

WORLD TRADE ORGANIZATION

RESTRICTED

WT/ACC/SPEC/VUT/7
22 September 1999

(99-3907)

**Working Party on the
Accession of Vanuatu**

Original: English

DRAFT REPORT OF THE WORKING PARTY ON THE ACCESSION OF THE REPUBLIC OF VANUATU TO THE WORLD TRADE ORGANIZATION

INTRODUCTION

1. The Government of the Republic of Vanuatu applied for accession to the World Trade Organization in June 1995. At its meeting on 11 July 1995, the General Council established a Working Party to examine the application of the Government of Vanuatu to accede to the World Trade Organization under Article XII of the Marrakesh Agreement establishing the WTO. The terms of reference and the membership of the Working Party are reproduced in document WT/ACC/VUT/3/Rev.2/Corr.1.

2. The Working Party met on 3 July 1996 and under the Chairmanship of H.E. Mrs. S.B.A. Syahrudin (Indonesia).

DOCUMENTATION

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

INTRODUCTORY STATEMENTS

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

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

5. The economy of Vanuatu was very fragile and the Commonwealth Secretariat had placed the country at the top of its vulnerability index. It was exposed to frequent external and domestic shocks, including natural disasters such as cyclones. It was distant from its main markets. Vanuatu exported a narrow range of goods; of these copra was the most important, followed by kava, sawn timber, beef, cocoa and seashells. Vanuatu's main export markets were the European Union, Bangladesh, Japan, New Caledonia and Australia, and its main suppliers were Australia, New Zealand, New Caledonia, Japan, France, Fiji and Singapore. Because the manufacturing sector was extremely small and Vanuatu imported most of its needs, export earnings covered only one third of the import bill. On the other hand, the services account was positive, mainly due to receipts from tourism and transportation.

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

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

8. The Working Party reviewed the economic policies and foreign trade regime of Vanuatu and the possible terms of a draft Protocol of Accession to the WTO. The views expressed by members of the Working Party on the various aspects of Vanuatu's foreign trade regime, and on the terms and conditions of Vanuatu's accession to the WTO are summarized below in paragraphs 9 to [107].

ECONOMIC POLICIES

Monetary and fiscal policy

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

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

Foreign exchange and payments

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

12. The external value of the currency of Vanuatu - the vatu - was determined on the basis of a (trade and tourism) transactions-weighted basket of currencies of Vanuatu's major trading partners. The Reserve Bank of Vanuatu traded foreign exchange daily with commercial banks, the Government and

the Vanuatu Commodities Marketing Board (VCMB). No subsidies or taxes were levied on purchases or sales of foreign exchange.

Investment regime

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

14. The Foreign Investment (Amendment) Act No.1 of 1999 had further liberalised and rationalised foreign investment in Vanuatu. The negative list of businesses reserved for Ni-Vanuatu had been shortened (see Annex 2). For instance, investments in hotels and motels had been opened up to foreign investment provided the investment exceeded VT 5 million (around US\$40,000) in the rural sector and VT 10 million (US\$80,000) in the urban sector.

15. The new Act had eliminated the discretion of the Minister of Finance in most investment activities outside the financial sector. The Minister was now required to provide a justification for refusals to grant a business licence, and his decision could be subject to judicial review. The new Act also addressed important issues such as labour laws, immigration, and business legislation including land laws. The Act had streamlined investment procedures with regard to administrative duties, approvals, land disputes and industrial disputes.

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

17. The issuance of residence permits to foreigners was linked to investment in Vanuatu. An investment of VT 5 million (approximately US\$40,000) in cash or other assets in Vanuatu entitled a foreigner to a one-year residence permit. A higher initial investment, and an undertaking to maintain the investment at this level, ensured the individual of a longer residence permit. Maximum-length residence permits (15 years) were issued to foreigners having invested more than some US\$800,000 (VT 100 million) in Vanuatu. The initial fee for one year and subsequent annual renewal amounted to about US\$160 (VT 20,000).

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

State ownership and privatization

19. The representative of Vanuatu said that the Government owned outright or had part interest in 19 companies (listed in document WT/ACC/VUT/6, pp. 30-31). His Government had embarked on a policy to privatize and corporatize four principal entities engaged in the supply of water, electricity, stevedoring, and television and broadcasting. It had no immediate plans to remove monopolies in the provision of water, electricity and telecommunications.

20. In line with Government policy to strengthen the private sector, it had taken action to establish the Vanuatu Chamber of Commerce and Industry to act as a catalyst for private sector issues and reform.

Competition and pricing policies

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

22. The representative of Vanuatu stated that if price controls were introduced in the future, Vanuatu would apply such measures in a WTO-consistent fashion, and take into account the interests of exporting WTO Members as provided for in Article III:9 of the GATT 1994. The Working Party took note of this commitment.

FRAMEWORK FOR MAKING AND ENFORCING POLICIES

Powers of executive, legislative and judiciary branches of Government

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

24. Existing Vanuatu Law contained a standard common law right of judicial review. The judicial system in Vanuatu required only the existence of just cause for review, and the judiciary would entertain reviews of administrative as well as ministerial decisions made in all such cases. The new Customs Act, which would soon be gazetted, provided the right of appeal against decisions of Customs, first to the relevant Minister, and then to the courts.

25. The representative of Vanuatu stated that Vanuatu would provide the right of appeal to an independent body for foreign and domestic importers and exporters of official measures affecting trade. The Working Party took note of this commitment.

Authority of sub-central governments

26. The representative of Vanuatu said that his Government had decided to establish six regional provinces in late 1994 with a view to accelerate and improve administration and other important processes in the provinces. In consistency with Vanuatu's laws, each respective province had autonomous power to enact by-laws and other administrative matters pertaining to taxes and other business and commercial undertakings. He noted that any potential tax, fee or levy raised by provincial governments required the approval of the Government through the Ministry of Home Affairs.

27. The representative of Vanuatu stated that, from the date of accession, the Central Government would eliminate or nullify measures taken by sub-central authorities in Vanuatu that were in conflict with the WTO Agreement when those measures were brought to its attention. The Working Party took note of this commitment.

POLICIES AFFECTING TRADE IN GOODS

Trading rights

28. The representative of Vanuatu said the Business Licence Act had recently been amended. In the past, any natural or legal person had required a licence to import for direct retail or wholesale trade; one-year licences had been granted by the Minister of Finance upon application and against payment of an annual fee of VT 50,000 (about US\$400) plus 2.5 per cent of the value of the transactions. At present, a licence to engage in direct retail or wholesale trade was issued against payment of a one-time fee of VT 10,000 (about US\$80). No distinction was made between the right to trade in domestic or imported products, and the licence gave the right to import goods originating in any country. The business licensing system was maintained for revenue purposes. Licences were normally issued within four weeks from the date of application. Licences would not be granted to non-Vanuatu citizens who had not complied with residence permit requirements. The Minister of Trade could limit the type or quantity of goods to be imported by the licence holder, but these provisions had never been used.

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

IMPORT REGULATION

Ordinary customs duties

30. The representative of Vanuatu said that, like many other least developed countries, his Government was obliged to rely on the customs tariff for a large part of its revenue and that this would continue to be the case in the foreseeable future despite all the Government's efforts to adopt a more modern tax structure. While the tariffs also provided an incentive to local production, in practice only an extremely limited number of goods were actually produced in Vanuatu. Thus, with very few exceptions, the tariff had very little protective effect and did not act as a barrier to imports. Requests for the examination of proposals for tariff protection were assessed by the Department of Industry. For the manufacturing industry, practice would be to grant protection for a minimum of three years, to be reviewed annually thereafter.

31. Vanuatu had adopted the Harmonised Commodity Description and Coding System (HS) in 1989, and applied it with certain modifications as some subdivisions at the six-digit level had been

regrouped into the four-digit HS level. Vanuatu applied the six-digit level classification HS (96) as from 1 July 1998, with seventh and eight-digit levels reflecting national classifications. Most tariffs were ad valorem rates. Specific duty rates were levied on beer, wines, spirits, tobacco products and hydrocarbon oils.

Other duties and charges levied on imports but not on domestic production

32. The representative of Vanuatu said that the Import Duties Act of 1998 had abolished a 5 per cent service tax levied on imports of most products, effective 1 July 1998. He confirmed that, in the past, the importation of rice, sugar, flour, tobacco products and canned mackerel had been licensed by the Vanuatu Cooperative Federation against payment of 3 or 4 per cent commission on the c.i.f. value, in order to enable the Federation to repay its outstanding debts. These requirements had now been abolished and the Federation had ceased to operate commercially.

Tariff rate quotas, tariff exemptions

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

34. Schedule 3 of the Vanuatu Customs Tariff provided that import duty exemptions or reductions might be granted on goods which could be considered beneficial for the economic development of Vanuatu, including raw materials and equipment for manufacturing, goods destined for new tourism developments, finance or commercial sectors, mineral exploration, fisheries and inter-island shipping. Goods imported for use by diplomatic missions or other approved organizations, for example as donations, aid or disaster relief, were also admissible free of duty or tax by virtue of international conventions or agreements.

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

36. A member encouraged strongly the Government of Vanuatu to revise its import tax law to limit, to the greatest extent possible, the use of import tariff exemptions. Rather than using a complex and potentially discriminatory tariff exemption scheme, the Government of Vanuatu should give careful consideration to providing low bound tariff rates to import items which served as inputs for those enterprises for which the Government would seek to encourage operations. The representative of Vanuatu replied that his Government had recently taken steps to lower tariffs on inputs used in the production process substantially, but reiterated the importance of tariff revenues for his country. New legislation had made the duty exemption policy more transparent and reduced discretion. Decisions were now based on objective criteria for evaluating the contribution that individual exemptions would make to the economic development of the country. These criteria did not discriminate between products originating in different countries. They included the quality of the product, the size of the investment in productive capacity, participation of Ni Vanuatu, the location of the business, workers employed and training opportunities provided. Decisions could be subject to judicial review. Details of the system were provided to the Working Party.

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

Fees and charges for services rendered

38. The representative of Vanuatu said that, as a result of recent modifications, the only charge collected to cover the cost of the services rendered was a VT 500 (US\$4) fee per customs declaration. He added that port and marine services were provided by the Ifira Wharf and Stevedoring Limited and the Northern Islands Stevedoring Limited on a purely commercial basis. These companies were not controlled by the Government. Details of the port handling charges were supplied to the Working Party.

39. The representative of Vanuatu stated that all fees and charges for services related to imports and exports would be operated in conformity with the relevant provisions of Article VIII of GATT 1994 from the date of accession. The Working Party took note of this commitment.

Application of internal taxes to imports

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

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

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

Quantitative import restrictions, including prohibitions, quotas and licensing systems

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

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

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

46. The representative of Vanuatu confirmed that Vanuatu would, from the date of accession, not introduce, re-introduce or apply quantitative restrictions on imports of any kind that cannot be justified under the provisions of the WTO Agreement. He further confirmed that the legal authority of the Government of Vanuatu to restrict or prohibit importation of goods into Vanuatu would be applied from the date of accession in conformity with the requirements of the WTO, in particular

Articles XI, XII, XIII, XVIII, XIX, XX, and XXI of the GATT 1994, and the Agreements on Agriculture, 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

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

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

49. In reply, the representative of Vanuatu said that the Import Duties (Consolidation) (Customs Valuation Amendment) Act of 1999 had been passed to bring Schedule III into conformity with the provisions of the WTO Customs Valuation Agreement. Vanuatu had also introduced the ASYCUDA programme in 1999 with financial assistance from Australia and technical assistance from UNCTAD in order to facilitate the proper implementation of the customs valuation system. Vanuatu had therefore made a great effort to comply with WTO requirements in this area. More time would, however, be required for the preparation of regulations and manuals on the conduct of customs valuation, for the training of officials who had no practical experience with a system as complex as the new WTO rules in the area, and for the modification of the current computer system. Vanuatu was seeking technical assistance from WTO Members, the Forum Secretariat, UNCTAD, and the WCO to help it to fully implement the Customs Valuation Agreement. Vanuatu sought recognition of the efforts that it had made and the difficulties that it faced as a least developed countries in this complex area. It therefore requested a delay in the implementation of the Customs Valuation Agreement for a period of two years.

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

Rules of origin

51. The representative of Vanuatu said that, collection of trade statistics apart, Vanuatu only used rules of origin in the Melanesian Spearhead Group Agreement and in its bilateral trade agreement with Fiji (see "Trade Agreements"). These were based upon a change in HS classification at the six-digit level. He saw no conflict between these rules and the WTO Agreement on Rules of Origin.

52. The representative of Vanuatu stated that Vanuatu's application of rules of origin would be administered in conformity with the provisions of the WTO Agreement on Rules of Origin. Vanuatu would adopt the Harmonized Rules of Origin once finalized by the WTO in co-operation with the World Customs Organization. The Working Party took note of these commitments.

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

Preshipment inspection

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

55. The representative of Vanuatu stated that if preshipment inspection requirements were introduced, they would be in conformity with the requirements of the Agreement on Preshipment Inspection. The Working Party took note of this commitment.

Anti-dumping, countervailing duties, safeguard regimes

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

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

Vanuatu would only apply any anti-dumping duties, countervailing duties and safeguard measures in full conformity with the relevant WTO provisions. The Working Party took note of these commitments.

EXPORT REGULATIONS

58. The representative of Vanuatu said that exporters of Vanuatu goods which they had not produced themselves on a commercial basis were exempted from business licences. Exporters of kava and copra needed to obtain a licence from the Vanuatu Quarantine Services at a cost of VT 35,000 (about US\$280). Coffee was also subject to export licensing, revenue from which covered the cost of quality control. Vanuatu had recently abolished taxes on exports of copra (4 per cent), kava (3 per cent), beef (2 per cent), and cocoa (7 per cent). Export taxes were still collected on logs and unworked seashells. The export of logs was currently banned for environmental reasons.

59. The representative of Vanuatu said Vanuatu had no export subsidies. The manufacturing sector was basically exempt from import duties and taxes on raw materials imported for manufacture, process and export under the Inward Processing Relief Standards.

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

INTERNAL POLICIES AFFECTING FOREIGN TRADE IN GOODS

Industrial policy, including subsidies

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

62. At the beginning of 1997, his Government had established an on-going Comprehensive Reform Programme, focusing on outward-looking reform of the private and public sector. Emphasis was put on competitive production of goods for export, assisted by a more open trade regime. Industrial projects could be supported through special loans at relatively low interest rates from commercial banks and

special exemptions accorded by the customs and tax authorities, but the Development Bank of Vanuatu, which had in the past provided low-interest loans for industrial projects, no longer existed.

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

Technical barriers to trade

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

65. Vanuatu was not represented directly or through the South Pacific Forum at any international standards bodies, such as the ISO. However, given the rapid changes presently occurring with regard to standards and their regulation globally, Vanuatu expected to take a more active role in this area in future. As a result, the Forum Economic Ministers Meeting held in Fiji in July 1998 had mandated the undertaking of a study of whether trade facilitation measures in standards could be achieved through a regional facility.

66. Vanuatu had established an enquiry point, as required by Article 10 of the TBT Agreement, within the Department of Trade. The Director of Trade would fulfil all WTO's TBT notification and enquiry point obligations. The enquiry point was fully functioning.

67. The representative of Vanuatu stated that upon accession to WTO Vanuatu would comply with the provisions of the Agreement on Technical Barriers to Trade. The Working Party took note of this commitment.

Sanitary and phytosanitary measures

68. The representative of Vanuatu noted that Vanuatu had a very favourable pest status. This was one of the very few benefits of being isolated in the South Pacific, and was a valuable national asset to

be measured, utilized and preserved. Vanuatu's sanitary and phytosanitary (SPS) measures had to reflect this need. Within the limits of its resources as a least-developed country, Vanuatu took part in the relevant international organizations. On the animal side, it had been an active member of OIE since the 1980s (for instance sending monthly reports to OIE on its disease status). Vanuatu was not yet a member of the International Plant Protection Convention (IPPC). It was an observer at the Codex Alimentarius Commission. His Government had recently taken a decision to become a member of both these organizations. Vanuatu was also a member of the newly formed Pacific Plant Protection Organization (PPPO).

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

70. The legislative basis for Vanuatu's sanitary and phytosanitary measures consisted of the Animal Importation and Quarantine Act of 1988, and regulations in Order No. 14 of 1994; the Plant Protection Act No. 14 of 1997, and the Imports Specification (Plants) Manual; and the Food Control Act No. 21 of 1993, gazetted in July 1999. Copies of these Acts were provided to the Working Party, together with other documentation illustrating how they were implemented. Vanuatu obtained assistance in setting regulations from the South Pacific Communities, as well as the relevant services of Australia and New Zealand. The SPC provided scientific advice and technical assistance and training to its members. The Plant Protection Unit of the South Pacific Commission had established a list of prohibitions applying across the Pacific island countries producing similar crops in comparable climate and environment. The list was provided to the Working Party (document WT/ACC/VUT/7, annex IV).

71. The Vanuatu Quarantine and Inspection Services were responsible for implementing SPS provisions on animals and plants, while the Department of Health had responsibility for food control. The Food (Control) Act restricted businesses and persons from displaying, storing or selling food unfit for human consumption. These provisions were enforced through municipal health standards.

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

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

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

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

75. Vanuatu was making other efforts to improve its current measures. For instance, guidelines were being developed based on scientific principles to formulate procedures for safe importation of plants and plant products with the assistance of New Zealand. In future, principles to be applied included area of freedom, treatment (heat treatment) and tissue cultured materials, which should eliminate the risk of introduction of new pests. Vanuatu was also drafting an import specification manual based on scientific information to further improve conformity with IPPC standards. When Vanuatu would become Member of WTO, the Director, Vanuatu Quarantine and Inspection Services would operate the enquiry point referred to in the SPS Agreement. He would also be responsible for making notifications to WTO and ensuring that the transparency obligations of the SPS Agreement would be met.

76. The representative of Vanuatu said that, in order to ensure that the Agreement was effectively implemented, his Government intended to adopt a decision establishing procedures to ensure that, as from the date of its accession, (i) Vanuatu's SPS enquiry point would be formally established and fully operational; (ii) information on proposed SPS measures which might have a significant effect on trade

would be published and notified to WTO, copies of the proposed regulations would be provided to other WTO Members on request, a reasonable time would be allowed for Members to comment and for these comments to be taken into account, but that urgent matters of health would be dealt with; (iii) SPS measures would be based on scientific evidence; (iv) to the extent possible, SPS measures would be based on international standards, guidelines and recommendations; (v) SPS measures of other countries would be accepted as equivalent if these measures achieved the level of protection appropriate to Vanuatu; (vi) SPS measures would be based on an assessment of the risks to human, animal or plant life or health; (vii) SPS measures would take into account the regional characteristics both of the areas from which imported products originate and the areas for which they are destined; (viii) SPS measures would not arbitrarily or unjustifiably discriminate between different WTO Members or between domestic and foreign suppliers; and (ix) relevant control, inspection and approval procedures would comply with the provisions of the SPS Agreement.

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

Trade-related investment measures

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

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

State-trading entities

80. The representative of Vanuatu stated that of the enterprises listed in the section on "State Owned Enterprises and Privatization" only the Vanuatu Commodities Marketing Board had exclusive rights relating to the import or export of goods. Vanuatu had provided information on State-trading enterprises in the format applicable to WTO Members, detailing the operations of the VCMB, in document WT/ACC/VUT/7, Annex III. The VCMB had been established in 1981 to buy, sell and stabilize prices for copra, cocoa and kava. The VCMB had sole purchasing rights on copra and cocoa for export. It had licensed 25 kava exporters, and issued export licences for kava against an annual fee of VT 50,000 (about US\$400). Until recently, all coffee produced by small-holders had been sold to the Tanna Coffee

Development Company (TCDC), but the TCDC had been privatized and all its exclusive rights and privileges revoked. It was not a State trading enterprise. Any company could now produce, export or import coffee to or from Vanuatu.

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

Free zones, special economic areas

82. The representative of Vanuatu said that his Government's Council of Ministers had approved the establishment of free industrial zones on several islands, including Santo, Efate, Malekula and Tanna in September 1993. However, no zones had been established to date. UNIDO had completed a feasibility study of the project, and further study was required to determine whether the project was viable. His Government was proceeding with plans to establish a free trade zone on Santo Island, and would establish an inter-ministerial committee empowered to decide and resolve all issues related to the free trade zone.

Government procurement

83. The representative of Vanuatu said Vanuatu practised open tendering and competitive bidding in the context of a small island economy. The Financial Regulations of the Republic of Vanuatu (Chapter 22, Regulations 361, 364, 365 and 368) provided the guidelines for government procurement. A Central Tender Board in the Department of Finance evaluated tenders and awarded contracts. The Central Tender Board comprised the Director of Finance or his representative, the director of the department procuring the goods or services, and a representative of the Ministry responsible for the department procuring the goods or services. All written contracts worth more than VT 3 million (about US\$24,000) required approval by the Attorney General before the contract was signed. A minimum of three written tenders were required for specific works or services exceeding VT 1 million (US\$8,000). Notice of invitation to tender was given at least two weeks before the closing date, normally by advertisement in the national press. The Financial Regulations contained no dispute settlement provisions; aggrieved individuals or companies could resort to the judicial system.

84. The guidelines stipulated that for works or services worth VT 50,000 (US\$400) to VT 1 million (US\$8,000) at least three written quotations should be obtained wherever possible, and the procurement

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

85. Some members said that adoption of the disciplines of the Agreement on Government Procurement would benefit Vanuatu and asked whether Vanuatu intended to accede to this Agreement. The representative of Vanuatu said that the financial regulations of Vanuatu did not permit discrimination against foreign suppliers, and with the very limited number of local bidders such practices would not even be technically possible. This being so, neither Vanuatu nor members of WTO would draw any additional benefits from Vanuatu's membership of this plurilateral Agreement.

Transit

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

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

Agricultural policies

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

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

provided a small subsidy of VT 50 (about US\$0.4) per coconut seedling. Government policy had also been to provide small-holder producers of coffee with free planting materials and a subsidy on the purchasing price.

90. The Vanuatu Commodities Marketing Board regulated the "beach" (farm-gate) price of copra on an ad hoc basis by using surpluses generated from trading activities and transfers of Lomé Convention funds under the commodity price stabilization scheme (Stabex) of the European Communities. Since 1984, the VCMB had accumulated losses approaching US\$20 million, but relatively high world market prices for copra and cocoa in recent years had reduced the need for price support to these sectors in Vanuatu. In 1996, the Government had used approximately VT 100 million (US\$900,000) as a once-off payment to support copra prices. The VCMB was now obliged by statute to fund its own activities without any subsidy from the Government.

91. Vanuatu's commitments on agricultural tariffs, on domestic support and export subsidies for agricultural products are in the Schedule of Concessions and Commitments on Goods annexed to the draft Protocol of Accession to the WTO reproduced in the Appendix to this report.

TRADE-RELATED INTELLECTUAL PROPERTY REGIME

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

93. The representative of Vanuatu added that his Government was making a major effort that would ensure that legislation on copyright and related rights, patents, trademarks, industrial designs, geographical indications, layout designs of integrated circuits and protection of undisclosed information (trade secrets) giving effect to the TRIPS Agreement would be passed by Parliament by the time Vanuatu acceded to WTO. Copies of the legislation already available were provided to the Working Party.

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

95. The representative of Vanuatu said that, for the reasons given in the preceding paragraph, the Government of Vanuatu needed a two-year transitional period to implement fully the obligations of the TRIPS Agreement. During this period, Vanuatu would employ and train the relevant officials to a point where the legislation could be effectively implemented. He expected the obligations under the TRIPS Agreement to be fully operational by 1 March 2001.

96. The representative of Vanuatu stated that legislation on copyright and related rights, patents, trademarks, industrial designs, geographical indications, layout designs of integrated circuits, and protection of undisclosed information (trade secrets) conforming to the requirements of the Agreement on Trade-Related Intellectual Property Rights would be enacted by the date of Vanuatu's accession to the WTO. Vanuatu would apply the Agreement on Trade-Related Intellectual Property Rights no later than two years after Vanuatu accedes to the WTO. The Working Party took note of this commitment.

POLICIES AFFECTING TRADE IN SERVICES

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

98. The Finance Centre of Vanuatu, protected by strict professional secrecy and the absence of foreign exchange control and direct taxation, contributed significantly to national income and government revenue. Vanuatu had extensive secrecy provisions and did not participate in any tax treaties. His Government was committed to making Vanuatu the foremost tax haven and investment

centre in the Pacific. The financial service industry was supervised and regulated by the Vanuatu Financial Services Commission. Precautionary checks were carried out prior to the issuance of a banking licence. Capital requirements differed for local and foreign banks (paid up capital and unimpaired reserves of VT 50 million versus VT 200 million) to avoid "fly-by-night" banks, and to create an incentive for the incorporation of banks within Vanuatu. The Reserve Bank of Vanuatu was preparing policy guidelines for capital adequacy ratios based on Basle risk-weighted asset methodology which would treat banks incorporated locally or overseas in the same manner.

99. Exclusive suppliers or monopolies existed in telecommunications, electricity supply, water supply and internal air transport. Telecom Vanuatu Limited was the sole supplier of communication services. The Vanuatu Government held one third of the shares of the company, the remainder was owned by foreign investors. Electricity and water services were provided by Union Electrique du Vanuatu Limited. Vanair Limited was the sole supplier of domestic air services, while international flights were shared between Air Vanuatu Limited, Solomon Airline, Air Pacific and Air Caledonie. With these exceptions, commercial presence of foreign services suppliers on the territory of Vanuatu was largely unrestricted, and there were no prohibitions regarding the establishment of foreign service suppliers. Vanuatu maintained no numerical quotas or economic needs tests relating to the supply of services. Vanuatu maintained no prohibitions or limitations on consumption of services abroad by its nationals. Travelling abroad was subject to an airport departure tax of US\$17.

100. Regarding the presence of foreign natural persons, the Labour Commissioner issued work permits provided a post could not be filled by skilled local labour, in which case job training should be provided. Companies were required to advertise all vacant positions in the local press, and if no suitably qualified local candidate responded, a non-Vanuatu citizen could be hired. Vanuatu has recently revised its system for approving or refusing work permits to ensure transparency and full right of judicial review. Any foreign natural person could obtain a one-year residence permit against a minimum investment in Vanuatu of VT 5 million (about US\$40,000).

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

102. Vanuatu's Schedule of Specific Commitments on Services is annexed to its draft Protocol of Accession reproduced in the Appendix to this report (see paragraph [109] below). This Schedule of Specific Commitments contains the legally binding market-access commitments of Vanuatu in respect of services.

Transparency

Publication of information on trade

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

Notification

104. The representative of Vanuatu said that at the latest upon entry into force of the Protocol of Accession, Vanuatu would submit all notifications (other than those required to be made on an ad hoc basis) required by any Agreement constituting part of the WTO Agreement. Any regulations subsequently enacted by Vanuatu which gave effect to the laws enacted to implement any Agreement constituting part of the WTO Agreement would also conform to the requirements of that Agreement. The Working Party took note of this commitment.

Trade agreements

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

106. A bilateral trade agreement with Fiji had been set up by the Prime Ministers of the two countries in July 1999. The objective of the Agreement was to improve the trade relations between the two countries by facilitating the flow of goods. The Agreement was consistent with Article XXIV of GATT 1994. As a full Member of WTO, Fiji would notify the text of the Agreement to WTO.

107. Vanuatu had signed agreements on technical cooperation with Fiji and Papua New Guinea, a technical aid cooperation agreement with New Caledonia, and an agreement on economic and technical cooperation with China in 1992. Vanuatu had concluded air services agreements with Fiji and Australia.

CONCLUSIONS

108. The Working Party took note of the explanations and statements of Vanuatu concerning its foreign trade regime, as reflected in this report. The Working Party took note of the commitments given by Vanuatu in relation to certain specific matters which are reproduced in paragraphs 22, 25, 27, 29, 37, 39, 42, 46, 50, 52, 55, 57, 60, 63, 67, 77, 79, 81, 87, 96 and 104 of this report. The Working Party took note that these commitments had been incorporated in paragraph 2 of the Protocol of Accession of Vanuatu to the WTO.

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

ANNEX 1

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

- Comprehensive Economic Reform Programme (draft);
- Summary of Legislative Reforms Necessary as a Result of Accession to the WTO;
- Foreign Investment Act No. 15 of 1998;
- Customs Import and Export Duty Tariff 1995/1996;
- Duty concessions guidelines (Schedule III Application Form);
- Import Duties (Consolidation) (Customs Valuation Amendment) Act No.8 of 1999;
- The Dues, Fees and Charges Order No. 14 of 2 October 1982;
- Bill for the Value Added Tax Act No. 12 of 1998;
- The Import of Motor Vehicles (Control) Act No. 30 of 1992;
- Plant Protection Act No. 14 of 1997;
- Explanation of the Prohibited Plants List prepared by the Department of Agriculture and Horticulture, Plant Protection and Quarantine Division;
- The Business Licence Act (Chapter 173), Schedule 1 - Rates of Business Fees;
- Business Licence (Localization of Businesses) Order No. 79 of 1983;
- Amendment to Business Licence (Localization of Businesses) Order No. 79, of 1993;
- Business Licence Act No. 19 of 1998;
- Decentralization and Local Government Regions Act No. 1 of 1994;
- Bill for the Leadership Code Act;
- Description of the structure and competence of the Land Surveyors Board;
- The Vanuatu Government Financial Regulations regarding Purchase of Goods and Services, Chapter 22;
- Bill for the Patents Act (1999);
- Bill for the Copyright Act (1999);
- Bill for the Trademarks Act (1999);
- Extracts of the Laws of the Republic of Vanuatu concerning Customs, Road Traffic (Control), Export Duties, Obscenity, Agricultural Fees, Import Duties (Consolidation), Hotels and Licensed Premises Tax, Gaming (Control), Business Licence, Import of Goods (Control), Video Cassettes (Tax on Hiring), Cheque Tax, Rent Taxation, Amusement Machines Tax, Banking, Immigration, Stamp Duties, Trust Companies, Airport Departure Tax (International Flights), Electricity Supply, Registration of United Kingdom Trade Marks, Registration of United Kingdom Patents, Insurance, Price Control, Partnership, Passports, Citizenship (Entitled Persons), Citizenship, Coastal Trading (Control), Central Bank of Vanuatu,

- International Financial Institutions, Diplomatic Privileges & Immunities, Telecommunications, Post Office, Labour (Work Permits), and Companies;
- Bill for the Vanuatu Foreign Investment Board and Related Amendments to Business Licence Act, Work Permits Act and Immigration Act;
 - Bill for Immigration (Amendment) Act;
 - Labour (Work Permits) (Amendment) Act No. 9 of 1998;
 - Trade Agreement Among the Melanesian Spearhead Group Countries of 23 June 1993;
 - Trade Data 1994-96 (diskette);
 - Draft HS(96) Customs Tariff;
 - Statistics Office: Vanuatu National Agriculture Census 1994 - Main Report;
 - Statistics Office: Copra and Cocoa, Annual Report 1994;
 - Statistics Office: Statistical Indicators, October-December 1995; and
 - Statistics Office: Detailed Commodity Tables of Overseas Trade of Vanuatu, Annual Report 1993.

ANNEX 2

- Reserved Investments

Kava bars.

Hotels and motels where the amount invested is less than 10 million Vatu in Port Vila and Luganville and less than 5 million Vatu elsewhere.

General retail and wholesale merchandising if the investment is less than 10 million Vatu.

- Open air vendors.
- Mobile shops.
- Door to door sales.
- Road transport operators- public taxi and bus services.
- Category F of Business Licensing Act of less than 5 million Vatu turnover per year.
- Export of kava in root form. However, a foreign investor can export kava in root form if the foreign investor has invested, or intends to invest, at least 5 million Vatu in any of the following: the transport of kava, the transformation of kava or the international marketing of kava.
- Coastal fishing, other than sports, recreational and game fishing.

APPENDIX

ACCESSION OF VANUATU

Draft Decision

The General Council,

Having regard to the results of the negotiations directed towards the establishment of the terms of accession of the Republic of Vanuatu to the Marrakesh Agreement Establishing the World Trade Organization and having prepared a Protocol for the Accession of Vanuatu,

Decides, in accordance with Article XII of the Marrakesh Agreement Establishing the World Trade Organization, that the Republic of Vanuatu may accede to the Marrakesh Agreement Establishing the World Trade Organization on the terms set out in the said Protocol.

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

Draft

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

Considering that Vanuatu is a least developed country with all relevant rights to special and differential rights,

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

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

Agree as follows:

Part I - General

1. Upon entry into force of this Protocol, Vanuatu accedes to the WTO Agreement pursuant to Article XII of that Agreement and thereby becomes a Member of the WTO.
2. The WTO Agreement to which Vanuatu accedes shall be the WTO Agreement as rectified, amended or otherwise modified by such legal instruments as may have entered into force before the date of entry into force of this Protocol. This Protocol, which shall include the commitments referred to in paragraph [108] of the Working Party Report, shall be an integral part of the WTO Agreement.
3. Except as otherwise provided for in the paragraphs referred to in paragraph [108] of the Working Party Report, those obligations in the Multilateral Trade Agreements annexed to the WTO Agreement that are to be implemented over a period of time starting with the entry into force of that Agreement shall be implemented by Vanuatu as if it had accepted that Agreement on the date of its entry into force.
4. Vanuatu may maintain a measure inconsistent with paragraph 1 of Article II of the GATS provided that such a measure is recorded in the list of Article II Exemptions annexed to this Protocol and meets the conditions of the Annex to the GATS on Article II Exemptions.

Part II - Schedules

5. The Schedules annexed to this Protocol shall become the schedule of Concessions and Commitments annexed to the General Agreement on Tariffs and Trade 1994 (hereinafter referred to as the "GATT 1994") and the Schedule of Specific Commitments annexed to the General Agreement on

Trade in Services (hereinafter referred to as "GATS") relating to Vanuatu. The staging of concessions and commitments listed in the Schedules shall be implemented as specified in the relevant parts of the respective Schedules.

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

Part III - Final Provisions

7. This Protocol shall be open for acceptance, by signature or otherwise, by Vanuatu until

8. This Protocol shall enter into force on the thirtieth day following the day of its acceptance.

9. This Protocol shall be deposited with the Director-General of the WTO. The Director-General of the WTO shall promptly furnish a certified copy of this Protocol and a notification of acceptance thereto pursuant to paragraph 7 to each member of the WTO and Vanuatu.

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

11. Done at Geneva this ... day of one thousand nine hundred and ninety, in a single copy in the English, French and Spanish languages each text being authentic, except that a Schedule annexed hereto may specify that it is authentic in only one or more of these languages.

ANNEX

SCHEDULE – REPUBLIC OF VANUATU

Part I – Goods

[to be completed]

Part II – Services

[WT/ACC/SPEC/VUT/3/Rev.2]
