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**Working Party on the
Accession of Vanuatu**

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ACCESSION OF VANUATU

Communication from Vanuatu

The following communication, dated 7 August 1998, has been received from the Department of Trade, Industry and Investment of the Government of the Republic of Vanuatu.

The Marrakesh Agreement Establishing the World Trade Organization and the Multilateral Agreements annexed to it contain transitional periods for delaying the application of some Agreements or some of the provisions of some Agreements. Least-developed countries such as Vanuatu are exempted from certain obligations such as reduction commitments under the Agreement on Agriculture. Also, some Agreements contain transitional arrangements for phasing out measures that may not be in conformity with WTO rules.

Upon accession to the World Trade Organization, the Republic of Vanuatu will assume obligations and acquire rights under the Agreement Establishing the WTO and under the Multilateral Agreements and Understandings annexed to the WTO Agreement.

The Government has, during the informal meeting in June 1998, indicated that it is willing to bring its laws into conformity with its WTO obligations by the date of accession but that transitional arrangements will be necessary in order to implement several protocol measures.

The discussion below considers first several of the important protocol issues including TRIPS, Agreement on Customs Valuation, SPS and TBT Agreements and outlines the justification for transitional arrangements. In the second section, non-tariff measures (NTMs) and other issues specific to the case of Vanuatu are considered and what actions the Government of Vanuatu will take to bring its trade regime into conformity with its WTO obligations under various covered agreements. The third section consolidates, in time frame matrix format, the proposed actions of the Government to assure compliance with obligations outlined in sections I and II.

I. GENERAL PROTOCOL ISSUES

A. IMPLEMENTATION OF THE TRIPS AGREEMENT

As Vanuatu has mentioned in previous submissions to the Working Party it maintains two pieces of British legislation that it inherited from the colonial period. These are the Registration of United Kingdom Trade Marks Act [Cap.81] and Registration of the United Kingdom Patents Act [Cap.80]. This legislation predates the TRIPS Agreement and will be revised with assistance of the Australian Intellectual Property Organisation (AIPO). Technical assistance from WIPO was formally

requested in June 1997 and while draft Pacific legislation has been forwarded, there has been no consultation from WIPO experts. However, WIPO has recently indicated that it is not in a position to respond to the request for technical assistance at this point. As a result, the Government of Vanuatu has requested technical assistance from the Australian Intellectual Property Organisation. Once this technical assistance has been provided we expect to bring legislation before the House in the November 1998 sitting of Parliament. However, legislation will extend beyond the introduction of new intellectual property legislation as there will have to be numerous amendments to related legislation.

Vanuatu is keenly aware that changes to intellectual property legislation are necessary but by no means sufficient to assure full conformity with WTO obligations. There will need to be revisions to the Criminal Code to assure conformity with Article 61 as well as revisions to the Customs Act to assure that customs officers have adequate legal authority to facilitate the protection of intellectual property rights holders from counterfeits and trade mark piracy. There will also be a need to introduce legislation to protect confidential information which does not exist at the moment in Vanuatu.

There will also need to be training of officers in several government departments. The most important is the training and recruitment of an officer in the Vanuatu Financial Services Commission which will be charged with the day-to-day implementation of patents and trademarks administration. Other offices that will require training will include the Department of Customs, the Department of Trade and the Police and Attorney-General's chambers. There is a general lack of knowledge throughout these key divisions over the obligations that the TRIPS Agreement creates. It is for this reason that the Government of Vanuatu seeks a two-year period in which it will employ and train the relevant officials to a point where the legislation can be effectively implemented. While the passage of legislation can be achieved by the end of 1998, the implementation of the infrastructure and ancillary facilities will require two years. It is felt that the obligations under the TRIPS Agreement can be fully operational by 1 March 2001, which is well in advance of the date that LLDCs have under the Agreement to implement their obligations.

B. IMPLEMENTATION OF THE AGREEMENT ON CUSTOMS VALUATION

At present Vanuatu employs the Brussels system of valuation as outlined in Schedule III of the Import Duties (Consolidation) Act [Cap.91]. The Customs Department implements these laws and has generally had very few valuation disputes. It is the intention of the Government of Vanuatu to bring legislation before Parliament in the November session that will bring Schedule III provisions into conformity with its obligations under the Agreement on Customs Valuation.

While changes in relevant legislation can be brought soon to the existing system, the training of officials in this area is time consuming. This is especially so given that officials have very little practical experience with any valuation systems, and no experience with a system as complex as the new WTO rules in the area. Moreover, there will be a need to amend the current computer system to assure that the correct base is taxed. There are at present no manuals and regulations on the conduct of valuation for customs purposes.

Vanuatu will be seeking technical assistance from WTO Members, the Forum Secretariat, UNCTAD, as well as the WCO to help bring its existing system into conformity with the Customs Valuation Agreement. Vanuatu, with financial assistance from the European Communities and technical assistance from UNCTAD, will be introducing the ASYCUDA programme in 1999 which will also facilitate the proper implementation of a customs valuation system.

As a result Vanuatu feels that, while it is able to bring legislation before Parliament rather expeditiously, the ancillary services and related matters cannot be dealt with quickly. Vanuatu is of

the view that a proper implementation of regulations, training, adjustment of computer systems and manuals will take a minimum of two years. We therefore seek a delay on implementation of the obligations for a period of two years until 1 January 2001.

C. AGREEMENT ON TECHNICAL BARRIERS TO TRADE

Vanuatu seeks a time-limited delay for the application of some provisions of the Agreement on Technical Barriers to Trade for a period of three years as from the date of Vanuatu's accession to the WTO.

As has been mentioned Vanuatu has no technical regulations and these remain a contractual matter between buyer and seller. As has been outlined in responses to questions of the Working Party technical regulations exist in construction and there are also food health standards. However, given the rapid changes that are presently occurring with regard to standards and their regulation globally, Vanuatu will have to take a more active role in this area in future. Vanuatu does not possess the resources to implement a national system of standards. However, this is a very common predicament throughout the Pacific island region with only the largest and most developed of the island States being able to maintain national standards organizations. As a result, the recent Forum Economic Ministers Meeting held in Fiji in July 1998 mandated the undertaking of a study of whether trade facilitation measures in standards can be achieved through a regional facility.

As a result, Vanuatu expects that an appropriate regional infrastructure to deal with standards issues will be created in the coming three years and standards that will apply in Vanuatu, along with other South Pacific island countries, will be established through this organization. At the end of three years it is expected that regional arrangements will be in existence that will provide the WTO with a regional focal point that will be able to undertake the establishment of standards in a manner that is in full compliance with the TBT Agreement.

At present any questions regarding the limited range of technical standards can be addressed to the Trade Department which will act as the national focal point for all such inquiries.

D. AGREEMENT ON THE APPLICATION OF SANITARY AND PHYTOSANITARY MEASURES

As indicated in various responses to previous questionnaires circulated by the Working Party, Vanuatu has a very limited range of sanitary and phytosanitary restrictions. These measures will be applied in full accordance with the requirements of the SPS Agreement and be based on a thorough scientific risk assessment. This raises the question of whether Vanuatu, as an LLDC, has the resources to assure the scientific capacity to implement its obligations under the SPS. In the past, Vanuatu has relied upon pest risk assessment from other countries in the region such as New Zealand.

Vanuatu recognizes that it does not have the resources or the capacity to undertake pest risk assessment nationally and, as in the case of the application of TBT in Vanuatu, there is a need for regional co-operation. To that end, studies have been commissioned by the Forum Secretariat and the Secretariat of the Pacific Communities (formerly the South Pacific Commission) on possible means that may be available to develop a regional capacity. At present some pest risk assessment is undertaken by using the PRA of developed countries in the region where the product in question comes from a country with similar conditions to those prevailing in Vanuatu.

While Vanuatu believes that its existing SPS restrictions are WTO compatible as existing measures are based only upon scientific evidence of potential risk and have no other foundation; it will only be with the development of a regional scientific facility that all WTO Members in the South Pacific will be able to be in compliance with the longer term obligations.

II. ISSUES SPECIFIC TO VANUATU'S TRADE REGIME

A. REMOVAL OF NON-TARIFF MEASURES

Vanuatu has already indicated to the Working Party that it has a number of NTMs that will be eliminated prior to accession to the WTO. Table I below outlines the full range of NTMs and their WTO justification or removal. These are outlined in the table below:

Table I
Non-Tariff Measures - Justification and/or Required Actions

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

Vanuatu will be seeking technical assistance from developed WTO Members to provide drafting assistance to bring, where this is indicated, these measures into conformity with WTO obligations.

B. OTHER REFORM MEASURES

In response to the consolidated list of questions provided by the Working Party (WT/ACC/VUT/2 and WT/ACC/VUT/4), Vanuatu provided in Annex II (WT/ACC/VUT/6) a list of laws that would have to be brought into conformity with its WTO obligations. Through the Comprehensive Reform Programme many of the issues were addressed. Table II below shows which of these measures have already been legislated. Most notably changes in work permits and the Investment Act are either before Parliament or have already been passed.

Table II
Summary of Proposed Reforms and Measures as of June 1997
(WT/ACC/VUT/6)

Issue	Relevant Legislation	WTO Article	Vanuatu Government Commitment	Present Status
Provincial government power to raise import duties (Qu. 10)	Provincial Government Act (1994)	Article III	Provinces to be prohibited from taxing trade	To be introduced
Import duty same irrespective of nationality (Qus. 13 and 14)	Import Duties (Consolidation) Act [Cap.91]	"	Point System for import duty exemption based on nationality to be abolished	Abolished under CRP
7% service tax cannot be named service tax and must be renamed surcharge (Qu. 19)	"		Abolition	Abolished in July 1998 with reform of M-duty and introduction of VAT
MSG Trade Agreement		Article XXIV	Notification to Committee on Regional Arrangements	To be notified upon accession
Rights of sojourn of managers and investors	Labour (work permits) Act [Cap.187]	GATS	Revise laws to increase rights of investors	Revised under CRP

The Government of Vanuatu is proposing to bring all relevant trade laws into conformity with its WTO obligations in one session in late 1998. All issues still unresolved will be dealt with at that time. This is contingent upon technical assistance from developed WTO Members with legal drafting obligations.

The majority of the issues identified by the Working Party and by the Government of Vanuatu have been addressed through the Comprehensive Reform Programme. A total of 41 pieces of legislation are or have recently been before the Vanuatu Parliament. A list of the relevant legislation appears in Annex I (WT/ACC/VUT/6) and copies of the legislation are available in the Secretariat (Accessions Division, Room 1126) for consultation.

III. ACTION PLAN

The Government of Vanuatu wishes to propose to the Working Party an action plan on implementation of its WTO obligations that is based upon the above request for transitional arrangements. The Working Party seeks confirmation that all legislation is WTO compatible. Vanuatu has agreed to provide the Working Party with a copy of the relevant legislation but has sought some time-bound deferral of obligations as part of the special and differential treatment rights under the Marrakesh Agreement.

Table III
WTO Activities for 1998

Issue	Activity	Comments
Revision of legislation as outlined in Tables I and II above	Recruitment of legal drafters from Australia to prepare legislation	Dependent upon technical assistance from Australia
TRIPS	Attendance at regional WIPO seminar	Already completed
SPS	Regional Training Seminar to be provided by FAO/Forum/SPC	November
ACV	Revision of customs legislation to assure compliance with ACV	Due in November/December sitting of Parliament - dependent upon technical assistance from Australia
ACV	Regional Training Seminar for Customs officials on the Agreement on CV	To be held in September

In the last quarter of 1998, the Government of Vanuatu intends to complete all legislative changes that pertain to WTO obligations and then move to assure that the administration of trade policy is fully compliant with WTO obligations by strengthening the relevant departments through training and recruitment of appropriate staff. There will need to be recruitment of a permanent multilateral trade officer in the Department of Trade as well as recruitment of staff in the Vanuatu Financial Services Commission to deal with obligations under the terms of the TRIPS Agreement. These staff will almost certainly require training as well the provision of ancillary services. Table IV below outlines the proposed activities in 1999:

Table IV
WTO Activities for 1999

Issue	Activities	Comments
General WTO Compliance	Recruitment of WTO desk officer	Funding to be approved by PSC
TRIPS	Passage of legislation in first quarter to make Vanuatu's laws WTO compatible	Dependent upon AIPO assistance
"	National TRIPS seminar for private sector and training of officials	Seek technical assistance from Australia or New Zealand
ACV	Commencement of ASYCUDA programme	Dependent upon EC funding
"	National training seminar	Seek technical assistance from Australia or New Zealand
TBT and SPS	Forum studies to be undertaken on regional facilities for dealing with standards and SPS	Will notify to WTO by end 1999

The final year of the adjustment to full compliance with WTO obligations will be 2000 in which the Government of Vanuatu will seek further training and attachments for key personnel in the area of WTO related areas. In 2000 there will also be further enhancement of the capacity of the Customs Department because UNCTAD's ASYCUDA programme will be fully operational. Activities for the year 2000 are outlined in Table V below:

Table V
WTO Activities for 2000

Issue	Activities	Comments
General WTO compliance	Trade Policy Course attachment for WTO desk officer	Dependent upon acceptance by WTO
TRIPS	Attachment of officer to Australia's AIPO	Dependent upon assistance
ACV	Attachment of officers, adjustment of computer systems to ACV valuation techniques	Dependent upon ASYCUDA
TBT and SPS	Results of Forum study to be implemented	Dependent upon agreement from other Forum countries and funding