanation of: (i) the requirements for approval; (ii) the grounds for disapproval; and (iii) whether a licence was granted automatically upon satisfaction of (i). The representative of Saudi Arabia stated firstly, by way of clarification, that Saudi businesses and foreign companies with branches or offices in Saudi Arabia must apply for commercial registration under the Law on Commercial Registration described above. This was a general requirement which applied to all businesses except for the smallest (businesses with capitalization of SAR 100,000 or less) irrespective of whether they were engaged in import or export trade. Commercial registration was largely a routine procedure that involved the completion of an application form, the payment of a fee and the submission of documentation to the Ministry of Commerce and Industry. He further noted that the requirements described below applied both to foreign and Saudi businesses and confirmed that, except with respect to agricultural machinery listed in Annex E, any legal entity or natural person had the right to engage in importation or exportation without commercial registration – although if a legal entity or natural person wished to engage in importation or exportation as a trading activity (i.e., to then distribute and/or sell the goods), that legal entity or natural person was required to be commercially registered.

90. At a later stage, the representative of Saudi Arabia again confirmed that there were no substantive requirements to register with the Ministry of Commerce and Industry in order to import goods other than agricultural machinery, although there was a requirement to obtain commercial registration for the carrying on of business in the Kingdom. The representative stated that he understood an "importer of record" to be a person who wishes to import goods into Saudi Arabia, but had no presence or commercial registration in the Kingdom and did not wish to sell or distribute the goods in the Kingdom. Such persons, he stated, were not subject to the minimum investment requirements referred to in paragraph 56 of the Working Party Report; they did not need to invest in the Kingdom to act as the importer of record, nor did they need to join the Chamber of Commerce or obtain commercial registration. He confirmed that, from the date of accession, foreign firms and individuals with no commercial presence in Saudi Arabia, which were importers of record, would be able to register to engage solely in importation, without limitation on equity or requirement to invest in Saudi Arabia and could obtain any necessary import licenses. He further confirmed that Saudi

Arabia would, as necessary, review and amend its laws, including the Law on Import Licensing Procedures, and would implement such laws and regulations in full conformity with these obligations. For other foreign businesses, to obtain a commercial registration for the carrying on of business in Saudi Arabia, they had to first obtain a foreign investment licence from the Saudi Arabian General Investment Authority (SAGIA). Upon receiving a foreign investment licence from SAGIA, foreign businesses would apply to obtain a commercial registration from the Ministry of Commerce and Industry. The rules and procedures for obtaining commercial registration were set forth in the Law on Commercial Registration, issued pursuant to Royal Decree No. M/1 of 21.2.1416H (19 July 1995), and the Law on Commercial Names, issued pursuant to Royal Decree No. M/15 of 12.8.1420H (20 November 1999), and the rules and regulations promulgated thereunder. In respect of commercial registration, separate forms were to be filled in depending on the form of entity to be given commercial registration. The procedure in commercial registration further provided payment of a registration fee (for a registration valid for five years) of SAR 1,000 in case of establishments, SAR 4,000 in case of partnerships, SAR 6,000 in case of limited liability companies and SAR 8,000 in case of joint-stock companies. In the case of limited liability companies, draft articles of association were required to be submitted to the Ministry of Commerce and Industry for review. Once such forms had been duly prepared, they were checked and authenticated by a notary public. Having been signed, authenticated and legalized, these documents were then published in the official gazette (*Umm Al-Qura*). In the case of limited liability companies, after printing and formal signing of the articles of association before a notary public, such articles were submitted to the Ministry of Commerce and Industry and commercial registration was issued.

91. The representative of Saudi Arabia also noted that "commercial registration" was a separate procedure and different from registration as a "commercial agent" (as discussed in paragraphs 95-98, below). He further noted that registration as a commercial agent was not necessary to obtain the right to import or export for goods other than agricultural machinery. Any company, whether Saudi or foreign, which was commercially registered in the field of import trade or was an importer of record could import goods without the need to get any further permission or authorization, except that the company or importer of record would need to obtain an import licence for products listed in Annex E and observe the restrictions or prohibitions on import of products listed in Annexes F and G to the Report. No requirements applied to the activity of importing (acting solely as the importer of record), but a firm that wished to be legally eligible to import goods and then engage in business activity in the Kingdom (i.e., distribution and/or sale of the imported goods) should formally incorporate the activity of importing within its scope ("object") of business clause of its articles of association.

92. The representative of Saudi Arabia confirmed that the Ministry of Commerce and Industry had no discretion to deny commercial registration to a legitimate business, provided that the application form had been correctly completed and was accompanied by the correct fee and supporting documentation. A legitimate business was one whose contemplated activities did not contravene Saudi laws or regulations (e.g., those prohibiting the production and distribution of pork products).

93. The representative of Saudi Arabia confirmed that the commercial registration set out the scope of business activities of the registered entity. A registered entity that wished to carry out activities not covered by its commercial registration could amend its articles of association to include the new activities (except those in the Negative List under the Foreign Investment Law) and apply to the Ministry of Commerce and Industry for its commercial registration to be amended so as to permit those new activities. In response to a question from a member of the Working Party, the representative of Saudi Arabia stated that the procedure for amendment was very simple. Once the Articles of Association had been amended to include new activities, then an application for amendment of commercial registration could be submitted; a fee of SAR 100 was charged for amendment.

94. In response to a question from a member of the Working Party, the representative stated that Saudi Arabian law permitted the following types of business entities, all of which were subject to the Law on Commercial Registration: sole proprietorships (the most common form of business entity), general partnerships, limited partnerships, joint ventures, joint-stock companies, partnerships limited by shares, limited liability companies and professional companies. The representative stated that the Law permitted every practical form of business entity and was designed to cover all possible forms of business organization under law.

95. The representative of Saudi Arabia informed the Working Party that commercial registration was a distinct procedure from registration as a "commercial agent". In Saudi Arabia "commercial agency" described a business activity in which a natural or legal person acted as the agent or distributor of a producer, typically a foreign producer. The law governing the registration of commercial agents was set out in the Commercial Agencies Law, issued pursuant to Royal Decree No. M/11 of 20.2.1382H (22 July 1962), and its Implementing Regulations, Ministerial Resolution No. 1897 of 24.5.1401H (29 March 1981).

96. In addition to having Saudi nationality, the requirements for approval as a commercial agent under the above measures were: (i) a commercial registration certificate giving commercial agency as one of the applicant's business activities; (ii) a certificate from the Chamber of Commerce confirming

that the applicant had paid his Chamber of Commerce subscriptions; and (iii) the submission of an application form and supporting documentation to the Ministry of Commerce and Industry, including a copy and a certified Arabic translation of the commercial agency or distribution contract which complied with the conditions set out in the law. The Saudi representative confirmed that the Ministry of Commerce and Industry had no discretion to deny registration of an entity as a commercial agent provided that the above requirements were satisfied and a registration fee was paid.

97. In essence, the representative of Saudi Arabia reported, the distinction between commercial registration and registration as a commercial agent was that commercial registration was an essential requirement to the conduct of any significant business activity in Saudi Arabia, whereas "Commercial Agency" was one type of business activity; it was a term used to describe the type of business activity described in paragraph 95, above.

98. The representative of Saudi Arabia noted that the Commercial Agencies Law did not require a foreign manufacturer/supplier to appoint an agent or distributor in Saudi Arabia. (However, pursuant to Council of Ministers Decision No. 84 of 1.4.1421H (3 July 2000) importers of the types of agricultural machinery listed in Annex E should be authorized distributors or agents.) Any company, whether Saudi or foreign, which was commercially registered to trade, or simply the importer of record and not engaged in selling or distributing goods within the Kingdom could import goods without the need to get any further permission or authorization, except that a company or importer of record would need to obtain an import licence for goods set forth in Annex E (List of Products Subject to Non-Automatic Import Licensing Requirements). As noted in paragraphs 89-90, above, importers of record would not be required to obtain commercial registration, invest in Saudi Arabia or be subject to minimum capitalization requirements.

99. In response to a question, the representative of Saudi Arabia stated that, except for certain agricultural machinery, foreign companies holding commercial registration in Saudi Arabia could directly import goods, without going through a commercial agent. He further stated that foreign companies could import and export goods directly if the activity of importation and exportation was mentioned in their commercial registration; as in paragraph 93, above, commercial registration could be amended to include importation and exportation.

100. In response to a further question, the representative confirmed that no special or unique "activity license" requirements existed for foreign firms and individuals (including importers of record) and domestic persons or firms engaging in importing or exporting goods, in contrast to the distributing of goods. He confirmed that foreign firms that had a commercial registration in Saudi Arabia were not restricted in their ability to import or export most goods except as listed in Annexes E

(List of Products Subject to Non-Automatic Import Licensing Requirements), F (List of Banned Imports), G (Seed Specifications), I (List of Banned Exports) and J (List of Exports Subject to Authorization/Licensing) to the Report and as described in their scope of business ("object clause") or their registration, and that they could easily change their registration to allow for trade. He further confirmed that the criteria for registration were published in the official gazette and generally applicable to all. He stated that, upon accession, the minimum capitalization and commercial registration requirements would not be necessary either to become an importer of record or to re-export goods from Saudi Arabia (e.g., a non-Saudi outside of the Kingdom and with no presence or investment in the Kingdom would be allowed to import and then re-export goods from Saudi Arabia).

101. In response to specific questions, the representative of Saudi Arabia recognized the distinction drawn in the WTO between the right to import and export under the GATT and the right, under the GATS, to provide services such as distribution and transportation, with respect to imported goods. Saudi Arabia would, in implementing its obligations under GATT 1994, ensure that the relevant laws, regulations and requirements would permit foreign firms, not resident in Saudi Arabia and wishing to be importers of record, to engage in importation and re-exportation without limitation on equity or requirement to invest in Saudi Arabia. Commercial distribution in Saudi Arabia of imports as well as domestically produced goods would, upon accession, be governed by Saudi Arabia's commitments on distribution services as inscribed in its Schedule on Specific Commitments in Services. Moreover, Saudi Arabia maintained the right to require importers that were not registered to engage in commercial distribution to provide information in their customs document regarding the further disposition of the goods once they entered Saudi Arabia.

102. The representative of Saudi Arabia said that Saudi Arabia's requirements on the right to trade would not contradict Articles III, VIII and XI of GATT 1994. The representative of Saudi Arabia confirmed that there would be no restrictions on the right of foreign and domestic individuals and enterprises to import and export most goods to and from Saudi Arabia, except as provided in WTO Agreement, and for goods listed at Annexes E (List of Products Subject to Non-Automatic Import Licensing Requirements), F (List of Banned Imports), G (Seed Specifications), I (List of Banned Exports) and J (List of Exports Subject to Authorization/Licensing) to the Report. Saudi Arabia emphasized that foreign enterprises and individuals had to comply with all WTO-consistent requirements related to importing and exporting, such as those concerning import licensing, TBT and SPS. Moreover, foreign enterprises and individuals which were only importers of record would not have the right to distribute goods within Saudi Arabia, as providing distribution services would be done in accordance with Saudi Arabia's Schedule on Specific Commitments in Services. The representative of Saudi Arabia confirmed that individuals and firms were not restricted in their



registered scope of business and the criteria for registration of companies in Saudi Arabia were generally applicable and published in the Official Gazette. At a later stage he confirmed that, if a foreign business entity (whether commercially registered or not) could not distribute goods on its own behalf, it could engage a Saudi firm or individual as an agent to do so. He further clarified that hiring a Saudi as an employee and paying him a salary to perform this function was not permitted. The representative of Saudi Arabia clarified that upon accession foreign firms could distribute goods in Saudi Arabia in accordance with the commitments of Saudi Arabia, as inscribed in its Schedule on Specific Commitments in Services.

103. The representative of Saudi Arabia confirmed that, without prejudice to the limitations on distribution in its schedule on market access for services, from the date of accession Saudi Arabia would ensure that its laws and regulations relating to the right to trade in goods and all fees, charges or taxes levied on such rights would be in full conformity with its WTO obligations, including Articles VIII:1(a), XI:1 and III:2 and 4 of the GATT 1994 and its commitments in its Schedule on Specific Commitments in Services. In particular, he confirmed that from the date of accession foreign firms and individuals with no commercial presence in Saudi Arabia, which were importers of record, would be able to register to engage solely in importation without limitation on equity or requirement to invest in Saudi Arabia and could obtain any necessary import licenses. He further confirmed that, to fulfil this commitment, Saudi Arabia would, as necessary, review and amend its laws, including the Law on Import Licensing Procedures and would implement such laws and regulations in full conformity with these obligations. The Working Party took note of this commitment.

#### **A. IMPORT REGULATIONS**

##### **- Import Regime**

104. In response to a specific question, the representative of Saudi Arabia confirmed that the application of secondary and tertiary boycotts had been terminated in practice and in law by the Saudi Council of Ministers Decision No. 5 of 13 June 1995. The Working Party took note of this commitment.

##### **- Customs Tariff**

105. The representative of Saudi Arabia informed members of the Working Party that, according to Article 20 of the Basic Law of Governance, the authority for setting customs tariffs and for any changes thereto, and for levying any surcharges, rests with the Council of Ministers. Imposition,

amendment or abrogation of customs tariffs requires issuance of a Decree by the Council of Ministers that is endorsed by a Royal Decree.

106. The representative stated that Saudi Arabia used HS 2002 for classification of goods for customs purposes. There were 7,177 tariff lines at the 8-digit level. The first six digits corresponded to the HS while the last two digits were specific to Saudi Arabia.

107. The representative of Saudi Arabia said that customs tariffs were applied on CIF basis and had been declining. When Saudi Arabia applied for accession in 1993, about 75 per cent of its tariff lines were subject to tariffs of 12 per cent, while about 6 per cent of its tariff lines carried duties of 20 per cent or 50 per cent. Since 1 January 2003, Saudi Arabia had applied the GCC common external tariff within the framework of the GCC Customs Union, pursuant to Royal Decree No. 104 of 20.4.1423H (December 2002). The representative reported that, later, Saudi Arabia had implemented Royal Decree No. 40 of 12.2.1424H (3 February 2004), pursuant to GCC rules allowing members to maintain tariff rates for some sensitive items outside of the common external GCC tariff structure. More than 85 per cent of the tariff lines carried duties of 0 or 5 per cent. Of the remaining (roughly) 14 per cent of the lines, 7 per cent carried duties of 12 per cent, 6 per cent carried duties of 20 per cent and 20 tariff lines (i.e., tobacco and tobacco-related products) carried duties of 100 per cent. In response to a question from a member of the Working Party, the representative noted that, for a transition period of three years, from the date of issuance of the Royal Decree, these items would not be aligned in the GCC external tariff; they would be aligned after this period, per the agreement reached by the GCC member states. Imports of the remaining 70 lines (i.e., alcohol and pork) were completely out of the GCC regime; they were banned for religious reasons.

108. Following the completion of bilateral negotiations with WTO Members, Saudi Arabia's Schedule of Concessions and Commitments on Goods will be reproduced in Part I of the Annex to the Protocol of Accession of Saudi Arabia.

- **Tariff Rate Quotas and Tariff Exemptions**

109. In response to questions raised by members of the Working Party, the representative of Saudi Arabia stated that Saudi Arabia did not apply tariff rate quotas and had no intention to do so in the future, except as might be permitted under Article XIX of the GATT 1994 and the WTO Agreement on Safeguards.

110. The representative of Saudi Arabia further stated that Section VIII, Articles 98 to 105 of the Common Customs Law of the GCC States, adopted 27-29 November 1999 (implemented from 2002), provided for the following tariff exemptions:

- i. Imports by diplomatic missions and by diplomats.
- ii. Imports of arms, ammunition, military equipment and other materials by military forces and by internal security forces.
- iii. Imports by philanthropic societies.
- iv. Goods exported or re-exported from Saudi Arabia and subsequently returned to Saudi Arabia (Returned Goods).
- v. Personal effects and household items imported as passenger's baggage.

111. In response to a question from a member of the Working Party, the representative of Saudi Arabia stated that the exemption of customs duties that was among the incentives for investment set out in the 1979 Investment Law (discussed in paragraph 53 of this Report) was not conditioned on local content or exportation and was generally available.

112. In response to a question from a member of the Working Party, the representative of Saudi Arabia stated that the tariffs were not suspended for imports by the monarchy or by the government for its own use. He further stated that tariffs for imports for religious purposes, *per se*, were not suspended. However, where a religious entity was registered as a charity with the government and imported goods for the purpose of providing services, on a non-profit basis, for "human, social, educational, scientific or religious fields or any other charitable purpose" that was not for profit, the tariff would be suspended, pursuant to Articles 22-25 of the Rules of Implementation of the GCC Common Customs Law. In response to a question from a member of the Working Party, the representative stated that the GCC Common Customs Law contained no provision for temporary suspension of customs duties for reasons such as national emergency.

113. The representative of Saudi Arabia stated that Saudi Arabia would administer any tariff rate quota or tariff exemptions in conformity with the requirements of the WTO Agreement, in particular Articles I, II, VIII and XIII of the GATT 1994 and the Agreement on Import Licensing Procedures. The Working Party took note of this commitment.

- **Other Duties and Charges**

114. The representative of Saudi Arabia stated that in the Kingdom's view Saudi Arabia was applying "other duties and charges" within the meaning of Article II:1(b) of the GATT 1994 on 22 tariff lines in HS Nos. 2401, 2402 and 2403, which had been shown in Saudi Arabia's revised offer of June 1999. The representative of Saudi Arabia confirmed that other duties and charges on these 22 tariff lines would be bound at the rates shown in its June 1999 offer.

115. He further confirmed that Saudi Arabia would not list other duties and charges in its Schedule of Concessions and Commitments on Goods under Article II:1(b) of the GATT 1994 on all other tariff lines, except the 22 tariff lines of HS Chapter 24 which would be bound at the rates set forth in the Schedule, and would bind such other duties and charges at zero. The Working Party took note of this commitment.

- **Fees and Charges Connected with Importation (for Services Rendered)**

116. The representative of Saudi Arabia stated that Saudi Arabia imposed very few fees or charges for port clearance, customs processing, customs inspection or import or export licenses. He said that there was a small fee of SAR 20, which corresponded to the costs of the customs declaration form and use of Customs' computers to complete the declaration form. He added that, if goods were left in the Customs sheds and were not cleared after a delay of 13 days from the date of unloading, storage charges were levied at the rate of SAR 20 per ton per day. However, no charges were levied if the delay was not caused by the importer, e.g., the delay in clearing the goods was due to one of the following reasons:

- i. the Customs Department was responsible for the delay;
- ii. a natural disaster; or
- iii. an official holiday.

He said that the fees imposed for loading, unloading and handling of import and export cargoes at Saudi Arabia's ports of entry had two parts: one part mandated by the Government (*see* Annex A-3) and the rest determined by private-sector operators. These fees were not collected by the government but by the companies operating the port facilities.

117. In response to questions from members of the Working Party, the representative noted that, in accordance with Article VIII:3 of the GATT 1994, Saudi Arabia did not impose substantial penalties for minor Customs breaches.

118. One member of the Working Party asked for additional information on the fees and charges for the provision of port services. In response, the representative of Saudi Arabia reported that the provision of port services was regulated by the Saudi Port Authority, a government agency overseeing private companies operating and providing services in each of the Kingdom's ports. The fixed rate structure of such fees applicable to dry cargoes and livestock was set by the Saudi Port Authority under the authority of the Council of Ministers and applied to all ports other than oil terminals (*see* Annex A-3 for a comprehensive list of such charges); these charges were supplemented by additional charges applied by the private companies operating the port services and facilities, and depended upon

the weight and volume of goods handled, including the packaging of the goods being imported and the number and size of the containers involved. He emphasized that the rates were not based on the value of the imports, and in his view reflected the approximate cost of the services rendered. Fees for services rendered at Saudi Arabia's oil ports and terminals have no mandated component and are fully established by the private operators of those facilities on behalf of the Government.

119. In response to a question from a member of the Working Party, the representative of Saudi Arabia stated that Royal Decree No. 7/B/16941 of 6.11.1417H (15 March 1997) had passed responsibility for all operations and maintenance of berths and equipment owned by the Ports Authority to the private sector, to be managed on commercial basis, based on the following principles:

- The ports and their facilities would remain under government ownership but would be privately managed on a commercial basis; and
- The private sector was given incentives to invest in the field of heavy equipment necessary to operate the ports effectively.

Under this new program, investment opportunities in Saudi ports other than privately operated oil ports and terminals were put out for public bidding during the year 1997, according to the following rules:

- The government and the private sector operators would share the terminal revenues as described above;
- The private operator would collect charges on the basis of fixed fees calculated by the government in accordance with the port tariff, based on the cost of the services provided and in order to pay for port infrastructure. Additional charges were applied to cover the variable costs of the private company operating the port;
- Projects were awarded based on bidding and given to the party who offered the highest percentage for the government's share;
- All Saudi companies which had, or which had partners that had, experience in the field were allowed to bid;
- To widen the private sector's participation and provide competition, the operator was not allowed to participate in more than one contract at the same port;
- The operator was required to invest in new equipment, which becomes port property at the end of the contract; and
- The operator would market the port services to attract maritime trade.

Today, he said, non-oil ports and terminals were managed and operated by the private sector and all oil ports and terminals continued to be solely owned by the government but operated and maintained by private companies. The responsibilities of managing and operating the non-oil ports and terminals were passed to the private sector on a facility-by-facility basis, subject to the oversight of the Ports Authority. The non-oil Saudi ports were subdivided into a number of independent facilities (container, general cargo, reefer cargo, bulk cargo, etc.) with every terminal having its own area, equipment, warehouses, workshops and open yards. The unified Saudi Port Tariff, dated 31

December 1998 and developed by the Saudi Seaports Authority, set forth all relevant charges applicable to non-oil ports and terminals and was available at [www.ports.gov.sa/tariffs.htm](http://www.ports.gov.sa/tariffs.htm). It was binding on all private port operators and port users, other than private operators and users of oil port and terminal facilities. The operators were required to collect the charges stipulated in the unified Port Tariff, based on the cost of services provided to port users.

120. A member of the Working Party asked Saudi Arabia to explain requirements that applied to imports of non-unitized cargo such as rice, in particular the port levy fee. In response, the representative of Saudi Arabia stated that this levy was based on the unified Port Tariff and was applied to compensate for the labour and equipment costs involved in unloading cargo. The member further asked whether such inspection was necessary given more modern methods of inspection, and asked Saudi Arabia to review these requirements. The representative of Saudi Arabia stated that Saudi Arabia would introduce five x-ray machines, three of which were under construction in Jeddah Port and the rest under construction in King Abdulaziz Port in Damman. In addition, Customs would review its inspection system in the context of its ongoing process of modernization.

121. Members asked about fees imposed by Saudi Arabia for notarization or consularization of documents. In response, the representative of Saudi Arabia stated that the only such fees currently imposed were for the authentication of certificates of origin and of invoices by Saudi consulates and the US-Saudi Arabian Business Council. This was a general requirement imposed pursuant to Council of Ministers Decision No. 5 of 3.1.1406H (18 September 1985), which had been provided to the Working Party. The Chambers of Commerce were not involved in the notarization or consularization of documents. The Business Council was authorized to charge a fee of US\$ 15 per document to authenticate invoices and certificates of origin. The authentication was performed by Business Council officials located in the Saudi Consulates. After being authenticated, the documents could then be provided to Consular officials for consularization. The fee collected by the Ministry of Foreign Affairs for consularization was nominal, at US\$ 8 per document, regardless of the number of pages contained in the document. Fees collected by the Consulates were deposited in general government revenues; fees collected by the Business Council were used by the Council to promote US-Saudi trade. The practice of requiring authentication and consularization had been necessary, he said, to combat commercial fraud and to ensure that products prohibited for health reasons were not exported to Saudi Arabia. Members noted that the requirement posed difficulties for exporters not operating from areas served by consular offices or the Business Council and duplicated similar reviews conducted by Customs officials in Saudi Arabia at the time of importation. They pointed out that revenues from the fees were not related to the cost of the service, and requested that Saudi Arabia eliminate the practice.

122. The representative of Saudi Arabia confirmed that the requirement for notarization, authentication or consularization of trade documents, including certificates of origin and invoices, and the associated fees applied to all exports to Saudi Arabia would be terminated no later than 31 December 2007, as authorized by Council of Ministers Decision No. 5-B-57611 of 28.11.1424H (20 January 2004). He confirmed that this commitment included fees charged by Consular Offices of the Kingdom of Saudi Arabia and by the Business Council. The Working Party took note of this commitment.

123. The representative of Saudi Arabia confirmed that any fees or charges imposed on or in connection with importation and exportation, would be applied in accordance with Article VIII of the GATT 1994. He further confirmed that the review of the inspection system described in paragraph 120, above, would be completed within one year of the date of Saudi Arabia's accession to the WTO. The Working Party took note of these commitments.

- **Import Licensing Systems**

124. In addition to information contained in the Memorandum on the Foreign Trade Regime, the representative of Saudi Arabia had provided a detailed description of the import licensing procedures prevailing in Saudi Arabia in document WT/ACC/SAU/30, together with the justification for the measures in document WT/ACC/SAU/29/Add.3, as well as documents WT/ACC/SAU/49, 53 and 56. The representative of Saudi Arabia then provided an Action Plan for the Implementation of the Import Licensing Agreement in document WT/ACC/SAU/40, Council of Ministers Decision No. 84 of 1.4.1421H (3 July 2000), and later noted that document WT/ACC/SAU/30 would be updated and submitted to the Working Party by the time accession. The Import Licensing Law, issued pursuant to Council of Ministers Decision No. 88 of 6.4.1423H (16 June 2002), incorporated into Saudi law the provisions of the WTO Agreement on Import Licensing Procedures. He further confirmed that some of the measures described in documentation submitted to the Working Party had been eliminated in order to conform with the requirements of the WTO Agreement, and that all measures remaining in place were described fully in Annexes E (List of Products Subject to Non-Automatic Import Licensing Requirements) and F (List of Banned Imports) to this Report. He also noted that additional information could be obtained from the concerned department or division of the respective Ministry or from the Information Centre of the Ministry. The information could also be obtained from the Chamber of Commerce and Industry. He also confirmed that any person with a commercial registration (i.e., registration to do business), whether an individual or an entity, or an importer of record would be able to apply for an import licence, except for agricultural machinery, as provided for in Annex E.

125. The representative of Saudi Arabia confirmed that, in addition to the Ministry of Agriculture and the Ministry of Commerce and Industry, the Ministry of Health, Ministry of Information and Culture, Ministry of Interior, and Ministry of Petroleum and Mineral Resources, the Ministry of Education (Department of Museums and Archaeology), the Communications and Information Technology Commission (CITC), the National Commission for Wild Life Conservation and Development (NCWCD) and the Chivalry Club all had responsibilities concerning the approval of import licenses. He also confirmed that there were no substantive requirements to register with the Ministry of Commerce and Industry in order to import, although there was a requirement to obtain commercial registration for the carrying on of business, whether manufacturing, retailing, trading or professional. Any company, whether Saudi or foreign, which was commercially registered in the field of import trade or was an importer of record could import goods without the need to get any further permission or authorization, except for items which required an import licence. In response to a question from a member of the Working Party, the representative of Saudi Arabia reported that wheat imports no longer required permits or import licenses from the Grain Silos and Flour Mills Organization (GSFMO) (*see also* paragraph 44.xii, above). Any provisions or references to such permits or licenses were null and void and would be deleted from all laws, regulations or other measures as of the date of accession. He further stated that domestic grain benefited from price support, as notified to the Working Party and contained in Saudi Arabia's Schedule of Concessions and Commitments on Goods. A GSFMO permit was not required to import grain and there was no approval process for imported grain. Grain imports were not restricted in any way and prices were determined according to supply and demand. The representative added, in response to another question, that Saudi Arabia no longer required licensing for "milk for industrial use."

126. Members of the Working Party asked Saudi Arabia to provide a list of products subject to automatic and non-automatic import licensing requirements. The representative of Saudi Arabia stated that Saudi Arabia did not subject any imports to automatic licensing at this time; a list of imports subject to non-automatic licensing requirements was attached at Annex E. In addition, he confirmed that Saudi Arabia had circulated to the Working Party its response to the questionnaire "Information on Import Licensing Procedures" (WT/ACC/SAU/60). In response to a question from a member of the Working Party, the representative of Saudi Arabia stated that: (i) automatic licensing was provided for in Council of Ministers Decision No. 88; and (ii) non-automatic licenses were not used for statistical purposes. He further stated that Saudi Arabia currently uses non-automatic licensing for all products which require an import licence, but in the future may use automatic licensing as authorized by the Council of Ministers Decision No. 88. If Saudi Arabia does institute automatic licensing for products in the future, those requirements will be applied in a manner that is consistent with all provisions of the WTO Agreement on Import Licensing.



127. A member of the Working Party raised questions and concerns regarding Annex E relating to import licenses and asked whether Saudi Arabia was reviewing its licensing requirements to test whether non-automatic licenses were actually required and necessary on all products within the HS line listed or whether licenses were only needed for specific products within the category. The member further observed that several products listed in Annexes E and F were covered by Saudi Arabia's ITA commitments and it was concerned that the market access achieved through elimination of tariffs might be undercut by non-automatic licenses and bans on some of these technology products. In response to these comments, the representative of Saudi Arabia stated that the Kingdom had carefully reviewed the Annexes and the licensing requirements and that the licenses were required and necessary for all products listed in Annex E.

128. In response to a further question from a Member, the representative of Saudi Arabia confirmed that, for transmission apparatus classified in heading 85.25 and listed in Annex E, only equipment whose operation requires a frequency assignment from CITC or equipment using frequencies not in accordance with the Saudi National Frequency Plan, are subject to non-automatic import licensing. Other transmission apparatus, such as personal digital assistants, whose operation requires a frequency assignment to a service provider, are not subject to licence. The Working Party took note of this commitment.

129. Members of the Working Party noted, in particular, that Article 3.5(f) of the Agreement on Import Licensing provided that ordinarily an import licence must be granted within 30 days of receipt of a complete application. These members noted that for some categories of goods, import licenses took longer than 30 days, in particular, radio communication apparatus (one to two months) and network equipment (six to twelve months). These members earlier had noted that the importation of such products was also subject to approval by the Frequency Department of the Department of Post, Telegraph and Telephone. In response to these comments, the representative of Saudi Arabia stated that the Frequency Department of the CITC ordinarily completed its review in one week. If a product met the frequency and necessary technical specifications, the CITC would ordinarily decide whether to grant an import licence within 30 days. In response to a question, the representative of Saudi Arabia stated that the new Saudi legislation on import licensing procedures clearly provided that import licenses must be issued within 30 days of application; the 30-day limit applied to telecommunications equipment, as well. The representative of Saudi Arabia confirmed that Council of Ministers Decision No. 84 of 1.4.1421H (3 July 2000) and Council of Ministers Decision No. 88 of 6.4.1423H (16 June 2002) applied to telecommunication equipment.

130. In response to further questions from a member of the Working Party regarding import licensing for telecommunication equipment, the representative of Saudi Arabia furnished the following information:

- i. In accordance with Article 39 of the Telecommunication Act, Council of Ministers Decision 88, and Article 3 of the Rules of Procedures of Pleading before the Board of Grievances, the applicant has the right to challenge the rejection of his/her application. First, he/she must appeal to the Minister of Telecommunication and Information Technology within 15 days of the applicant's notification of the rejection of his/her application. The Minister has 30 days to reply. Second, if the Minister rejects the appeal, the applicant has 30 days to challenge such a decision before the Board of Grievances. The Board acts in its capacity as an independent administrative court. In response to a question, the representative of Saudi Arabia clarified that in case of rejection of an application for an import licence, reasons for rejection must be provided to the applicant.
- ii. The International Telecommunication Union (ITU) standards were generic and covered a wide range of specifications. Saudi Standards were in line with ITU Standards, and covered local requirements.
- iii. The application for using radio telecommunications equipment would be processed within one month of submission. After approval of the application, a one-year grace period was provided within which the equipment and assigned frequencies are to be brought into use. The applicant was to notify the CITC upon use of the equipment and frequencies and then the relevant licence would be issued. The one-year period for bringing the equipment and frequencies into use expired if the applicant failed to notify the CITC of bringing the equipment and frequencies into use within a year or, alternatively, request an extension from CITC. Licenses for equipment and frequencies were renewable annually.

In response to a comment from a member of the Working Party, the representative confirmed that the CITC is the appropriate authority for licensing for "radio and telecommunication" equipment. He stated that document WT/ACC/SAU/30 would be updated to reflect this change and submitted to the Working Party.

131. A member of the Working Party inquired as to the meaning of terms "wireless sets", "frequency spectrum" and "security reasons" as used in Saudi Arabia's Guidelines to Import Licensing Procedures. The representative of Saudi Arabia replied that the meanings of these terms were as per their ITU-R definitions.

132. With respect to Satellite Internet Receivers, HS 85291000, the representative of Saudi Arabia noted that these products were currently listed in Annex F as banned imports. He confirmed that Saudi Arabia would permit imports of these products, subject to a non-automatic licence, within three years of the date of Saudi Arabia's accession to the WTO. In his government's view, non-automatic licensing was necessary to protect public morals. He further stated that internet service providers

transmitting to such satellite internet receivers would be required to use a Saudi internet filtering facility. The Working Party took note of this commitment.

133. Members of the Working Party also asked Saudi Arabia to clarify the grounds for, and particulars of, its import licensing regime for the Chivalry Club. The representative from Saudi Arabia clarified that the regime was necessary to preserve a policy of great importance to the Kingdom. The regime allowed the Saudi authorities to closely monitor the importation of non-Arabian horses to ensure the preservation of the blood lines of the Arabian horse stock in Saudi Arabia. He explained that only by closely monitoring imports of live horses could this be ensured. In response to further questions, he noted that the importation of non-Arabian horses was not banned; the Chivalry Club would grant an import licence for the importation of non-Arabian horses, after clearance by the Department of Animal and Plant Quarantine at the Ministry of Agriculture, within 30 days of receipt of a complete application. In this connection, some members of the Working Party requested additional information on the time limits for grant of other import licenses. The representative reported that the applicable time limit was 30 days. He further reported that imports of horses, whether Arabian or non-Arabian, were not banned, but required a non-automatic import licence.

134. In response to requests for information concerning the fees payable for obtaining an import licence, the representative of Saudi Arabia stated that there were no fees payable for the obtaining of an import license; Saudi ministries, including the Ministries of Agriculture, of Health and of Commerce and Industry, did not charge fees for import licensing procedures, including the application process. Companies or persons wishing to import merchandise for display at a trade fair were granted non-automatic import licenses that permitted the importation of all necessary samples, subject to the condition that the samples not be offered for direct sale. In response to a remark by a member of the Working Party, the representative of Saudi Arabia stated that import licensing for trade fairs had been listed in Annex E.

135. Some members of the Working Party requested information on the precise laws and regulations governing the time limits for issuing an import licence. In response, the representative of Saudi Arabia stated that Council of Ministers Decision No. 88 of 6.4.1423H (16 June 2002) provided that the time limit for issuance of licenses was thirty days. In the event of an unsuccessful application for an import licence, the person requesting the licence could appeal the refusal to the Board of Grievances.

136. A member of the Working Party asked about the timing of appeals of decisions by particular ministries to reject an application. The Saudi representative confirmed that the entire procedure for

appeal (including re-appeal) to the Ministry of Health generally would take thirty working days to complete. He further stated that the process of appeal at the Ministry of Commerce and Industry depended upon the completion of the licensing requirements by the importer, i.e., if the importer were to complete the requirements, the licence would be issued upon completion. In the case of chemicals, he reported, the issuance process would take one day; for distillation equipment, the process would require from two to three days. With regard to appeals to the Ministry of Agriculture, he stated that the process for the procedure of appeal, when the documents are correct and complete, requires only one day in most instances.

137. In response to further requests for information, the representative of Saudi Arabia noted that decisions to not grant an import licence could first be appealed to the Minister of the concerned Ministry or to the head of the Agency concerned. Any subsequent appeal would be to the Board of Grievances. If the Minister or the head of the Agency did not decide the appeal within 90 days, the applicant had the right to submit an appeal to the Board of Grievances. The Board of Grievances and the applicant would receive reasons, in writing, from the concerned Ministry or Agency, and the applicant could appeal on that basis. The representative referred the members to paragraphs 82-84, above, regarding the composition and workings of the Board of Grievances.

138. Some members of the Working Party asked whether petroleum and natural asphalt were subject to import licensing and requested that Saudi Arabia provide the justification pursuant to the relevant provisions of the WTO Agreement for the maintenance of import licensing on those products. In response, the representative of Saudi Arabia stated that no import licensing requirements currently existed for petroleum products, including asphalt.

139. In response to questions from some members of the Working Party, the representative of Saudi Arabia stated that high-quality photocopiers did not require an import licence from the Public Security Department of Forgery at the Ministry of Interior. However, anyone wishing to purchase and use such a copier was required to sign an undertaking with the Ministry of the Interior. This was because such photocopiers could produce extremely high-quality reproductions of documents, making it hard to differentiate between the original and the photocopies of paper currency and official documents, certificates, passports, maps and stamps. In response to a later question from a member of the Working Party, the representative of Saudi Arabia stated that, as a matter of national security, the Saudi authorities monitored not only the importer, but also the purchaser and ultimate user of high-quality copiers to preclude, e.g., forging of identification papers and counterfeiting.

140. He also noted that burglar alarms required a non-automatic import licence to prevent misuse by criminals or terrorists. For this reason, import licenses were only issued to government enterprises,

public enterprises and firms or individuals with a contract with the government to supply such security devices from inside the Kingdom or abroad. Some members of the Working Party requested additional information on the justification for the import licensing requirements for security reasons. The representative of Saudi Arabia stated that those measures were necessary in order to prevent import and the misuse of the items by persons who could pose a security risk. The Ministry of the Interior was the agency that determined whether the importer posed a security risk or not. He stated, in response to a further question of a member of the Working Party, that the non-automatic licensing requirement applied not to fire alarms, but only to burglar (anti-theft) alarms. He further stated that private entities were allowed to obtain licenses for importation of burglar (anti-theft) alarms.

141. The representative of Saudi Arabia stated that the list of items subject to import licensing was under review, and in this context he noted that the requirement for import licensing of fire-fighting equipment had recently been lifted. Fire-fighting equipment could now be imported without a licence, following a customs examination to determine compliance with Saudi mandatory standards (technical regulations) or international technical regulations. In response to a question from a member of the Working Party, he noted that fire extinguishers no longer were subject to licensing requirements, although SASO had issued applicable mandatory standards (technical regulations). When SASO prepared the mandatory standards (technical regulations), it circulated them for comments to all concerned bodies, including foreign embassies in Saudi Arabia. The standards were applied to both locally manufactured and imported fire extinguishers.

142. The representative of Saudi Arabia later stated that the review of items subject to import licensing had been completed and was reflected in Annex E. He assured the members of the Working Party that the list would continue to be reviewed at least once a year and the findings and decisions of each review would be published in the Official Gazette *Umm al-Qura* and notified to the Council on Trade in Goods. The Working Party took note of this commitment.

143. Some members of the Working Party requested information on the system for licensing the importation of agricultural machinery. The representative of Saudi Arabia stated that the import licenses for agricultural equipment were non-automatic and had two purposes. First, they were necessary to administer a system of subsidies paid to importers of such equipment. Second, the import licence was required even if the importer did not intend to apply for a subsidy payment in order to ensure that the equipment was suitable for the Kingdom's environment. The representative confirmed that the licence requirement would not be applied as a disguised restriction to trade. In response to a question and an observation by a member of the Working Party, the representative of

Saudi Arabia stated that an importer of agricultural machinery must be an authorized distributor or agent.

144. One member of the Working Party inquired as to the procedures for importing medical products, including pharmaceuticals. In response, the representative of Saudi Arabia stated that no import licence is required for approved pharmaceutical and medical products, but that, as specified in Annex E (List of Products Subject to Non-Automatic Import Licensing Requirements), certain medical products were subject to non-automatic import licensing. In response to a further question, he confirmed that imports of medicine for human use under numbers 30.03 and 30.04 were not subject to import licensing (as long as they had been approved for sale in Saudi Arabia), but that imports of medicines for veterinary use under those numbers were subject to import licensing requirements, for the purposes of guaranteeing animal health and safety. He further reported that pharmaceutical or medical products not previously approved were subject to an approval process administered by the Ministry of Health designed to evaluate the product and ensure that the manufacturer follows Good Manufacturing Practices (GMP). The representative reported that this process may take up to 18 months. One of the members of the Working Party inquired as to whether Saudi Arabia required pharmaceuticals to be registered in at least three EU countries before allowing for importation or marketing in Saudi Arabia. The representative of Saudi Arabia confirmed that there was no such condition for importation of medicines for human use. The process for companies wishing to market their pharmaceuticals in Saudi Arabia was as follows:

- i. submit a completed registration form for the company;
- ii. the Technical Committee would examine the form and attachments and, upon preliminary approval, would establish an inspection group for the company and the product;
- iii. the inspection group would visit the company and its factory to ensure that the company applied Good Manufacturing Practice;
- iv. the final decision of the Technical Committee would be made based on the report of the inspection group; and
- v. after approval, the company would be allowed to obtain registration of its product(s).

In response to a question, he confirmed that the base price for a pharmaceutical was established as the last stage in the registration process.

145. A member of the Working Party noted that Saudi Arabia required agreement on a base price of a pharmaceutical as the last step before a product would be registered. In the member's view, safety and efficacy of a pharmaceutical and pricing presented two separate issues, and registration should not be conditioned on agreeing on a base price. The pricing element of the registration process could be considered an unjustified restriction on imports.

146. A member of the Working Party stated that in its view the requirement for factory inspections was a technical regulation. In that member's view, some form of certification that does not require on-site inspection should be possible in this regard, and the transparency and due process requirements of the WTO Agreements on TBT and Import Licensing should apply. That member also requested additional information on application of the registration process to both importers and domestic manufacturers -- in particular, whether domestically produced products must meet fewer requirements or if the registration process took less time and whether the government applied any prohibitions or limitations on importation of pharmaceuticals if domestically produced products were on the market.

147. The representative of Saudi Arabia stated that inspection of plants to ensure use of Good Manufacturing Practice (GMP) was an essential part of the registration process to ensure safety and quality of pharmaceutical products. Factory inspections were carried out by many countries that had well-established Drug Regulatory Authorities. Currently, a process for certification without inspection did not exist. He confirmed that the same registration process applied to both importers and domestic manufactures and that the same requirements and time frames applied. Once a medicine for human use was registered, no further prohibitions or limitations applied, and it could be imported without the need for any further licensing. He added that the fee for pharmaceutical company registration was SAR 1,000 and the fee for product registration was SAR 200. (Information about the procedure for company registration was provided in paragraphs 89-93.)

148. A member of the Working Party observed that commercial importers of chemicals required a licence from the Ministry of Commerce and Industry whereas importation of chemicals for factories required a non-automatic import licence from the Ministry of Industry and Electricity. The member observed that the same chemicals were imported for both commercial and factory purposes and that the treatment for the two should not be different. The representative of Saudi Arabia explained that the procedures had been streamlined and that now the Ministry of Commerce and Industry was responsible for licenses for import of chemicals for company and factory use. In response to a question from a member of the Working Party, the representative of Saudi Arabia stated that document WT/ACC/SAU/30 would be updated and made public prior to accession.

149. A member of the Working Party asked Saudi Arabia to explain its reasons for requiring non-automatic import licenses for certain "distillation equipment". In response, the representative of Saudi Arabia stated that, in the past, imported distillation equipment had been used to produce alcoholic beverages. He explained that, as the production of alcoholic beverages was prohibited under Saudi law (Shari'a), the Kingdom of Saudi Arabia had decided to regulate imports of distillation

equipment to address the problem. In reply to a question from a member of the Working Party, the representative of Saudi Arabia reported that there was no ban on the importation of distillation equipment and that importation required an import licence from the Ministry of Commerce and Industry (and not from the Ministry of Industry and Electricity).

150. A member of the Working Party inquired as to procedures regarding pesticides. The representative of Saudi Arabia replied that non-automatic import licenses for pesticides are valid for six months (or for the remainder of the registration period) because this assists the Ministry of Agriculture in tracking the quantities of imports of potentially harmful substances, and for statistical tracking purposes. Also, he reported, the system helps ensure that importers' registration documents are valid during the period. He further stated that, if an application were rejected for any reason, the applicant could appeal the decision to the Ministry, which would issue a licence as soon as the applicant had satisfactorily completed the necessary documentation.

151. A member of the Working Party asked for details regarding the licensing procedures for veterinary drugs, vaccines, feeds and domestic animals. In response, the representative of Saudi Arabia reported that, if the documents were correct and complete, the process for appeal and issuance of the licence by the Ministry of Agriculture would take one day. He further explained that the use of the term "feed additives" indicated that the provision in question applied only to feed additives and did not apply to feeds, and that a licence was required to import other domestic animal-related products. In response to a further question from a member of the Working Party regarding import licensing for other domestic animal-related products, the representative of Saudi Arabia stated that Annex E (List of Products Subject to Non-Automatic Import Licensing Requirements) contained the requested information on all products subject to import licensing.

152. A member of the Working Party asked Saudi Arabia to clarify its regime as it applies to seeds and fertilizers. In response, the representative of Saudi Arabia noted that the process of the Ministry of Agriculture's examination and approval of an application for import licence, or of an appeal (re-appeal), would take only one day where the documentation was complete. He reported that organizations permitted to provide a health certificate for seeds and fertilizers included the governmental authorities in the country of origin, as well as official laboratories in the country of origin that had been approved by the Ministry of Agriculture. Also, he reported, such certificates were issued by the Saudi Ministry of Agriculture and easily obtained where the products were free of pests and diseases. Regarding the specifications used by the Saudi Arabian Standards Organization (SASO) to determine whether to approve an application for import licence for seeds, the representative confirmed that the list of requirements had been submitted to the Working Party at



Annex G (Seed Specifications) to the Working Party Report. The time limits for import licenses were based on the need to ensure that the Ministry of Agriculture could ensure the validity of importers' registration documents and to allow Saudi authorities to track import levels of seeds and fertilizers for statistical purposes. One member of the Working Party questioned whether Saudi Arabia imposed additional import requirements on seeds, through a non-automatic licensing process. The representative of Saudi Arabia stated that the role of the Ministry of Agriculture was explained in Annex G, "Conditions and Requirements", and that the procedure was simple and short and did not, in his view, constitute a disguised restriction on international trade. A member of the Working Party raised the following questions and concerns regarding some entries in Annex G; the representative of Saudi Arabia responded to each point as follows:

- i. With regard to the provisions for markings on containers of treated seeds (Seed Specifications, point 5), the representative of Saudi Arabia responded that the markings should be in English and Arabic and should specify that the seeds were treated with poisonous chemicals and are not fit for human or animal consumption. The "skull and cross bones" danger sign should be printed on the seeds containers (bags, cans or tins).
- ii. With regard to "Conditions and Requirements" (point 3c), the representative of Saudi Arabia responded that, if a pesticide were used, it was only necessary to indicate the name and registration number of the product used, or alternatively, the ingredient, on the label or an additional label. The representative of Saudi Arabia agreed that only the name and registration number of the product would be used.
- iii. With regard to the requirement that certificates should confirm that the seeds have not been subject to radiation ("Conditions and Requirements", point 3d), the representative of Saudi Arabia stated that these certificates had been requested only during the crisis of the Chernobyl nuclear plant. These certificates were not requested any more.

153. In response to further questions from a member of the Working Party regarding seed import restrictions, the representative of Saudi Arabia clarified that Annex G set forth in detail the role of the Ministry of Agriculture, that all imported seeds were subject to import licensing and that Saudi Arabia would not apply the Seed Specifications as an unjustified barrier to trade. The Working Party took note of this commitment.

154. In response to questions from some members of the Working Party, the representative of Saudi Arabia stated that Council of Ministers Decision No. 84 of 1.4.1421H (3 July 2000) and Council of Ministers Decision No. 88 of 6.4.1423H (16 June 2002) were the measures implementing the WTO Agreement on Import Licensing Procedures. The Import Licensing Law issued pursuant to Council of Ministers Decision No. 88 incorporated into Saudi law the provisions of the WTO Agreement on Import Licensing Procedures. The salient features of the new Law were:

- i. Persons, firms and institutions eligible to apply for import licenses are: (a) Saudi, foreign or joint venture companies registered under Saudi laws; (b) natural persons registered in the Commercial Register; (c) foreign enterprises registered to engage solely in importation of goods into Saudi Arabia; and (d) Saudi nationals and non-Saudis holding residence permits, without commercial registration, provided they apply to import goods for their personal use.
- ii. Imports by categories (a) and (b) will be limited to goods related to the scope of business inscribed in their commercial registration.
- iii. Applications for automatic import licensing may be submitted on any working day prior to the customs clearance of goods. Licenses will be issued within a maximum of 10 days from the date of application.
- iv. Applications for non-automatic import licenses may be submitted within 21 days prior to the closing date of applications. Licenses will be issued within a period of 30 days from the date of application.
- v. Applications would not be rejected for minor variations in value or minor documentation errors.
- vi. Licence applicants have to approach only one administrative body. If necessary, that body would coordinate with other administrative bodies.
- vii. Non-automatic licensing is required for imports subject to quantitative or other restrictions (Saudi Arabia applies no quotas).
- viii. Article 9 of the Law contains detailed provisions on allocation of quotas in line with the provisions of Article 3 of the Agreement on Import Licensing Procedures (Saudi Arabia applies no quotas).
- ix. The Law requires publication in the Official Gazette of the amount of quotas and any changes thereto at least 30 days prior to the date of application (Saudi Arabia applies no quotas).
- x. In case of refusal of applications, the reasons for refusal will be provided upon request of the applicant.
- xi. Right of appeal to the Head of the administrative body is provided for, within a period of 15 days from the date of refusal. A further right of appeal to the Board of Grievances against the decision of the Head of the administrative body is provided for, within 30 days from the date of the decision.

155. The representative of Saudi Arabia confirmed that Saudi Arabia would, from the date of accession, eliminate and not introduce, re-introduce or apply non-tariff measures such as licensing, permits, prior authorization requirements, licensing requirements and other restrictions having equivalent effect that cannot be justified under the provisions of the WTO Agreement. Any further amendments to the import licensing regime after accession would be fully in accordance with all relevant provisions of the WTO, including the Agreement on Import Licensing Procedures. He further confirmed that any discretionary authority permitting officials of the Kingdom of Saudi Arabia to suspend imports and exports or licensing requirements that could suspend, ban or otherwise restrict the quantity of trade would be applied from the date of accession in conformity with the provisions of the WTO, including Articles XI, XII, XIII, XIX, XX and XXI of the GATT 1994, and the Agreements on Agriculture, Application of Sanitary and Phytosanitary Measures, Import Licensing Procedures, Safeguards and Technical Barriers to Trade. The Working Party took note of these commitments.

- **Quantitative Import Restrictions, Including Prohibitions and Quotas**

156. In response to questions from members of the Working Party, the representative of Saudi Arabia supplied details regarding quantitative restrictions maintained in Saudi Arabia. In addition to information contained in the Memorandum on the Foreign Trade Regime, the representative of Saudi Arabia provided a current list of restricted (banned and controlled) items in Saudi Arabia, together with the justification, in Annex F (List of Banned Imports). He also noted that additional information could be obtained from the concerned department or division of the respective Ministry or from the Information Centre of the Ministry of Commerce and Industry. The information could also be obtained from the Chamber of Commerce.

157. Certain members of the Working Party requested further details on quantitative import restrictions, including those on certain imports of the following products: long-life pasteurized milk in packing exceeding 1 litre (HS No. 0401.00.00); dates; rice; poultry, beef and lamb; offal; therapeutic medicines used in animal feed; lentils; and certain tyres. The representative of Saudi Arabia noted that Saudi Arabia had listed all of the products to which it applied quantitative import restrictions, as well as the relevant numbers and bases of the restrictions, at Annex F (List of Banned Imports). Also, he said, Saudi Arabia had taken a series of actions to comply with WTO provisions. He provided the following responses to specific questions from the members of the Working Party:

- i. Long-Life Pasteurized Milk - Saudi Arabia had removed the import ban and replaced it with a tariff.
- ii. Dates - Saudi Arabia had removed the import ban and replaced it with a tariff.
- iii. Rice from the United States - Saudi Arabia did not ban imports of rice from the United States.
- iv. Poultry, Beef and Lamb from the United States - Saudi Arabia did not ban imports of poultry, beef or lamb from the United States.
- v. Offal - The import of offal was permitted from all countries, or regions within countries, except those with livestock with infectious diseases, pursuant to the Guidelines on the Import of Meat and Meat Products (Ministry of Commerce and Industry Decision No. 123 of 16.1.1422H (9 April 2001), as amended by Ministry of Commerce and Industry Decision No. 1308 of 27.5.1424H (27 July 2003)). The latter Decision permitted imports of offal from countries with livestock free of infectious diseases and provided safeguards for such imports. These measures were imposed to protect the health and safety of persons living in the Kingdom.
- vi. Therapeutic Medicines Used in Animal Feed - There were two types of restrictions, which Saudi Arabia confirmed it would apply in the least trade-restrictive manner: (a) a ban on certain antibiotics due to their side effects on human health according to recommendations of the WHO and the Copenhagen Forum (September 1998), which applied to virginiamycin, zinc bacitracin, spiramycin and tylosin phosphate, and enrofloxacin and its use in poultry; and (b) a quantitative restriction designed to preclude importation of huge quantities of therapeutic drugs for use as feed additives,

- which created the risk that the drug no longer would be efficacious for its primary purpose as an antibiotic.
- vii. Lentils from Australia - The ban on lentils from Australia had been lifted after the Agreement between Saudi Arabia and Australia had been signed. The ban, and the problem that occasioned it, had been the subject of successful bilateral discussions between Saudi Arabia and Australia. Saudi Arabia and Australia had agreed that the ban would be lifted and that Australia would certify future shipments.
  - viii. Tyres - The Ministry of Commerce and Industry had banned imports of certain tyres following a series of fatal accidents in the United States caused by design and/or manufacturing issues. The action had been taken due to public safety concerns and in light of the fact that, given the climate of Saudi Arabia, similar accidents would be even more likely to occur there than in the United States. The Ministry requested the investigation results from the concerned U.S. authorities and, in the meantime, took the prudential action of banning imports of those tyres, pending review of the results. The ban was limited to those tyre models, produced at specific facilities, which were most similar to the tyres involved in the accidents. The ban, therefore, applied only to certain tyre models and sizes, produced at certain facilities. The representative of Saudi Arabia noted that specific information was available on request.
  - ix. Used and Rethreaded Tyres - Saudi Arabia had banned imports of used and rethreaded tyres to protect public safety. Given the climate of Saudi Arabia, used and rethreaded tyres are particularly subject to failure and the safety of imports of these products could not be assured.
  - x. Mobile phones fitted with digital cameras – Saudi Arabia had banned this item to preclude individuals from invading privacy by surreptitiously photographing, and downloading onto the internet, pictures of persons or property without consent of the person or the property owner. The ban had been eliminated after a review.

158. The representative of Saudi Arabia confirmed that Saudi Arabia would, from the date of accession, eliminate and not introduce, re-introduce or apply quantitative restrictions on imports or other non-tariff measures, such as quotas, bans, permits, prior authorization requirements, licensing requirements and other restrictions having equivalent effect that could not be justified under the provisions of the WTO Agreement. He also confirmed that all import bans currently in place were listed in Annex F, and that the list of banned imports would be reviewed on an ongoing basis but at least once a year to remove items where permitting importation would not compromise the legitimate objectives of the Kingdom. Changes to Saudi law after accession would be fully in accordance with all relevant provisions of the WTO. He further confirmed that any discretionary authority permitting officials of the Kingdom of Saudi Arabia to suspend imports and exports or otherwise restrict the quantity of trade would be applied from the date of accession in conformity with the provisions of the WTO, including Articles XI, XII, XIII, XIX, XX and XXI of the GATT 1994, and the Agreements on Agriculture, Application of Sanitary and Phytosanitary Measures, Import Licensing Procedures, Safeguards and Technical Barriers to Trade. The Working Party took note of these commitments.

- **Customs Valuation**

159. Some members of the Working Party stated that the system of valuation described in the Memorandum on the Foreign Trade Regime, in Annex 4 to document WT/ACC/SAU/4 and in document WT/ACC/SAU/18 did not appear to fully comply with certain requirements of the Agreement on Implementation of Article VII of the GATT 1994 (Customs Valuation Agreement). Some members requested that a number of areas of the customs valuation regime receive further elaboration so that they were in conformity with the Customs Valuation Agreement, its Interpretative Notes, and relevant decisions and declarations. In particular, members noted that, in addition to problems related to the right of appeal (Article 11 of the Agreement) and to transparency (Article 12 of the Agreement), Saudi Arabia's valuation system lacked predictability and relied on the "nearest equivalent value" as an alternative to transaction value. This could give customs officials excessively wide discretion in their determination of customs value of the imported goods. Members also sought confirmation that Saudi Arabia would adopt Decisions 3.1 and 4.1 of the Customs Valuation Committee. The representative of Saudi Arabia stated that the valuation regime referred to by Working Party members pertained to previous Customs Rules and Regulations that had been abrogated and superseded by the GCC Common Customs Law, which Saudi Arabia had ratified by Royal Decree No. M/41 of 3.11.1423H (5 January 2003).

160. Concerning Article 11 of the Customs Valuation Agreement and the right of appeal to a judicial authority, the representative of Saudi Arabia stated that appeal rights for a relevant person before an independent judicial body (i.e., the Board of Grievances) was guaranteed by Royal Decree No. 190 of 16.11.1409H (19 June 1989). This applied to the Customs Department. The requirements of Article 12 concerning publication of laws, regulations and decisions were satisfied by Article 71 of the Basic Law of Governance, which required that such information be published in the official gazette, *Umm Al-Qura*. The representative of Saudi Arabia noted that Article 1.I.3 of the Rules of Implementation of the Customs Valuation Law implemented Article 11 of the Customs Valuation Agreement. He confirmed that Decisions 3.1 and 4.1 of the Customs Valuation Committee would be implemented through Ministerial Decision not later than the date of accession. In response to request by a member of the Working Party that Saudi Arabia should implement paragraph 2 of Decision 4.1 on the Valuation of Carrier Media Bearing Software for Data Processing Equipment, the representative of Saudi Arabia agreed to that and confirmed that necessary provision had been made in the Ministerial Decision referred to in paragraph 162, below.

161. The representative of Saudi Arabia described the legal basis of the Saudi regime. He stated that the Action Plan on Implementation of the Customs Valuation Agreement circulated in document

WT/ACC/SAU/38/Rev.1 had been completed, that Customs officials and brokers had been trained and necessary laws and regulations on customs valuation had been promulgated. The representative submitted to the Working Party the Common Customs Law of the GCC States and the Rules of Implementation, which contained Saudi Arabia's new system of customs valuation. He further reported that the Common Customs Law of the GCC was ratified by Royal Decree No. M/41. Articles 26 and 27 of the Law and Article 1 of the Rules of Implementation dealt with customs valuation. He further reported that Saudi Arabia had applied the new Common Customs Law and the Rules of Implementation with effect from 1 January 2003, and that they were, in the view of Saudi Arabia, consistent with the provisions of the Customs Valuation Agreement. The representative of Saudi Arabia emphasized that Article 1.I.3 of the Rules of Implementation of the Customs Valuation Law implemented Article 11 of the Customs Valuation Agreement.

162. The members of the Working Party thanked Saudi Arabia for confirming that the provisions of the GCC Common Customs Law and its Rules of Implementation were the legal authority for the operation of Saudi Arabia's customs valuation regime. They noted that, although the GCC Law and the Rules addressed many of the provisions of the Customs Valuation Agreement, they were missing some crucial components of a fully WTO-consistent regime in this area. They identified what they viewed as a number of deficiencies in the implementation of Articles 1, 2, 6-8 and 11-15 of the Customs Valuation Agreement.

163. In response to the questions and concerns of Working Party members regarding the consistency of the GCC Common Customs Law and Rules of Interpretation with WTO provisions, the representative of Saudi Arabia stated that the deficiencies with reference to Articles 1, 2, 6-8 and 11-15 of the Customs Valuation Agreement pointed out in the previous paragraph had been taken care of in Ministerial Decision No. 1207 of 9.5.1425H (27 June 2004), a copy of which had been submitted to the Working Party. He added that the Arabic text of the Common Customs Law and the Rules of Implementation adopted the terminology of the Customs Valuation Agreement, and in any areas where the English translation was not clear, the GCC would be notified and requested to issue a new English translation that clarifies this. Concerning an importer's ability to have goods released upon deposit of a sufficient guarantee, the representative of Saudi Arabia confirmed that an importer had such right upon submission of a sufficient guarantee, which could be in the form of a surety, bank or cash deposit, bank guarantee, or mortgaged property of equivalent value. (In response to a subsequent question, the representative of Saudi Arabia explained that, on the form accompanying the submission of the guarantee, the importer was asked to write down his account number. In the event that it was determined that no additional assessment was appropriate, the amount of the guarantee would be deposited into the importer's account, if the guarantee was in the form of a bank or cash deposit.)

Concerning the point raised on Article 11 of the Customs Valuation Agreement "that it did not appear that provision had been made either in the GCC Law or the Rules of Implementation for the right of appeal, without penalty to a judicial authority or for written notice of the decision on appeal", the representative of Saudi Arabia noted that this issue has been clarified in Ministerial Decision No. 1207 of 9.5.1425H (27 June 2004), which provided that the importer or any person liable for payment of the customs duties could object to and appeal the assessment of the customs value, without penalty, to an independent judicial body (Board of Grievances). Article 31 of the Procedural Rules before the Board of Grievances explicitly provides for written notice of decisions to the litigants. Decision No. 1207, as well as Article 61 of the GCC Common Customs Law, provided that the importer should be informed in writing of the decision taken by the Committee concerning his complaint. As regarded the point raised on Article 12, regarding publication of the laws, regulations and judicial decisions, the representative of Saudi Arabia stated that it had been already clarified in paragraph 159, above, that the requirements of Article 12 had been satisfied by Article 71 of the Basic Law of Governance, which required that such information be published in the official gazette *Umm Al-Qura*. Moreover, Decree No. 162 issued by the Council of Ministers on 17.6.1423H (28 August 2002) provided that the Ministry of Justice and Board of Grievances should compile and publish administrative rulings and the final rulings issued by the courts and the decisions issued by competent committees. The representative of Saudi Arabia confirmed that this would include the publication of administrative rulings of general application giving effect to the Customs Valuation Agreement.

164. The representative of Saudi Arabia confirmed that the Kingdom of Saudi Arabia would implement the provisions of the WTO Agreement on Implementation of Article VII of GATT 1994 (concerning customs valuation) in full from the date of accession to the WTO, without recourse to any transitions. He also confirmed that Saudi Arabia would implement paragraph 2 of Decision 4.1 on the Valuation of Carrier Media Bearing Software for Data Processing Equipment. The GCC Common Customs Law and Implementing Regulations, which came into effect on January 1, 2003, substantially implemented the provisions of the Customs Valuation Agreement. Deficiencies in the law and regulations identified by members had been remedied in Ministerial Decision No. 1207 of 9.5.1425H (27 June 2004). He further confirmed that the Ministerial Decision would remain in effect until the GCC Rules of Implementation were officially amended by the GCC. The Working Party took note of these commitments.

- **Rules of Origin**

165. The representative of Saudi Arabia stated that the Kingdom did not currently have rules of origin for non-preferential trade, but future rules would be implemented in accordance with the WTO Agreement on Rules of Origin. In response to requests for information, the representative of Saudi Arabia stated that certificates of origin issued by the competent authority of the exporting country (the concerned ministry or the chamber of commerce) were necessary for importation of goods from preferential sources. Other requirements in the case of member countries of the Greater Arab Free Trade Area included minimum value added of 40 per cent (*see* the last sentence of paragraph 166, below). From 1996, all imports of expensive textile products had been required to have the origin of the goods printed or stamped thereon with indelible print. A textile product was deemed to be "expensive" depending on an analysis of factors such as the quality, the brand name, texture, design and the price relative to other fabrics. This requirement was introduced to protect consumers against misleading or deceptive practices. In response to a request from a member of the Working Party to review this requirement, the representative of Saudi Arabia stated that his government had found that it was necessary to protect consumers, as misleading marks of origin had been applied on paper stickers, with the result that consumers received a misleading impression about the goods.

166. In response to a question from a member of the Working Party, the representative of Saudi Arabia stated that the GCC did not yet have its own rules of origin. Rather, he stated, the GCC made use of the rules of international economic agreements in force, i.e., the WTO Agreement on Rules of Origin and work thereunder. In response to further questions from a member of the Working Party, the representative of Saudi Arabia stated that rules of origin were currently being prepared within the framework of the Gulf Cooperation Council. These rules would be finalized in consultation with the WTO Secretariat and WTO Members and would be submitted for circulation to members of the Working Party upon completion. These GCC provisions on rules of origin would serve as Saudi Arabia's rules of origin for non-preferential trade, as well as for preferential trade among GCC members. The representative further stated that, pending finalization of rules of origin of the Greater Arab Free Trade Area, interim rules were being applied which provided that origin was conferred on wholly produced or manufactured goods in an Arab country and on goods in which domestic value added was not less than 40 per cent.

167. The representative of Saudi Arabia stated that, from the date of accession, Saudi Arabia's laws and regulations for preferential and non-preferential rules of origin would comply fully with the WTO Agreement on Rules of Origin. The representative of Saudi Arabia confirmed that Saudi



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

- **Other Border Measures**

168. Members of the Working Party asked Saudi Arabia to describe the new customs procedures, following the establishment of the GCC Customs Union, particularly as they related to goods first imported through other GCC member States. One member of the Working Party observed that in some cases Saudi Arabia had turned back imports destined for its market that first entered through and paid duties in other GCC member States. The representative of Saudi Arabia stated that all customs procedures (i.e., lodgement of the customs declaration, inspection of the goods, assessment and collection of customs duties) were conducted in the first GCC member State where the goods entered from outside the GCC. Goods destined for another GCC member State, after completion of customs formalities in the first GCC State, were allowed to leave after affixing customs seals and were accompanied by a copy of the customs import declaration showing the value of the goods and payment of duty. There was no further assessment and collection of duty in the country of final destination, with the exception of "sensitive" goods for which the remainder of the tariff rate of the country of origin (e.g., tariff rate of Saudi Arabia minus 5 per cent) would be collected at entry. The representative said that in the absence of specifics and details it was difficult to say if and why the imports were turned back. It might be that the seals were not intact or the consignment was not accompanied by the customs declaration or, for example, that the import of the goods was banned in Saudi Arabia but not in the GCC State of first importation (e.g., alcoholic beverages).

169. Members of the Working Party asked Saudi Arabia to describe how duties collected were apportioned to various GCC member States. The representative of Saudi Arabia explained that for the first three years following the establishment of the GCC Customs Union, the duties would be apportioned according to the final destination of the goods. The arrangement would be reviewed after the transitional period of three years. The Working Party took note of this commitment.

- **Application of Internal Taxes to Imports**

170. A member of the Working Party asked whether Saudi Arabia would abide by the non-discrimination provisions of Articles I and III of GATT 1994 in relation to internal taxation from the date of accession. In response, the representative of Saudi Arabia stated that Saudi Arabia did not impose a value added tax (VAT), an excise tax or any other internal taxes or charges on either domestically produced or imported products.

171. The representative of Saudi Arabia confirmed that, in case any internal taxes or charges were introduced, Saudi Arabia would apply these taxes in compliance with Articles I and III of the GATT 1994. The Working Party took note of this commitment.

- **Preshipment Inspection**

172. Some members of the Working Party stated that the International Conformity Certification Program (ICCP) mentioned below operated as a PSI scheme. They noted that although most of the requirements of the Agreement on Preshipment Inspection appeared to have been complied with, some elements of the ICCP continued to raise concerns.

173. In response to comments of various members of the Working Party regarding the role of the ICCP and preshipment inspection, the representative of Saudi Arabia reported that the Ministry of Commerce and Industry, in cooperation with SASO, had implemented the International Conformity Certification Program (ICCP) as a combined conformity assessment, preshipment inspection and certification scheme on the basis of which consignments were allowed entry into the Kingdom and cleared more quickly through Customs upon arrival. He further said that the ICCP had been phased out pursuant to Council of Ministers Decision No. 213 of 3.8.1424H (30 September 2003) as of 28 August 2004.

174. The representative of Saudi Arabia stated that, from the date of accession to the WTO, Saudi Arabia would ensure that the requirements of the Agreement on Preshipment Inspection were met in full. He further confirmed that Saudi Arabia would ensure that the operations of any preshipment inspection companies retained by Saudi Arabia met the requirements of the WTO Agreements, including the Agreements on Technical Barriers to Trade, Sanitary and Phytosanitary Measures, Import Licensing Procedures, Customs Valuation, Rules of Origin, Implementation of Article VI (anti-dumping), Subsidies and Countervailing Measures, Safeguards and Agriculture. The establishment of charges and fees would be consistent with Article VIII of the GATT 1994, and Saudi Arabia would ensure that the due process and transparency requirements of

the WTO Agreements, in particular Article X of the GATT 1994, would be satisfied. The Working Party took note of these commitments.

- **Anti-Dumping, Countervailing Duty and Safeguard Regimes**

175. Some members of the Working Party raised concerns regarding the law for the Protection and Encouragement of National Industry. The representative of Saudi Arabia stated that the law would be reviewed to ensure consistency with WTO requirements by the date of accession at the latest.

176. Members also noted that Saudi Arabia did not currently have any trade remedies legislation permitting the imposition either of anti-dumping or countervailing duties or of safeguard measures. Those members requested that Saudi Arabia undertake to not impose such measures until appropriate WTO-consistent legislation had been enacted. The representative of Saudi Arabia confirmed that this was the case and informed the Working Party that a trade remedies law, which included provisions on Anti-Dumping, Countervailing and Safeguard Measures, had already been passed by the Shoura Council and had been submitted to the Council of Ministers. After the enactment of the Law through a Royal Decree, the Implementing Regulations would be issued. In response to questions from members of the Working Party regarding to what imports the law would be applied, the representative of Saudi Arabia stated that the law was not adopted to target specific imports and would provide remedies only in situations foreseen by the WTO Agreements on Anti-Dumping, Countervailing Measures and Safeguards. Copies of the Law and the Implementing Regulations would be made available as soon as possible after their issuance.

177. One member sought clarification as to how the GCC trade remedy laws would work in practice in antidumping, countervailing duty and safeguard investigations, such as whether injury determinations would be made in all cases with respect to a Gulf industry as a whole, as opposed to determinations made in some cases with respect to a domestic industry limited to the Kingdom of Saudi Arabia. The member also asked whether trade remedy measures under these laws would always cover imports into the Gulf countries as a whole, as opposed to measures in some cases being limited to covering imports into the Kingdom of Saudi Arabia. In response, the representative of Saudi Arabia stated that, as of 1 January 2004, the GCC had passed an anti-dumping and countervailing duty law and that the GCC was in the process of developing implementing regulations. The representative confirmed that copies of the law and the regulations would be submitted to the WTO as soon as the regulations were issued.

178. The representative of Saudi Arabia said that Saudi Arabia would not apply any anti-dumping, countervailing or safeguard measures to imports from WTO Members until it had notified and

implemented appropriate laws in conformity with the provisions of the WTO Agreements on the Implementation of Article VI, on Subsidies and Countervailing Measures and on Safeguards. He confirmed that Saudi Arabia would ensure that such legislation would be in full conformity with the relevant WTO provisions, including Articles VI and XIX of the GATT 1994 and the Agreement on the Implementation of Article VI, the Agreement on Subsidies and Countervailing Measures and the Agreement on Safeguards. After such legislation was implemented, Saudi Arabia would only apply any antidumping duties, countervailing duties and safeguard measures in full conformity with the relevant WTO provisions. The Working Party took note of these commitments.

## **B. EXPORT REGULATIONS**

### **- Export Restrictions**

179. Some members of the Working Party enquired whether the Kingdom of Saudi Arabia maintained any export controls. In response, the representative of Saudi Arabia stated that Saudi Arabia maintained no export bans, except on some items such as date seedlings, breeding horses and subsidized wheat and wheat flour. He informed the Working Party that the legal basis of the bans was the authority of the Council of Ministers and that the bases for the individual bans were as set out in Annex I (List of Banned Exports), i.e., GATT 1994 Article XX(a), (b), (d), (f) and (j). Some members of the Working Party asked whether Saudi Arabia intended to remove those bans prior to its accession to the WTO. In response, the representative of Saudi Arabia stated that there was no ban on the export of wheat and wheat flour; an export licence would be approved unless the wheat and wheat flour had been subsidized and the subsidy had not been repaid (i.e., if the subsidy had been returned to the government, the product could be exported). He further added that Saudi Arabia banned the export of date seedlings and breeding horses because the local breeds and varieties of these two items were pure and rare. The representative indicated that a list of banned exports was attached to the Working Party Report at Annex I; a list of exports subject to authorization/licensing was attached at Annex J. In reply to questions from a member of the Working Party, the representative stated that any trader or manufacturer could apply for an export licence, for which no fees were charged. He further said that there were no activity licensing requirements and that the application for the licence had to be submitted to the concerned ministry, i.e., the Ministries of Commerce and Industry, Agriculture, Health, Interior or Petroleum and Mineral Resources. He reported that the licenses were either automatic or non-automatic as indicated in Annex J and that the time period for obtaining the licence depended upon the nature of the exported product. At a later stage, the representative of Saudi Arabia added that Annexes I and J identified all products subject to export bans or export licensing, some of which were discussed below in response to questions from

members of the Working Party. In response to a question from a member of the Working Party, the representative of Saudi Arabia stated that export traders needing licenses were required to have commercial registration. He added that information on export licensing procedures was available on the website of the Ministry of Commerce and Industry. He further added that the list of products subject to export licensing was presently not published but that, prior to accession, it would be published in the official gazette. He added that updates on export restrictions will also be published. The Working Party took note of these commitments.

180. A member of the Working Party commented that food imported into Saudi Arabia could not be re-exported without approval, and receiving approval involved a time-consuming process. The member requested that all prior approval requirements for the re-exportation of imported food be abolished by the date of accession.

181. In response to a question from a member of the Working Party regarding the export ban on scrap metal, the representative of Saudi Arabia confirmed that, prior to accession, this measure would be lifted. The Working Party took note of this commitment.

182. The representative of Saudi Arabia confirmed that from the date of accession Saudi Arabia would ensure that its laws, regulations and requirements relating to the right to export and all fees, charges or taxes levied on such rights would be in full conformity with its WTO obligations, including Articles VIII:1(a), XI:1 and III:2 and 4 of the GATT 1994 and that it would also implement such laws and regulations in full conformity with these obligations. The Working Party took note of these commitments.

183. The representative of Saudi Arabia also confirmed that any export control requirements remaining in place on the date of accession would be fully consistent with WTO provisions, including those contained in Articles XI, XVII, XX and XXI of the GATT 1994. In this regard, the requirement of approval to re-export food would be abolished as from the date of accession and re-export of subsidized food items would be subject to repayment of the amount of subsidy. The Working Party took note of this commitment.

- **Export Duties**

184. Some members of the Working Party requested information on export duties applied by Saudi Arabia. Those members noted that the export duties applied by Saudi Arabia appeared to be imposed only for revenue purposes and would have trade-distorting effects. In response, the representative of Saudi Arabia stated that Article XI of the GATT 1994 expressly permitted the

imposition of export duties, and did not restrict the right to impose such duties. Export duties applied only to un-tanned hides and skins, falling under HS Nos. 4101, 4102 and 4103. The rate of export duty was SAR 2000/ton (roughly 20 per cent). The representative of Saudi Arabia confirmed that Saudi Arabia would not impose export duties on iron and steel scrap. The Working Party took note of this commitment.

- **Export Subsidies**

185. Members of the Working Party asked for information regarding export incentives and subsidies. In response, the representative of Saudi Arabia stated that Saudi Arabia neither maintained nor had any intention to provide any prohibited export incentives or subsidies.

186. The representative of Saudi Arabia confirmed that Saudi Arabia did not maintain subsidies including export subsidies that met the definition of a prohibited subsidy, within the meaning of Article 3 of the Agreement on Subsidies and Countervailing Measures and that it would not introduce such prohibited subsidies in the future. The Working Party took note of this commitment.

**C. INTERNAL POLICIES AFFECTING TRADE IN GOODS**

- **Industrial Policy, Including Subsidies**

187. In response to requests for information concerning interest-free loans provided by the Saudi Industrial Development Fund (SIDF), the representative of Saudi Arabia stated that wholly-owned foreign companies, like Saudi-owned companies, were also eligible for a loan of up to 50 per cent of the project cost. The representative of Saudi Arabia stated that, under the loan programme conducted by SIDF, loans were not contingent upon export performance, nor were they contingent upon the use of domestic over imported goods. The decision to provide a loan was made on the basis of the facts appropriate to that particular case within the parameters of the SIDF Law. Article 2 of the Law provided that the Fund could provide medium- or long-term loans to: (1) new industrial enterprises established in Saudi Arabia; and (2) existing private industrial enterprises for the extension of their activities or the replacement of their equipment and introduction of modern methods thereto. Article 4 of the Law stated that the Fund should carry out a full evaluation of the economic benefits of the enterprise required to be financed, taking into consideration the soundness of its management in order to ascertain the benefit of the industrial enterprise from economic, financial and technical aspects. In addition, the Fund was required to examine whether the financing required for the whole of the enterprise had been reasonably obtained and whether the volume of the Fund's aid represented a

reasonable percentage of the total financing needs of the enterprise; the Fund was required to obtain sufficient financial guarantees for the financing given by the Fund.

188. In response to questions from members of the Working Party, the representative of Saudi Arabia stated that no WTO-inconsistent support or subsidies had been approved or sanctioned for projects involving the creation of production capacity for refined petroleum and petrochemical products.

189. The representative of Saudi Arabia confirmed that any subsidy programmes would be administered in conformity with the Agreement on Subsidies and Countervailing Measures and that all necessary information on programmes would be notified to the Committee on Subsidies and Countervailing Measures in accordance with Article 25 of the Agreement upon entry into force of Saudi Arabia's Protocol of Accession. The Working Party took note of this commitment.

- **Technical Barriers to Trade**

190. The representative of Saudi Arabia provided the Working Party with information on Saudi voluntary standards, Saudi mandatory standards (technical regulations) and Saudi Arabia's International Conformity Certification Programme (ICCP) in documents WT/ACC/SAU/15, 16, 21, 26, 29, 34, 36 and 37 (Revised Comprehensive Procedures and Guidelines concerning the ICCP); 41 (Action Plan for the Implementation of the TBT Agreement); 45 (ICCP); 48 (Communication on the SASO Technical Directive); and 52 (Communication on the ICCP). The representative of Saudi Arabia stated that, under Saudi law, "mandatory standard" was the same as the WTO term "technical regulation".

- Description of Saudi Regime

191. The representative of Saudi Arabia further informed members of the Working Party that Saudi Arabia had established and was implementing the TBT regime. This had been done by issuing and implementing the SASO Technical Directive (having the force of law) on 18 July 2000, and amended on 19 July 2005. The major features of the system were:

- i. All SASO standards, mandatory standards (technical regulations) and conformity assessment procedures were intended to be fully compatible with the TBT Agreement.
- ii. SASO had established a single contact point for information (Enquiry Point) pursuant to Part Four of the Technical Directive. It also would provide relevant documents upon request.
- iii. The Ministry of Commerce and Industry was the authority responsible for making notifications to the WTO.

- iv. Item 2 of Part Four of the Technical Directive required a non-discriminatory and cost-based fee structure.
- v. Items 4/5/1 of Part Two of the Technical Directive required publication of notices of proposed technical regulations, standards and conformity assessment procedures in the journal issued by SASO.
- vi. Items 3/3/1 and 4/5/4 of Part Two of the Technical Directive provided for a 60-day comment period and non-discriminatory consideration of comments in the preparation of final regulations.
- vii. Item 4/8 of Part Two of the Technical Directive provided for a reasonable period of time between the final publication and entry into force of a technical regulation.
- viii. Item 2/1 of Part Two of the Technical Directive stated that SASO would follow the Code of Good Practice for the preparation, adoption and application of standards.
- ix. Item 2/3 of Part Two of the Technical Directive and Item 2 of Part Three of the Technical Directive provided for national treatment and non-discrimination with respect to products in the context of development and application of technical regulations and conformity assessment procedures.
- x. Item 2/4 of Part Two of the Technical Directive stated "Saudi voluntary and mandatory standards shall not create unnecessary barriers to international trade except what violates the Islamic legislation (e.g., requirements for halal meat and labelling requirements for 'alcohol free' malt beverages), national security requirements, prevention of deceptive practices, and the protection of human health or safety, animal or plant life or health or the protection of environment".
- xi. Item 4/9 of Part Two of the Technical Directive provided for on-going review of technical regulations to ensure they are appropriate to achieve the desired legitimate objectives.
- xii. Items 3/1 and 4/1 of Part Two of the Technical Directive required SASO to consider relevant international standards as a basis for preparing Saudi technical regulations and standards unless these international standards or their parts are ineffective or an inappropriate means for achieving the intended, legitimate objectives. This, for example, could be due to their inconsistency with Islamic law or due to climate, geographical factors or basic technical problems.
- xiii. According to Items 3/2 and 4/4 of Part Two of the Technical Directive, technical regulations and standards should be prepared on the basis of product performance requirements rather than in terms of design or descriptive characteristics.
- xiv. Item 4/3 of Part Two of the Technical Directive required SASO to consider equivalent technical regulations of other Members unless they were ineffective or inappropriate for achieving the intended legitimate objectives.
- xv. Item 2 of Part Three of the Technical Directive required SASO to accept the results of conformity assessment procedures conducted by bodies in exporting Member countries provided that relevant Saudi Arabian national deviations were taken into account.

192. In response to questions from some members of the Working Party, the representative of Saudi Arabia stated that SASO is the sole standardization body in Saudi Arabia. Its Board of Directors consisted of representatives from all concerned Ministries, Government Agencies and the private sector. There was coordination between SASO and other Saudi authorities on issuing any regulations that might affect trade between Saudi Arabia and other countries. He said that technical committees made recommendations to SASO on whether a standard should be voluntary or a mandatory (i.e., a technical regulation, in WTO terms). (A list of the technical committees was



attached to the Working Party Report at Annex K.) In response to a question by a member of the Working Party, he reported that the criteria for adopting a standard as mandatory (as a technical regulation) would be based on the fulfilment of legitimate objectives as provided in the TBT Agreement, such as protection of health, safety, national security, Islamic Law, the environment and prevention of deceptive practices. In reply to a question whether guidelines and/or criteria would be developed to assist in determining whether an existing mandatory standard (technical regulation) should remain mandatory when it was reviewed, the representative of Saudi Arabia stated that the criteria for adopting mandatory standards (technical regulations) would also apply to a review of existing mandatory standards (technical regulations). He noted that the development of Saudi voluntary standards and mandatory standards (technical regulations) would proceed in accordance with SASO's General Outline of the Measures for Drafting Saudi Standards. All parties concerned with the subject matter of the draft mandatory standards (technical regulations) were normally represented on the relevant "technical committees" as active members; they included pertinent governmental, academic, industry and trade sectors. For this reason, only one draft circulation period was necessary to provide adequate opportunity for comments by other interested parties. In case of development of draft mandatory standards (technical regulations) by the SASO technical staff, the first draft circulation period provided the opportunity for comments raised by all concerned parties to be taken into consideration in the preparation of the second draft. He also provided the Working Party with a copy of the procedures for the development of SASO mandatory standards (technical regulations) in Annex IV to document WT/ACC/SAU/29.

193. In response to additional questions from a member of the Working Party, the representative of Saudi Arabia reported that SASO had reviewed the Technical Directive and the changes discussed below had been made as of 19 July 2005. The reference in the Technical Directive to "ISO Code of Good Practice" had been changed to "TBT Code of Good Practice" and statements such as "whenever possible" or "as much as possible" had been removed from the Technical Directive. Also, Part III of the Technical Directive had been changed to reflect the Ministerial Decision withdrawing the ICCP by deleting ICCP from Part III of the Technical Directive. The representative further stated that, to make all of the procedures more transparent, they had been placed on the Ministry of Commerce and Industry website ([www.commerce.gov.sa](http://www.commerce.gov.sa)), and they were available from the Chambers of Commerce.

194. Members of the Working Party asked Saudi Arabia to confirm that the Saudi Conformity Assessment Program (SCAP) would comply with WTO rules and that any fees charged for assessing the conformity of the products originating in the territories of other Members were equitable in relation to any fees chargeable for assessing the conformity of like products of national origin or originating in any other country, as foreseen in the TBT Agreement. At a later stage, the

representative of Saudi Arabia stated that SASO had discontinued SCAP in light of the phase out of the ICCP and that SCAP had been removed from the third part of the Technical Directive. In response to a question from members of the Working Party, the representative of Saudi Arabia noted that a list of "Items Subject to Mandatory Certification" had been attached to the Working Party Report at Annex H. The representative later assured the members that the list was up to date and complete, and would be reviewed and revised by the ICCP Replacement Committee.

195. In response to questions from members of the Working Party, he noted that Saudi Arabia was a member of the International Standardization Organization (ISO), the International Electrotechnical Commission (IEC), the International Organization for Legal Metrology (OIML) and the Codex Alimentarius Commission (CAC). All Saudi voluntary standards and mandatory standards (technical regulations) were notified to all other members of those international organizations. He further reported that, as noted in Saudi Arabia's Technical Directive, Saudi Arabia would comply with all relevant provisions of the TBT Agreement, including the Code of Good Practice, as from the date of accession. Certain Saudi mandatory standards (technical regulations) had a corresponding ISO or IEC equivalent which was indicated in the published list of SASO mandatory standards (technical regulations); a high percentage of Saudi voluntary standards and mandatory standards (technical regulations) used international standards and other widely accepted national standards as references. He provided members of the Working Party with a list of SASO voluntary standards and mandatory standards (technical regulations) that had been based upon CODEX standards, together with a complete list of the 2,338 Saudi voluntary standards and mandatory standards (technical regulations), including a cross-reference to the international standards adopted in their entirety as SASO voluntary standards and mandatory standards (technical regulations) (in document WT/ACC/SAU/59/Add.5, which replaced WT/ACC/SAU/34 and WT/ACC/SAU/15). The percentage changes constantly as Saudi Arabia adopts pre-existing international standards. Some members of the Working Party requested a list of the standards deemed to be equivalent to Saudi mandatory standards (technical regulations). In response, the representative of Saudi Arabia stated that SASO had published the list of mandatory standards (technical regulations), and in this connection referred to the information in document WT/ACC/SAU/59/Add.5.

196. The representative of Saudi Arabia stated that the ICCP had been eliminated pursuant to Council of Ministers Decision No. 213 of 3.8.1424H (30 September 2003) and no longer operated as from 28 August 2004 when the period specified in then-current contracts had expired. An ICCP Replacement Committee had been formed consisting of members representing the Ministries of Commerce and Industry, Finance and Economy and Planning. The Committee, which is chaired by

the Ministry of Commerce and Industry, was charged with establishing the following replacement mechanism:

- i. Using private laboratories as an alternative mechanism for certifying the conformity of imported goods to established standards, after the private laboratories have been approved for examination purposes.
- ii. During a transitional period, the conformity certificate should be issued by an entity authorized by the competent official agency in the country of origin. Such conformity certificates should accompany all consignments of imported goods certifying their conformity to the established mandatory standard (technical regulation). The certificate should confirm that these goods were subjected to regular laboratory examination under supervision of the competent control agency in the country of origin. The entity should be fully responsible for the contents of this certificate. The producing company should assume full responsibility for all damages happening as a result of using such goods. Random samples may be taken from the imported consignments on their arrival in the Kingdom's ports in order to ascertain the veracity of the certificate.

The new "Conformity Certificate for the Goods Exported to the Kingdom of Saudi Arabia" applied to all products, including domestic products, except those subject to the Kingdom's sanitary and phytosanitary regulations. Certification was not required when documentation had been provided for purposes of assuring conformity to Islamic religious requirements (rulings of Islamic Shari'a). There were no fees for this certificate. Detailed guidance on how to comply with the new requirements was available on the website of the Ministry of Commerce, which was the oversight authority.

197. Some members of the Working Party requested additional information on the purpose and operational details of the new Conformity Certificate mechanism. The representative of Saudi Arabia stated that the purpose of the new Certificate was to provide Saudi authorities with a basis for conducting post-market surveillance to ensure product conformity to specified requirements and would be done through random sampling or risk-based compliance checks during the transitional period. The new mechanism allowed the entity submitting the Conformity Certificate (i.e., a conformity assessment body, an accredited body, an independent third party or a manufacturer) to declare compliance with the appropriate technical regulation or standard. Such entity was responsible for the information contained in the Certificate. The mechanism recognized technical regulations or standards that were in conformity with an approved SASO technical regulation. In the absence of a relevant, approved SASO technical regulation, information should be provided to identify whether the product meets a technical regulation of another government authority, SASO standard or relevant international standard, or other standard. Information should also be provided to identify who did the testing. The Conformity Certificate would not be needed once Saudi Arabia had established sufficient in-country capabilities for testing imported and domestic products through random sampling or risk-

based compliance checks. The representative of Saudi Arabia further clarified that there was no geographic or nationality limitation for conformity assessment or accreditation bodies. The Working Party took note of these commitments.

198. Some members of the Working Party requested Saudi Arabia to confirm that access to the SASO Quality Mark would be on a non-discriminatory basis and without distinction to the origin of the product. In response, the representative of Saudi Arabia stated that access to Saudi Quality Mark, a voluntary program, would be on a non-discriminatory basis, without distinction as to the origin of the products. In response to an additional question, he confirmed that domestic and foreign suppliers could apply to obtain the Quality Mark for imported products. Use of the Quality Mark would be granted in a non-discriminatory fashion to those domestic and foreign suppliers that met the requirements of the program. The Certificate of Conformity was voluntary and applicable to specified consignments of certain products when the organization submitted application for obtaining a conformity certificate according to standards pertaining to such product; this certificate of conformity might be applied to domestic, exported and imported products. This would help in the implementation of such standards and facilitate the commercial exchange. This certificate was granted for consignments conforming to standards when the conditions mentioned in paragraph 5 of the Third Part of the Technical Directive were fulfilled. The "Quality Mark" was applicable for factories, while the Certificate of Conformity were for consignments. The representative of Saudi Arabia confirmed that any fees charged in connection with the "quality mark" and "certificate of conformity" would be based on the cost of the services rendered.

199. A member of the Working Party requested Saudi Arabia to explain its rice labelling requirement that information be printed on at least 50 per cent of the surface of the rice package. In response, the representative of Saudi Arabia stated that this requirement no longer existed, as the Kingdom had withdrawn it.

200. A member of the Working Party inquired as to the rationale for the application of different emission standards to new and used heavy vehicles. The representative of Saudi Arabia replied that new heavy vehicles were subject to more demanding standards because they could meet them; he reported that the Kingdom was unaware of any instance of non-compliance and that the standard was not, in practice, a bar to imports. A lower standard had been set for used heavy vehicles, he reported, because otherwise used heavy vehicles would not be able to be operated absent significant and extremely costly modifications. Concerning a further question regarding the application of different emission standards, the representative stated that there were no Saudi standards for heavy-duty gasoline engines and three Saudi standards for heavy-duty diesel engines, as follows:

- i. SASO 672/1991 "Motor Vehicles – Allowable Limits of Pollutants Emitted to the Atmosphere from Heavy Duty Diesel Engine Vehicles";
- ii. SASO 673/1991 "Motor Vehicles – Methods of Testing for Pollutants Emitted from Heavy Duty Diesel Engine Vehicles – Part 1: Determination of Exhaust Gaseous Pollutants"; and
- iii. SASO 674/1991 "Motor Vehicles – Methods of Testing for Pollutants Emitted from Heavy Duty Diesel Engine Vehicles – Part 2: Determination of Smoke Density".

The standards had been implemented since 14 November 1992. SASO had not received any comments or complaints regarding them from any vehicle manufacturer.

201. In response to inquiries by members of the Working Party relating to shelf-life of food products, the representative of Saudi Arabia confirmed that Saudi Arabia had re-examined its shelf-life requirements. A technical committee from different Government Ministries (Ministry of Commerce and Industry, Ministry of Health, Ministry of Agriculture, Ministry of Municipalities, Universities and SASO) had reviewed Saudi standards on the shelf-life of food products (SASO 457/2000 and SASO 702/1993) according to the requirements of the SPS and TBT Agreements, Codex Alimentarius Commission, international scientific papers and research and field scientific studies carried out in the Kingdom of Saudi Arabia or abroad. The revised Saudi standard, which incorporated the deletion of the statement of not allowing any food product which had overpassed more than half of its shelf-life, including perishable food. The revised standard also incorporated that shelf-life for food products would be voluntary except for select perishable food (i.e., fresh or chilled meat and poultry, fresh milk and fresh milk-based products, margarine, fresh fruit juice and fresh table eggs) and baby foods. With the exception of these products, Saudi Arabia would accept manufacturer-determined use-by dates for products. The revised standard had been circulated for comments for a period of 90 days and would be implemented from the date of approval of SASO Board of Directors. The Working Party took note of this commitment.

202. The representative of Saudi Arabia stated that to allow members and appropriate stakeholders to better understand how Saudi Arabia will implement the revised standards, Saudi Arabia will provide written technical guidance as soon as possible but no later than 90 days before the revised shelf life requirements are implemented. This guidance will be attached as an annex to the revised standards and will include the following language:

- i. These revised standards will be effective as of their approval by the SASO Board of Directors, not later than the end of 2005. Until this date, SASO Standards 457/2000 and 702/1993 (shelf-life for food products) will be implemented. Products that are not in compliance with the current or revised standards can be returned to the originating country if requested and will not be destroyed or held at port indefinitely.
- ii. The expiration date as defined in Section 4.1 represents that last viable date for the product to be consumed. Products that remain on the shelf beyond the expiration date

may be pulled or destroyed. For products that have voluntary shelf-life, the exact date of expiration is determined solely by the manufacturer

- iii. Where not elsewhere defined, suitable containers under Types of Packaging under Section 4.4.1. Mandatory Expiration Periods of Food Products shall be defined as any appropriate container as long as the packaging has not been compromised (e.g., free from significant tears, damage, etc.).
- iv. Products that do not fall under Section 4.4.1. Mandatory Expiration Periods of Food Products shall be considered to fall under Section 4.4.2. Voluntary Expiration Periods of Food Products, unless these products are perishable, as specified in paragraph 201. Types of packaging for products under Section 4.4.2. shall be defined as any appropriate container as long as the packaging has not been compromised (e.g., free from significant tears, damage, etc.).
- v. All requests for more information about the revised standards should be submitted to the Food Department at SASO; Telephone No. 966-1-4520-166. The Ministry of Commerce and Industry is responsible for monitoring and administering the application of the revised standards and will also be responsible for resolving any discrepancies or disputes involving the application of standards.

- **Transparency**

203. Some members of the Working Party requested that the Government of Saudi Arabia publish draft technical regulations in a single official journal or other publication that was available to the general public, and other interested parties. The representative of Saudi Arabia stated that draft technical regulations would be available on SASO website: [www@saso.org.sa](mailto:www@saso.org.sa). He confirmed that Saudi Arabia would notify the Secretariat when the new website (including an English version) was complete and that this would be by the end of 2005. He confirmed that all Saudi draft technical regulations were still announced in all Saudi newspapers and circulated to all foreign embassies in Saudi Arabia. The Working Party took note of these commitments.

- **Implementation of TBT Agreement Obligations**

204. In response to the above explanations and clarifications provided by the representative of Saudi Arabia, members of the Working Party requested that Saudi Arabia provide a description of the steps being taken to ensure full implementation of the Agreement on Technical Barriers to Trade. In response, the representative of Saudi Arabia provided the Working Party with the Technical Directive, which implemented TBT Agreement. In response to a comment of a member of the Working Party, the representative referred to the statement at item x of paragraph 191, above. The SASO Technical Directive of July 2000, amended 19 July 2005, incorporated the substance of the TBT Agreement. In response to a question from a member of the Working Party, the representative of Saudi Arabia reported that the Saudi Arabian Standards Organization (SASO) (P.O. Box 3437, Riyadh 11471,

Saudi Arabia; tel: 966-1-452-0000; fax: 966-1-452-0086; [www.saso.org.sa](http://www.saso.org.sa)) was the operational enquiry point for issues relating to the TBT Agreement.

205. The representative of Saudi Arabia committed that Saudi Arabia would comply with all obligations under the WTO Agreement on Technical Barriers to Trade from the date of accession without recourse to any transition period. The Working Party took note of this commitment.

- **Sanitary and Phytosanitary Measures**

206. The representative of Saudi Arabia stated that one of the legal bases for SPS requirements in Saudi Arabia was Royal Decree No. M/10 of 3.3.1392H (16 April 1972), which established SASO, the competent standardization body in Saudi Arabia. He noted that SPS measures were enforced through Council of Ministers Decision No. 85 of 1.4.1412H (4 July 2000) and Ministerial Decision No. 943 of 2.5.1424H (1 July 2003). In response to further questions from members of the Working Party, the representative of Saudi Arabia stated that the SASO Technical Directive implemented Saudi Arabia's obligations under the TBT Agreement, while the Saudi Unified SPS Procedures implemented Saudi Arabia's obligations under the SPS Agreement.

207. The representative of Saudi Arabia stated that Saudi standards covered sanitary and phytosanitary measures by means of at least one of the following:

- i. Measures following the standards and guidelines and recommendations of the Codex Alimentarius Commission, the World Organization for Animal Health (OIE), and the International Plant Protection Convention.
- ii. Measures not covered by the standards and guidelines and recommendations of these organizations would be based on the provisions of the SPS Agreement.

The Working Party took note of these commitments.

208. Some members of the Working Party requested that Saudi Arabia identify all areas of inconsistency and provide a timetable for bringing the Saudi Arabian regime into conformity with the requirements of the SPS Agreement. In response, the representative of Saudi Arabia stated that an internal review had already been commenced into Saudi Arabia's SPS regime guided by the comments of the WTO Working Party in this respect. At a later stage, the representative of Saudi Arabia provided members of the Working Party with a comprehensive Action Plan for the Implementation of the SPS Agreement in document WT/ACC/SAU/42. Still later, he informed the Working Party that the Action Plan had been fully implemented by issuance of Council of Ministers Decision No. 85 of July 2000 and Ministerial Decision No. 943 of 2.5.1424H (1 July 2003) on SPS law titled "Sanitary and Phytosanitary Unified Procedures". In reply to questions from some Working Party members, the representative of Saudi Arabia stated that the new SPS law also incorporated revisions of the

"Agricultural Quarantine Regulations" and the "Statutory Instruments of Veterinary Quarantine", ensuring conformity with the requirements of the SPS Agreement. He reported that the main provisions of the new Saudi Law include the following:

- i. Saudi Arabia shall apply SPS measures consistently with the provisions of the WTO Agreement on SPS Measures (Article 2.1 of Saudi Arabia's SPS Law).
- ii. SPS measures shall be limited to the extent necessary to protect human, animal or plant life or health (Art. 2.2 of Saudi Arabia's SPS Law).
- iii. SPS measures shall be based on scientific rules and principles and shall not be maintained without sufficient scientific evidence (Art. 2.2 of Saudi Arabia's SPS Law).
- iv. There will be no unjustified discrimination between WTO Members and Saudi Arabia where identical or similar conditions prevail (Art. 2.3 of Saudi Arabia's SPS Law).
- v. SPS measures shall not be applied in a way that constitutes a disguised restriction on international trade (Art. 2 of Saudi Arabia's SPS Law).
- vi. SPS measures taken by Saudi Arabia shall be based on international standards, guidelines or recommendations, except where there is a scientific justification for a measure resulting in a higher level of protection (Arts. 3.1 and 3.3 of Saudi Arabia's SPS Law).
- vii. Saudi Arabia shall accept the SPS measures deemed appropriate by other WTO Members as equivalent where those measures achieve the protection level of Saudi Arabia (Art. 4.1 of Saudi Arabia's SPS Law).
- viii. Article 5 of Saudi Arabia's SPS Law follows the provisions of Article 5 of the WTO SPS Agreement.
- ix. Article 6 of Saudi Arabia's SPS Law follows the provisions of Article 6 of the SPS Agreement.
- x. Articles 7 and 8 of Saudi Arabia's SPS Law follow the provisions of Articles 7 and 8 of the SPS Agreement.

A member of the Working Party was of the view that, in some instances, not all provisions of the SPS Agreement had been taken over in Saudi Arabia's national legislation and key words had been changed or omitted. That left the legislation open to interpretation and might lead to legal uncertainty. The representative of Saudi Arabia stated that the problem would be taken care of in a Ministerial Circular amending the Unified SPS Procedures. Members welcomed Saudi Arabia's statement that it would reconcile inconsistencies between its domestic legislation and regulations and procedures implementing the WTO SPS Agreement, so that all of Saudi Arabia's laws, regulations, procedures and other requirements for importation were consistent with the provisions of the WTO SPS Agreement. The Working Party took note of this commitment.

209. In addition, the representative of Saudi Arabia stated that the veterinary quarantine bylaw issued pursuant to Council of Ministers Decision No. 109 of 30.4.1424H (30 June 2003) covered sanitary and veterinary requirements and measures pertaining to animals and animal products conforming to the ruling of the International Zoosanitary Code specifying the regulations recommended for international trade with regard to animals and animal products issued by the World



Organization for Animal Health (OIE). He noted also that the agricultural quarantine bylaw issued by Council of Ministers Resolution No. 207 of 26.1.1396H (28 January 1976) set out requirements and phytosanitary measures conforming to the rules issued from IPPC initially based on FAO publications. The representative of Saudi Arabia added that the Unified Plant Quarantine Law (UPQL) for the Gulf Cooperation Council (GCC) had been promulgated in 2003 and new unified quarantine pests lists had been issued. Since then, regular meetings had been held under the auspices of the GCC Secretariat General to establish procedures and policies for a strong agricultural quarantine system in the GCC region.

210. The representative of Saudi Arabia stated that, pursuant to Council of Ministers Decision No. 85, a Standing Committee on SPS Measures had been created. The Standing Committee was reviewing all existing SPS measures to ensure consistency with the requirements of the SPS Agreement. Whenever, as a result of this review, a measure was determined to be inconsistent, the Standing Committee would issue a recommendation to the relevant agency, such as the Ministry of Agriculture for livestock and fresh fruits, vegetables and grains, and the Ministry of Commerce and Industry for processed foods and other foodstuffs. When the agency concerned determined that the measure was inconsistent with the SPS Agreement, the agency would conform the measure to the requirements of the SPS Agreement. Also, when a WTO Member identified a specific measure, the Standing Committee would review that particular measure forthwith. The Working Party took note of these commitments.

211. In response to requests for further information regarding the role of the GCC and Saudi Arabia's quarantine system, the representative of Saudi Arabia stated that the Council of Ministers had issued Decision No. 109 of 30.4.1424H (30 June 2003). Through Decision No. 109, Saudi Arabia had adopted the veterinary quarantine system applicable to GCC countries. (He reported that a revised plant quarantine system was still under consideration.) The representative noted that the Customs Union of the GCC countries had adopted a system of one port of entry for all goods imported to GCC countries. According to the system, any item that was allowed to enter any GCC port was allowed to enter all GCC countries and customs procedures such as inspection, laboratory analysis and customs fees were handled in the first port of entry. Thus, the quarantine system in all GCC countries was unified. However, a transition period of three years from 1 January 2003 was provided for the GCC quarantine system's fuller implementation. He assured the members that this transitional period did not and would not affect Saudi Arabia's commitments regarding operation of its quarantine system.

212. A member of the Working Party asked how Saudi Arabia would ensure that measures applied by Saudi Arabia would meet the requirements of Article 5 of the SPS Agreement (i.e., that the

measures applied in each member were not more restrictive than necessary to deal with the risks faced by that particular member). The representative of Saudi Arabia explained that, because there was free movement of goods between GCC countries due to the establishment of the customs union, it was not feasible to restrict imports in one GCC country and to allow imports in other GCC countries. Some members of the Working Party indicated that this could result in Saudi Arabia applying a ban on imports even though those imports did not pose a disease risk in Saudi Arabia, simply as a result of another GCC country imposing such a ban. Those members were of the view that this may be inconsistent with the requirements of Article 5 of the SPS Agreement. In response, the representative of Saudi Arabia assured the members that Saudi Arabia was aware of this concern and that any bans would be applied only in a manner consistent with Article 5 of the SPS Agreement as of the date of accession. He stated that, accordingly, existing arrangements would be reviewed in consultation with GCC countries and appropriately amended by the date of accession to ensure that an SPS measure could not be applied at any Saudi port to any product intended for final sale in Saudi Arabia unless the SPS measure was based on relevant international standards, guidelines and recommendations or, in any other case, based on science consistent with the relevant provisions of the SPS Agreement. The Working Party took note of these commitments.

213. The representative of Saudi Arabia further reported that Saudi Arabia earlier had issued sanitary and quarantine measures administered by the Ministry of Agriculture, as well as the Ministry of Health and the Ministry of Municipalities. When no approved international standards applied to these products, the Kingdom of Saudi Arabia would implement SPS measures based on science consistent with the relevant provisions of the SPS Agreement.

214. Saudi Arabia was a permanent and active member in the international organizations on plant and animal regulations, including FAO, the Codex Alimentarius Commission (CAC), the World Organization for Animal Health (OIE) and the International Plant Protection Convention (IPPC). Saudi Arabia's SPS measures did not arbitrarily or unjustifiably discriminate between different countries where identical or similar conditions prevail. Such measures also did not discriminate between the territory of Saudi Arabia and other countries where identical or similar conditions prevailed. Saudi Arabia's SPS measures were not applied in a manner which constituted a disguised restriction on international trade.

215. In response to requests for information on the transparency of Saudi Arabia's SPS measures, the representative of Saudi Arabia stated that Saudi Arabia's SPS measures were published in advance of their application. The Kingdom of Saudi Arabia had an established system for informing governments and other standards organizations of changes. Saudi Arabia's SPS measures and

requirements were notified to the Embassies in the Kingdom and to Saudi Chambers of Commerce. In response to a comment by a member of the Working Party, the representative noted that, as with TBT standards, Saudi food draft standards will be available on SASO website: [www@saso.org.sa](mailto:www@saso.org.sa), in order to increase transparency and provide notification of future changes to SPS import requirements. (All Saudi SPS measures would continue to be disseminated as described above.) In addition, he noted that full sets of guidelines detailing all requirements were freely available to any interested parties. Furthermore, information regarding Saudi Arabia's SPS regime, including its SPS measures, would be disseminated on the internet through a website accessible through the homepage operated by the Ministry of Commerce and Industry. The website would be fully operational by the date of accession and offer a comprehensive service to users. The representative confirmed that Saudi Arabia would provide notification of future changes to import requirements relating to SPS matters. The Working Party took note of these commitments.

216. Members of the Working Party asked Saudi Arabia to identify any additional steps taken to implement obligations in the SPS Agreement regarding transparency. The representative of Saudi Arabia stated that SPS obligations had been implemented by recent decisions by the Council of Ministers. In particular, he noted that Council of Ministers Decision No. 85 of 1.4.1421H (4 July 2000) included a number of provisions implementing obligations of the SPS Agreement. First, Decision No. 85 required the Ministry of Commerce and Industry to notify the WTO and all WTO Members of all actions relating to SPS issues and to respond to any inquiries regarding the same. Second, under the Decision, a Technical Standing Committee was established to monitor Saudi SPS measures and ensure that they are implemented in accordance with Saudi Arabia's WTO obligations. The Technical Standing Committee comprised representatives from the Ministry of Commerce and Industry, the Ministry of Agriculture, the Ministry of Health, SASO and the Customs Department. Third, Decision No. 85 required the Ministry of Commerce and Industry to prepare a list of all Saudi SPS measures; this list is attached as Annex L (List of SPS Measures Maintained by the Kingdom of Saudi Arabia). In response to a question by a member of the Working Party, the representative assured the member and confirmed that Saudi Arabia would strictly follow the provisions of Council of Ministers Decision No. 85 and would notify the WTO and all WTO Members of all proposed SPS measures and actions relating to SPS issues and respond to any inquiries regarding the same. The Working Party took note of these commitments.

217. Some members of the Working Party stated that the information on Saudi Arabia's SPS measures gave a good overview of the regime. They sought confirmation that measures were based on risk assessments carried out in accordance with Article 5 of the SPS Agreement. In response, the representative of Saudi Arabia confirmed that Saudi Arabia's SPS measures conformed to all

standards, guidelines or recommendations issued by the international bodies specifically designated by the SPS Agreement, i.e., the Codex Alimentarius Commission, the World Organization for Animal Health (OIE) and the International Plant Protection Conventions, and so, in accordance with Article 3.2 of the SPS Agreement, such SPS measures were presumptively consistent with the SPS Agreement. (Saudi Arabia was a member of all three organizations.) For remaining SPS measures not covered by the above three organizations (such as microbiological risks and shelf life of food products), Saudi Arabia relied on scientific studies, guidelines and recommendations issued either by specialized internationally accepted research institutes, universities or scientific references or, in limited cases, by itself. In cases where Saudi Arabia decided that measures which provide a level of protection higher than that provided for in guidelines and recommendations issued by internationally recognized bodies are necessary to meet its appropriate level of protection, application of such measures would be based on scientific principles; only to the extent necessary to protect human, animal or plant life or health; and taking full account of the objectives of minimizing negative trade effects. He confirmed that Saudi Arabia's SPS measures were based on risk assessment in accordance with Article 5 of the SPS Agreement.

218. Some members of the Working Party identified certain possible areas of inconsistency with the requirements of the SPS Agreement, such as the requirement in Article 6 of Council of Ministers Resolution No. 207 of 26.1.1396H (28 January 1976), "Agricultural Quarantine Regulations", that products be free of all weed seeds, regardless of whether such weed seeds were quarantine significant, in accordance with relevant international guidelines. Some members also noted that Article 3 of Council of Ministers Decision No. 109 of 30.4.1424H (30 June 2003), "The Statutory Instrument of the Veterinary Quarantine", stated that "no animal may be admitted ... from any country that was infected with any epidemic disease ...." These members were of the view that this requirement was inconsistent with Article 6 of the SPS Agreement and national treatment provisions. In response, the representative of Saudi Arabia stated that, upon accession, the Kingdom of Saudi Arabia would revise Resolution No. 207 and Decision No. 109 to ensure compliance with the relevant WTO obligations. In response for further information concerning the importation of seeds, he noted that there was no fee charged for the inspection of seeds. The seeds were first subject to a visual examination to check for impurities and to ensure that the phytosanitary information in the import documents was correct. Thereafter, samples of the seeds were sent to laboratories to check for aflatoxins. The Working Party took note of this commitment.

219. One member of the Working Party stated that Saudi Arabia, presumably due to animal health concerns related to BSE, had banned imports of bovine semen from that country. The representative of Saudi Arabia confirmed that the ban on import of bovine semen had been lifted.

220. Similarly, in response to a comment from a member of the Working Party, the representative of Saudi Arabia stated that, in the view of the Kingdom, it had not been established that West Nile Virus could not be transmitted to humans. Thus, Saudi Arabia had banned certain imports in accordance with information provided by OIE and as a prudential measure, in conformity with Article 5.7 of the SPS Agreement. One member of the Working Party stated that Saudi Arabia's ban on live birds (specifically, day-old chicks) due to concerns about West Nile Virus was not consistent with international practices. The representative of Saudi Arabia confirmed that the ban on imports of day-old chicks from the United States had already been removed.

221. A member of the Working Party raised the following points in relation to Annex L (List of SPS Measures Maintained by the Kingdom of Saudi Arabia):

- i. With regard to BSE - Saudi Arabia only banned live bovines from Washington State in the United States, i.e., a regional approach was applied. The member said there was no justification for this approach and asked the representative of Saudi Arabia to justify it in the context of Article 5 of the SPS Agreement. The representative of Saudi Arabia stated that a regional approach was consistent with the provisions of paragraph 1 of Article 6 of the SPS Agreement. The member also stated that, according to Annex L, meat from the same region (Washington State) was not banned, and this was equally not understandable. The reverse policy was applied by Saudi Arabia in the case of Sweden (which had no cases of BSE), where Saudi Arabia allowed imports of bovines but not of meat. The representative of Saudi Arabia stated that since many cases of BSE kept appearing in various member countries of the European Union, the ban on meat had been applied to the EU as a whole.
- ii. Also with regard to BSE – the member said that Saudi Arabia should remove its restrictions on imports of embryos, as it had done for bovine semen. According to the member, in the current OIE Code no import restrictions applied with respect to in-vivo collected embryos, following the recommendations of the Embryo Transfer Society. The representative of Saudi Arabia stated that Saudi Arabia had no restrictions on imports of embryos.
- iii. With regard to Foot and Mouth Disease (FMD) – the member noted that imports from all European Countries were banned because of FMD. The member said that the EU was free of FMD, and so asked why all European countries were included in this ban. The representative of Saudi Arabia stated that, in pursuance of Resolution No. XX of the International Committee of the OIE, adopted during the 72<sup>nd</sup> general session (23-28 May 2004), Saudi Arabia had decided to remove the ban on imports of live bovine, ovine and caprine animals, due to Foot and Mouth Disease, from all European countries.
- iv. With regard to Milk and Milk Products – Saudi Arabia imposed an import ban on fresh milk and milk products from Belgium. The member said that, according to the OIE Code, these products should be traded without restrictions and the ban should be lifted. The representative of Saudi Arabia stated that Saudi Arabia and Belgium had agreed that the ban, which had been imposed due to Dioxin contamination on imports of dairy products from that country, would be lifted, except for short-shelf-life products (fresh milk and liquid milk in any form, yogurt, sour milk, lebnah and cheese). Following a later review, Saudi Arabia had lifted the ban entirely.
- v. With regard to Poultry Meat and Its Products and Eggs – Saudi Arabia banned imports from Germany although, according to the member, the nitrofin contamination crisis that

led to the ban dated back to 2002 and had been over for a long time. Further, the authorities had taken the appropriate measures, and so the ban should be lifted. The representative of Saudi Arabia stated that the Saudi authorities and the German Embassy in Riyadh had drafted minutes of an agreement to lift the ban. The German authorities had studied the draft minutes and responded with some comments. The Saudi authorities had replied to these comments in August 2003. Since then, nothing had been heard from the German authorities.

- vi. With regard to Olive Oil – the member said that import restrictions on olive oil from Spain had been introduced following alleged contamination of olive oil with traces of benzopyrene in July 2001. Subsequent follow up and analysis had been made and the analysed samples all showed negative results. The Spanish authorities had supplied relevant information on this issue, and so Saudi Arabia should lift the ban. The representative of Saudi Arabia stated that Saudi Arabia had lifted the import ban on all grades of olive oil, including pomace olive oil, from all countries, including Spain.

222. Some members of the Working Party stated that certain other laws, such as the "Approval of Importing Alfalfa and Vegetable Seeds from Non-Arab Countries" and "Approval of Importing Flower and Forage Crop Seeds from Non-Arab Countries" appeared to only apply to "non-Arab" countries, which suggested problems in relation to the consistency of these regulations with the principle of most-favoured-nation treatment. Some members of the Working Party stated that the position appeared inconsistent with the SPS Agreement's requirement that, in applying SPS measures, WTO Members recognize "regional conditions" affecting human, animal and plant health risks. In response, the representative of Saudi Arabia stated that the Kingdom of Saudi Arabia would revise these laws to ensure compliance with relevant WTO obligations. The Working Party took note of these commitments.

223. One member of the Working Party asked as to the identity of the operational enquiry point for the SPS Agreement. The representative of Saudi Arabia reported that the Ministry of Commerce and Industry would serve this function (Post Office Box 11162, Riyadh, Kingdom of Saudi Arabia; telephone number 966-1-4027-574; [www.commerce.gov.sa](http://www.commerce.gov.sa)). He confirmed that the enquiry point would be fully operational by the date of accession. The Working Party took note of these commitments.

224. The representative of Saudi Arabia stated that Saudi Arabia's sanitary and phytosanitary standards system would be in compliance with WTO provisions under the Agreement on the Application of Sanitary and Phytosanitary Measures as of the date of accession to the WTO, and that Saudi Arabia would apply all measures under the Agreement on the Application of Sanitary and Phytosanitary Measures in a manner that is not more trade restrictive than required, from the date of accession without recourse to any transition period. The Working Party took note of these commitments.

- **Trade-Related Investment Measures**

225. Some members of the Working Party congratulated Saudi Arabia on its generally very liberal investment regime and asked whether there were any measures in place in Saudi Arabia that were inconsistent with the requirements of the Agreement on Trade-Related Investment Measures (TRIMs). In response, the representative of Saudi Arabia stated that there were no measures in place in Saudi Arabia that were inconsistent with the requirements of the Agreement on TRIMs. He noted that, in particular, there were no measures in place in Saudi Arabia that were of the kind described in the "Illustrative List" in the Annex to the Agreement on TRIMs. Some members of the Working Party enquired whether Saudi Arabia imposed any transfer requirements in relation to technical or management know-how upon foreign investors. In response, the representative stated that Saudi Arabia did not maintain any requirements on such transfers.

226. The representative of Saudi Arabia stated that Saudi Arabia would not maintain any measures inconsistent with the TRIMs Agreement and would apply the TRIMs Agreement from the date of accession without recourse to any transition period. He confirmed that, in the event that any WTO inconsistencies existed, Saudi Arabia would act to ensure that Saudi law conformed to the TRIMs Agreement. The Working Party took note of this commitment.

- **Free Zones**

227. In response to questions from members of the Working Party, the representative of Saudi Arabia stated that, although there were no free zones or free economic zones established or operating in Saudi Arabia, Articles 77-88 of the GCC Unified Customs Law permitted the establishment of such zones. In response to a further question, the representative of Saudi Arabia stated that currently there was no separate Saudi legislation on free zones. He reiterated that currently Saudi Arabia had no free zones or economic zones.

228. The representative of Saudi Arabia stated that, if free zones or special economic zones were established, Saudi Arabia would administer them in compliance with WTO provisions, including those addressing subsidies, TRIMs and TRIPS, and that goods produced in these zones under tax and tariff provisions that exempt imports and imported inputs from tariff and certain taxes and charges would be subject to normal customs formalities when entering the rest of Saudi Arabia, including the application of tariffs and any taxes and charges. The Working Party took note of these commitments.

- **Government Procurement**

229. Some members of the Working Party requested that Saudi Arabia undertake to accede to the Agreement on Government Procurement upon accession to the WTO. The representative of Saudi Arabia replied that the Agreement on Government Procurement was a plurilateral agreement, adherence to which was not a precondition for accession to the WTO.

230. Members observed that government procurement accounted for a major part of Saudi Arabia's imports, and that Saudi participation in the Agreement on Government Procurement was an important issue. The benefits of joining the GPA included lower procurement costs and greater transparency. In particular, the transparency provisions of the Agreement could be useful to Saudi Arabia in ensuring the least-cost/best-quality outcome for procurement in covered agencies. In response to a request by a member of the Working Party to submit Saudi Arabia's procurement law and regulations, the representative of Saudi Arabia stated that these are being revised and would be submitted after the revision had been effected.

231. The representative of Saudi Arabia confirmed that, upon accession to the WTO, Saudi Arabia would initiate negotiations for membership in the Agreement on Government Procurement by tabling an entity offer. He also confirmed that, if the results of the negotiations were satisfactory to the interests of Saudi Arabia and the other parties to the Agreement, Saudi Arabia would complete negotiations for membership in the Agreement within a year of accession. The Working Party took note of these commitments.

- **Trade in Transit**

232. The representative of Saudi Arabia informed the Working Party that goods in transit through Saudi Arabia received duty free treatment under Articles 69-73 of the Common Customs Law of the GCC member states, which was applicable in Saudi Arabia. The Kingdom's policy regarding goods in transit was to allow them to be transported through Saudi Arabia without any discrimination as to the kind of goods or their origin or destination. He said that goods transiting Saudi Arabia bound for other countries were subject to the following conditions:

- i. Banned goods were prohibited to transit Saudi Arabia, according to the GCC Common Customs Law.
- ii. The types and marks of the goods should be specified in the accompanying manifest.
- iii. The goods should be transported in modular containers having only one access and duly equipped with a lock to allow effective placement of Customs seals; the Customs seal should not be broken.
- iv. Transit of the consignment across Saudi Arabia must be covered by the guarantee of a customs broker at the port of entry.



v. The consignment must exit within the period specified by the port of entry.

233. In response to a question from a member of the Working Party, the representative of Saudi Arabia stated that the guarantee of the customs broker is necessary to ensure that the goods actually leave Saudi Arabia; there is no fee for the guarantee. Also, he reported that, in Saudi Arabia, transit does not require escort.

234. One member of the Working Party asked for a clarification of Saudi Arabia's treatment of meat in sealed containers, where the meat had first entered another GCC country. The representative of Saudi Arabia noted that Saudi Arabia understood the importance of this issue. At a later stage, he noted that Ministerial Decree No. 5618 of 15.11.1424H (8 January 2004) had been issued. That Decree allowed such imported shipments to transit third countries, including third countries with infectious diseases, e.g., FMD, provided that shipments were in refrigerated containers that were appropriately sealed and documented. In response to a comment by a member of the Working Party, the representative of Saudi Arabia stated that a copy of Ministerial Decree No. 5618 had been submitted to the Working Party.

235. In response to a question from a member of the Working Party, the representative from Saudi Arabia confirmed that Saudi Arabia's law and practice governing trade in transit would be applied in full conformity with the provisions of the WTO Agreements, in particular Article V of GATT 1994. The Working Party took note of this commitment.

- **Agricultural Policy**

236. The representative of Saudi Arabia provided information on its agriculture sector, including tables on domestic support and export subsidies, contained in the Schedule of Concessions and Commitments on Goods annexed to Saudi Arabia's draft Protocol of Accession to the WTO and in WT/ACC/SPEC/SAU/1/Rev.10.

237. Some members of the Working Party requested that Saudi Arabia provide detailed information on the role of the Saudi Arabian Agricultural Bank (SAAB), in particular in the area of its mandate with regard to providing agricultural loans and subsidies. In response, the representative of Saudi Arabia stated that SAAB was founded by Royal Decree No. 58 of 3.12.1382H (28 April 1963). It was a government financial institution specializing in providing funding to the agricultural sector in order to assist in the development of agriculture and improve agricultural productivity through the deployment of state of the art scientific and technical methods. The Bank granted loans through 13 branches, with 57 offices throughout the Kingdom, in order to facilitate provision of services to farmers in their regions. The Bank granted farmers, agricultural projects, fishermen, bee keepers and

farm cooperatives two types of agricultural loans free of interest. However, there were unseen costs borne by agricultural investors in order to acquire a loan from SAAB. These costs were reflected in the number and amount of loans shown in the table below. The time needed to process the application and approve the loan was long due to bureaucratic formalities. Therefore, the opportunity costs for agricultural loans were very low.

| Year | No.  | Total Amounts<br>(Thousand SAR) |
|------|------|---------------------------------|
| 1992 | 4374 | 775,150                         |
| 1993 | 4429 | 930,561                         |
| 1994 | 3822 | 670,556                         |
| 1995 | 2642 | 412,589                         |
| 1996 | 3065 | 431,708                         |
| 1997 | 3942 | 626,956                         |
| 1998 | 5607 | 897,310                         |
| 1999 | 6628 | 903,010                         |
| 2000 | 6147 | 1,112,221                       |
| 2001 | 8037 | 1,444,925                       |

Source: Saudi Arabian Agricultural Bank, Annual Report No. 38, 1421H/1422H (2001).

238. He confirmed that the total "agricultural subsidies" package had been notified under non-product-specific support on supporting Table DS:9 of the domestic support tables. He added that the Bank had also been responsible for the disbursement of a package of agricultural subsidies incurred by the government towards reduction of agricultural expenditures in order to increase the average return on agricultural production. These subsidies included government grants to assist farmers in purchasing engines, irrigation pumps, agricultural machinery, poultry equipment and dairy production equipment; in addition, transport costs from the country of origin of high-breed cows imported to the Kingdom were also paid. The following table shows total agricultural subsidies disbursed through the bank during the period 1992-2001:

| Year | Total subsidies (Thousands SAR)<br>(US\$ 1 = SAR 3.75) |
|------|--|
| 1992 | 677,902  |
| 1993 | 248,624  |
| 1994 | 355,434  |
| 1995 | 0 (no subsidies)                                       |
| 1996 | 296,937  |
| 1997 | 229,376  |
| 1998 | 225,492  |
| 1999 | 197,358  |
| 2000 | 228,960  |
| 2001 | 249,880  |

Source: Saudi Arabian Agricultural Bank, Annual Report, No: 38, 1421H/1422H (2001).

239. In response to further questions, the representative of Saudi Arabia stated that in pursuance of the current Development Plan, Saudi Arabia would distribute land in areas where suitable quantities

of water resources were available. Investment would be encouraged in large agricultural projects that depend on renewable water resources, using modern irrigation systems that consume low quantities of water. Domestic production of vegetables and fruits grown in greenhouses would be encouraged, as would the fishing industry using advanced technology. As planned, wheat production was gradually reduced from more than 4 million tons before 1994 to 2.8 million tons in 1994, 2 million tons in 1998 and 1.8 million tons in 2001. The production of barley was also reduced from 2 million tons in 1994-1995 to 1 million tons in 1998, and to less than 200,000 tons in 2001. Domestically produced barley had been purchased by the GSFMO, and then sold to livestock producers at the fixed price of SAR 400/ton (US\$ 107/ton). The representative of Saudi Arabia stated that GSFMO had stopped receiving domestic barley according to Royal Decree No. 4/B/49434 of 8.12.1423H (10 February 2003). The farmers were advised to convert to other products that consume less water.

240. Some members of the Working Party asked whether there was any support to the dairy sector. In response, the representative of Saudi Arabia stated that there was no specific support for the dairy sector, except for transportation cost of imported cows under special conditions. He added that the specific support for the dairy sector was included in the agricultural subsidies listed in paragraph 237, above, as well as in supporting Tables DS:7 and DS:9.

241. In response to questions concerning the provision of irrigation water for crop production, the representative of Saudi Arabia stated that irrigation water for crop production was provided by private farmers, and not by the Government. He noted that there were no subsidies associated with the running of irrigation equipment.

242. Some members of the Working Party requested that the representative of Saudi Arabia clarify the role of the GSFMO in the export and subsidization of wheat. In response, the representative of Saudi Arabia stated that since 1995 the GSFMO had not exported wheat or barley. Export controls were maintained for subsidized wheat and barley through export licenses. In response to further questions, he added that the exportation of date palm seedlings, barley, corn, maize and soy beans was conditional upon the repayment of subsidies intended for the support of domestic production.

243. Saudi Arabia's commitments on agricultural tariffs, domestic support and export subsidies for agricultural products are contained in the Schedule of Concessions and Commitments on Goods (document WT/ACC/SPEC/SAU/7/Add.1) annexed to Saudi Arabia's draft Protocol of Accession to the WTO and in WT/ACC/SPEC/SAU/1/Rev.10.

- **Trade in Civil Aircraft**

244. Some members of the Working Party asked that Saudi Arabia enter a commitment to accede to the Agreement on Trade in Civil Aircraft from the date of entry into force of its Protocol of Accession. In response, the representative of Saudi Arabia stated that Saudi Arabia had no present intention to accede to the Agreement on Trade in Civil Aircraft. He further stated that, upon accession, Saudi Arabia would apply a zero rate of tariff on imports of goods related to the Agreement on Trade in Civil Aircraft.

**V. TRADE-RELATED INTELLECTUAL PROPERTY REGIME**

**A. GENERAL**

245. The representative of Saudi Arabia confirmed that the policy objective in the area of intellectual property was to provide effective and adequate protection to all categories of intellectual property in conformity with the provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). The representative of Saudi Arabia stated that, as stipulated in Paragraph 1 of Article 1 of the TRIPS Agreement, Saudi Arabia would implement the provisions of the Agreement within its own legal system and practice. In addition to the Memorandum on the Foreign Trade Regime, the representative of Saudi Arabia provided the Working Party with a Supplementary Memorandum on TRIPS (WT/ACC/SAU/5). The representative of Saudi Arabia provided the Working Party with the texts of the Trademarks Law, the Law on Patents, Layout Designs of Integrated Circuits, Plant Varieties and Industrial Design (New Law on Patents) and the Copyrights Law (L/7645/Add.1).

246. Some members of the Working Party congratulated Saudi Arabia on its generally high level of protection of intellectual property rights. They noted that Saudi Arabia had taken significant steps towards making its trade regime fully consistent with the TRIPS Agreement, but that some problems remained. Some members asked that Saudi Arabia take immediate steps to address problems in its intellectual property regime, and asked also that Saudi Arabia commit itself to full implementation of the TRIPS Agreement without a transitional period. In particular, some members of the Working Party expressed concerns in relation to the protection of copyrights; the duration of patent protection; protection of plant varieties; length of time before compulsory licensing and working requirements were applied; protection for sound recordings and audiovisual works; protection for broadcasts and satellite transmission; explicit protection for computer software programs; implementation of Articles 1-21 of the Berne Convention; and the protection of well-known marks. In response, the

representative of Saudi Arabia reaffirmed Saudi Arabia's commitment to meeting the obligations of the TRIPS Agreement and provided additional relevant information as set forth below.

- **Agencies Responsible for Policy Formulation and Implementation**

247. In response to questions from members of the Working Party, the representative of Saudi Arabia confirmed that different Saudi agencies were responsible for different aspects of intellectual property formulation and implementation, depending on the precise nature of the issue involved. For example, the Ministry of Commerce and Industry was responsible for implementing the Trademarks Law and for formulating and implementing the Competition Law. He further stated that the King Abdulaziz City for Science and Technology (KACST) was responsible for implementing the New Law on Patents. He added that the Ministry of Culture and Information was responsible for implementing the Copyrights Law.

- **Membership in International Intellectual Property Agreements**

248. In response to questions from the members of the Working Party, The representative of Saudi Arabia confirmed that Saudi Arabia was a member of a number of intellectual property conventions, including:

- i. The Convention Establishing the World Intellectual Property Organization (WIPO).
- ii. The Berne Convention for the Protection of Literary and Artistic Works.
- iii. The Paris Convention for the Protection of Industrial Property.
- iv. The Universal Copyright Convention.
- v. The Arab Regional Copyright and Related Rights Agreement.
- vi. The GCC Patent Law.

- **Application of MFN and National Treatment to Foreign Nationals**

249. In response to a question from members of the Working Party, the representative of Saudi Arabia stated that the Kingdom provided MFN and National Treatment in accordance with the provisions of Articles 3 and 4 of the TRIPS Agreement.

- **Fees and Taxes**

250. In response to a question from members of the Working Party, the representative of Saudi Arabia gave the following information on fees and charges:

- i. Copyrights:

No fees or charges.

ii. New Law on Patents:

| Fees   | Patent | Industrial Designs | Layout Designs of Integrated Circuits | New Plants Varieties |
|--|--------|--------------------|---------------------------------------|----------------------|
| Registration application   | 800    | 300                | 1000                                  | 1000                 |
| Change or transfer of ownership                                  | 400    | 150                | 1000                                  | 1000                 |
| Amendment or addition to the application                         | 200    | 100                | 500                                   | 200                  |
| Obtaining a copy of the application or certificate               | 100    | 100                | 100                                   | 100                  |
| Registration of licence contracts                                | 800    | 300                | 1000                                  | 1000                 |
| Grant of compulsory license                                      | 8000   | 3000               | 5000                                  | 5000                 |
| Grant and publication  | 1000   | 350                | 1000                                  | 1000                 |
| Annual fees  |        |                    |                                       |                      |
| First year   | 500    | 300                | 1000                                  | 1000                 |
| Second year  | 1000   | 300                | 1500                                  | 1000                 |
| Third year   | 1500   | 600                | 2000                                  | 1500                 |
| Fourth year  | 2000   | 600                | 2500                                  | 1500                 |
| Fifth year   | 2500   | 900                | 3000                                  | 2000                 |
| Sixth year   | 3000   | 900                | 3500                                  | 2000                 |
| Seventh year   | 3500   | 1200               | 4000                                  | 2500                 |
| Eighth year  | 4000   | 1200               | 4500                                  | 2500                 |
| Ninth year   | 4500   | 1500               | 5000                                  | 3000                 |
| Tenth year   | 5000   | 1500               | 5500                                  | 3000                 |
| Eleventh year  | 5500   |                    |                                       | 3500                 |
| Twelfth year   | 6000   |                    |                                       | 3500                 |
| Thirteenth year  | 6500   |                    |                                       | 4000                 |
| Fourteenth year  | 7000   |                    |                                       | 4000                 |
| Fifteenth year   | 7500   |                    |                                       | 4500                 |
| Sixteenth year   | 8000   |                    |                                       | 4500                 |
| Seventeenth year   | 8500   |                    |                                       | 5000                 |
| Eighteenth year  | 9000   |                    |                                       | 5000                 |
| Nineteenth year  | 9500   |                    |                                       | 5500                 |
| Twentieth year   | 10000  |                    |                                       | 5500                 |
| Twenty-first year to twenty-fifth year (for protection of trees) |        |                    |                                       | 7000                 |

- Fees are for establishments.

- Fees for individuals are half the above fees.

iii. Trademarks, including Service Marks:

- |    |   |           |
|----|---|-----------|
| a. | Application Fee:                                | SAR 1,000 |
| b. | Registration Fee:                               | SAR 3,000 |
| c. | Renewal of Registration:                        | SAR 3,000 |
| d. | Changes or Modifications to Registration:       | SAR 1,000 |
| e. | Late Fee for Delayed Renewal (within 6 months): | SAR 1,000 |

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

- **Copyrights**

251. The representative of Saudi Arabia informed Working Party members that Saudi Arabia had enacted a new Copyrights Law (Royal Decree No. M/41 of 2.7.1424H (30 August 2003)), which Saudi Arabia believed was in full conformity with the provisions of the TRIPS Agreement. The main features of the new Law were: (i) more explicit protection for computer software and data bases; (ii) more specific protection to audio-visual works and sound recordings, including protection for 50 years after first public display or publication; (iii) legal use of foreign works such as translations and copying had been clarified according to the TRIPS Agreement; (iv) duration of protection of all artistic and literary works had been provided according to the requirements of the Berne Convention. In the area of enforcement, the new Law provided in detail for all types of infringements and piracies and strengthened penalties (including provisions for: (i) imprisonment of up to six months (which can be doubled for repeat offenders); (ii) a maximum fine of SAR 250,000 (which can be doubled for repeat offenders); and (iii) compensation for damages and defamation due to the conduct of the violator) to meet the requirements of the TRIPS Agreement. In response to a question from a member of the Working Party, the representative of Saudi Arabia reported that the implementing regulations had been issued by the Minister of Culture and Information under Ministerial Decision No. 1688/1 of 10.4.1425H (29 May 2004). The representative of Saudi Arabia confirmed that the copyright law and regulations currently in force in Saudi Arabia provided the following: (i) protection for news reports, excluding only news facts; (ii) a reproduction right to the full extent required by Berne Article 9 (which includes digital reproduction); (iii) protection for pre-existing foreign works if they have not yet fallen into the public domain in the country of origin through the expiry of term of protection; (iv) a point of attachment for foreign sound recordings; (v) a definition of "works" that includes sound recordings; (vi) broadcasting and rebroadcasting rights that comply fully with Berne Article 11bis; and (vii) parallel commercial export and import protection, as exportation and importation of copies not authorized for distribution in Saudi Arabia is deemed to be infringement.

- **Patents**

252. Concerning patents, the representative of Saudi Arabia noted that in general, patentable subject matter in Saudi Arabia was consistent with the requirements of Section 5 of the TRIPS Agreement. Processes (methods of manufacturing) were patentable, and were protected from infringing use. Plant varieties currently were patentable and protected by the New Patents Law. The representative of Saudi Arabia stated that the protection of plant varieties had been provided in

accordance with the provisions of Article 27(3)(b) of the TRIPS Agreement. Patent holders in Saudi Arabia had been accorded the rights mentioned in Article 28 of TRIPS. A patent holder was no longer required to make full industrial use of the patent in Saudi Arabia within two years. Although the old Patent Law conferred a term of protection of 15 years with the possibility of a five-year extension, the representative of Saudi Arabia stated that, according to Article 19 of the New Patents Law, the term of protection would be 20 years.

253. As to compulsory licensing, the representative of Saudi Arabia stated that the amendment of the Patent Law would conform national law and practice to the requirements of Article 31 of the TRIPS Agreement. The review of the Patent Law had revealed that, in comparison with Article 27(3) of the TRIPS Agreement, the exclusion of patentability contained in paragraphs (a) and (b) of Article 8 was in accordance with Article 27 (1) of the TRIPS Agreement, which limits the patentable inventions to those which were related to products or processes; paragraph (c) of Article (8) was in full compliance with subparagraph (b) of Article 27(3) of the TRIPS Agreement, except that paragraph (c) did not exclude "micro-organisms" from "plants and animals" and did not include "non-biological processes" as processes excluded from "biological processes for the production of plants and animals"; paragraph (d) of the Patent Law was in full compliance with sub-paragraph (a) of Article 27(3) of the TRIPS Agreement. In response to a question of a member of the Working Party, the representative later added that the New Law on Patents had modified paragraph (c) of Article 8 of the old Patent Law. Accordingly, the following were not patentable under the New Law on Patents: "Plants, animals and essentially biological processes for the production of plants and animals, excluding micro-organisms, non-biological processes and micro-biological processes." The representative of Saudi Arabia informed Working Party members that the New Law on Patents had been issued under Royal Decree No. M/27 of 29.5.1425H (17 July 2004). The implementing regulations of the New Patents Law had been issued by Ministerial Decision No. 118828/M/10 of 14.11.1425H (26 December 2004). A copy of the English translation of the new law had been submitted to the WTO Secretariat for circulation to members of the Working Party. He said that, in the view of Saudi Arabia, the New Law on Patents was in full conformity with the provisions of the TRIPS Agreement and included provisions not only on Patents, but also on Industrial Designs, Plant Varieties and Layout Designs of Integrated Circuits.

254. In response to a comment from a member of the Working Party regarding the timing of patent approvals, the representative of Saudi Arabia stated that the Kingdom had taken a number of steps to accelerate and improve administrative procedures regarding the issuance of patents. Specifically, he reported, new patent examiners had been hired, increasing the staff from 15 to 80 examiners. In addition, training programs had been strengthened with regard to patent examinations and English



language skills, both abroad and on the job in Saudi Arabia. He further reported that the examination procedure had been modified to use patent search and examination reports and patents issued by the patent offices of other countries. This measure had been taken to avoid duplicative work and shorten the period from the date the patent application was filed to the date the patent was issued. Saudi Arabia also was cooperating with the Patent Office of the Government of Germany to take advantage of its experience and further streamline the Saudi system. In reply to questions from some members of the Working Party, the representative of Saudi Arabia stated that the modified examination procedures were not part of the Patents Law. Like the practice of many other countries, procedures were not included in the law but were included within the regular practice of the Patent Office. He further stated that the modified procedures were already in effect and the backlog was expected to be cleared no later than the end of 2006. In response to a further question from a member of the Working Party about patents for pharmaceuticals, the representative of Saudi Arabia stated that, if a patent application related to a pharmaceutical were pending with KACST, the Ministry of Health would not register a generic form of pharmaceutical unless there was no possibility that the patent would be granted.

- **Trademarks**

255. In response to requests for information concerning the protection of trademarks in Saudi Arabia, the representative of Saudi Arabia gave a description of various provisions of the existing Trademarks Law and their relationship to the respective provisions of the TRIPS Agreement. In response to questions from Working Party members, he stated that geographical names could not be registered as trademarks under Saudi Arabia's Trademarks Law if their use caused a misunderstanding as to the source of products or services, or their origin. Some members of the Working Party noted that the period of protection for a trademark when the requirement of use was not fulfilled was five years, two years more than the period required by Article 19 of the Agreement on TRIPS. These members noted also that the initial and renewable period of protection for trademarks where the requirement of use was fulfilled was ten years, three years more than the period required by Article 18 of the Agreement on TRIPS. Later, the representative of Saudi Arabia stated that a new WTO-consistent Trademarks Law, issued pursuant to Royal Decree M/21 of 29.5.1423H (7 August 2002), would bring Saudi Arabia's trademarks regime into compliance with the provisions of the TRIPS Agreement. In response to a question, the representative confirmed that the new Trademarks Law superseded all earlier laws on trademarks. The implementing regulations for the new Trademarks Law were issued on October 4, 2002, by Ministerial Order No. 1723. The main features of the new Trademarks Law and implementing regulations are:

- i. Increase and impose harsher punishments, with the maximum of SAR 1,000,000;
- ii. The right of the injured party to compensation in proportion to the damages suffered by the injured party due to infringement;
- iii. The right of the injured party to obtain from the Board of Grievances an attachment order;
- iv. The right of the party against whom an attachment order has been issued to compensation for the damages caused to him by a *male fide* party seeking the attachment order;
- v. Determination of all disputes arising as a result of trademark infringements is within the jurisdiction of the Board of Grievances;
- vi. It is within the jurisdiction of the Investigation and Prosecution Panel to initiate punitive actions before the Board of Grievances;
- vii. The right to file an appeal before the Board of Grievances against the decision of the Ministry of Commerce and Industry denying registration of a trademark;
- viii. The right of third parties to file a complaint before the Board of Grievances against the registration of a trademark; and
- ix. Protection of well-known trademarks, even if not registered.

- **Geographical Indications**

256. Members of the Working Party asked for details regarding Saudi Arabia's treatment of geographical indications. In response, the representative of Saudi Arabia stated that the new Trademarks Law also contained provisions regarding protection of geographical indications. With regard to alcoholic beverages, the representative noted that the production, sale, consumption and import of alcoholic beverages were prohibited in Shari'a and, thus, geographical indications of origin of wines and spirits were not protected.

- **Industrial Designs**

257. In response to requests for information concerning the protection available for industrial designs, the representative of Saudi Arabia responded that industrial designs are protected by the industrial designs provisions in the New Law on Patents, to be implemented by The King Abdulaziz City for Science and Technology (KACST). In response to a question from a member of the Working Party, the representative confirmed that, under the new Patents Law, the conditions for obtaining design protection were that the design must be new, have specific features and not be contrary to Shari'a (public order). He further confirmed that the term of protection was ten years from the date of filing.

- **Layout Designs of Integrated Circuits**

258. In response to requests for information concerning the protection available for layout designs, the representative of Saudi Arabia noted that protection of layout designs of integrated circuits was covered by the New Law on Patents.

- **Plant Variety Protection**

259. In response to questions from members of the Working Party concerning the system of protection for plant varieties, the representative of Saudi Arabia stated that the New Law on Patents provided the necessary protection. He added that the system of protection in the New Law on Patents was adopted from the UPOV Model Law on the Protection of New Varieties of Plants. According to the New Law on Patents, he confirmed, varieties would be entitled to protection if they were new, distinct, uniform, stable and subject to denomination.

- **Undisclosed Information**

260. Some members of the Working Party requested information on the protection available for undisclosed information. The representative of Saudi Arabia stated that, although undisclosed information was currently protected by the Companies Law, Labour Law and Banks Control Law, work was underway to prepare an Unfair Competition Law that would deal comprehensively with this issue. That law would be implemented by the Ministry of Commerce and Industry. He added that anti-competitive practices would be covered by the law as well.

261. The representative of Saudi Arabia confirmed that the Council of Ministers had approved issuance of the Regulations for the Protection of Confidential Commercial Information, Council of Ministers Decision No. 50 of 25.2.1426H (4 April 2005). The Minister of Commerce and Industry issued these Regulations by Ministerial Decision No. 3218 of 25.3.1426H (4 May 2005), as amended by Ministerial Decision No. 431 of 1.5.1426H (8 June 2005). These Regulations provided for protection of undisclosed test and other data submitted to obtain approval of a pharmaceutical or agricultural chemical against unfair commercial use for a minimum period of five years from the date of obtaining the approval including the establishment of the base price. No person other than the person who submitted such data could, without the explicit consent of the person who submitted the data, rely on such data in support of an application for product approval. Any subsequent application for marketing approval would not be granted a market authorization unless the applicant submitted its own data, meeting the same requirements applied to the initial applicant, or had the permission of the person initially submitting the data to rely on such data. Saudi Arabia would protect such data against disclosure, except where necessary to protect the public, or unless steps were taken to ensure that the data were protected against unfair commercial use. Any person harmed as a result of violations of the provisions of these Regulations may file a lawsuit to claim compensation for damages sustained.

### **C. ENFORCEMENT**

262. Some members of the Working Party noted the steps being taken by Saudi Arabia to eliminate some problems in the area of enforcement, in particular the piracy of intellectual property. The members noted that it was clear that much of the necessary legislation was in place, but that Saudi Arabia was experiencing difficulty in fully implementing and enforcing the new laws. These members of the Working Party urged Saudi Arabia to work towards full conformity with the Agreement on TRIPS from the date of Saudi Arabia's accession to the WTO.

263. In response to a further comment by a member of the Working Party, the representative of Saudi Arabia clarified that Saudi Customs was not directly responsible for enforcing Saudi laws regarding copyrights. Rather, he said, this was enforced by the Ministry of Culture and Information, which maintained an office in each customs entry point solely for the purpose of enforcing the Copyrights Law. At each point of entry, Customs would bring to the Ministry office a sample of any shipment subject to possible copyright infringement. Article 22 of the Copyrights Law established a three-step procedure: Step 1, provisional seizure; Step 2, confiscation; Step 3, destruction and imposition of penalties, if the goods were found to violate the Copyrights Law by the Violation Review Committee of the Ministry of Culture and Information; if the goods were deemed to be in full compliance, the shipment would be released and allowed into the Kingdom.

264. In response to a request from a member of the Working Party, the representative of Saudi Arabia presented the information on enforcement set forth below under the following five headings.

#### **- General Obligations**

265. Regarding general obligations, the representative of Saudi Arabia stated that Saudi intellectual property laws include provisions for the enforcement of the rights they provide in compliance with the provisions of the TRIPS Agreement. The Copyrights Law, the Trademarks Law and the New Law on Patents each contained enforcement provisions. He further stated that the Law of the Board of Grievances (the administrative judiciary of Saudi Arabia), the Rules and Procedures of the Board of Grievances and the Border Measures Regulations related to IPR also contained provisions regarding enforcement. The laws, he said, contained provisions guaranteeing fairness and equity, while still providing for robust enforcement. The laws also provided for further appeal to the Board of Grievances to contest the decisions of the administrative bodies. Under these laws, he reported, administrative and judicial decisions were required to be in writing and well-reasoned. All administrative and judicial procedures, including the Board of Grievances procedures, were free of cost.

266. In response to questions, comments and observations by a member of the Working Party on enforcement of intellectual property rights, the representative of Saudi Arabia provided the following information:

- i. The expressions *ex parte* search orders or prejudgement attachment orders are not used as such in the new legislation. However, there is a provision on protective seizures/provisional protective measures in Article 27 of the Implementing Regulations of Copyrights Law. The procedures for that are described in detail in Article 27. The right holder has to apply to the Violations Review Committee through the General Department of Copyright in Riyadh or its branches. The Committee may ask the complainant to provide information listed in paragraph (3) of Article 27.
- ii. IPR laws of the Kingdom of Saudi Arabia have been prepared in conformity with the provisions of the TRIPS Agreement, including its Article 61. The fines and imprisonment are imposed keeping in view the circumstances of each case and the gravity of offence in each case and keeping in view that these have a deterrent effect. If a right holder is not satisfied with the level of fine or imprisonment, he has the right to file an appeal to the Board of Grievances to enhance the fine and/or imprisonment.
- iii. The right holder, who has suffered damages because of an infringement of his IP right, would be awarded damages by the Violation Review Committee, which would determine the compensation after weighing the evidence and documentation submitted by him and the estimated amount of compensation claimed by him (Article 24 of the Implementing Regulations of the Copyrights Law). In arriving at its decision, the Committee would keep in view that the damage award is adequate to compensate for the injury the right holder has suffered as provided in Article 22 (Four) of Saudi Arabia's Copyrights Law. If the right holder is not satisfied with the decision, he has the right to submit an appeal to the Board of Grievances for enhancement of compensation.

- **Civil and Administrative Procedures**

267. In addition to the material presented in the preceding paragraph, the representative of Saudi Arabia confirmed that, with regard to civil and administrative procedures, the laws mentioned above, as well as associated implementing regulations, implemented the requirements of Section 2 of Part III the TRIPS Agreement. For example, he said, Article 22(iv) of the Copyrights Law and Articles 48 and 51 of the Trademarks Law complied with TRIPS Agreement provisions regarding damages and compensation (Article 45 of the TRIPS Agreement).

- **Provisional Measures**

268. Regarding provisional measures, the representative of Saudi Arabia informed the Working Party that a right holder could obtain an order for precautionary and preventive measures under particular intellectual property laws. Articles 49-51 of the Trademarks Law permitted a trademark owner to seek precautionary measures from the Board of Grievances based on a petition and official certificate of trademark registration. Articles 22 and 24 of the Copyrights Law and Articles 27 and 28 of the Implementing Regulations of the Copyrights Law provided for provisional measures to stop

printing the infringing work, seize copies, extracts and printed matter as a precaution or to apply such other precautionary seizure that the Committee responsible for determining violations of the Copyrights Law deemed necessary to protect copyrights. Article 34 of the Law on Patents, Layout Designs of Integrated Circuits, Plant Varieties and Industrial Designs authorized the Committee responsible for adjudicating disputes and appeals to take such prompt measures as the Committee deemed necessary to avoid the damages arising from infringement. Article 55 of the Implementing Regulations of this Law provided that the Committee may, upon submission of a statement of the case, order that precautionary and preventive measures be taken against the defendant. In such cases, the plaintiff was required to submit an assurance set by the Committee to safeguard the defendant's right in the case of an invalid complaint. Precautionary measures were also provided for copyrights and trademarks in Articles 5 and 6 of the Regulations on Border Measures.

- **Special Requirements Related to Border Measures**

269. In response to comments concerning the enforcement of border measures, the representative of Saudi Arabia stated that Article 22.7 of the Copyrights Law and Article 49 of the Trademarks Law authorized judicial or administrative bodies to issue a provisional seizure decision. Moreover, Customs authorities, in coordination with the Ministry of Commerce and Industry and the Ministry of Culture and Information, seized consignments infringing intellectual property rights, according to the applicable laws in Saudi Arabia. In connection with the enforcement of border measures, Saudi Customs was in the process of establishing an internal IPR Unit, which would create a database for Customs' use to assist with enforcement against forged and counterfeit goods.

270. The representative of Saudi Arabia reported that the issue of special requirements related to border measures had been covered by the Border Measures Regulations, which had been issued pursuant to Ministerial Decision No. 1277 of 15.5.1425H (3 July 2004) and by Copyrights Law and the Trademarks Law. In his view, these provisions fully complied with Section 4 of Part III of the TRIPS Agreement.

- **Criminal Procedures**

271. With regard to criminal procedures, the representative of Saudi Arabia stated that they were addressed by Article 22 of the Copyrights Law and Articles 43-45 of the Trademarks Law.

272. The representative of Saudi Arabia stated that Saudi Arabia would apply fully all the provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights from the date

of accession to the WTO, without recourse to any transition period. The Working Party took note of this commitment.

## **VI. POLICIES AFFECTING TRADE IN SERVICES**

273. In addition to the Memorandum on the Foreign Trade Regime, the representative of Saudi Arabia provided the Working Party with information on the services regime in Saudi Arabia in a Supplementary Memorandum on the Foreign Trade Regime (WT/ACC/SAU/5), as well as in supplementary background notes and information in documents WT/ACC/SAU/23 and 24.

274. Some members of the Working Party congratulated Saudi Arabia on its very liberal services regime. They noted, in particular, the high number of foreign workers and service providers already supplying services within Saudi Arabia.

275. Some members of the Working Party requested clarification of the roles of various government agencies in the approval of new investments of foreign capital in the services sector. In response, the representative of Saudi Arabia stated that all foreign investment was to be approved by the newly created Saudi Arabian General Investment Authority (SAGIA) as a one-stop shop, except those activities listed in the Negative List or where the power to licence was assigned to an agency other than SAGIA, as set forth in paragraph 278, below.

276. Some members of the Working Party requested information on the regulation of the banking sector and, in particular, requested information on the conditions under which a foreign bank could obtain a licence to establish a branch within Saudi Arabia. In response, the representative of Saudi Arabia stated that direct branching was permitted under Article 3 of the Banking Control Law. He reported that banking firms' activities were regulated by the Banking Control Law. Under Article 2 of the Banking Control Law, a natural or legal person was required to have a licence to engage in a banking business. Under Article 3 of the Law, the licensing requirements for a Saudi national bank or a joint venture bank included that it must be a public Saudi joint-stock company. Upon the recommendation of the Saudi Arabian Monetary Agency, the Minister of Finance and the Council of Ministers would evaluate each recommendation to grant a licence for a branch of foreign bank, a Saudi national bank and a joint venture bank. The licensing criteria were prudential in nature and dealt with issues such as capital adequacy, liquidity, profitability and corporate governance. The criteria were applied on a non-discriminatory basis. However, there were a few differences between the licensing criteria for a joint venture bank or a branch of a foreign bank. For example, a branch did not need a local Board of Directors nor did it need two external auditors. The Licensing procedures would be applied in a non-discriminatory basis for domestic and foreign investors. In response to a

question, the representative of Saudi Arabia stated that the Banking Control Law did not provide for the opening of representative offices in the Kingdom by foreign banks. In response to questions from a member of the Working Party relating to the regulatory regime for foreign bank branches, the representative of Saudi Arabia said that it was still being developed, but would be in line with commonly accepted international practice. For example, in determining capital adequacy, the parent bank's capital would be relied on. The specific capital requirement for a foreign bank branch would differ depending on its business plans in the Kingdom, which could include the full scope of business allowed to a Saudi bank. All liquidity or other requirements would be applied to a foreign bank branch, Saudi national bank or a joint venture bank in a non-discriminatory basis, taking into account different requirements for the different legal forms of business. The Working Party took note of these commitments.

277. Some members of the Working Party raised questions about how foreign equity limitations were established and applied. In response, the representative of Saudi Arabia explained that the Council of Ministers had the authority to establish, eliminate or waive foreign equity limitations, at its discretion. The Council of Ministers could, for example, waive foreign equity limitations on a case-by-case basis. In response to a further question regarding the effect of foreign equity limitations on taking certain corporate decisions, the representative of Saudi Arabia stated that, where the percentage of foreign equity holdings in a public joint-stock company is subject to limits set forth in Saudi Arabia's Schedule on Specific Commitments in Services, provisions of Saudi Arabia's Company Law or the by-laws of a public joint-stock company requiring a supermajority for taking a decision shall not, in practice, impair the ability of foreign shareholders to exercise operational control of the company when acting pursuant to those rules, including making decisions on changes in the company's capital, extension of the term of the company, its dissolution, or merger with another company.

278. He further added that Saudi Arabia provided for a wide range of judicial, arbitral and administrative procedures with respect to trade in services. Administrative decisions affecting trade in services could be appealed to the Board of Grievances under the Council of Ministers Resolution No. 190 of 16.11.1409H (19 June 1989) Concerning Rules and Procedures of the Board of Grievances and the Board of Grievances Law. Commercial disputes were generally covered by the Board of Grievances and some other standing and *ad hoc* committees. Some members of the Working Party asked the representative of Saudi Arabia to provide information on the review of decisions concerning the licensing of service providers in Saudi Arabia. In response, the representative of Saudi Arabia stated that a number of Ministries and Agencies were involved in approval of the right to provide a service in Saudi Arabia, e.g., the Ministry of Commerce and Industry for engineers, legal



practitioners, accountants and insurers; the Ministry of Defence and Aviation for civil aviation, tourism and travel agents; the General Organization for Technical Education and Occupational Training for technical institutes and national occupational centres; the Ministry of Health for medical practitioners, pharmacists and hospitals; the Ministry of Transportation for maritime transport; SAMA for banks and cooperative insurance companies; and the CITC for telecommunication services. In all cases, the Ministries and Agencies involved had internal standing committees of senior officials to review initial administrative decisions pertaining to licensing. Decisions of standing committees could be appealed to the responsible Minister or Agency head. Administrative Decisions involving potential civil suits against the government could be brought before the Board of Grievances.

279. He further added, in response to requests for information on the nature and extent of incentives, tax exemptions and subsidies available to service providers in Saudi Arabia, on a national treatment basis, the representative of Saudi Arabia stated that no tax exemptions were provided, pursuant to the Foreign Investment Law of April 2000. In response to a question from a member of the Working Party, the representative of Saudi Arabia stated that no incentives or tax exemptions were available to service providers in Saudi Arabia.

280. In response to requests for information concerning restrictions on the provision of professional services, the representative of Saudi Arabia stated that all professional services were treated in the same manner. A licence was required to provide professional services. To be eligible for a licence, the company was required to be reputable and well recognized in the field of its profession, to have been registered and successfully practising in the field for at least ten years and to be prepared to participate in the training and the building of Saudi nationals' experience and the introduction of relevant technology. In addition, the foreign company should employ or have at least one representative in Saudi Arabia. That representative should stay in Saudi Arabia for a period not less than nine months per year; have at least a university degree in the field of the company specialization; and have not less than ten years' successful experience. In response to requests for further information concerning the conditions required to be fulfilled to be eligible for grant of a licence, the representative of Saudi Arabia stated that the relevant licensing authority in Saudi Arabia could request information establishing the reputation and experience of the service provider. A foreign company would be considered as reputable, well recognized and practising in the field successfully if, e.g., it was registered under the companies law of its home country, was certified as financially viable by its bankers, produced copies of audited balance sheets for the last two years, provided information establishing that the company had completed assignments for former clients on a satisfactory basis or, if available from a Chamber of Commerce and Industry in the company's home country, the foreign company produced a Chamber-certified list of previous contracts/assignments

outside Saudi Arabia. Concerning participation in training and the introduction of technology, the applicant company should give an undertaking that it would train Saudi nationals and would introduce the new technologies and know-how that it employed in its home country. He also added that existing foreign companies already licensed to operate in Saudi Arabia had a period of one year to fulfil those conditions. If they did not do that, the licence may be cancelled. New companies had to fulfil the conditions from the beginning of their business activities.

281. Some members of the Working Party asked whether Saudi Arabia planned to liberalise the limitations placed on the participation of foreigners in security underwriting, commodity brokerage services and currency exchange operations, as well as the limitations placed on the participation of foreigners in land transportation and professional services. In response, the representative of Saudi Arabia stated that, although there were limitations on the participation of both foreign and domestic individuals in providing security underwriting, commodity brokerage services and currency exchange operations, there were no such limitations on domestic and foreign banks, except the requirements to be licensed. There were no plans to liberalise those conditions. In response to a question, the representative of Saudi Arabia stated that participation of foreign suppliers was not allowed in land transportation services.

282. Some members of the Working Party asked whether there were any instances of less than national treatment for foreign service providers. The representative of Saudi Arabia stated that only Saudi Arabian nationals were allowed to participate in commercial agencies, customs clearance agencies, real estate agencies and civilian security. Postal services and radio and television transmission services were reserved to the State. He further added that, under Article 8 of the Unified Economic Agreement of the Gulf Cooperation Council, national treatment was provided for Gulf Cooperation Council nationals in, among other things, freedom of movement, work and residence, right of ownership and freedom of exercising economic activity, including service activities and free movement of capital. Saudi Arabia, together with the other Gulf Cooperation Council members, was in the process of implementing this agreement. In addition, some bilateral agreements signed by Saudi Arabia conferred preferred or reciprocal supplier status on companies from signatory countries with regard to certain services. Agreements with Egypt and Jordan conferred reciprocal supplier status for cross-border truck and public transportation vehicles; agreements with Egypt and Tunisia granted preference to national shipping and transport modes in bilateral trade; agreements with Lebanon, Syria and Turkey provided for reciprocal treatment with regard to transportation and transport vehicles; and an agreement with Morocco included reciprocal airline privileges.

283. In response to requests for information concerning the rules governing temporary residence in Saudi Arabia by foreigners, the representative of Saudi Arabia stated that the Law of Residency was enforced by the Ministry of Interior. In addition, the Ministry of Labour approved applications for the presence of foreigners who worked or were licensed to work in the private sector. Some members of the Working Party requested information on the system followed for employment of foreign employees and investors. The representative of Saudi Arabia stated that, once a foreign employee was offered a contract, a visa would be granted. Business visitors would, however, require a letter of invitation or a copy of the relationship or agreement with a Saudi party.

284. In response to questions concerning the limitations placed upon the total number of natural persons employed in particular sectors, the representative of Saudi Arabia stated that, as a matter of principle, work was considered a Saudi citizen's right. Consequently, a foreigner would not be employed when doing so would displace a Saudi worker. The Labour and Workers Regulations required that any enterprise, Saudi or foreign owned, would ensure that the percentage of the Saudi workers engaged by the employer should not be less than 75 per cent of the total workforce. However, the Regulations also permitted the Minister of Labour to reduce the required percentage in circumstances where qualified Saudi workers were not available. Foreign workers, including those falling under Saudi Arabia's Mode 4 commitments, were required to obtain work permits from the Ministry of Labour. The representative of Saudi Arabia clarified that this paragraph would not in any way reduce the commitments made by Saudi Arabia in Mode 4. All service providers' activities, regardless of ownership, were obliged to reserve certain positions for Saudis, including personnel officers, recruitment officers, receptionists, cashiers, civilian security guards and transaction follow-up clerks to government departments.

285. Some members of the Working Party requested clarification of the qualification requirements and procedures for approval of natural persons serving as foreign service providers. In response, the representative of Saudi Arabia stated that different categories of services required different types of approval. For example, for medical services, the service provider should have a medical degree from a recognized institution, i.e., a college or university. For educational services, the service provider should have adequate academic qualifications in the relevant disciplines from a recognized institution, i.e., a college or university. A provider of accounting and auditing services should be a certified accountant from an institute certified by the host government. The representative of Saudi Arabia stated these requirements referred to natural persons. In addition, all foreign companies should possess the necessary technical expertise, financial capabilities and occupational proficiency.

286. In response to questions concerning restrictions placed on government procurement of business inputs (i.e., business entities providing business services) from foreign service providers, the representative of Saudi Arabia stated that all non-Saudi contractors must assign not less than 30 per cent of the work included in their contract to wholly-owned Saudi companies. All contractors were obliged to purchase the tools and equipment that they procure for performance of their contracts from Saudi agents for these tools and equipment in Saudi Arabia. Contractors were required to obtain the following services from local Saudi establishments: transportation services for goods and services within Saudi Arabia (if the contractor did not perform this service by itself directly with equipment owned by the business and with personnel directly employed by the business); banking services; services for the leasing and purchase of land and buildings; and catering services and supply of foodstuffs. The representative of Saudi Arabia stated that these requirements applied only to government procurement, and not private procurement, of services.

287. Some members of the Working Party asked whether permission for a foreign-owned service provider to own real property was automatic once the licence to engage in business activities as a foreign establishment in Saudi Arabia was obtained. In response, the representative of Saudi Arabia stated that foreign establishments authorized to carry on their activities in the Kingdom under the Foreign Investment Law may own real estate only for a specific use related to the licensed project, in accordance with the rules on foreign ownership of real estate. The concerned Minister's approval of a request to own real estate was a prerequisite before its review by a Ministerial Committee headed by the Minister of Interior.

288. In response to a question from a member of the Working Party regarding telecommunications frequency usage and availability, the representative of Saudi Arabia confirmed that this information would be made available in the National Frequency Plan, which would be prepared pursuant to the Reference Paper attached to the telecommunications portion of the Kingdom's Schedule on Specific Commitments in Services. The representative added that the National Frequency Plan was in the development stage; it would be published as soon as it was finalized.

289. In response to questions from members of the Working Party, the representative of Saudi Arabia provided the following information regarding the Kingdom's insurance regime:

1986: Traditional insurance is prohibited under Islamic Shari'a. An acceptable alternative insurance concept called "Cooperative Insurance" emerged in the Saudi Insurance Market. The National Company for Co-operative Insurance (NCCI) was established as a pilot company by Royal Decree No. M/5 of 17.5.1405H (18 January 1986). No official statistics were available, but, in the past, a certain number of insurance companies had been operating in Saudi Arabia through a Saudi agent pursuant to Ministerial orders issued by the Ministry of Commerce and under the auspices of a Saudi commercial agent.

1999: The Law of Cooperative Health Insurance was issued by Royal Decree No. M/10 of 1.5.1420H (12 August 1999). It was concerned primarily with the consumption side of this service. The Council of Cooperative Health Insurance headed by the Minister of Health was responsible for the enforcement of this Law.

2001: The Compulsory Auto Insurance Act was issued by Council of Ministers Decision No. 222 of 12.8.1422H (29 October 2001). Third party liability insurance coverage became mandatory for all motor vehicles operating in the Kingdom. The Traffic Department under the Ministry of Interior was responsible for the enforcement of the Compulsory Auto Insurance Act. This Act was also concerned with consumption of that service.

2003: The Cooperative Insurance Companies Control Law was issued by Royal Decree No. M/32 of 2.6.1424H (31 July 2003), to protect the insured's rights by monitoring the financial health of the company and supervising the company's activities and those engaged in insurance professions, to encourage fair and effective competition, to enhance the stability of the insurance market and to enhance the insurance sector in the Kingdom. This law addressed explicitly the issue of the supply of the service.

The relevant government entities dealing with insurers were as follows:

- i. The Saudi Arabian Monetary Agency (SAMA): Responsible for the regulatory oversight and supervision of the insurance industry and qualifications of insurance companies.
- ii. The Ministry of Commerce and Industry: Responsible for the legal requirements of the Companies Law.
- iii. The Council of Cooperative Health Insurance, headed by the Ministry of Health: Responsible for the enforcement of the Law of Cooperative Health Insurance as it relates primarily to the consumption of the service.
- iv. The Traffic Department, headed by the Ministry of Interior: Responsible for the enforcement of the Compulsory Auto Insurance Act as it relates to the consumption of the service.

290. The representative of Saudi Arabia stated that Cooperative Insurance in the Kingdom was undertaken through licensed public joint-stock insurance companies operating in a cooperative manner, as provided within the articles of the Cooperative Insurance Companies Control Law, promulgated by Royal Decree No. M/32 of 2.6.1424H (31 July 2003) in accordance with the principles of Islamic Shari'a. Cooperative insurance operated with the purpose of maintaining an efficient, fair, safe and stable insurance market for the benefit and protection of policyholders and shareholders. Cooperative insurance aimed to strengthen values like cooperation and social solidarity (takaful) among the insured by indemnifying those among them who sustain losses insured against as well as by sharing equitably the amount of such losses among themselves. The representative of Saudi Arabia further stated that cooperative insurance companies offered both policyholders and shareholders the opportunity to benefit from their contributions and investments through the distribution of the surplus of insurance operations between the shareholders and policyholders in the ratio of 90/10 (90 per cent for the shareholders and 10 per cent for the policyholders). To facilitate a clear accounting for the distribution of the surplus, the insurance and re-insurance operations accounts

were kept separate from the shareholders' investment accounts. Insurance operations accounts were maintained separately from the contributions paid to the company by policyholders and were reserved for payments of claims and expenses of the company's operation. Policyholders were entitled to a percentage of the surplus from the income generated from the operations and the return on investment from the policyholders' contributions at the end of the year in the form of reduction of premium or by monetary distribution. The accounting methods for the distribution of surplus were transparent, as set forth in the Law's Implementing Regulations.

291. The Implementing Regulations of this Law were issued by the Finance Minister, pursuant to Ministerial Decision No. 1/596 of 1.3.1425H (20 April 2004) and specified the insurance activities covered in this Law. The implementing regulations: (i) provided transparency by making public all rules and regulations affecting the insurance and reinsurance industry; (ii) promoted competition in the market place; and (iii) provided consumer and private-sector protection. In response to a question from a member of the Working Party, the representative of Saudi Arabia acknowledged that these regulations would need further refinement in light of Saudi Arabia's accession commitments.

292. A member of the Working Party requested a clear and detailed definition of "cooperative joint-stock insurance company," including an explanation of its ownership, any requirements to float shares on the public stock exchange, and an explanation of how "surplus" is calculated and distributed between shareholders and policy holders. In response, the representative of Saudi Arabia provided the following clarifications. In establishing a new locally incorporated public joint-stock cooperative insurance company, a foreign insurance company must go through the following steps:

- i. Obtain a licence from SAMA, in accordance with Articles 4 through 11 of the Cooperative Insurance Companies Control Law and its implementing regulations;
- ii. Obtain approval from SAGIA;
- iii. Apply, with a minimum of five founders, to the Ministry of Commerce and Industry, in accordance with the Companies Law;
- iv. Obtain approval of the Council of Ministers, enacted through a Royal Decree; and
- v. Receive SAMA authorization for conducting business.

The capital requirement and capitalization is required upon receipt of the application in the form of a bank guarantee, and paid-up capital is required upon the issuance of the Royal Decree. Article 6 of the Cooperative Insurance Companies Control Law implementing regulations requires that new applications be processed within 90 days. After approval of its application by the Ministry of Commerce and Industry, the company shall float the required percentage of shares (currently set at a minimum of 30 per cent under the Capital Market Authority's implementing regulations) on the Saudi stock market in an initial public offering (IPO) in accordance with the Capital Market Law and its implementing regulations. The Capital Market Authority (CMA) implementing regulations require

that every issue be underwritten, and that CMA review the prospectus within 45 days of receiving all information and documentation required.

293. Subject to the provisions of the Cooperative Health Insurance Law, promulgated by Royal Decree M/10 of 1.5.1420H (13 August 1999), the Cooperative Insurance Companies Control Law granted the Saudi Arabian Monetary Agency (SAMA), through a clear, transparent and consistent regulatory and supervisory process, the powers to:

- i. Review applications for licenses and issue recommendations for licensing, after which the application is referred to the Ministry of Commerce and Industry for approval under the Companies Law.
- ii. Authorize suspension and withdrawal of regulatory permission.
- iii. Approve board members of locally incorporated public joint-stock cooperative insurance and reinsurance companies, and their external auditors.
- iv. Monitor solvency of insurance and reinsurance companies through the establishment of general rules to ensure credit worthiness, capital adequacy, soundness of assets and technical provisions and ability to meet obligations to policyholders.
- v. Inspect records directly or through auditors and request regulatory information.
- vi. Approve mergers and acquisitions of insurance and reinsurance companies.
- vii. Regulate and approve rules of investment in insurance and reinsurance operations.
- viii. Establish minimum deposit limits and the amount of funds to be deposited in local banks to exercise each insurance activity.
- ix. Approve policy forms.
- x. Establish investment policy for insurance and reinsurance companies.
- xi. Intervene following violations of the rules, including requiring liquidations.
- xii. Establish the pre-conditions for granting licenses to provide insurance-related services, in particular: insurance brokers, insurance consultants, inspectors and loss adjusters, experts in settling insurance claims and actuaries.

294. The representative of Saudi Arabia stated that, according to Article 3(2) of the Cooperative Insurance Companies Control Law, the main object of the insurance and reinsurance companies was to engage in insurance and reinsurance activities, not to undertake any other activities unless they were complementary or necessary. Insurance and reinsurance companies could not directly own brokerage companies or establishments. Reinsurance companies could not own reinsurance brokerage companies or establishments. However, insurance companies could, subject to obtaining SAMA's approval, own companies or establishments engaged in reinsurance brokerage activities.

295. The representative of Saudi Arabia stated that, according to Article 3(3) of the Cooperative Insurance Companies Control Law, the paid-up capital of the locally incorporated public joint-stock cooperative insurance company "shall" not be less than SAR 100,000,000 and the paid-up capital of a reinsurance company or an insurance company engaged in underwriting reinsurance activities for non-affiliated companies "shall" not be less than SAR 200,000,000. The minimum capital "shall" not be altered without SAMA's approval and in accordance with the provisions of the Companies Law

relating to the locally incorporated cooperative insurance and reinsurance public joint-stock companies.

296. Some members of the Working Party requested clarification and modification of a number of requirements in the current Saudi regulatory regime that have an impact on foreign insurance service providers. For example, members noted that capitalization requirements appeared to be excessive, given that foreign insurance companies are required to operate on a cooperative basis; and there is a separate 20 per cent statutory reserve requirement that effectively doubles this capitalization requirement. Furthermore, current Saudi regulations require a 10-15 per cent statutory bank deposit, the interest on which does not accrue to the company, but is instead retained by the regulator (SAMA). Restrictions on the investment of assets currently require that 50 per cent of investment must be in Saudi riyal vehicles. In addition, regulations permitted the imposition of unnecessary reinsurance requirements. The representative of Saudi Arabia confirmed that the necessary regulatory reforms, including those for implementation of Royal Decree No. 3120/MB permitting branching, would be completed before May 2006, and would implement the commitments for all subsectors set out in Saudi Arabia's Schedule on Specific Commitments in Services. He further explained that such regulatory reforms would be developed with the goal of promoting investment and the creation of meaningful commercial opportunities in the Saudi cooperative insurance market. Such reforms would be consistent with internationally recognized insurance industry standards and principles, including the standards of the International Association of Insurance Supervisors (IAIS), the financial services transparency code of the IMF and the OECD's "Detailed Principles for the Regulation and Supervision of Insurance Markets in Emerging Economies." The Working Party took note of these commitments.

297. A member of the Working Party asked if foreign legal or natural persons were allowed to invest directly in the Saudi stock market. The representative of Saudi Arabia explained that foreign legal or natural persons were not allowed to invest directly in the Saudi stock market, except through mutual funds. He further explained that the transfer of significant shareholding (five per cent or more) in a bank or cooperative insurance company was only permitted with the approval of SAMA.

298. In response to a question from a member of the Working Party concerning the ability of foreign insurance service suppliers to open and operate branches in Saudi Arabia, the representative of Saudi Arabia confirmed that foreign insurance companies were permitted to open and operate branches in Saudi Arabia pursuant to Royal Decree No. 3120/MB of 4.3.1426H (13 April 2005). He further explained that existing foreign insurance service suppliers operating in Saudi Arabia as of 13 April 2005, were permitted a three-year transition period, beginning 13 April 2005, to comply with



the Cooperative Law on Insurance and to establish as either a locally incorporated public joint-stock cooperative insurance company or as a direct branch (as a cooperative insurance provider). As set out in paragraph 296, above, the representative of Saudi Arabia confirmed that the necessary regulatory reforms for implementation, set out in Royal Decree No. 3120/MB permitting branching, would be completed before May 2006, and would be consistent with internationally recognized insurance industry standards and developed with the goal of promoting investment and the creation of meaningful commercial opportunities in the Saudi cooperative insurance market. Such reforms would be in line with the internationally recognized standards of the International Association of Insurance Supervisors (IAIS) and the financial services transparency code of the IMF. He confirmed that, subject to prudential considerations that would be reflected in future implementing regulations and in conformity with internationally recognised insurance industry standards, branches of foreign insurance companies operating in Saudi Arabia were not subject to economic needs tests or numerical limitations, that such branches were permitted to operate on the global capital of the parent company, taking account of prudential considerations against insufficient local capital investment, and that deposit requirements would be set in accordance with local liability and consistent with international norms. He explained that the regulations implementing Royal Decree No. 3120/MB had not yet been published, but confirmed that, subject to the conditions stated in the previous sentence, multiple licenses would be permitted for branches, and that it would not be necessary to apply for and receive separate licenses for non-life and protection and savings insurance. The Working Party took note of these commitments.

299. A member of the Working Party asked for clarification concerning licensing of operations and new insurance products in general and in particular during the three-year transition period provided for in Royal Decree No. 3120/MB. The member was particularly concerned regarding the following issues:

- i. whether foreign insurance services suppliers, including those operating during the three-year transition period, would be permitted a full scope of operations and would not be required to apply for separate licenses to supply non-life and protection and savings insurance services;
- ii. whether foreign insurance suppliers would not be required to supply protection and savings insurance services through, or in conjunction with, a bank;
- iii. whether foreign insurance suppliers, including those operating in Saudi Arabia during the three-year transition period provided in Royal Decree No. 3120/MB, were permitted to offer new insurance products and service new clients; and
- iv. whether applications for such new products would be reviewed and responded to within three months of receipt of the completed documentation and whether applications for products already approved for other financial institutions would be reviewed and responded to within 15 days of receipt of completed documentation.

In response, the representative of Saudi Arabia stated that foreign insurance service suppliers operating in Saudi Arabia during the three-year transition period would be able to offer new products and service new clients, as set forth in the Saudi Schedule on Specific Commitments in Services. He confirmed that it was the ongoing intent of the Kingdom of Saudi Arabia to further expedite and streamline the general approval procedures for new and existing products. He further confirmed that the necessary regulatory reforms, including those for implementation of Royal Decree No. 3120/MB permitting branching, would be completed before May 2006, and would be consistent with internationally recognized insurance industry standards and developed with the goal of promoting investment and the creation of meaningful commercial opportunities in the Saudi cooperative insurance market. Such reforms would be in line with the internationally recognized standards of the International Association of Insurance Supervisors (IAIS) and the financial services transparency code of the IMF. All rate formulae, policy clauses, insurance application forms and other relevant materials required by SAMA and other relevant government agencies such as the Cooperative Health Insurance Council and the Traffic Department, and amendments to such items, may be filed with SAMA for recordation prior to their use and may be used thereafter unless SAMA disapproves within 45 days after receipt in the case of products that have already been approved for other financial institutions or within 120 days after receipt in the case of new products. The Working Party took note of these commitments.

300. Following the completion of bilateral negotiations with WTO Members, the Schedule on Specific Commitments in Services of Saudi Arabia would be reproduced in Part II of the Annex to the Protocol of Saudi Arabia.

## **VII. TRANSPARENCY**

301. Some members of the Working Party requested information on Saudi Arabia's implementation of the transparency requirements prescribed in Article X of the GATT, Article III of the GATS and other WTO Agreements. They asked whether a legal obligation existed in Saudi Arabia to publish in an official journal all laws, regulations, judicial decisions and administrative orders or rulings of general application or other measures having similar effect relating to trade or economic policy "in such a manner as to enable governments and traders to become acquainted with them"; to what extent publication occurred prior to entry into force; and whether any such measures could enter into force without being published in *Umm Al-Qura*, the Official Journal.

302. In response, the representative of Saudi Arabia stated that Article 71 of the Basic Law required that all laws be published in *Umm Al-Qura*, the Official Journal, before they entered into effect, and that laws become effective on the date of publication unless a later date was specified. He

added that the *Umm Al-Qura* also is the official journal for publication of regulations, implementing regulations, decrees, decisions, Ministerial orders, international agreements and concessions, which also could not come into effect prior to publication there. Pursuant to Decree No. 162 issued by the Council of Ministers on 17.6.1423H (28 August 2002), these rules extended to administrative orders. He further added that Article 47 of the Board of Grievances Law required the publication of judicial decisions. There were no other requirements for publication or notification currently in effect. He also confirmed that his government has set up a single operational enquiry point -- the Ministry of Commerce and Industry (Post Office Box 11162, Riyadh, Kingdom of Saudi Arabia; telephone number 966-1-402-7574; [www.commerce.gov.sa](http://www.commerce.gov.sa)) -- in conformity with the requirements of Article III of the General Agreement on Trade in Services and the WTO Agreements on TBT and SPS.

303. A member stated that timely review of legislation published in *Umm Al-Qura* was difficult, as copies were not immediately available to the general public and many private-sector entities were unable to obtain copies of laws and regulations with sufficient time to become acquainted with their provisions prior to the date of implementation. This member suggested that Saudi Arabia consider posting the *Umm Al-Qura* on the internet to improve access by the public to laws, regulations, judicial decisions and administrative rulings of general application, and welcomed any other practical steps taken by Saudi Arabia to ensure prompt and accessible publication of legislation and regulations in the Official Journal.

304. A member raised the issue of publishing notice of proposed measures and providing an opportunity for members and interested persons to provide comments and views on such measures prior to their adoption and implementation. Providing such an opportunity was required under some WTO Agreements and provided useful information that could facilitate the acceptance and operation of measures. This member noted the Saudi government's practice of circulating information on proposed and adopted measures through Chambers of Commerce in the Kingdom and requested information on Saudi Arabia's plans to provide opportunities for members and interested persons and associations to obtain information and provide comments on proposed measures.

305. The representative of Saudi Arabia confirmed that from the date of accession his government would fully implement Article X of the GATT 1994, Article III of the GATS and the other WTO transparency requirements, including those requiring notification, prior comment and publication. As such, all laws, regulations, decrees, judicial decisions and administrative rulings of general application pertaining to or affecting customs issues, trade in goods, services, intellectual property and the control of foreign exchange would be published promptly in the *Umm Al-Qura* in a manner that fulfils the

WTO requirements and no such law, regulation or other normative act or measure would become effective or be enforced prior to such publication. He further confirmed that the government also had decided to expand the transparency provided with regard to legislation and measures having similar effect in the areas of trade and investment. In this regard, Saudi Arabia would, from the date of accession, establish or designate an official website (and possibly a supplemental official journal or an expanded *Umm Al-Qura*), updated on a regular basis and readily available to WTO Members, individuals, associations and enterprises, dedicated to the publication of all regulations, decisions, orders, administrative rulings of general application, and other measures pertaining to or affecting trade in goods, services and TRIPS prior to enactment. The publication of such regulations and other measures would include, as appropriate, the names of the authorities (including contact points) responsible for implementing a particular measure and the effective date of the measure. Also, it would list the products and services affected by the particular measure, identified by appropriate tariff line and classification. The representative of Saudi Arabia confirmed that, with respect to proposed measures, Saudi Arabia would provide a reasonable period, i.e., no less than 60 days, for members, individuals, associations and enterprises to provide comments to the appropriate authorities before such measures were adopted, except for those regulations and other measures involving national emergency or security, or for which the publication would impede law enforcement. He added that Saudi Arabia intended to post the contents of current and past editions of the Official Journal on this website as well, and to keep them current. The Working Party took note of these commitments.

### **VIII. NOTIFICATIONS**

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

### **IX. TRADE AGREEMENTS**

307. In response to questions from members of the Working Party, the representative of Saudi Arabia submitted the text of the Unified Economic Agreement (UEA) signed on 11 November 1981 under the Gulf Cooperation Council (GCC). He said that, in his view, the UEA met all the requirements of Article XXIV of GATT Agreement 1994, including paragraphs 5(b) and 8(b). The free-trade area had eliminated duties and other restrictive regulations of commerce on all trade between the members of the GCC in the products originating in the member states, and work was

proceeding to further harmonize trade and commercial policies. He also submitted the programme for the implementation of the Agreement Facilitating and Developing Trade Exchange among Arab States to create a Free Trade Area and the Agreement Facilitating and Developing Trade Exchanges among Arab States. Saudi Arabia would notify these Agreements upon becoming a WTO Member.

308. In response to further questions, the representative of Saudi Arabia stated that the GCC Customs Union had been established and was operative since the beginning of January 2003. Saudi Arabia and other GCC member states were applying the GCC common external tariff. The rates of common external tariff for more than 85 per cent of the tariff lines were 5 per cent or 0 per cent. He said that future plans included the application of common external tariff to all items and steps towards a common market and a common currency.

309. In response to additional questions from a member of the Working Party, the representative of Saudi Arabia stated that the 1981 List was the basic document that was the foundation of the GCC. Further to this List, the first GCC FTA was established; later, the GCC Summit took a decision on further economic integration and established a Customs Union (which came into force 1 January 2003). The representative added that customs tariffs had been removed on all trade among GCC countries and that there were no exceptions. As for treatment of imports into one member of the customs union when they are shipped to another, the representative of Saudi Arabia referred to paragraphs 168-169, above. He also stated that there were no rules of origin for the GCC Customs Union. As for other restrictions, the representative reported that particular goods imported into one member of the Customs Union could not be shipped to another member if their importation into the other member was banned (e.g., the import ban on alcohol and pork in Saudi Arabia).

310. In response to a question on the liberalization of services within the GCC, the representative of Saudi Arabia stated that the GCC had liberalized trade in services for roughly 100 sub-sectors of services, including professional services, most business services, telecommunication services, banking and other financial services (other than insurance services), distribution services, education services, environmental services, health and related social services and tourism services. The GCC members had agreed to progressively liberalize other services sectors and sub-sectors.

311. In response to another question from a member of the Working Party, the representative of Saudi Arabia stated that the GCC Supreme Council, which met annually and comprised Heads of State/Heads of Governments, was the ultimate decision-making body in the GCC. The Ministerial Council, comprising Foreign Ministers, was responsible for overall implementation and implementation of decisions of the Supreme Council. A Committee consisting of the Ministers of Finance and Economy of the GCC member states was responsible for follow-up on the

implementation of the Economic Agreement signed by GCC member States leaders in December 2001, including the requirements of establishing a customs union. Affiliated with this Committee were a number of specialized committees, such as the Committee comprising Customs Directors and Deputy Ministers of Finance and the Customs Union Committee. With respect to implementation, decisions of the Supreme Council would be made by executive decisions by member states at a level no less than the Council of Ministers. Follow-up on implementation was affected by decisions made by the concerned ministers within the framework of the Council.

312. The representative of Saudi Arabia stated that the Greater Arab Free Trade Area (GAFTA) included the following sixteen member states of the Arab League: Bahrain, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Qatar, Saudi Arabia, Sudan, Syria, Tunisia, United Arab Emirates and Yemen. He added that, as of 1 January 2005, customs duties on national goods exchanged among the member states to the agreement had been removed. Moreover, exemptions from customs duties accorded within the framework of the GAFTA were limited to products of the member states of the Area only. A copy of the text of the GAFTA, in English, was submitted to the WTO Secretariat for distribution to members of the Working Party. In response to a question from a member of the Working Party regarding rules of origin, the representative of Saudi Arabia stated that the Arab League was still preparing rules of origin. These would be sent to the WTO once completed.

313. The representative of Saudi Arabia noted that Saudi Arabia and other GCC member states had discussed with the European Communities the possibility of establishing a free trade area.

314. The representative of Saudi Arabia stated that his Government would observe the provisions of the WTO, including Article XXIV of the GATT 1994 and Article V of the GATS, in its trade agreements, and would ensure that the provisions of these WTO Agreements for notification, consultation and other requirements concerning free trade areas and customs unions of which Saudi Arabia was a member were met from the date of accession. He confirmed that Saudi Arabia would, upon accession, submit notifications and copies of the GCC Customs Union and the Arab League Free Trade Area for review by the Committee on Regional Trade Agreements (CRTA). The Working Party took note of these commitments.

## **CONCLUSIONS**

315. The Working Party took note of the explanations and statements of Saudi Arabia concerning its foreign trade regime, as reflected in this report. The Working Party took note of the commitments made by the Kingdom of Saudi Arabia in relation to certain specific matters which are reproduced in paragraphs 33, 35, 36, 37, 52, 69, 85, 88, 103, 104, 113, 115, 122, 123, 128, 132, 142, 153, 155, 158,

164, 167, 169, 171, 174, 178, 179, 181, 182, 183, 184, 186, 189, 197, 201, 203, 205, 207, 208, 210, 211, 212, 215, 216, 218, 222, 223, 224, 226, 228, 231, 235, 272, 276, 296, 298, 299, 305, 306 and 314 of this Report. The Working Party took note that these commitments had been incorporated in paragraph 2 of the Draft Protocol of Accession of Saudi Arabia to the WTO.

316. Having carried out the examination of the foreign trade regime of Saudi Arabia and in the light of the explanations, commitments and concessions made by the representative of Saudi Arabia, the Working Party reached the conclusion that Saudi Arabia be invited to accede to the Marrakech Agreement Establishing the WTO under the provisions of Article XII. For this purpose, the Working Party has prepared the draft Decision and Protocol of Accession reproduced in the Appendix to this report, and takes note of Saudi Arabia's Schedule of Concessions and Commitments on Goods WT/ACC/SPEC/SAU/7/Add.1 and its Schedule of Specific Commitments on Services WT/ACC/SPEC/SAU/7/Add.2 that are annexed to the Protocol. It is proposed that these texts be adopted by the General Council when it adopts the report. When the Decision is adopted, the Protocol of Accession would be open for acceptance by Saudi Arabia which would become a Member thirty days after it accepts the said Protocol. The Working Party agreed, therefore, that it had completed its work concerning the negotiations for the accession of Saudi Arabia to the Marrakech Agreement Establishing the WTO.]

## ANNEXES

- Annex A: List of Goods and Services Subject to Price and Profit Controls
- Annex B: Comparison of the Provisions of the Old 1979 and the New 2000 Foreign Investment Laws
- Annex C: Negative List
- Annex D: Summary of the Provisions of the Capital Market Law
- Annex E: List of Products Subject to Non-Automatic Import Licensing Requirements
- Annex F: List of Banned Imports
- Annex G: Seed Specifications
- Annex H: List of Items Subject to Mandatory Certification
- Annex I: List of Banned Exports
- Annex J: List of Exports Subject to Authorization/Licensing
- Annex K: List of Technical Committees
- Annex L: List of SPS Measures Maintained by the Kingdom of Saudi Arabia



ANNEX A

**List of Goods and Services Subject to Price and Profit Controls**

**Annex A-1: Goods Subject to Price Regulation**

| No. | Item  | Current Regulated Price  | HS Classification                |
|-----|---|--|----------------------------------|
| 1.  | Wheat Flour   | SAR 20/21 per 40 kg  | 11010010                         |
| 2.  | Fuel Oil  | 6–12 Halalas/Litre   | 27101140                         |
| 3.  | Gasoline  | 90 Halalas/Litre   | 27101121                         |
| 4.  | Diesel  | 37 Halalas/Litre   | 27101130-3                       |
| 5.  | Kerosene  | 43.5 Halalas/Litre   | 27101129                         |
| 6.  | Liquefied Petroleum Gas (LPG)<br>(Cooking Gas)                  | 72 Halalas/Litre   | 271110                           |
| 7.  | Natural Gas Liquids<br>-Propane<br>-Butane<br>-Natural Gasoline | Pursuant to Council of Ministers<br>Resolution No. 260*  | 27111200<br>27111300<br>27101114 |
| 8.  | Asphalt   | 300 SAR/Metric Ton   | 2714                             |
| 9.  | Natural Gas (Ethane and Methane)                                | 281 Halalas/MMBTU  | 271111                           |
| 10. | Crude Oil (Used as Fuel)  | 10 Halalas/Litre   | 2709                             |
| 11. | Pharmaceuticals   | 10, 15 or 20 per cent profit<br>margin, as set out in Annex A-2,<br>depending on the export price<br>(CIF) to Saudi Arabia | Chapter 30                       |

(1 SAR = 100 Halalas)

\* See the discussion of NGL pricing in the Working Party Report, in particular, paragraphs 29–32.

**Annex A-2: List of Goods Subject to Profit Regulation**

| No. | Item            | Current Profit Controls |                     |                  | Legal Basis  | HS Code |
|-----|-----------------|-------------------------|---------------------|------------------|--|---------|
| 1.  | Pharmaceuticals | Export to<br>SA (CIF)*  | Wholesale<br>Margin | Retail<br>Margin | Royal Decree No.<br>M/31 of 1.6.1425H<br>(July 19, 2004) | Ch. 30  |
|     |                 | Less than<br>50 SAR     | 15%                 | 20%              |  |         |
|     |                 | SAR 50-<br>200          | 10%                 | 15%              |  |         |
|     |                 | More than<br>SAR 200    | 10%                 | 10%              |  |         |

\* The export price is established at the time of registration, as explained in paragraph 35 of the Working Party Report.

**Annex A-3**

**Government Price Regulation in Services Sectors**

| No. | Services  | Current Regulated Price   |
|-----|---|---|
| 1.  | Energy Transportation Services, including Pipeline Transportation Services  | Tariffs are established based on the cost of services provided and are administered in a non-discriminatory manner. The single pipeline tariff currently in place is SAR 539 Per 1,000 barrels. |
| 2.  | Port-General Cargo  | SAR 35 Per Ton or Part Thereof  |
| 3.  | Port-Vehicles and Equipment   | SAR 35 Per Ton or Part Thereof  |
| 4.  | Port-Bagged Cargo and Foodstuff   | SAR 20 Per Ton or Part Thereof  |
| 5.  | Port-Bagged Cement  | SAR 10 Per Ton or Part Thereof  |
| 6.  | Port-Bulk Cargo (including bulk handled at the cement silos, grains, oils or similar; excluding crude oil, gas and liquefied petroleum products)  | SAR 6 Per Ton or Part Thereof   |
| 7.  | Port-Exported Bulk Cement and Clinker   | SAR 3 Per Ton or Part Thereof   |
| 8.  | Port-Container 20 Feet Long or Less   | SAR 270 Per Unit  |
| 9.  | Port-Container Over 20 Feet Long  | SAR 415 Per Unit  |
| 10. | Port-Sheep/Goat   | SAR 2 Per Head  |
| 11. | Port-Other Livestock  | SAR 5 Per Head  |
| 12. | (a) Electricity Consumption for Houses & Commercial Purposes from 1 – 4000 Kilowatt Per Hour on a Monthly Basis<br>(b) Electricity Consumption for Houses & Commercial Purposes from 4001 – 6000 Kilowatt Per Hour on a Monthly Basis<br>(c) Electricity Consumption for Houses & Commercial Purposes from 6001 and more Kilowatt Per Hour on a Monthly Basis | 5 Halalas Per 1 Kilowatt<br>10 Halalas Per 1 Kilowatt<br>15 Halalas Per 1 Kilowatt  |
| 13. | Water Consumption or Sewer Services   | 15 Halalas Per 1 Cubic Meter  |

- The Council of Ministers is the responsible legal authority.

## ANNEX B

### Comparison of the Provisions of the Old 1979 and the New 2000 Foreign Investment Laws

The old Foreign Capital Investment Law was enacted in 1979. The new Foreign Investment Law was enacted pursuant to Royal Decree No. M/1 of 5.1.1421H (9 April 2000) to replace the 1979 Law. Under the old Law, the licensing authority for foreign investment was the Foreign Investment Secretariat of the Ministry of Industry and Electricity. Under the new Law, the licensing authority was the Saudi Arabian General Investment Authority (SAGIA). The primary other differences between the old and the new Laws were as follows:

#### Authorities Providing Services to and Regulating Investors

Old Law: Several Ministries and Government Agencies.

New Law: Saudi Arabian General Investment Authority (SAGIA) Investor Service Centres (One-Stop-Shop). (SAGIA comprises representatives from nine investment-related ministries.)

#### Investment Fields Open to Foreign Investors

Old Law: The Old Law required that the project be a development project approved under the National Development Plan and that the project be accompanied by foreign technical skills and expertise to facilitate technology transfer and be approved as viable by the Foreign Investment Bureau.

New Law: All fields are open for investment, except those on the Negative List.

#### Period for Taking a Decision on an Investment Application

Old Law: Not specified.

New Law: Maximum 30 days.

#### Possibility of Obtaining More Than One License

Old Law: Restricted, had to be in the same activity.

New Law: The foreign investor may obtain more than one licence in diverse activities.

#### Type of Foreign Investment

Old Law: The Old Law favoured joint ventures over 100 per cent foreign-owned projects.

New Law: 100 per cent foreign-owned projects are allowed by the New Law, in addition to joint ventures.

### Incentives

- Old Law: Foreign capital enjoyed the incentives offered to national capital only in manufacturing industries. The Saudi share in ownership had to be 25 per cent or greater.
- New Law: The foreign investment project enjoys all of the incentives and privileges offered to local projects.

### Investment Guarantees

- Old Law: None were specified. No expropriation cases since 1957.
- New Law: The foreign investor has the right to transfer his share derived from selling his equity or profits out of the Kingdom, as well as any amounts required for the settlement of contractual obligations pertaining to the project. Investments related to the foreign investor shall not be confiscated without a court order. They may not be subject to expropriation except for the public interest and in exchange for an equitable compensation according to regulations.

### Real Estate Ownership

- Old Law: Foreign ownership of real-estate by foreign investors was prohibited.
- New Law: The foreign facility licensed under the Foreign Investment Act is entitled to any real-estate for practicing the licensed activity and for the housing of staff. Also, the Real-Estate Regulation allows foreign investment in real-estate worth SAR 30 million or more.

### Penalties for Violations

- Old Law: The Kingdom could cancel the licence or deny incentives after the investor received warning from the Ministry of Industry and Electricity to correct the violation within a certain period. Investors could appeal to the Board of Grievances within 30 days.
- New Law: A petition against any penalty may be brought by the investor before the Board of Grievances. Possible penalties include:
- Withholding incentives offered to the foreign investor.
  - Imposing a fine not exceeding SAR 500,000.
  - Cancelling the licence, in case of a continuing violation after a written notification to rectify the violation within a certain period specified by SAGIA.

Tax Exemption

Old Law: Industrial and agricultural projects were offered a ten-year tax holiday and other projects a five-year holiday, provided that the local share formed 25 per cent of the project capital. The tax on profits was up to 45 per cent.

New Law: Taxes on profits were reduced to 20 per cent and losses may be transferred to coming years.

Sponsorship

Old Law: Foreign investors had to be sponsored by a Saudi citizen.

New Law: The requirement of the old law was removed. The foreign investor and his non-Saudi staff shall be sponsored by the licensed investment project.

## ANNEX C

### Negative List

#### I. Industrial Sectors

- a. Oil exploration, drilling and production, except the services related to the mining sector listed at 5115 and 883 in International Industrial Classification Codes.
- b. Manufacturing of military equipment, devices and uniforms.
- c. Manufacturing of civilian explosives.

#### II. Services Sectors

- a. Catering to military sectors.
- b. Security and detective services.
- c. Real estate investment in Makkah and Madina.
- d. Tourist orientation and guidance services related to Hajj and Umrah.
- e. Recruitment and employment services, including local recruitment offices.
- f. Real estate brokerage.
- g. Printing and publishing, except the following activities:
  - Pre-printing services (CPC 88442)
  - Printing presses (CPC 88442)
  - Drawing and calligraphy (CPC 87501)
  - Photography (CPC 875)
  - Radio and television broadcasting studios (CPC 96114)
  - Foreign media offices and correspondents (CPC 962)
  - Promotion and advertising (CPC 871)
  - Public relations (CPC 86506)
  - Publication (CPC 88442)
  - Press services (CPC 88442)
  - Production, selling and renting of computer software (CPC 88)
  - Media consultancies and studies (CPC 853)
  - Typing and copying
- h. Distribution services, wholesale and retail trade, including medical retail services and private pharmacies, and commercial agencies, except franchise rights listed at CPC 8929, with foreign ownership not exceeding 49 per cent, and the granting of one franchise to each area.
- i. Audio-visual and media services.
- j. Telecommunications services, except the following activities:
  - Mobile telephone services
  - Telex services (CPC 7523)
  - Telegraph services (CPC 7522)
  - Electronic data interchange (CPC 7523)
  - Enhanced/Value-Added facsimile services, including storing, forwarding and retrieving (CPC 7523)
  - VSAT services (CPC 75291)
  - Fax services (CPC 7529 and 7521)
  - GMPCS services (CPC 75299)

- Internet Service Provider services (CPC 75299)
  - Electronic mail (CPC 7523)
  - Provision of online information and database retrieval (CPC 7523)
  - Information provision and online retrieval and/or processing, including transaction processing (CPC 843)
- k. Land and air transport.
- l. Satellite transmission services.
- m. Services provided by midwives, nurses, physiotherapists and paramedics (CPC 93191).
- n. Fisheries.
- o. Blood banks, poison centres and quarantines.



## ANNEX D

### **Summary of Provisions of the Capital Market Law**

Chapter 1 sets out the definitions of the terms used in the law. The Capital Market Authority (CMA) has rule-making authority to further define what will or will not be deemed a security. This assures necessary flexibility and certainty. The CMA is formally created in Chapter 2, which also sets forth the CMA's extensive rule-making powers, organizational structure and duty to report annually to the President of the Council of Ministers. Chapter 3 creates the Saudi Arabian Securities Exchange as a joint-stock company and empowers it to adopt by-laws for the purpose of establishing and enforcing high professional and ethical standards for brokers. The CMA is also required to establish and maintain a Securities Violation Tribunal with jurisdiction over all disputes.

Chapter 4 requires the Exchange to establish the Securities Deposit Centre, which will be the exclusive organization for clearing, settling and registering ownership of securities traded on the Exchange. Chapter 4 provides that the records of the centre are conclusive evidence of ownership for securities traded on the Exchange and authorizes the Exchange to adopt rules necessary to assure efficient and reliable clearance, settlement and registration. Under Chapter 5, brokers must be licensed. Licensing requirements are established and administered by the Exchange, but the actual issuing of licenses is by the CMA, based on a recommendation by the Exchange. Chapter 6 provides that, commencing in 2005, the CMA has the authority to adopt rules regulating enumerated aspects of the activities of investment funds, collective trusts, investment managers and investment advisers.

The disclosure procedures for public offers of securities and the on-going disclosure requirements for the issues of publicly traded securities are set forth in Chapter 7. No sales through a public offer of a security can occur until a prospectus is published and the CMA has approved the prospectus. Such approval is granted upon the CMA being satisfied that the prospectus fulfils the disclosure requirements as set forth in the CMA's regulations. Chapter 8 authorizes the CMA to issue rules defining what constitutes manipulation, as well as insider trading and tipping of inside information.

Advance notice of a possible takeover is the subject of Chapter 9; anyone who increases his ownership of a class of equity security listed on the Exchange so that he will own 10 per cent or more of a company must file certain information about himself and such other information as the CMA's regulations require. These provisions are similar to early-warning disclosures in other countries. Chapter 9 authorizes the CMA to adopt a range of substantive protections for the shareholders of the firm that is the target of a takeover. Chapter 10 is the final chapter of the Capital Market Law. It sets forth the CMA and private investor action that can be brought for violations of any provision, rule or regulation of the Capital Market Law.

ANNEX E

**List of Products Subject to Non-Automatic Import Licensing Requirements**

| S. No. | HS Code   | Description   | WTO Justification | Authority  |
|--------|---|---|-------------------|--|
| 1.     | 01 01 10 10                                     | Arabian breed, pure-bred horses   | GATT Art. XI:2(b) | EC   |
| 2.     | 01 01 10 20                                     | Arabian breed, pure-bred horses   | GATT Art. XI:2(b) | EC   |
| 3.     | 01 01 90 10                                     | Arabian breed, pure-bred horses   | GATT Art. XI:2(b) | EC   |
| 4.     | 01 01 90 20                                     | Arabian breed, pure-bred horses   | GATT Art. XI:2(b) | EC   |
| 5.     | 06 02 20 10                                     | Date palm, and seedlings thereof  | GATT Art. XX(b)   | MOA  |
| 6.     | 23 09 90 50                                     | Preparations for the animal forage  | GATT Art. XX(b)   | MOA  |
| 7.     | Chapters 28 and 29                              | Chemicals   | GATT Art. XXI     | PSD for the chemicals used in explosives. MOCI, MOH or MEPA for the chemicals falling within their competence and supervision other than those stated above. |
| 8.     | ex 30.03  | Medicines, for veterinary use   | GATT Art. XX(b)   | MOA  |
| 9.     | ex 30.04  | Medicines, for veterinary use   | GATT Art. XX(b)   | MOA  |
| 10.    | 25 01 00 30                                     | Sodium chloride   | GATT Art. XXI     | AED  |
| 11.    | 27.12, except<br>27 12 10 00                    | Paraffine, Vaseline   | GATT Art. XXI     | AED  |
| 12.    | 31 02 30 00                                     | Explosives, fireworks, gunpowder, propellant powders, prepared explosives, detonating fuses, percussion or detonating caps, igniters, electric detonators, safety fuses, sulphate turpentine oils; polymethyl methacrylate; cellulose nitrates; aluminium powders and flakes; magnesium powder and flakes | GATT Art. XXI     | AED  |
| 13.    | 31 02 50 00                                     |   |                   | AED  |
| 14.    | 36 01 00 00                                     |   |                   | AED  |
| 15.    | 36 02 00 00                                     |   |                   | AED  |
| 16.    | 36 03 00 10                                     |   |                   | AED  |
| 17.    | 36 03 00 90                                     |   |                   | AED  |
| 18.    | 25 01 00 30                                     |   |                   | AED  |
| 19.    | 35 03 00 10                                     |   |                   | AED  |
| 20.    | 38 05 10 00                                     |   |                   | AED  |
| 21.    | 39 06 10 00                                     |   |                   | AED  |
| 22.    | 39 12 20 00                                     |   |                   | AED  |
| 23.    | 76 03 20 00                                     |   |                   | AED  |
| 24.    | 81 04 30 00                                     |   |                   | AED  |
| 25.    | 31.02   | Chemical fertilizers  | GATT Art. XXI     | MOA  |
| 26.    | 31.03   | Chemical fertilizers  | GATT Art. XXI     | MOA  |
| 27.    | 31.04   | Chemical fertilizers  | GATT Art. XXI     | MOA  |
| 28.    | 31.05, except<br>31 02 30 00 and<br>31 02 50 00 | Chemical fertilizers  | GATT Art. XXI     | MOA  |
| 29.    | 36 04 10 00                                     | Lighting fireworks for occasions  | GATT Art. XXI     | AED  |
| 30.    | 36 04 90 00                                     |   |                   | AED  |
| 31.    | 38 08 30 00                                     | Herbicides, anti-sprouting products, plant-growth regulators  | GATT Art. XX(b)   | MOA  |

| S. No. | HS Code        | Description  | WTO Justification | Authority   |
|--------|----------------|--|-------------------|---|
| 32.    | ex 58 07 10 00 | Military uniforms, military badges, etc.   | GATT Art. XXI     | Competent Military Agency   |
| 33.    | ex 58 07 90 00 |  |                   | Competent Military Agency   |
| 34.    | ex 61 01       |  |                   | Competent Military Agency   |
| 35.    | ex 61 03       |  |                   | Competent Military Agency   |
| 36.    | ex 62 01       |  |                   | Competent Military Agency   |
| 37.    | ex 62 03       |  |                   | Competent Military Agency   |
| 38.    | 65 05 90 94    | Peak caps  | GATT Art. XXI     | Competent Military Agency   |
| 39.    | 65 06 10 30    | Helmets, for military use  | GATT Art. XXI     | Competent Military Agency   |
| 40.    | ex 73 26 90 99 | Other items of iron and steel, for military use                                  | GATT Art. XXI     | Competent Military Agency   |
| 41.    | ex 90 05 10 00 | Night vision binoculars  | GATT Art. XXI     | Competent Military Agency   |
| 42.    | 83 01 40 20    | Security equipment such as security surveillance                                 | GATT Art. XXI     | PSD   |
| 43.    | 85 25 40 00    | Security cameras, CTV systems, anti-theft alarm systems                          | GATT Art. XXI     | PSD   |
| 44.    | 85 43 89 20    | Metal detectors not for use in civil aircraft                                    | GATT Art. XXI     | PSD   |
| 45.    | 85 31 10 00    | Magnetic card or thumb impression operated                                       | GATT Art. XXI     | PSD   |
| 46.    | 90 22 19 90    | Access/exit doors and equipment, metal   | GATT Art. XXI     | PSD   |
| 47.    | 90 22 19 10    | Detecting doors and equipment, baggage screening equipment                       | GATT Art. XXI     | PSD   |
| 48.    | 84 19 40 00    | Distillation equipment   | GATT Art. XX(a)   | MOCI  |
| 49.    | 84 59 61 00    | Key cutting, copying and repairing machines and instruments of any type          | GATT Art. XX(d)   | PSD   |
| 50.    | 84 59 69 00    | Key cutting, copying and repairing machines and instruments of any type          | GATT Art. XX(d)   | PSD   |
| 51.    | 84 72 30 00    | Postage franking machines  | GATT Art. XX(d)   | GDP   |
| 52.    | 85 25 20 11    | Transmission apparatus for military purposes                                     | GATT Art. XXI     | CITC, for wireless sets imported by companies and individuals. The concerned Minister is whoever is acting for him for the wireless sets imported by the Government sector. |
| 53.    | 85 25 20 19    | Transmission apparatus whose operation requires a frequency assignment from CITC | GATT Art. XXI     | CITC  |

| S. No. | HS Code  | Description   | WTO Justification | Authority       |
|--------|--|---|-------------------|-----------------|
| 54.    | 85 25 20 30  | Transmission apparatus whose operation requires a frequency assignment from CITC            | GATT Art. XXI     | (Same as above) |
| 55.    | 85 25 20 40  | Transmission apparatus whose operation requires a frequency assignment from CITC            | GATT Art. XXI     | (Same as above) |
| 56.    | 85 25 20 50  | Transmission apparatus whose operation requires a frequency assignment from CITC            | GATT Art. XXI     | (Same as above) |
| 57.    | 85 25 20 60  | Transmission apparatus whose operation requires a frequency assignment from CITC            | GATT Art. XXI     | (Same as above) |
| 58.    | 85 25 20 90  | Video boosters whose operation requires a frequency assignment from CITC                    | GATT Art. XXI     | (Same as above) |
| 59.    | 85.26 in addition to any other relevant heading  | Transmission apparatus whose operation requires a frequency assignment from CITC            | GATT Art. XXI     | (Same as above) |
| 60.    | 85 42 10 00  | Mobile telephone chips and prepaid mobile phone cards                                       | GATT Art. XX(d)   | (Same as above) |
| 61.    | ex 87.03   | Armoured vehicles   | GATT Art. XXI     | MOI             |
| 62.    | 89 02 00 00  | Fishing vessels   | GATT Art. XXI     | BS              |
| 63.    | Chapter 93   | Arms and ammunitions  | GATT Art. XXI     | AED             |
| 64.    | Different headings   | Wild animals and products thereof, according to CITES                                       | GATT Art. XX(b)   | NCWCD           |
| 65.    | Different headings   | Cultural and archaeological property  | GATT Art. XX(f)   | GDAM            |
| 66.    | Different headings   | Products containing currency pictures, models or wrappers in shape of currency or otherwise | GATT Art. XX(d)   | SAMA            |
| 67.    | Different headings   | Items imported for display in trade fairs   | GATT Art. XX(d)   | MOCI            |
| 68.    | 84 24 81 10<br>84 24 81 20<br>84 24 81 30<br>84 24 81 90   | Irrigation Equipment  | GATT Art. XX(d)   | MOA             |
| 69.    | 82.01  | Agricultural Tractors   | GATT Art. XX(d)   | MOA             |
| 70.    | 84 13 19<br>84 13 19 90<br>84 13 80<br>84 38 11 00<br>84 38 20 00  | Water Pumps   | GATT Art. XX(d)   | MOA             |
| 71.    | 84 32 10 00<br>84 32 21 00<br>84 32 29 00  | Plowing Machinery   | GATT Art. XX(d)   | MOA             |
| 72.    | 84 32 30 00<br>84 32 40 00<br>84 32 80 00  | Seeders   | GATT Art. XX(d)   | MOA             |
| 73.    | 84 33 11 00<br>84 33 20 00<br>84 33 30 00<br>84 33 40 00<br>84 33 51 00<br>84 33 52 00<br>84 33 59 00<br>84 33 60 00 | Harvesting Machinery  | GATT Art. XX(d)   | MOA             |

Abbreviations Used in Annex E

|       |   |  |
|-------|---|--|
| AED   | = | Arms & Explosives Department, Public Security Department, Ministry of Interior |
| BS    | = | Border Security, Ministry of Interior  |
| CITC  | = | Communication & Information Technology Commission                              |
| EC    | = | Equestrian Club  |
| GDAM  | = | General Directorate of Archaeology & Museums                                   |
| GDP   | = | General Directorate of Posts   |
| MEPA  | = | Meteorological Environmental Protection Agency                                 |
| MOA   | = | Ministry of Agriculture  |
| MOCI  | = | Ministry of Commerce & Industry  |
| MOH   | = | Ministry of Health   |
| MOI   | = | Ministry of Interior   |
| NCWCD | = | National Commission for Wildlife Conservation & Development                    |
| PSD   | = | Public Security Department, Ministry of Interior                               |

ANNEX F

**List of Banned Imports**

| S. No. | HS Code   | Description  | WTO Justification |
|--------|---|--|-------------------|
| 1.     | 01.03   | Live swine, meat, fat, hair, blood, guts, limbs and all other products of swine  | GATT Art. XX(a)   |
| 2.     | 02 09 00 10   |  |                   |
| 3.     | 02 06 30 00   |  |                   |
| 4.     | 02 06 41 00   |  |                   |
| 5.     | 02 06 49 00   |  |                   |
| 6.     | 02.03   |  |                   |
| 7.     | 05 02 10 00   |  |                   |
| 8.     | 02 10 11 00   |  |                   |
| 9.     | 02 10 12 00   |  |                   |
| 10.    | 02 10 19 00   |  |                   |
| 11.    | 15 01 00 30   |  |                   |
| 12.    | 16 02 41 00   |  |                   |
| 13.    | 16 02 42 00   |  |                   |
| 14.    | 16 02 49 00   |  |                   |
| 15.    | 41 03 30 00   |  |                   |
| 16.    | 15 03 00 11   |  |                   |
| 17.    | 15 03 00 21   |  |                   |
| 18.    | 15 03 00 91   |  |                   |
| 19.    | 16 01 00 31   |  |                   |
| 20.    | 16 01 00 21   |  |                   |
| 21.    | 16 01 00 11, in addition to other relevant headings |  |                   |
| 22.    | 41 03 31 00   |  |                   |
| 23.    | 41 06 31 00   |  |                   |
| 24.    | 41 06 32 00   |  |                   |
| 25.    | 41 13 20 00   |  |                   |
| 26.    | 01 06 19 40   | Dogs, other than hunting dogs, guard dogs or guide dogs for the blind, accompanied with a certificate from a competent authority in the country of exportation duly qualified by the Saudi Arabian embassy stated therein that the dog to be admitted is a hunting dog, guard dog or guide dog for the blind, in addition to submitting to the veterinary quarantine | GATT Art. XX(a)   |
| 27.    | 02 08 20 00   | Frog meat  | GATT Art. XX(a)   |
| 28.    | 09 08 10 00   | Narcotics of all types, forms and descriptions   | GATT Art. XX(b)   |
| 29.    | 09 08 20 00   |  |                   |
| 30.    | 12 07 91 00   |  |                   |
| 31.    | 12 07 99 10   |  |                   |
| 32.    | 12 07 99 20   |  |                   |
| 33.    | 12 11 30 00   |  |                   |
| 34.    | 12 11 40 00   |  |                   |
| 35.    | 12 11 90 20   |  |                   |
| 36.    | 12 11 90 60   |  |                   |
| 37.    | 13 02 11 00   |  |                   |
| 38.    | 13 02 19 10   |  |                   |

| S. No. | HS Code   | Description  | WTO Justification |
|--------|---|--|-------------------|
| 39.    | 29 39 91 10, in addition to other relevant headings |  |                   |
| 40.    | 31.01   | Animal or vegetable raw natural organic fertilizer   | GATT Art. XX(b)   |
| 41.    | 12 11 90 90   | Goro nut   | GATT Art. XXI     |
| 42.    | 12 11 90 90   | Betel  | GATT Art. XX(b)   |
| 43.    | 22.03   | Alcoholic beverages and intoxicants of all kinds, including those containing alcohol in any intoxicating proportion              | GATT Art. XX(a)   |
| 44.    | 22.04   |  |                   |
| 45.    | 22.05   |  |                   |
| 46.    | 22.06   |  |                   |
| 47.    | 22 07 20 90   |  |                   |
| 48.    | 22.08, except 22 08 90 11 and 22 08 90 19           |  |                   |
| 49.    | 24 03 99 20   | Tobacco snuff – Tobacco "sawika"   | GATT Art. XX(b)   |
| 50.    | 25 24 00 00   | Asbestos and products thereof  | GATT Art. XX(b)   |
| 51.    | ex 29.31  | Sarin toxic gas  | GATT Art. XX(b)   |
| 52.    | 30 06 80 00   | Industrial waste and hazardous refuse  | GATT Art. XX(b)   |
| 53.    | 36 04 10 00   | Fireworks of the kind used by children such as snaps, rockets, sulfuric jitters and night stars, etc., falling within this scope | GATT Art. XX(b)   |
| 54.    | 40.12, except 40 12 90 00                           | Used and rethreaded tyres  | GATT Art. XX(b)   |
| 55.    | 49 01 99 10   | The Holy Quran   | GATT Art. XX(a)   |
| 56.    | 49 07 00 11   | Saudi Arabian stamps   | GATT Art. XX(d)   |
| 57.    | 49 09 00 20   | Greeting cards with electric circuit   | GATT Art. XXI     |
| 58.    | 49 11 10 90   | Coupons of Hadi (sacrificial animals)  | GATT Art. XX(d)   |
| 59.    | 49 11 10 90   | Blank invoices of foreign companies abroad   | GATT Art. XX(d)   |
| 60.    | 85 12 30 00   | Security car radar detection equipments  | GATT Art. XXI     |
| 61.    | 85 28 12 99   | Satellite internet receiver  | GATT Art. XXI     |
| 62.    | 85 29 10 00   | Satellite internet receiver  | GATT Art. XXI     |
| 63.    | 85 31 80 90   | Apparatus releasing sounds of police car sirens or of some animals   | GATT Art. XXI     |
| 64.    | ex 87.01  | Damaged vehicles, and right-hand drive vehicles  | GATT Art. XX(b)   |
| 65.    | ex 87.02  |  |                   |
| 66.    | ex 87.03  |  |                   |
| 67.    | ex 87.04  |  |                   |
| 68.    | ex 87.05  |  |                   |
| 69.    | ex 87.09  |  |                   |
| 70.    | ex 87.11  | Two, three and four wheeler children's motor cycles or vehicles  | GATT Art. XX(b)   |
| 71.    | 90 13 10 00   | Binoculars in which electric circuit is used and it directly projects red light on the target                                    | GATT Art. XXI     |
| 72.    | 93 02 00 00   | Revolvers and pistols in the shape of mobile phones, lighters, pagers, pens or other pistols                                     | GATT Art. XXI     |
| 73.    | 93 04 00 90   |  |                   |
| 74.    | 93 07 00 90   |  |                   |
| 75.    | 95 03 80 00   | Remote control airplanes and parts thereof   | GATT Art. XXI     |
| 76.    | 95 03 90 00   | Noise-making pistols and guns, and toy pistols similar in shape to real pistols  | GATT Art. XXI     |
| 77.    | 97 05 00 00   | Mummified animals  | GATT Art. XX(a)   |
| 78.    | Different Headings                                  | All foodstuff containing animal blood in their manufacturing   | GATT Art. XX(a)   |

| S. No. | HS Code            | Description  | WTO Justification |
|--------|--------------------|--|-------------------|
| 79.    | Different Headings | Drink having description of Zamzam   | GATT Art. XX(a)   |
| 80.    | Different Headings | All types of machines, equipment and tools for gambling or games of chance         | GATT Art. XX(a)   |
| 81.    | Different Headings | Kuwait and Iraq war leftover equipment and machinery                               | GATT Art. XXI     |
| 82.    | Different Headings | Publicity material for cigarettes of any kind                                      | GATT Art. XX(b)   |
| 83.    | Different Headings | Products polluted by radiation or nuclear dust (e.g., watches of trademark Trophy) | GATT Art. XX(b)   |



## ANNEX G

### Seed Specifications

1. Seed must be true to type, from the first generation certified and produced directly from registered seed and the product of the preceding growing season.
2. Each consignment must include a certificate indicating the following:
  - Date and place of production (name of country, state or province and city)
  - Purity percentage
  - Germination percentage
  - Vitality of the seeds
  - Inert matter percentage
  - Weed seeds (including number of seeds and varieties in a sample of 2 kg)
  - Barley seeds (include number of seeds in a sample of 2 kg wheat seeds)
  - Moisture percentage

The certificate must be from a national lab or an authorized government lab (including a state lab if the seeds are imported from the US).

For seeds imported from Canada or Europe, the ISTA (International Seed Testing Association), Orange Certificate must be presented.

3. The seeds must be treated with either:
  - fungicide Triadimenol (commercially known as Baytan) (15 - 30 per cent); or
  - a mixture of Triadimenol 7.5 per cent and Imazalil 3 per cent at the rate recommended by the US EPA; or
  - fungicide Brochlora 10 per cent and Carbendazim 40 per cent (commercially known as Prelude) at the rate of 2 kg/ton of seed; or
  - fungicide Carboxin 17 per cent and Thiram 17 per cent (commercially known as Vitavax 200) at the rate of 2.5 kg/ton of seed.
4. All growing seeds must be red in colour and homogeneously treated in order to differentiate them from consumption seeds.
5. Markings on the containers of treated seeds must be clear in the English and Arabic languages and must specify that the seed was treated with poisonous chemicals and is not fit for human or animal consumption. The skull and cross-bones danger sign must be printed on the seed containers (bags, cans, etc.)

### Conditions and Requirements

1. The release of any consignment or shipment depends on the result of the analysis of a random sample taken by the technician of MOA at the arrival port. The MOA technician will determine the fitness of the seeds.
2. Each consignee must submit the following documents:
  - a) Complete name and address of the importer
  - b) Name and address of the seed exporter

- c) Name of the seed variety(ies)
  - d) Quantity imported (net weight)
  - e) Price CIF arrival port
3. The consignee also must submit the following certificates:
    - a) Field inspection certificate from the authorities in the country of origin indicating that the fields were inspected and determined to be fit for seed production.
    - b) Certificate of origin issued by the government authorities in the exporter's country.
    - c) In case of chemical treatment of seeds, if a pesticide has been used, it is only necessary to indicate the name and registration number.
  4. The importer may not use or sell the seeds unless it receives a letter from MOA's Director of Research including the results of the analysis performed pursuant to paragraph 1, above.
  5. A seed consignment must be inspected before shipment to confirm that it fulfils the specifications and conditions for importation. This can be done by sending a representative from the importing company or through an independent lab.
  6. A letter of credit must be opened at a bank in Saudi Arabia.
  7. The last date for the arrival of a seed shipment to Saudi ports is within the time frame of the importing licence.
  8. No seed consignment shall be released without a letter issued by the Director of Plant Quarantine stating that the above conditions have been satisfied.

#### Conditions for Rejection of a Shipment

1. Any shipment imported without prior permission from MOA, or not fulfilling the specifications and conditions set out in the previous section, will be rejected. The importer of the seeds will be fully responsible for all necessary actions, including the re-export of the seeds to his country.
2. Any consignment will be rejected if the percentage of the following is less than recommended:
  - a) Purity percentage less than 98 per cent
  - b) Germination percentage less than 92 per cent
  - c) Inert matter percentage not more than 1 per cent
  - d) Moisture percentage not more than 12 per cent
  - e) Barley seeds percentage (in shipments of wheat seed) – not more than five kernels of barley in a 2 kg sample.
3. Any shipment that contains weed seeds that are especially difficult to control, such as Avenaspp – lolium, phalaris spp, or parasitic herbs such as cuscuta spp obanche spp, striga spp, or bromus spp, shall be rejected.
4. Any shipment in which the total weed seeds (other than those mentioned above) is more than five seeds per kg of wheat or barley will be rejected.

5. Any shipment will be rejected unless the lab test shows it is free from the following diseases:
- a) Ergot attack of wheat and barley caused by fungus *claviceps purpurea*.
  - b) Karnal bunt attack of wheat and caused by fungus *neovossia indica*.
  - c) Southern blight attack of wheat caused by *sclerotium rolfsii*.
  - d) Loose smut attack of wheat caused by *ustilago tritici*, and of barley caused by *ustilago nuda*.
  - e) Semi-loose smut attack of barley caused by *ustilago nigra*.
  - f) Flag smut attack of wheat caused by *urocystis agropyri*.
  - g) Cover smut attack of wheat caused by *tilletia* spp and in barley caused by *ustilago hordia*.
  - h) eptoria leaf and glume blotch attack of wheat and barley caused by *septoria* spp.
  - i) Helminthosporium spot blotch attack of wheat and barley caused by *helminthosporium satirium*.
  - j) Barley scald attack of barley caused by *rhynehosporium secalis*.
  - k) Net blotch attack of wheat caused by *helminthosporium teres*.
  - l) Barley stripe attack of barley caused by *helmunthosporium granineum*.
  - m) Scab or head blight attack of wheat and barley caused by *Fusarium* spp.
  - n) Take all attack of wheat and barley caused by *gacumannomyces graninis vartriaci*.
  - o) Snow mold attack of wheat caused by *fusarium nivale*.
  - p) Black point attack of wheat caused by *alternaria*, *helminthosporium* and *fusarium* spp.

#### Bacterial Diseases

- a) Bacterial leafstreak or black chaff attack of wheat and barley caused by bacteria *xanthomonas translucens*.
- b) Bacterials leaf blight attack of wheat and barley caused by bacteria *pseudomonas syrinag*.
- c) Bacterial spike blight attack of wheat and barley caused by bacteria *corynebacterium tritici*.
- d) Bacterial basal glume rot attack of wheat and barley caused by *pseudomonas atrofaciens*.

#### Viral Diseases

- a) Barley stripe mosaic virus.

#### Nematodes Diseases

- a) Ear cockle caused by *Anguina tritici*.

6. In addition, a shipment can be rejected if there is evidence of attack by any other seed transmission diseases where the number of attack seeds is at least 5 seeds/kg.
7. A shipment or consignment can be rejected if there is evidence of attack by any kind of insects at any stage.

**ANNEX H**

**List of Items Subject to Mandatory Certification**

| Item   | Harmonised System Commodity Codes   |
|--|---|
| <b>Group I – Toys</b>  |   |
| Toys, incl. video games and other electronic toys  | 8712.00 / 9501 / 9502 / 9503 / 9504.10 / 9504.90 / 9505 / From 9506.99 /  |
| Playground, amusement and fairground equipment   | 9508 / From 3407  |
| <b>Group II - Electrical and Electronics</b>   |   |
| Air conditioning systems up to 60,000 btu (5 tons)   | 8415.10.20 / 8415.81.20 / 8415.82.20 / 8415.83.20   |
| Combined function audio and/or video systems (non professional)                                    | 8518.30 / 8518.50 / 8520.30 / Combinations of II-03, II-04, II-41, II-43  |
| Non professional stand-alone audio products (except radio receivers)                               | 8518.21 / 8518.22 / 8518.29 / 8518.40 / 8519.21 / 8519.29 / 8519.31 / 8519.39 / 8519.92 / 8519.93 / 8519.99 / 8520.20 / 8520.90 |
| Video playing and recording systems (non professional)   | 8521.10 / 8521.90 / 8525.40 /   |
| Generator sets up to 12 kw   | 8502.11 / 8502.20   |
| Motors up to 12kw  | 8501.10 / 8501.31 / 8501.32 / 8501.40 / 8501.51 / 8501  |
| Fax and telex machines   | 8517.21 / 8517.22   |
| Household cooking appliances   | 8516.60 / 8516.72   |
| Clothes washing machines up to 10 kg and household dish-washing machines                           | 8450.11 / 8450.12 / 8450.19 / 8422.1  |
| Clothes drying machines up to 10 kg  | 8451.21   |
| Electric irons, ironers and clothes steamers   | 8451.30 / 8516.40 / 8516.32   |
| Domestic electromechanical kitchen appliances incl. food processors, meat choppers and grinders    | 8509.40 / 8509.80   |
| Personal care/grooming appliances (shavers, hair clippers, hair-removal devices and massagers)     | 8510.10 / 8510.20 / 8510.30 / 9019.10   |
| Lift and elevator systems  | 8428.10 / 8431.31   |
| Household microwave ovens  | 8516.50   |
| Electric ovens up to 10 kw   | 8516.60   |
| Copy machines and accessories  | 9009.11 / 9009.12 / 9009.30 / 9009.21 / 9009.22 / 9009.90   |
| Personal computers (desktops/portables), storage units, peripherals and other input/output devices | 8471.41 / 8471.49 / 8471.50 / 8471.60 / 8471.70 / 8473.30   |
| Power transformers and distribution transformers up to 1000 kva                                    | 8504.21 / 8504.22 / 8504.31 / 8504.32 / 8504.33 / 8504.34   |
| Household refrigerators and freezers up to 40 cu ft incl. Household refrigerating display cabinets | 8418.10 / 8418.21 / 8418.22 / 8418.29 / 8418.30 / 8418.40 / 8418.50   |
| Telephone sets, incl. mobile, cordless telephones, and modems                                      | 8517.11 / 8517.19 / 8517.50 / 8525.20   |
| Electric wires and cables up to 1000v  | 8544.51 / 8544.59   |
| Non-industrial vacuum cleaners, water suction appliances and shampooers                            | 8509.10 / 8509.80   |
| Household electric fires and heaters   | 8516.29 / 8516.21   |
| Drinking water coolers and fountains   | 8418.69.10  |
| Evaporative air coolers (desert coolers and humidifiers) up to 1.5 kw                              | 8415.10.10 / 8415.82.10 / 8415.82.90 / 8415.83.10 / 8415.83.90  |
| Domestic electric fans   | 8414.51 / 8414.60   |
| Compressors for cooling units up to 60,000 btu   | 8414.30   |
| Tea and coffee brewing appliances, and appliances for heating liquids                              | 8516.71   |

| Item  | Harmonised System Commodity Codes  |
|---|--|
| Incandescent, fluorescent and discharge luminaires, fixtures and lampholders  | 9405.10 / 9405.20 / 8536.61  |
| Manually operated household switches, circuit breakers and fuses up to 40a  | 8536.10 / 8536.20 / 8536.50  |
| Incandescent, fluorescent and discharge lamps   | 8539.21 / 8539.22 / 8539.29 / 8539.31 / 8539.32  |
| Ballasts for discharge type lamps (including tubular fluorescent lamps)   | 8504.10  |
| Starters for discharge type lamps (including tubular fluorescent lamps)   | 8532.10  |
| General use mains plugs, socket outlets and mains configuration adapters  | 8536.69  |
| Luminaires for road and street lighting   | 9405.40  |
| Batteries, including rechargeable and automotive  | 8506.10 / 8506.30 / 8506.40 / 8506.50 / 8506.60 / 8506.80 / 8507.10 / 8507.30 / 8507.40  |
| Immersed swimming pool luminaries   | 9405.40  |
| Hair care equipment (hand-held hair dryers, hair curlers, waving apparatus and curling tong heaters)  | 8516.31, 8516.32   |
| Water pumps up to 12 kw   | 8413.70  |
| TV sets (colour/black and white)  | 8528.12 / 8528.13  |
| General use mains voltage converters, power supplies and battery chargers   | 8504.40  |
| Stand alone radio receivers   | 8527.12 / 8527.13 / 8527.19 / 8527.21 / 8527.29  |
| Storage and instant type water heaters up to 200 litres   | 8516.10  |
| Watt hour meters  | 9028.30  |
| Household sewing machines   | 8452.10  |
| <b>Group III – Automotive</b>   |  |
| Passenger automobiles, trucks, buses and multi-purpose vehicles (new)   | 8701 / 8702 / 8703 / 8704 / 8705   |
| Passenger automobiles, trucks, buses and multi-purpose vehicles (used)  | 8701 / 8702 / 8703 / 8704 / 8705   |
| Automotive glass (windshield, side and rear glass)  | 7007.21  |
| Vehicle spare parts (new), including radiators and hoses, brakes and parts, lights, filters, silencers and exhaust pipes, clutches and parts, child restraints, spark plugs, wiper blades and motors, safety belts, fuel tanks, mirrors, bumpers, door locks and hinges, tyre tubes, and v-belts, gauges, rims and steering rods. | 40.09 / 4010.22 / 4013.10, 4013.90 / 70.09 / 8301.20 / 8302.30 / 8421.23 / 8421.31 / 8501.10 / 8511.10 / 8512.20 / 8512.40 / 8539.10 / 8708.10 / 8708.70 / 8708.21 / 8708.29 / 8708.91 / 8708.92 / 8708.93 / 8708.94 / 8708.99 / 9026.20 / 9026.80 / 9401.20 |
| New tyres for passenger automobiles, trucks, buses and multi-purpose vehicles   | 4011.10 / 4011.20  |
| <b>Group IV – Chemical</b>  |  |
| Engine, transmission, hydraulic, turbine, and transformer oils, brake fluid and anti-freeze/coolant   | 2710.00.52 / 2710.00.53 / 2710.00.54 / 2710.00.55 / 2710.00.94 / 2710.00.95 / 2710.00.96 / 38.19 / 38.20   |
| Paints  | All 3208 / All 3209  |
| Perfumes and cosmetics  | 3302.90 / All 3303 / All 3304 / All 3305 / All 3306 / 3307.10 / 3307.20 / 3307.30 / 3307.49.10 / 3307.90.10 / 3401.1   |
| Domestic-use pesticides and insecticides  | 3808   |
| <b>Group V – Others</b>   |  |
| Aluminium and aluminium alloy products for architectural application  | 7604 / 7606 / 7608 / 7609 / 7610 / 7616  |
| Steel and iron alloy pipes  | 7304 / 7305 / 7306 / 7307  |

| Item  | Harmonised System Commodity Codes   |
|---|---|
| Gold and silver jewellery (including gemstones)                                       | 7113.11 / 7113.19 / 7113.20 / 7114.11 / 7114.19 / 7114.20 / 7116.10 / 7116.21 |
| Head dress for men - cotton shemagh and ghutras                                       | 6505.90.10 / 6505.90.30   |
| Fire extinguishers up to 24kg   | 8424.10   |
| Cement  | 2523.21 / 2523.29.10 / 2523.29.20   |
| Safety matches  | 3605.00   |
| Low pressure regulators and pressure cookers  | 8481.10 / 7323.93 / 7323.99   |
| Toilet paper and facial tissues, paper towels and serviettes                          | 4818.10 / 4818.20 / 4818.30   |
| Cigarettes only   | 2402.20   |
| Household and camping gas appliances, including heaters, cookers, barbecues and lamps | 7321.11 / 7321.81 / 9405.50   |

**ANNEX I**

**List of Banned Exports**

| S. No. | HS Code        | Description   | WTO Justification |
|--------|----------------|---|-------------------|
| 1.     | ex 01 01 10 10 | Arabian breed, pure-bred horses, females  | GATT Art. XX(b)   |
| 2.     | ex 01 01 10 20 | Arabian breed, pure-bred horses, females  | GATT Art. XX(b)   |
| 3.     | ex 01 01 90 10 | Race horses, females  | GATT Art. XX(b)   |
| 4.     | ex 01 01 90 20 | Ponies, females   | GATT Art. XX(b)   |
| 5.     | ex 01 02       | Bovine animals, females   | GATT Art. XX(b)   |
| 6.     | ex 01 04       | Sheep and goats, females  | GATT Art. XX(b)   |
| 7.     | ex 01 06 19 11 | Camels, females   | GATT Art. XX(b)   |
| 8.     | 0602 2010      | Date palm seedlings of following types: Khalas, Nabut Saif, Munifi, Safri, Magfizi, Barhi, Sukkari, Shalabi, Safari, Barni, Ajwa, Ambara, Hulwa and Rothana | GATT Art. XX(b)   |
| 9.     | 12 14          | Green fodder and hay  | GATT Art. XX(b)   |
| 10.    | ex 22 01 90 10 | Zamzam water  | GATT Art. XX(a)   |
| 11.    | 44 01 10 00    | Wood  | GATT Art. XX(j)   |
| 12.    | 72 04          | Scrap iron  | GATT Art. XX(d)   |
| 13.    | 97 06          | Antiques and archaeological and historical items  | GATT Art. XX(f)   |

ANNEX J

**List of Exports Subject to Authorization/Licensing**

| S. No. | HS Code                 | Description                      | WTO Justification   | Authority  |
|--------|-------------------------|----------------------------------|---------------------|--|
| 1.     | 01 01 10 10             | Horses, pure-bred                | GATT Art. XI: 2(b)  | Equestrian Club                                  |
| 2.     | 01 01 10 20             | Horses, pure-bred                | GATT Art. XI: 2(b)  | Equestrian Club                                  |
| 3.     | 01 01 90 10             | Horses, pure-bred                | GATT Art. XI: 2(b)  | Equestrian Club                                  |
| 4.     | 01 01 90 20             | Horses, pure-bred                | GATT Art. XI: 2(b)  | Equestrian Club                                  |
| 5.     | 10 01                   | Wheat                            | GATT Art. XX (d)    | Gen Silo & Mills Org                             |
| 6.     | 10 03 00 00             | Barley                           | GATT Art. XX (d)    | Ministry of Finance                              |
| 7.     | 10 05 90 10             | Golden corn                      | GATT Art. XX (d)    | Ministry of Finance                              |
| 8.     | 10 05 90 20             | White corn                       | GATT Art. XX (d)    | Ministry of Finance                              |
| 9.     | 11 01 00 10             | Wheat flour                      | GATT Art. XX (d)    | Ministry of Finance                              |
| 10.    | 12 01                   | Soya beans                       | GATT Art. XX (d)    | Ministry of Finance                              |
| 11.    | 19 01 10 10             | Milk-based infant food           | GATT Art. XX (d)    | Ministry of Finance                              |
| 12.    | 19 01 10 20             | Milk-based infant food           | GATT Art. XX (d)    | Ministry of Finance                              |
| 13.    | 25 05                   | Sand                             | GATT Art. XX (i)    | Ministry of Petroleum & Mineral Resources        |
| 14.    | 25 06 21 10             | Sand mixed aggregates            | GATT Art. XX (i)    | Ministry of Petroleum & Mineral Resources        |
| 15.    | 25 06 21 20             | Sand mixed aggregates            | GATT Art. XX (i)    | Ministry of Petroleum & Mineral Resources        |
| 16.    | 25 15 11 00             | Marble                           | GATT Art. XX (i)    | Ministry of Petroleum & Mineral Resources        |
| 17.    | 25 17                   | Stone mixtures                   | GATT Art. XX (i)    | Ministry of Petroleum & Mineral Resources        |
| 18.    | 25 22                   | Limestone                        | GATT Art. XX (i)    | Ministry of Petroleum & Mineral Resources        |
| 19.    | 27 09                   | Crude oil                        | Automatic Licensing | Ministry of Petroleum & Mineral Resources        |
| 20.    | 27 10,<br>except Naptha | Fuels                            | Automatic Licensing | Ministry of Petroleum & Mineral Resources        |
| 21.    | 27 11                   | Gases, including liquefied gases | Automatic Licensing | Ministry of Petroleum & Mineral Resources        |
| 22.    | 27 14                   | Asphalt                          | Automatic Licensing | Ministry of Petroleum & Mineral Resources        |
| 23.    | 28 44                   | Radioactive materials            | GATT Art. XX (b)    | Ministry of Interior                             |
| 24.    | 28 45                   | Radioactive materials            | GATT Art. XX (b)    | Ministry of Interior                             |
| 25.    | 90 22 19 10             | Radioactive materials            | GATT Art. XX (b)    | Ministry of Interior                             |
| 26.    | 90 22 19 90             | Radioactive materials            | GATT Art. XX (b)    | Ministry of Interior                             |
| 27.    | 29 03 19 10             | Ozone depleting materials        | GATT Art. XX (b)    | Meteorological & Environmental Protection Agency |
| 28.    | 29 03 45                |                                  |                     |  |
| 29.    | 29 03 49                |                                  |                     |  |
| 30.    | 30 03                   | Medicines                        | GATT Art. XX (b)    | Ministry of Health                               |
| 31.    | 30 04                   | Medicines                        | GATT Art. XX (b)    | Ministry of Health                               |
| 32.    | 73 11 00 30             | Filled gas cylinders             | GATT Art. XXI       | Ministry of Petroleum & Mineral Resources        |



| S. No. | HS Code               | Description            | WTO Justification | Authority               |   |                  |  |
|--------|-----------------------|------------------------|-------------------|-------------------------|---|------------------|--|
| 33.    | 84 07 90 00           | Agricultural machinery | GATT Art. XX (d)  | Saudi Agricultural Bank |   |                  |  |
| 34.    | 84 08 80 00           |                        |                   |                         |   |                  |  |
| 35.    | 84 11                 |                        |                   |                         |   |                  |  |
| 36.    | 84 12 80 00           |                        |                   |                         |   |                  |  |
| 37.    | 84 13 50 00           |                        |                   |                         |   |                  |  |
| 38.    | 84 13 60 00           |                        |                   |                         |   |                  |  |
| 39.    | 84 13 70 00           |                        |                   |                         |   |                  |  |
| 40.    | 84 13 81 00           |                        |                   |                         |   |                  |  |
| 41.    | 84 32                 |                        |                   |                         |   |                  |  |
| 42.    | 84 33                 |                        |                   |                         |   |                  |  |
| 43.    | 87 01 10 00           |                        |                   |                         |   |                  |  |
| 44.    | 87 01 30 00           |                        |                   |                         |   |                  |  |
| 45.    | 87 01 90 00           |                        |                   |                         |   |                  |  |
| 46.    | 85 48 10 00           |                        |                   |                         | Scraps of batteries, etc.                     | GATT Art. XX (b) | Meteorological &<br>Environmental<br>Protection Agency |
| 47.    | Different<br>Headings |                        |                   |                         | Wild fauna and flora,<br>and products thereof | GATT Art. XX (g) | Nat. Org of Wild Life                                  |

Note: Procedures for issuing automatic export licenses for specific products will be issued consistent with Saudi Arabia's WTO obligations.

## ANNEX K

### List of Technical Committees

- 1. Agriculture and Food Products General Committee**
  - a. Food Safety
  - b. Meat and Fish
  - c. Dairy and Dairy Products
  - d. Cereals and Legumes Products
  - e. Confectionary
  - f. Fruits, Vegetables, Condiments and Spices and their Products
  
- 2. Construction and Building Materials General Committee**
  - a. Tiles
  - b. Sanitary Ware
  - c. Cement and Concrete
  - d. Doors and Windows
  - e. Pipes
  - f. Glass
  - g. Construction Sectors
  
- 3. Electrical and Electronic Products General Committee**
  - a. Household Appliances and their Accessories
  - b. Cables and their Accessories
  - c. Electronics and Communications Sets
  - d. Luminaires and their Accessories
  - e. Electrical Systems and Accessories
  - f. Power Generation, Transmission and Distribution
  - g. Medical Appliances and Supplies
  
- 4. Mechanical and Metal Products General Committee**
  - a. Motor Vehicles
  - b. Pressure Vessels and Steam Boilers
  - c. Air Conditioning and Refrigeration
  - d. Metal and Wooden Kitchens
  - e. Office and School Furniture
  - f. Water Pump and Irrigation Systems
  - g. Steel Cans Used for Canning
  - h. Amusement Park Devices
  
- 5. Chemical and Petroleum Products General Committee**
  - a. Petroleum Products
  - b. Detergents and Hygienic and Cosmetic Products
  - c. Plastics
  - d. Chemicals
  - e. Paints and Varnishes

**6. Textile Products General Committee**

- a. Textile Products

**7. Measurement and Calibration General Committee**

- a. Physical Measurements
- b. Mechanical Measurements
- c. Electrical and Electronic Measurements

**ANNEX L**

**List of SPS Measures Maintained by the Kingdom of Saudi Arabia**

| H.S. No.   | Description of product                    | Nature of SPS Measure                                    | Justification              | WTO Members and non-Member Country(ies)  |
|--|---|--|----------------------------|--|
| 0101   | Live Equine Animals                       | Banned because of Screw Worm                             | Article 5 of SPS Agreement | Panama   |
| 0102   | Live Bovine Animals                       |  |                            |  |
| 010410   | Live Sheep                                |  |                            |  |
| 010420   | Live Goats                                |  |                            |  |
| 0102   | Live Bovine Animals                       | Banned because of BSE (Bovine Spongiform Encephalopathy) | Article 5 of SPS Agreement | Spain, Portugal, Italy, Germany, France, Greece, Austria, Belgium, Switzerland, Holland, Denmark, Finland, Slovenia, Luxembourg, Ireland, Czech Republic, Slovak Republic, Poland, Canada (Alberta Province), United Kingdom, USA (Washington State) |
| 0102   | Live Bovine Animals                       | Banned because of FMD (Foot and Mouth Disease)           | Article 5 of SPS Agreement | Uruguay, Syria   |
| 0102   | Live Bovine Animals                       | Banned because of FMD (Foot and Mouth Disease)           | Article 5 of SPS Agreement | All African Countries other than South Africa, South Africa (Northern Province and Mpumalanga, Northern Cape, North West and Kwazulu-Natal), China, India, Malaysia, Yemen, Iran, Iraq, Chinese Taipei, Pakistan, Turkey, Lebanon                    |
| 010410   | Live Sheep                                |  |                            |  |
| 010420   | Live Goats                                |  |                            |  |
| 0201   | Live Bovine Animals                       | Banned because of Render Pest                            | Article 5 of SPS Agreement | All African Countries (except South Africa), Pakistan, Iran, Afghanistan, Mongolia   |
| 0201<br>0202<br>02060200<br>02062100<br>02066200<br>02062900<br>15020010<br>16025010<br>16025090<br>16029010<br>16029021<br>16029029<br>16029030<br>16030010 | All types of Bovine Meat and its Products | Banned because of BSE (Bovine Spongiform Encephalopathy) | Article 5 of SPS Agreement | All EU countries, Switzerland, Japan, Canada   |

| H.S. No.  | Description of product                              | Nature of SPS Measure                          | Justification              | WTO Members and non-Member Country(ies)  |
|---|---|--|----------------------------|--|
| 0201<br>0202<br>020602000<br>02062100<br>02066200<br>02062900<br>15020010<br>16025010<br>16025090<br>16029010<br>16029021<br>16029029<br>16029030<br>16030010 | All types of Bovine Meat and its Products           | Banned because of Render Pest                  | Article 5 of SPS Agreement | All African Countries (except South Africa), Pakistan, Iran, Afghanistan, Mongolia   |
| 0201<br>0202<br>020602000<br>02062100<br>02066200<br>02062900<br>15020010<br>16025010<br>16025090<br>16029010<br>16029021<br>16029029<br>16029030<br>16030010 | All types of Bovine Meat and Its Products           | Banned because of FMD (Foot and Mouth Disease) | Article 5 of SPS Agreement | All African Countries (except South Africa), All European Countries, China, Malaysia, Yemen, Iran, Iraq, Jordan, Chinese Taipei, Pakistan, Lebanon         |
| 0204<br>02068010<br>02068090<br>02069011<br>02069012<br>02069019<br>02069090  | All types of Sheep and Goat Meat and Their Products | Banned because of FMD (Foot and Mouth Disease) | Article 5 of SPS Agreement | All African Countries (except South Africa, Sudan, Ethiopia ), All European Countries, China, Malaysia, Yemen, Iran, Iraq, Jordan, Chinese Taipei, Lebanon |
| 0207<br>0407  | Poultry Meat and Its Products                       | Banned because of Avian Influenza              | Article 5 of SPS Agreement | USA, Canada, Japan, Korea, Vietnam, China, Thailand, Hong Kong China, Laos, Cambodia, Pakistan, Indonesia, Malaysia  |
| 0105  | Live Birds  | Banned because of West Nile Fever              | Article 5 of SPS Agreement | USA (the ban has been lifted on poultry, one-day chicks and hatching eggs)   |

| H.S. No.   | Description of product                          | Nature of SPS Measure  | Justification  | WTO Members and non-Member Country(ies)   |
|--|---|--|--|---|
| 0101<br>0105<br>01063100<br>01063200<br>01063910<br>01063920         | Live Equine Animals<br><br>Live Birds           | Banned because of West Nile Fever<br>Banned because of West Nile Fever | Article 5 of SPS Agreement<br>Article 5 of SPS Agreement | Oman, Morocco, USA (New York only; only Horses)<br><br>Oman, Morocco  |
| 0105<br>01063100<br>01063200<br>01063910<br>01063920<br><br>04070011 | Live Birds<br><br><br><br><br>Hatching Eggs     | Banned because of Avian Influenza                                      | Article 5 of SPS Agreement                               | USA, Canada, Japan, Korea, Vietnam, China, Thailand, Hong Kong China, Laos, Cambodia, Chinese Taipei, Pakistan, Indonesia, Malaysia |
| 0105<br>01063100<br>01063200<br>01063910<br><br>04070011             | Live Birds<br><br><br><br>Hatching Eggs         | Banned because of ILT  | Article 5 of SPS Agreement                               | Egypt, Syria, Lebanon   |
| 0207<br>0407<br><br>0408   | Poultry Meat and Its Products<br><br>Eggs       | Banned due to Contamination with Nitrofin (Carcinogenic Herbicide)     | Article 5 of SPS Agreement                               | Germany   |
| 0302<br>0303<br>0304<br>0306<br>0307                                 | Fish (Fresh, Chilled, Frozen)                   | Cholera - Related  | Article 5 of SPS Agreement                               | Infected Areas (defined by WHO Circulation Report)  |
| 04029110<br>04029120<br>04029410<br>04031000<br>04039020<br>0404     | Fresh Milk and Milk Products (Short Shelf Life) | Cholera - Related  | Article 5 of SPS Agreement                               | Infected Areas (defined by WHO Circulation Report)  |

| H.S. No.  | Description of product  | Nature of SPS Measure   | Justification              | WTO Members and non-Member Country(ies)   |
|---|---|---|----------------------------|---|
| 07039000<br>07041000<br>07042000<br>07049000<br>07051100<br>07051900<br>07097000<br>07099050<br>077099060<br>07103000 | Leafy Vegetables  | Cholera – Related   | Article 5 of SPS Agreement | Infected Areas (defined by WHO Circulation Report)  |
| 08011100<br>08011900  | <b>Coconuts, fresh or dried, whether or not shelled or peeled</b> | Banned because of C.C.C Viroid                                      | Article 5 of SPS Agreement | Solomon Islands, Guam<br>Philippines (ban only on <b>unshaven</b> fresh coconut)  |
| 0207<br>0407  | Poultry Meat and its Products                                     | Banned due to Contamination with Chloramphenicol                    | Article 5 of SPS Agreement | Certain companies from China, USA   |
| 0302<br>0303<br>0304<br>0306<br>0307<br>01605   | Fish (Fresh, Chilled, Frozen) and other Sea Products              | Banned due to Contamination with Chloramphenicol and Nitrofurantoin | Article 5 of SPS Agreement | China,<br>Certain Companies from Bangladesh, Philippines, Indonesia, Singapore, Thailand (i.e., those which do not possess the appropriate certification attesting to absence of chloramphenicol and nitrofurantoin). |
| 0409  | Natural Honey   | Banned due to Contamination with Chloramphenicol                    | Article 5 of SPS Agreement | China   |
| 21032000  | Soy sauce and soy products  | Banned due to Contamination with 3-MCPD                             | Article 5 of SPS Agreement | Chinese Taipei, Malaysia  |

APPENDIX

**DRAFT DECISION**

**ACCESSION OF THE KINGDOM OF SAUDI ARABIA**

Decision of [...]

The General Council,

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

*Conducting* the functions of the General Council in the interval between meetings pursuant to paragraph 2 of Article IV of the WTO Agreement,

*Taking note* of the application of the Kingdom of Saudi Arabia for accession to the WTO Agreement dated 21 December 1995,

*Noting* the results of the negotiations directed toward the establishment of the terms of accession of the Kingdom of Saudi Arabia to the WTO Agreement and having prepared a Protocol on the Accession of the Kingdom of Saudi Arabia,

*Decides* as follows:

1. The Kingdom of Saudi Arabia may accede to the WTO Agreement on the terms and conditions set out in the Protocol annexed to this Decision.

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## PROTOCOL

### ON THE ACCESSION OF THE KINGDOM OF SAUDI ARABIA

#### Preamble

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

*Taking note* of the Report of the Working Party on the Accession of the Kingdom of Saudi Arabia to the WTO Agreement reproduced in document **WT/ACC/SPEC/SAU/7, dated 21 October 2005** (hereinafter referred to as the "Working Party Report"),

*Having regard* to the results of the negotiations on the accession of the Kingdom of Saudi Arabia to the WTO Agreement,

*Agree* as follows:

#### PART I - GENERAL

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

#### PART II - SCHEDULES

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

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

### PART III - FINAL PROVISIONS

7. This Protocol shall be open for acceptance, by signature or otherwise, by the Kingdom of Saudi Arabia until **31 December 2005**.

8. This Protocol shall enter into force on the thirtieth day following the day upon which it shall have been accepted by the Kingdom of Saudi Arabia.

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

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

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

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ANNEX I

**SCHEDULE CLVIII - THE KINGDOM OF SAUDI ARABIA**

Authentic only in the English language.

(Circulated in document **WT/ACC/SPEC/SAU7/Add.1**)

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**SCHEDULE OF SPECIFIC COMMITMENTS ON SERVICES**

**LIST OF ARTICLE II EXEMPTIONS**

Authentic only in the English language.

(Circulated in document **WT/ACC/ SPEC/SAU/7/Add.2**)

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