

WORLD TRADE ORGANIZATION

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

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

Revision

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 included 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.6.

2. The Working Party met on 2 and 3 May, 6 and 8 November 1996, 29-30 May, 2 and 4 December 1997, 17 and 19 November 1998, 22 September 1999, 5 April and 17 October 2000 under the Chairmanship of Mr. J. Weekes (Canada), and on ... under the Chairmanship of H.E. Ambassador Munir Akram (Pakistan).

DOCUMENTATION

3. The Working Party had before it, to serve as a basis for its discussions, a Memorandum on the Foreign Trade Régime of Saudi Arabia (L/7489) and the questions submitted by members on the foreign trade régime 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; and, WT/ACC/SAU/35 and Corr.1). The Government of Saudi Arabia also provided the Working Party with the following information:

- Customs Law and Implementing Regulations;
- Customs Tariff;
- Guide to the Licensing of Foreign Investment in Saudi Arabia;
- Law for the Protection and Encouragement of National Industries;
- Trade Marks Law and Regulations;
- The Patents Law;
- The Law for the Protection of Copyrights;
- Law and Regulations for Commercial Agencies;
- Import Statistics, 1993;
- Information on Non-Oil Exports To Gulf Cooperation Council States;
- Decree No. 142 of 199/11/1413 (10 May 1993): General Objectives and Strategic Principles of the Sixth Development Plan;
- Law for the Protection and Encouragement of National Industry;
- Saudi Industrial Development Fund Law;
- Foreign Investment Law – Royal Decree No. M/1 of 9.4.2000;
- Implementing Regulations under the Foreign Investment Law;
- Rules for the Coordination of Industrial Establishments in the Gulf Cooperation Council States;
- Banking Control Law (Articles 1-4);
- Ministerial Resolution by the Ministry of Communications concerning Applications for Licences by Maritime Companies and Firms for Carrying on Maritime Carriage (Articles 1-7);
- Ministerial Resolution No. 4104/20/M dated 4.11.1408 H (18 June 1988) concerning the Implementing Regulations to the Private Medical Establishments Law (Articles 1-2);
- Implementing Regulations to Regulation of Technical Institutes and National Occupational Centres (Articles 1-9);
- Resolution from His Royal Highness the Minister of Defence and Aviation concerning the --Regulation of Tourism and Travel Agencies and Companies engaged in Air Transport (Articles 1-4 and 13);
- Ministerial Order No. 264 of 16.9.1402H (7 July 1982): Organization of the Practice of the Profession of Engineering Consultancy (Party I and III);
- Law of Certified Accountants (Articles 1-2) and Ministerial Order No. 595 of 13.11.1395 (16 November 1975). Enacting the Implementing Regulations of the Accountants Law;
- Ministerial Order No. 1190 of 16.2.1402 (13 December 1981) Pertaining to the Regulation of Carrying on the Profession of Legal Consultancy (Articles 1-2, 4-7);
- Law concerning the Carrying on of the Profession of Pharmacy and Trading in Medicaments and Medical Preparations (Articles 1.5);
- List of banned items;
- Rules and Procedures before the Board of Grievances;
- Royal Decree M/10 of 3.3.92 H (16 April 1972) and Council of Ministers Resolution No. 1 172 of 25.2.92 H (9.4.1972);
- SASO Standards No. 457 and No. 702;
- List of Saudi Standards (1-802);
- Regulated Product Categories Applicable Standards;
- Catalogue of Saudi Standards (1997);
- Government Purchases Law and Implementing Regulations;
- Council of Ministers Resolution No. 124 of 29.5.1403 (13 March 1983);
- Standard Rules for Giving Priority in Government Purchases to National Products and Products of National Origin of Gulf Cooperation Council States;
- Companies Law;
- Law of Arbitration and Implementing Regulations to the Law of Arbitration;
- Response to Questionnaire on Import Licensing Procedures;

- Information on Foreign Investment by Sectors;
- Information on Recent Foreign Investments Granted Licences;
- Information on Saudi Industrial Development Fund Loans;
- Information on Saudi Agriculture Bank Loans;
- Information on Agricultural Subsidies Disbursed through the Agriculture Bank;
- Information on Agricultural Domestic Support;
- Information on the Application of Import Licensing;
- Information on the Technical Barriers to Trade;
- Information on Sanitary and Phytosanitary Measures;
- Information on Preferential Trading Arrangements;
- ICCP - Comprehensive Procedures and Guidelines.

INTRODUCTORY STATEMENTS

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-rich developing countries - characterized by a major concentration of exports on a single product 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 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 GCC countries, and support 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 laid

the foundation for the Kingdom's rapid transformation into a modern industrialized state, focusing on the provision of basic infrastructure, improved government services and the establishment and expansion of supporting institutions. Rapidly rising oil revenues during the period covered by these two plans, further helped to accomplish their objectives including the creation of jobs in both public and private sectors. The Third and Fourth plans emphasized the diversification of the economy by concentrating on the completion of major infrastructure projects to meet the rapidly increasing demand for improved educational, health, training and other social services, and by encouraging the growth of the private non-oil sector. The Fifth Development Plan enhanced and broadened the main objectives of the previous plans, through appropriate regulatory policies and support measures. It accorded highest priority to the private sector's role in accelerating the process of economic diversification.

6. He further recalled that the Sixth Development Plan, continued to enhance and broaden 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 the provision of 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 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. 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 and 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. Amongst developing countries, it ranked Sixth in the world in the value of traded goods, of which a large proportion was petroleum exports. Of the top 40 trading countries in the world, Saudi Arabia ranked Sixth in the growth of trade over the period 1977-1992. It maintained one of the least restrictive exchange and trade systems in the world. There were no exchange restrictions and no trade restrictions were imposed for balance-of-payments reasons. Indeed, currently trade restrictions were only imposed for religious, health or security reasons.

8. 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 liberalisation and facilitation of investment, rapid development of the 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 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.

9. 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.

10. 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 summarised below in paragraphs 11 to [...].

ECONOMIC POLICIES

Privatization

11. The representative of Saudi Arabia stated that a very important component of the Economic Reform Program of the Kingdom of Saudi Arabia (circulated to WTO Members in document No: WT/ACC/SAU/54 dated: 4 April 2003) was privatization. An ambitious privatization strategy was issued by the Council of Ministers on 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 privatization of 20 small, medium and large state-owned enterprises. These include: Telecommunications, Postal Services, Aviation and its services, Railroad, Airport services, Seaport services, Roads (buildings and operating of new highways and managing, operating and maintaining of existing highways; Government shares in corporations including SABIC, Saudi Electricity Company, Saudi Telecom Company, Saudi Arabian Mining Company, Domestic oil refineries; Water & sewage, Saline water conversion (desalination), Industrial cities services, GSFMO, Government-owned hotels; and certain Municipalities services, Certain services incidental to Educational services, incidental to Medical services, incidental to Social services and incidental to Agricultural services.

12. In response to questions from members of the Working Party, the representative of Saudi Arabia stated that the objectives of the privatization strategy were as follows:

- Improving the efficiency of the national economy and enhancing its competitive ability to meet the challenges of regional and international competition.
- 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.
- Enlarging the ownership of productive assets by Saudi citizens.
- Encouraging domestic and foreign capital to invest locally.
- Increasing employment opportunities, optimizing the use of the national work force, and ensuring the continued equitable increase of individual income.
- Provide services to citizens and investors in a timely and cost-efficient manner.
- 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.
- 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.

The Supreme Economic Council of Saudi Arabia was responsible for supervising the privatization program and monitoring its implementation.

13. He further noted that the basic principles that were taken into consideration when implementing the privatization process were:

- Disclosure and transparency.
- Expeditious implementation.
- Changing the management pattern, and
- A regulatory framework for privatized sectors.

14. He continued that according to the Privatization Strategy, the criteria for determining priorities in selecting enterprises to be privatized were based on:

- Positive effect on the national economy.
- Readiness of enterprise for privatization.
- Social benefits of privatizing the enterprise.
- Inadequacies of the services provided by the public enterprises, and
- The absorptive capacity of the capital market.

15. The representative of Saudi Arabia stated that the following implementation steps had been completed during the Sixth Plan Period:

- 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 the Royal Approval issued in 1417 (1997) and the Council of Ministers' resolution issued in 1419 (1999) 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 Damman by a railroad.
- ii) 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.
- iii) The Council of Ministers' resolution 169 of 11/8/1419 (30 November 1998) approved the restructuring of the electricity sector.
- iv) 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 privatization program.
- v) The Saudi Telecommunications Company was established as a business-oriented stock company providing all telecommunications services previously provided by the MOPTT.

Investment Regime

16. 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 9 April 2000 (5.1.1421 H). Implementing Regulations under the new Foreign Investment Law had been issued on 9 August 2000. Copies of these had been submitted to the WTO Secretariat. Some members of the Working Party requested clarification 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. Under the new Foreign Investment Law, a foreign investment may take one of the two following forms: (1) enterprises owned by foreign and national investors, i.e. joint ventures, but with no requirement for minimum share for national investors, (2) enterprises wholly-owned by foreign investors, i.e. 100 per cent foreign shareholders' equity. A project, whether wholly-owned by foreign investors or a joint-venture, licensed in accordance with the Law, shall enjoy all

benefits, incentives and guarantees available to a national project. Foreign investment was permissible in all activities, except a short negative list. 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.

17. 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 – to obtain a licence. The SAGIA was required to decide on the investment application within 30 days from the date all required documents were submitted. The SAGIA would also serve as the enquiry point on laws, regulations and procedures relating to foreign investment. The new Foreign Investment Law and the implementing regulations provide that foreign investment ventures had the right to own real estate necessary to carry out their licensed activities or to accommodate their employees, in accordance with regulations of property ownership for non-Saudis. Further, it was provided that foreign investors shall have the right to sponsor and bring their non-Saudi employees subject to numerical limits.

18. He 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. The Law laid down that the amount of capital to be invested in a licensed project must not be less than 5 million Saudi Riyals for industrial projects, not less than 25 million Saudi Riyals for agricultural projects and not less than 2 million Saudi Riyals for other projects.

19. 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

1278 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 the Foreign Investment Law was fully consistent with the WTO Agreement on Trade-Related Investment Measures, and reiterated that Saudi Arabia did not apply any TRIMs prohibited by the WTO Agreement on Trade-Related Investment Measures.

20. 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 shares 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 joint stock companies which were traded in the equity share market but those non-GCC nationals were required to receive permission from concerned authorities, such as the Saudi Arabian Monetary Agency and the Ministry of Commerce and Industry, prior to 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.

21. 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 there were no plans to remove restrictions on foreign investment in the upstream sector. However, investments in gas development projects by foreign investors were being reviewed.

22. 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 license 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 license 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.

FRAMEWORK FOR MAKING AND ENFORCING POLICIES

23. The representative of Saudi Arabia explained that the Basic Law of Government, instituted by Royal Decree No. A/90 dated 27 Shaaban 1412 H (1 March 1992), set down the law concerning political authority within Saudi Arabia. Article 56 of the Basic Law of Government 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 Government 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.

24. 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 Government and Article 20 of the Council of Ministers Law provide that laws, treaties and international agreements and concessions were enacted and amended by Royal Decrees after having been considered by the Consultative Council and the Council of Ministers respectively. In general, no initials could be affected on any agreement or obligation until approved by the Council of Ministers. In conclusion, he added that the Kingdom of Saudi Arabia would do whatever was required, whether through Royal Decree, Council of Ministers Decree or Ministerial Orders to bring its trade regime into conformity with its WTO obligations.

25. 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 – 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 Directorate, such as classification and

valuation, there was an administrative system for appeal against rulings. Disputes pertaining to Article VII related 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” were appealable to the head of the Ministry or Agency concerned.

26. 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 of 17.1 1402 H (14 November 1981). The Board of Grievances was an independent tribunal to which appeals were made from all governmental administrative decisions, and addressed the obligation in Article X:3 of the GATT 1994 to provide for a right of appeal of administrative decisions to an independent tribunal. 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. There were no fixed time frames. The Board supplied written judgements to all parties to any appeal, judgements which included the reasons for the decision. Article (47) of the Board of Grievances Law provided for the publications of the Judicial decisions.

27. He also noted that the Board’s decisions could be challenged and appealed to the Appeal 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.

28. 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 Article X:3(b) of the GATT 1994. The Working Party took note of this commitment.

29. In response to further questions, the representative of Saudi Arabia stated that Article 70 of the Basic Law of Government 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. He noted, however, that like other countries, Saudi Arabia could not use international treaties to overturn fundamental religious/legal principles, such as legalizing the consumption of alcohol and pork. To bring its Laws and Regulations into conformity with WTO Agreements, Saudi Arabia had already enacted or would enact Laws and amendments to existing Laws in relation to the various substantive provisions of the WTO Agreements, such as TRIPS, Customs Valuation, SPS, TBT, Import Licensing, including transparency provisions.

30. The representative of Saudi Arabia confirmed that the Kingdom had acceded to the Vienna Convention on the Law of Treaties 1969 vide Council of Ministers' Resolution No. 165 dated 24.6.1423 H (1 September 2002).

31. The representative of Saudi Arabia confirmed that sub-central entities had no autonomous authority over issues of subsidies, taxation, trade policy or any other measures covered by WTO provisions. He confirmed that the provisions of the WTO Agreement, including Saudi Arabia's Protocol, would be applied uniformly throughout its 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. The Working Party took note of these commitments.

POLICIES AFFECTING TRADE IN GOODS

Trading Rights (the right to import and export)

32. The representative of Saudi Arabia confirmed that there were no substantive requirements to register with the Ministry of Commerce & Industry in order to import, although there was a requirement to obtain Commercial Registration for the carrying on of business, whether manufacturing, retailing or trading. In order for a foreign business to obtain a Commercial Registration for the carrying on of business in Saudi Arabia, it had to first obtain a foreign investment license from the Saudi Arabian General Investment Authority ("SAGIA"). Upon receiving a foreign investment license from SAGIA, the foreign business would apply to obtain a commercial registration from the Ministry of Commerce & Industry. The rules and procedures for obtaining commercial registration were set forth in the Law on Commercial Registration issued pursuant to Royal Decree M/1 dated 21/02/1416 H (19 July 1995) and the Law on Commercial Names issued pursuant to Royal Decree M/15 dated 12/08/1420 H (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 SR 1000 in case of

establishments, SR 4000 in case of partnerships, SR 6000 in case of limited liability companies; and SR 8000 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 & 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 & Industry and commercial registration was issued.

33. The representative of Saudi Arabia also noted that “commercial registration” was a separate procedure and different from registration as a “commercial agent”. Registration as a commercial agent was not necessary for the right to import or export. Any company, whether Saudi or foreign, which was commercially registered in the field of import trade could import goods without the need to get any further permission or authorization, except for items which require an import license. A firm that wished to be legally eligible to import goods should formally incorporate the activity of importing within its “scope of business” clause of its articles of association.

34. In response to a question, the representative of Saudi Arabia stated that foreign companies holding commercial registration in Saudi Arabia could directly import goods, for their own use or as inputs, without going through a commercial agent.

35. 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 goods to and from Saudi Arabia, except as provided in WTO Agreements. 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. However, foreign enterprises and individuals would not have the right to distribute goods within Saudi Arabia. Providing distribution services would be done in accordance with Saudi Arabia’s Schedule of Specific Commitments on 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.

36. The representative of Saudi Arabia confirmed that 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 that it would also implement such laws and regulations in full conformity with these obligations. The Working Party took note of this commitment.

Application of Internal Taxes

37. 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.

38. In response, the representative of Saudi Arabia stated that Saudi Arabia did not impose a value added tax nor an excise tax upon imported products. The representative of Saudi Arabia confirmed that in case internal taxes 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.

39. Some members of the Working Party requested information on “Zakat” applied to Saudi Arabian citizens and 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 rates) was higher for foreigners than for Saudi nationals or Saudi companies. The percentage of tax to net profit of a non-Saudi would never exceed 30 per cent, while percentage of Zakat may reach or even exceed 100 per cent of net profit. Zakat was a religious tax and could not be altered. Its rate and basis of collection was prescribed by religion and thus could not be changed or altered.

40. In response to further questions he noted that the main features of “Zakat” were the following:

- Zakat was applied at a flat rate of 2.5 per cent on the total assets 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, statutory reserves, circulated profits, partners’ credit account for one year or longer (treated as capital), loans from partners (treated as capital and additional financing for the company), and long term loans from other sources for the purpose of capital base expansion. There were no exemptions;
- “Zakat” was payable even if the company did not make a profit; and
- Zakat was payable even if the company ceased its activities; it was non-payable only when the company was liquidated.

In contrast income tax and corporate tax had the following features:

- Income tax was payable by foreign natural persons, foreign partners and foreign shareholders in business entities on their net income. However, wages and salaries were exempt from taxation.
- Corporate tax was payable by (i) non-Saudi corporations operating inside Saudi Arabia or both inside and outside of Saudi Arabia at the same time; (ii) the total share of foreign partners in the net profits of Saudi corporations (limited liability companies and joint stock companies), and (iii) total shares of foreign partners in the net profit of Saudi partnerships.
- Corporate tax was payable on net profit, unlike Zakat which was payable on total assets.
- 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.
- The maximum rate of corporate tax on net profit was reduced from 45 to 30 per cent.
- There was a provision for carry forward of losses for unlimited number of years.

Pricing Policies

41. 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 the Kingdom of Saudi Arabia noted that pricing for methane and ethane was quite different from the pricing of butane and propane and natural gasoline. Methane and ethane in the Gulf region had no international reference price. There were no exports of methane and ethane from Saudi Arabia, due to the high costs of liquefying, transporting and regasifying such gases. Previously, methane and ethane had been burnt as waste products. Recently, it had been decided to make methane and ethane available to all interested users (whether Saudi or non Saudi) at a price of US\$0.75 per million BTU. Methane and ethane were used by many industries and sectors, including power companies, desalination plants, cement manufactures and petrochemical plants.

42. He further noted that for butane, propane, natural gas or gasoline NGLs, the Council of Ministers Resolution of December 1992 set the price of those gases lower than the export price. This was done to take account of the costs associated with NGLs exports to world markets including refrigerating, storage, mooring and marketing. The gases were available to all industries and all users within the Kingdom whether Saudi or non-Saudi enterprises. All other energy prices including naphta were priced at arms length. There were no specific discounts. Butane, propane and natural gas was made available to industrial consumers in Saudi Arabia at a price 30 per cent lower than the lowest export price charged for those product. He noted that heavy naphta was not subject to any discount and was priced at the prevailing international price.

43. At a later stage, the representative of Saudi Arabia confirmed that the Council of Ministers Resolution of December 1992 on dual pricing of butane, propane, natural gas or gasoline NGLs had been cancelled vide Council of Ministers Resolution No. 19756/R dated 21-11-1422 (4 February 2002), and that accordingly, no dual pricing existed on any energy products.

Import Regime

44. In response to a specific question, the representative of Saudi Arabia stated that the application of secondary and tertiary boycotts had been terminated.

Customs Tariff

45. The representative of Saudi Arabia provided members of the Working Party with information on the Customs Tariff applied in Saudi Arabia.

46. The representative of Saudi Arabia stated that taking into account its own needs and the interests of members of the Working Party, his Government had offered extensive bindings in its tariff, on practically all tariff lines. The only exceptions were the tariff lines concerning pork and alcohol, the production, consumption, import and sale of which was prohibited in Saudi Arabia for religious reasons.

47. [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.]

Other duties and charges

48. The representative of Saudi Arabia stated that 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 ODCs on these 22 tariff lines would be bound at the rates shown in its June 99 offer.

49. 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, and would bind such other duties and charges at zero.

Fees and Charges connected with importation (for services rendered)

50. The representative of Saudi Arabia confirmed that any fees or charges on imports for services rendered would be in accordance with Article VIII (1)(a) of the GATT 1994. The Working Party took note of this commitment.

Quantitative import restrictions, including prohibitions, quotas and import licensing systems

51. In addition to information contained in the Memorandum on the Foreign Trade Regime, the representative of Saudi Arabia provided a detailed description of the import licensing procedures prevailing in Saudi Arabia in document WT/ACC/SAU/30, and a list of restricted (banned and controlled) items in Saudi Arabia, together with the justification for the measures in document WT/ACC/SAU/29/Add.3. 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 noted that any person with a Commercial Registration (i.e. registration to do business), whether an individual or an entity, could apply for import licence.

52. Some members of the Working Party requested information on the proportion of Saudi imports subject to licensing. In response, the representative of Saudi Arabia stated that no statistics were available to answer that question.

53. The representative of Saudi Arabia confirmed that in addition to the Ministry of Agriculture, Ministry of Commerce & Industry, Ministry of Health, Ministry of Information & Culture, Ministry of Interior, and Ministry of Petroleum and Natural Resources, the Ministry of Education (Department of Museums and Archaeology), the Ministry of Telecommunication and Information Technology, and the National Commission for Wild Life Conservation and Development (NCWCD) and the Chivalry Club all had responsibilities concerning the approval of import licences. He also confirmed that there were no substantive requirements to register with the Ministry of Commerce & 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 could import goods without the need to get any further permission or authorization, except for items which required an import licence.

54. In response to further questions, he noted that 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 and Water, 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 licences. These members 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 licences took longer than 30 days, in particular, radio communication apparatus (one to two months) and network equipment (six to twelve months). These members 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, the representative of Saudi Arabia stated that the Frequency Department ordinarily completed its review in one week. If a product met the frequency and necessary technical specifications, the Licensing Committee would ordinarily decide whether to grant an import licence within 30 days.

55. 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 licence. Companies or persons wishing to import merchandise for display at a trade fair were granted import licences that permitted the importation of all necessary samples, subject to the condition that the samples not be offered for direct sale.

56. 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 there were no laws or administrative orders governing the issuing of import licences. Average time periods for the issuing of import licences were around 30 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.

57. 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. (See paragraph 24 regarding the composition and workings of the Board of Grievances).

58. 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 petroleum and asphalt were previously subject to import licensing, but now there was no restriction on such imports.

59. In response to questions from some members of the Working Party, the representative of Saudi Arabia stated that the import of fire extinguishers required a licence from the Ministry of Interior. He also noted that high quality photocopiers required an import licence from the Public Security Department of Forgery. 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. He also noted that burglar or fire alarms required an import licence to prevent misuse by criminals or terrorists. For this reason import licences were only issued to government enterprises, public enterprises and firms or individuals who had 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. 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. That equipment could now be imported without a licence, following a customs examination to determine compliance with Saudi or international standards.

60. 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 licensing system for import of agricultural equipment was operated in order to administer a system of subsidies paid to importers of such equipment. The import licence was required even if the importer did not intend to apply for a subsidy payment.

61. Some members of the Working Party requested further details of import restrictions on long life pasteurized milk in packing exceeding 1 litre, (tariff item 0401.00.00). In response, the representative of Saudi Arabia stated that the Kingdom of Saudi Arabia removed the ban on long life pasteurized milk, and the ban was replaced by tariffs. He stated that the import ban on dates was removed and converted to tariffs.

62. In response to questions from some members of the Working Party, the representative of Saudi Arabia provided an Action Plan for the Implementation of the Import Licensing Agreement in document WT/ACC/SAU/40. At a later stage, he stated that the Action Plan had been fully implemented and that the Council of Ministers issued Decision No. 84 in July 2000 and Decision No. 88 in July 2002 to implement the WTO Agreement on Import Licensing Procedures. The Import Licensing Law issued vide Council of Ministers' Decision No. 88 of July 2002 incorporates all substantive provisions of the WTO Agreement on Import Licensing Procedures. Applications for automatic licenses could be submitted on any day before the customs clearance of goods, while applicants for non-automatic licenses were allowed a period of 21 days, with a possible extension of another 10 days for submitting applications before the closing date. Applications for automatic licenses have to be decided within a maximum of 10 days while those for non-automatic licenses within a period of 30 days from the date of receipt. The Law provided that applications would not be rejected for minor errors or for minor variations in value. The Law further provided that license applicants have to approach only one administrative body. The Saudi Import Licensing Law also contains provisions on allocation of quotas in line with the provisions of Article 3 of the WTO

Agreement on Import Licensing Procedures (though Saudi Arabia does not apply quotas). The Saudi Law was published in the Official Gazette in July 2002.

63. 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 licensing, quotas, bans, 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. Saudi Arabia would replace non-automatic import licensing with automatic import licensing for "milk for industrial use" within three years from the date of accession. 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 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

64. 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 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 WTO Agreement on Implementation of Article VII of the GATT 1994, its Interpretative Notes, and relevant decisions and declarations. In particular, members noted that in addition to problems related to transparency or predictability, Saudi Arabia's valuation system 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. In response, the representative of Saudi Arabia stated that from the date of accession to the WTO, Saudi Arabia's system of Customs Valuation would be in full conformity with the provisions of the WTO Agreement on Customs Valuation.

65. 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 190 dated

16 Dhu Al-Hujah 1409H (19 July 1989). This applied to the Customs Department. The requirements of Article 12 concerning publication of laws, regulations, and decisions were satisfied by provision 65 of Royal Decree No. 425 dated 5/3/1372H (22 November 1952), which required that such information be published in the official gazette Um Al-Qura along with all other government notices such as changes in rates of duty. The representative of Saudi Arabia also noted that as Saudi Arabia was not presently applying the Agreement on Customs Valuation, it had no provisions corresponding to Article 14 and to Decisions 3.1 and 4.1. These would be incorporated in Saudi law on customs valuation when Saudi Arabia would implement the Agreement.

66. Concerning the use of minimum values for customs purposes, the representative of Saudi Arabia stated that Saudi Arabia would wish to make a reservation under paragraph 2 of Annex III to the Agreement on Customs Valuation to continue the use of minimum values for a handful of products now under this system. This would be necessary, because although Saudi Arabia would ultimately discontinue the system, it would need a transitional time for this purpose as it would have to study carefully the implications of the change, and to devise procedures for checking practices which necessitate the use of minimum values. The flexibility required would be needed for two years from the date Saudi Arabia starts applying the provisions of the Customs Valuation Agreement. In the interim, Saudi Arabia would undertake a careful study in the first year of implementation to devise procedures for discontinuing the minimum values.

67. The representative of Saudi Arabia also noted that Saudi Arabia would seek a reservation under paragraphs 3 and 4 of Annex III to the Customs Valuation Agreement. The justification for that request was that because the Customs Administration of Saudi Arabia had not reached the level of sophistication and expertise of developed countries, it would not be possible for it to apply the relevant provisions of the Customs Valuation Agreement before that date. The reservation would continue to be applicable for an indefinite period. In the interim, once Saudi Arabia started to apply the Customs Valuation Agreement, it would undertake studies to consider if it was feasible to lift the reservations.

68. At a later stage, the representative of Saudi Arabia 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 drafted. He confirmed that Saudi Arabia was able to implement the Customs Valuation Agreement from the date of its accession to the WTO.

69. The representative of Saudi Arabia stated 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 transition period. In this regard, the Customs Law and implementing regulations would fully reflect the requirements of Annex 1 of the Interpretative Notes of the Agreement on the Implementation of Article VII of the GATT 1994 and Decision 4.1 on the Valuation of Carrier Media Bearing Software for Data Processing Equipment. In accordance with these latter provisions, only the cost of the carrier medium itself would be accounted for in the customs value. He stated that all methods of valuation used would be in strict conformity with those provided for in the WTO Agreement on the Implementation of Article VII of the GATT 1994. The Working Party took note of this commitment.

Rules of Origin

70. The representative of Saudi Arabia stated that Saudi Arabia did not have rules of origin for non-preferential trade but any future rules would be implemented in accordance with the WTO Agreement on Rules of Origin. In response to requests for information, the representative of the Kingdom of Saudi Arabia stated that certificates of origin attested by the Saudi Embassy or Consulate were necessary for importation of preferential trade items. Where no Saudi Embassy or Consulate existed, such certificate would be attested by the Chambers of Commerce in the exporting country. Other requirements included minimum content from within the preferential system. 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. This requirement was introduced to protect consumers against misleading or deceptive practices. 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.

71. The representative of Saudi Arabia stated that, from the date of accession, Saudi Arabia's preferential and non-preferential rules of origin would comply fully with the WTO Agreement on Rules of Origin. The requirements of Article 2(h) and Annex II, Paragraph 3(d) of the Agreement would also be fully implemented prior to accession. He also stated that in any event, from the date of accession, the Customs authorities would provide 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 Customs Formalities

72. Some members of the Working Party stated that consular authentication of customs documents in the country of export was a common practice in Saudi Arabia's region. Such requirements were often unnecessary burdens placed on exports and used to collect additional consular fees. They requested

Saudi Arabia to confirm that authentication of customs documents by its consulates or Chambers of Commerce was not required in the exporting country and that no additional fees were charged. The representative of Saudi Arabia stated that authentication of certificates of origin and of invoices by Saudi consulates or by Chambers of Commerce was required to combat commercial fraud and to ensure that products prohibited for health reasons were not exported to Saudi Arabia.

Anti-dumping, Countervailing and Safeguards

73. 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. Members also noted that Saudi Arabia did not currently have any trade remedies legislation permitting the imposition of anti-dumping or countervailing duty nor the imposition of safeguard measures. Those members requested that Saudi Arabia undertake to not impose such measures until appropriate WTO consistent legislation had been enacted.

74. 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.

EXPORT REGULATIONS

Export Restrictions

75. 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, wheat and wheat flour. 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 were no bans on the export of wheat and wheat flour, unless the wheat and wheat flour had been subsidized. 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. He added that upon accession to the WTO, Saudi Arabia would do whatever was required under applicable WTO rules.

76. 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 this commitment.

77. 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. The Working Party took note of this commitment.

Export Duties

78. 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 untanned hides and skins, falling under HS No. 4101, 4102 and 4103. The rate of export duty was Saudi Riyals 2000 per ton.

INTERNAL POLICIES AFFECTING TRADE IN GOODS

Industrial Policy, Including Subsidies

79. In response to requests for information concerning interest free loans provided by the Saudi Industrial Development Fund, 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 the loan programme conducted by the Saudi Industrial Development Fund was entirely consistent with the GATT 1994 and the WTO Agreement on Subsidies and Countervailing Measures. The 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 Saudi Industrial Development Fund 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, and the Fund was required to obtain sufficient financial guarantees for the financing given by the Fund.

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

81. 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.

82. The representative of Saudi Arabia confirmed that Saudi Arabia did not maintain subsidies including export subsidies which 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.

Technical Barriers to Trade

83. The representative of Saudi Arabia provided the Working Party with information on technical standards and its International Conformity Certification Programme (ICCP) in documents WT/ACC/SAU/21, 26, 29, 34, 36, 37 (Revised Comprehensive Procedures and Guidelines concerning the ICCP) and WT/ACC/SAU/41 (Action Plan for the Implementation of the TBT Agreement).

84. In response to questions from some members of the Working Party, the representative of Saudi Arabia stated that importers in Saudi Arabia were required to comply with Saudi law which required all products, imported as well as domestic, to be in conformity with Saudi standards. Unless specified otherwise, compliance with Saudi standards was an implied condition of any contract between buyer and seller. Saudi Arabia's standards were internationally harmonized to the most feasible degree

possible, and Saudi specific standards were only adopted in cases where the international standards would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued because of Saudi Arabia's fundamental climatic, geographical or technological problems, as allowed under TBT Agreement Article 2.4. Consequently, Saudi Arabia considered that the use of a preshipment inspection scheme to verify conformity to Saudi standards met the criteria of the PSI Agreement Article 2.4 and footnote 2.

85. In response to questions concerning the conformity of Saudi technical standards with international norms, the representative of Saudi Arabia stated that deviation of Saudi requirements from other national standards due to Saudi Arabia's fundamental climatic, cultural and national security specific conditions rendered ISO 9001 alone inadequate to provide sufficient confidence in the quality, safety and conformity of goods. In this connection, he noted that Saudi Arabia was a member of ISO, IEC, OIML and CAC. All Saudi standards were notified to all other members of those international organisations. A high percentage of Saudi standards used international standards and other widely accepted national standards as references. He provided members of the Working Party with a list of SASO standards that had been based upon CODEX standards, together with a complete list of the 1,323 Saudi standards including a cross-reference to the international standards adopted in their entirety as SASO standards (in document WT/ACC/SAU/34).

86. Some members of the Working Party requested a list of the standards deemed to be equivalent to Saudi standards. In response, the representative of Saudi Arabia stated that the Saudi Arabian Standards Organization had published the list of standards, and in this connection referred to the information in document WT/ACC/SAU/15. He further recalled his earlier statement that Saudi Arabia's standards were internationally harmonized as far as possible. Certain Saudi standards had a corresponding ISO or IEC equivalent which was indicated in the published list of SASO standards. Other Saudi standards used international standards or other recognized national standards as a reference. He noted that a predetermination of the equivalency of such standards was not feasible, due to the diversity and incorporation of the national requirements and deviations of various countries. The registration process under ICCP provided a mechanism for the case by case evaluation and determination of equivalency of the standards to which compliance was declared by exporters, or recognition of the relevant elements in the standards that partially satisfy the requirements of the Saudi standards. As additional standards were evaluated progressively, a data base was established and referred to in any successive assessment of equivalency.

87. In response to questions from members of the Working Party he noted that type testing was the ideal additional assuring factor, particularly when it was the most widely used and accepted method to verify the conformity of the design as required under Module H. Nevertheless, in lieu of type testing,

the ICCP would accept Module H plus additional documentation which demonstrated that the Saudi requirements were typically known, understood and taken into account by the manufacturer in all phases within this system, from contract review through design, production, inspection, testing and acceptance.

88. Some members of the Working Party stated that the recent exemption of GCC members from the ICCP and its implied recognition of equivalency of all GCC members' inspection, enforcement, and compliance to relevant elements of GCC and/or SASO standards raised questions under Article 4 of the SPS Agreement and the transparency provisions of the WTO. Those members asked whether GCC member states were obliged to adopt the GCC standards in full or in part. In response, the representative of Saudi Arabia stated that GCC Members were not exempted from the ICCP. He added that Article 5.4 of the Regulations of the "Standardization & Metrology Organization for GCC Countries" stipulated that mandatory Gulf Standards were adopted by consensus of all members, while voluntary or guideline standards were adopted by majority. Some members of the Working Party also requested a list of GCC member countries that had officially adopted and incorporated SASO developed standards, by product category, (in full or in part) into their national standards. In response, the representative of Saudi Arabia provided a list of SASO standards which had been adopted as GCC Standards and thereby incorporated as national standards in other GCC Countries in Annex III to WT/ACC/SAU/29.

89. Some members of the Working Party requested that the Government of Saudi Arabia publish draft standards in a single official journal or other publication that was available to the general public, and other interested parties. In response, the representative of Saudi Arabia stated that this would be done. Some members also requested further information on the manner in which SASO developed technical standards. In response, the representative of Saudi Arabia stated that standards considered to be vital for the legitimate objectives of safety, health, ... etc. and which were of concern to a wide spectrum of interested parties and economic sectors were referred to "technical committees". However, recent policy within SASO had been to refer most standards to technical committees irrespectively. All parties concerned with the subject matter of the draft standard 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 standards by SASO's 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 standards in Annex IV to document WT/ACC/SAU/29.

90. Following further comments on the draft Comprehensive Guidelines and Procedures concerning the ICCP, some members of the Working Party asked whether Saudi Arabia envisaged making further changes to the ICCP prior to WTO accession¹. In response, the representative of Saudi Arabia stated that after careful analysis and consideration of the comments made by WTO Members, further revisions were made, as set out in documents WT/ACC/SAU/34, 36, and 37. Saudi Arabia did not foresee the need for any exemption or transition periods in relation to any WTO provisions in connection with the ICCP. Nevertheless, Saudi Arabia reserved the right to seek such exception at any time during its accession negotiations, should the need arise.

91. In response to further questions, the representative of Saudi Arabia stated that customs valuation was not assessed under the ICCP. He noted also that appeals procedures were included as an Appendix to the ICCP Guidelines and following the suggestions of WTO Members had been revised to include recourse to independent review procedures in accordance with Article 4 of the PSI Agreement.

92. Some members of the Working Party asked whether testing laboratories and conformity assessment bodies could be accredited by the authorities administering the ICCP. In response, the representative of Saudi Arabia stated that Saudi Arabia recognized conformity assessment bodies in other countries via acceptance of accreditation as an indication of adequate competence, and hence as an eligibility criteria for approval. In other countries that did not have accreditation bodies, recognition of conformity assessment bodies was achieved by extending invitations to all trading partner countries to nominate their own laboratories for approval under their governments' responsibility. Any required formalities were kept to the minimum level necessary to achieve the objectives of the Programme. In fact, the procedures were fully streamlined as evidenced by the virtual non-existence of delays or complaints by exporters.

93. He later added that the approval procedure was very simple and straight forward. Laboratories seeking SASO approval were required to complete the "SASO/ICCP Laboratory Application Form" (which was supplied to members of the Working Party in document WT/ACC/SAU/34). He noted that the form provided SASO with information about the accreditation that the laboratory already had and the type of ICCP Regulated Products that it had the capabilities to test in whole or in part. The information was evaluated and verified and the laboratory was approved accordingly. In countries that did not have Nationally Recognized Laboratory Accreditation Bodies that accredited laboratories in accordance with ISO Guide 25, a higher degree of scrutinizing was conducted in order to gain assurance of the laboratory's competence. There were no costs involved for laboratories seeking SASO approval.

¹ On the ICCP system, see also the section of this Report entitled "Pre-shipment Inspection" below.

94. Some members of the Working Party requested additional information on the possible cancellation of certificates of conformity in the event that products enjoying the benefit of a certificate of compliance were found to be non-compliant. The representative of Saudi Arabia stated that in such a case Saudi Customs would withhold the certificate of compliance number, and suspend the certificate of compliance. Thereafter, Customs would notify SASO and the manufacturer. An expedient investigation was then carried out and appropriate action taken on the basis of the findings. Depending on the severity, frequency, and cause of the discrepancy, appropriate action could include suspension or withdrawal of the Type Approval Licence. The action taken was always proportionate to the seriousness of the facts at hand on a case by case basis. Suspension (which may be temporary) or withdrawal of the Licence was only a possibility in extreme cases, such as fraud or material inaccuracy.

95. Some members of the Working Party asked whether certificates granted by other national or international certification bodies were taken into consideration by the ICCP Regional Licensing Centers. In response, the representative of Saudi Arabia stated that test reports or certificates issued by accredited bodies for the regulated product under another national or international conformity assessment or certification scheme could be submitted by exporters as documents substantiating their compliance. Full recognition was duly given to those reports/certificates in so far as they satisfy the Saudi requirements. Where the full Saudi requirements were met, the role of the ICCP Regional Licensing Center would be limited to evaluation, verification, administration, issuance and validation of the confirming Statement of Registration or Type Approval Licence. The SASO Country Office would still carry out the required PSI associated with Registration and issue the final Certificates of Conformity. For products holding SASO Type Approval Licence, certificates of conformity could be issued by the manufacturers themselves. This applied to all products and countries.

96. In response to questions from some members of the Working Party, the representative of Saudi Arabia stated that SASO was the sole standardization body in Saudi Arabia. Its Board of Directors consists of all concerned Ministries, Government Agencies and the Private Sector. There was coordination between SASO and other Saudi authorities on issuing any regulations that may have an effect on international trade of Saudi Arabia with other countries. He said that technical committees made recommendations to SASO whether a standard should be voluntary or mandatory. The criteria for adopting a standard as mandatory would be based on the fulfilment of legitimate objectives as provided in the TBT Agreement, such as protection of health, safety, national security, public morals, 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 standard should remain mandatory when it was reviewed, the representative of Saudi Arabia stated that the criteria for adopting mandatory standard would also apply to a review of the existing standards.

97. 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. They also requested Saudi Arabia to confirm that the Saudi Conformity Assessment Program (SCAP) that Saudi Arabia was developing would be in compliance with the 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. In response, the representative of Saudi Arabia stated that access to Saudi Quality Mark would be on a non-discriminative basis, without distinction as to the origin of the products. He further stated that Saudi Arabia would ensure the compliance of SCAP with all the relevant WTO requirements relating to national treatment, including fees charged. The representative of Saudi Arabia stated that SCAP would be implemented to ensure compliance of domestically produced products with the national standard. He stated that the ICCP ensured compliance of regulated imported products with relevant standards. Thus, the two programs, SCAP and ICCP would continue in parallel, and would ensure the concept of equivalency of procedures for imported and domestically produced products.

98. 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, in document WT/ACC/SAU/41, the representative of Saudi Arabia provided the Working Party with a comprehensive Action Plan for the Implementation of the TBT Agreement. The representative of Saudi Arabia noted that the Action Plan cross-referenced the various requirements of the TBT Agreement, and described the existing provisions or practices in Saudi Arabia and also described any planned improvements, including the enactment of implementing legislation. The Action Plan had been fully implemented and necessary legislation to implement the TBT Agreement had been issued under the SASO Comprehensive Directive of July 2000, copies of which had been circulated to Working Party members in October 2000.

99. The representative of Saudi Arabia stated 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.

Preshipment Inspection

100. Some members of the Working Party stated that the ICCP program mentioned above 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. Some members of the Working Party expressed concern that the *ad valorem* fee

charged for conformity assessment was not consistent with the requirements of Article VIII of the GATT 1994. In response, the representative of Saudi Arabia stated that Article VIII of GATT 1994 aimed to ensure that fees did not include incremental charges imposed by Governments on top of the cost of services rendered. The ICCP fees were paid in their entirety by exporters directly to the entities contracted by SASO to cover actual inspection, registration licensing and certification services rendered only. No part of the fees was paid or allocated to SASO or any other Government Body, and thus no protection to domestic industry was afforded nor taxation levied. He added that the fees charged were not required to equate exactly with the exact cost of services rendered; a degree of reasonable approximation was allowed. Global PSI Programmes were utilised by 33 WTO Members, and *ad valorem* was the consistently predominant fee scheme prior to the PSI Agreement. Since the PSI Agreement did not specifically address the issue of fees, this implied the acceptance, versatility and legitimacy of the prevailing *ad valorem* method, and affirmed its consistency with the original GATT 1994 Article. Otherwise, the 33 WTO Members would be in direct violation of the WTO Agreement.

101. He further added that the application of *ad valorem* PSI fees by WTO user Members of PSI Programmes had not been raised as the subject of dispute at the WTO to date. He added that the PSI Agreement further acknowledged that Governments normally contracted PSI Programmes to PSI Entities as Saudi Arabia had. Fees required by all reputable PSI Entities (IFIA members) for delivering professional global PSI services were based on the *ad-valorem* scheme. Saudi Arabia was not operating in a vacuum and could not unilaterally impose on the PSI industry an entirely odd scheme contrary to the practice prevailing throughout that industry. Nevertheless, Saudi Arabia had succeeded in introducing reasonable modifications to the fixed *ad valorem* method by adopting a cost responsive graduated percentage of FOB fee structure which was amongst the lowest in the world coupled with shipment aggregation, resulting in a much higher degree of approximation of the cost of services as well as higher equitability. Saudi Arabia had further made adjustments to situations where a disparity existed between the cost of PSI services and the percentage of FOB value of the product e.g. the fees for inspection of cars had a maximum ceiling of US\$48.00 per car.

102. He further added that if a consensus of WTO Members determined that the *ad valorem* scheme was not appropriate, and if an amendment was made to the existing PSI Agreement prescribing an alternative fee scheme, Saudi Arabia would be ready to follow the course of prevailing international practice and comply accordingly. He also noted that any unfavourable consideration of its ICCP Regime on grounds of its inspection fee structure would be discriminatory in nature, in light of the WTO's acceptance of some Members' application of the fixed *ad valorem* scheme. There was consensus that Saudi Arabia would continue to apply *ad valorem* fees under the ICCP, while WTO Members reserved their right to settle this issue through the WTO dispute settlement provisions.

103. 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 Agreement, including the establishment of charges and fees consistent with Article VIII of the GATT 1994, and would comply with the due process and transparency requirements of the WTO Agreements, in particular Article X of the GATT 1994, and the Agreement on the Implementation of Article VII of the GATT 1994. [Saudi Arabia confirmed that its pre-shipment inspection regime would be temporary and would only operate until such time as the Saudi Customs authorities were able to carry out the functions presently performed by pre-shipment inspection service providers]. The Working Party took note of these commitments.

Sanitary and Phytosanitary Measures

104. In response to requests for information, the representative of Saudi Arabia supplied detailed information on the Saudi Arabian Sanitary and Phytosanitary regime in document WT/ACC/SAU/17. In addition, he also submitted information on the shelf life of food products in document WT/ACC/SAU/27.

105. The representative of Saudi Arabia stated that the legal basis for sanitary and phytosanitary requirements in Saudi Arabia was the Royal Decree number M/10 on 3/3/1392 H (16 April 1972) developed by the competent standardization body (i.e. Saudi Arabian Standards Organization, SASO). Saudi standards covered sanitary requirements for food products by means of the following measures:

- (i) measures following the standards and guidelines of Codex Alimentarius;
- (ii) measures not covered by the standards and guidelines of Codex Alimentarius were based upon scientific studies or the most appropriate measures of other WTO Members.

106. In addition, the representative of Saudi Arabia stated that the veterinary quarantine bylaw issued by Decree of the Council of Ministers number 208 dated 26/1/1396 H (28 January 1976) 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 Office International des Epizootics. He noted also that the agricultural quarantine bylaw issued by the Decree of the Council of Ministers number 207 dated 26/1/1396 H (28 January 1976) set out requirements and phytosanitary measures conforming to the rules issued from IPPC initially based on FAO publications. Periodic preventive health circulars issued by the Ministry of Health pursuant to the weekly epidemiological circular issued by the WHO were also concerned with sanitary and phytosanitary measures.

107. In response to further requests for information, the representative of Saudi Arabia stated that sanitary and quarantine measures for animal health, living plants and seeds, measures for the prevention of epidemic diseases spread and the control on the use of veterinary medicines and pesticides were administered by the Ministry of Agriculture and Water, as well as the Ministries of Commerce and Municipalities. Sanitary measures for fresh vegetables and fruits were governed by SASO standards and applied by the Ministry of Agriculture and Water. When no approved international standards applied to these products, the Kingdom of Saudi Arabia approved the standards applied in EU member States and Members of the WTO. Standards concerning sanitary measures for food commodities (meat, meat products and processed foods) were imposed by SASO but applied by the Ministries of Industry and Commerce on locally made products, and by the Ministry of Commerce & Industry on imported products. The Ministry of Municipalities participated in internal control of products in the markets which were mainly controlled by the Ministry of Commerce. Measures relating to effects on the human health and its relation with animal sanitary and phytosanitary and food safety were imposed by the Ministry of Health through the issuing of periodic preventative circulars to inform and caution other concerned bodies about relevant risks.

108. He further noted that sanitary measures of Saudi Arabia were consistent with the SPS Agreement and also with the recommendations and guidelines issued by international and regional organizations. Saudi Arabia was a permanent and active member in the international organizations on plant and animal regulations, including FAO and the International Office of Epizootics (IOE). 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 constitutes a disguised restriction on international trade.

109. 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, and full sets of guidelines detailing all requirements were freely available to any interested parties. Saudi Arabia's SPS measures and requirements were notified to the Embassies in the Kingdom and to Saudi Chambers of Commerce.

110. Some members of the Working Party stated that the information on Saudi Arabia's sanitary and phytosanitary 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. Codex Alimentarius Commission, the International Office of Epizootics and the International Plant Protection Conventions. Saudi Arabia was a member of all three organizations. In accordance with Article 3.2 of the SPS Agreement, these SPS measures were fully consistent with the SPS Agreement. For SPS measures related to risk assessment 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 either carried out by specialized internationally accepted research institutes, universities or scientific references or, in limited cases, by itself. The appropriate level of protection adopted by Saudi Arabia was consistent with the guidelines and recommendations issued by these internationally recognized bodies and Saudi Arabia had thus taken into account the objective 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.

111. Some members of the Working Party identified certain possible areas of inconsistency with the requirements of the SPS Agreement, such as the Council of Ministers Resolution No. 207 (26.1.1396H) (28 January 1976) "Agricultural Quarantine Regulations" requirement in Article 6 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 the Council of Ministers Decree No. 208 (26.1.1396H) (28 January 1976) "The Statutory Instrument of the Veterinary Quarantine", Article 3 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. In response the representative of Saudi Arabia stated that upon accession, the Kingdom of Saudi Arabia would comply 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.

112. Some members of the Working Party stated that certain 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. In response to further questions, the representative of Saudi Arabia stated that upon accession, the Kingdom of Saudi Arabia would comply with the relevant WTO obligations. Some members of the Working Party stated that 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, to these and further concerns expressed by Working Party members about particular regulations and practices in the Saudi Arabian SPS regime, the representative of Saudi Arabia stated that those regulations would be reviewed.

113. Some members of the Working Party noted that the time limits relating to shelf life in Saudi Arabia appeared to be unduly short. In response, the representative of Saudi Arabia stated that all Saudi Arabia's shelf life determinations were based on scientific investigations and on international and other countries' national standards, scientific studies and reports conducted/issued by specialized internationally reputable research institutes and universities, and international scientific references. The final determination of shelf life was based on studies for which "the stated storage conditions" most closely resembled Saudi Arabian conditions. These conditions had been thoroughly investigated and surveyed by Saudi Arabia in the report entitled "Proceedings of Symposium on the Transportation, Handling & Storing of Food Products in the Kingdom, Part I and II dated 26-28 February 1989". In this connection, he noted that Codex defined "Use-by-Date" as "the date which signifies the end of the estimated period under any stated storage condition after which the product probably would not have the quality attributes normally expected by the consumers. After this date, the food should not be regarded as marketable". He further added that the term "unacceptable to the consumer" and "unfit for human consumption" respectively corresponded to, and were self evident from the above definition. He further added that Saudi Arabia relied for the determination of the shelf life of food products on available scientific studies by specialized, and internationally recognized bodies and on references, based on research conducted for academic or industrial/commercial purposes. The fact that part of this research was conducted by manufacturers demonstrated that Saudi Arabia took into consideration differences in manufacturing and packaging processes. This wide spectrum of scientific basis did not affect Saudi Arabia's right to engage in shelf life determination as an SPS measure for perishable food products and as a TBT-technical regulation appropriate to Saudi Arabia's climatic conditions for shelf stable food products.

114. In response to further questions he noted that manufacturer determined shelf life practices that were followed in other countries were neither uniform nor could be considered as official SPS measures by governments. Nevertheless, shelf life periods of perishable food products were not imposed unilaterally, but rather adopted in accordance with the same open process applicable to standards, i.e. through technical committees entrusted with the preparation of the standard whose diversified membership included representatives of the industrial and commercial sectors. He considered that those members had the opportunity to influence the decision on shelf life determination and insure its responsiveness to the needs of the industry, not to mention the period

afforded for consultation and comment by any interested parties. In addition, SASO administrative procedures and directives provided the opportunities for manufacturers to submit at any time the scientific basis for their own determined shelf to SASO for evaluation. If those manufacturers could demonstrate objectively that their shelf life periods were appropriate to Saudi Arabia's level of SPS protection as well as the food quality criteria, Saudi Arabia would revise its shelf life standards accordingly.

115. In response to further questions, the representative of Saudi Arabia noted that the same shelf life periods were applied to domestic and imported food products alike. In the case of shelf stable products, the TBT Agreement granted Saudi Arabia the right to take into account the effect of the country's specific climatic and infrastructural conditions (i.e. transportation, storage and handling conditions). However, climatic conditions were the major factor considered by SASO in determining shelf life. In rare cases covering particular products where non-concurrence or differences were found between the internationally recognized studies and references, the tendency had been to rely more heavily on the shorter shelf life periods determined by these studies as an indirect compensation for not specifically accounting for infrastructural factors. With the improvement of the infrastructural factors, a less stringent system would be adopted.

116. The representative of Saudi Arabia stated that Saudi Arabia would revise its shelf-life requirements within three years from the date of accession to the WTO. The shelf-life requirements would be consistent with WTO rules. The Working Party took note of this commitment.

117. Some members of the Working Party noted that the Agreement on Sanitary and Phytosanitary Measures required that WTO Members accept the sanitary and phytosanitary measures of other members, subject to confirming objectively that those measures were adequate to achieve the importing country's level of sanitary and phytosanitary protection. In response, the representative of Saudi Arabia stated that upon accession, Saudi Arabia would accept the certification of exporting countries in accordance with the requirements of the Agreement on Sanitary and Phytosanitary Measures.

118. 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. Later, he informed the

Working Party that the Action Plan had been fully implemented by issuance of the Council of Ministers' Decision No. 85 of July 2000 and the Council of Ministers' Decision No. 943 of 1 July 2003 on SPS law titled "Sanitary and Phytosanitary Unified Procedures" which was in compliance with the provisions of the WTO Agreement on Sanitary and Phytosanitary Measures. In reply to questions from some Working Party members, the representative of Saudi Arabia stated that the new SPS law also incorporates revisions of the "Agricultural Quarantine Regulations" and the "Statutory Instruments of Veterinary Quarantine" ensuring conformity with the requirements of the SPS Agreement.

119. 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 of the Agreement on the Application of Sanitary and Phytosanitary Measures in a least trade distortive manner from the date of accession without recourse to any transition period. The Working Party took note of these commitments.

Trade Related Investment Measures

120. 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 Trade Related Investment Measures (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 or upon foreign investors. In response, the representative of Saudi Arabia stated that no precise requirements on such transfers had been specified.

121. 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. The Working Party took note of this commitment.

State Trading

122. Some members of the Working Party asked the representative of Saudi Arabia whether there were any enterprises operating within the Kingdom of Saudi Arabia that enjoyed any exclusive or

special privileges within the terms of the definition set down in Article XVII of GATT 1994. In response, the representative of Saudi Arabia stated that the Saudi Arabian Oil Company (Saudi Aramco) was a state trading enterprise and made purchases and sales solely in accordance with commercial considerations and acted in a manner consistent with the general principles of non-discriminatory treatment enshrined in Article XVII of GATT 1994. Saudi Arabian Oil Company (Saudi Aramco) was established by a royal decree in 1987. It was responsible for most of the production and export of crude oil and natural gas in the Kingdom. It was also responsible for the refining and marketing of products within Saudi Arabia and entered into joint venture refineries with others. Although owned by the government, it was run on a commercial basis by an independent board of management and directors, chaired by the Minister of Petroleum and Mineral Resources. The board consists of members from the company's executive management, government officials, private sector and international companies. The general policy of the Corporation was determined by the Supreme Council for Petroleum and Mineral Affairs which was presided over by the President of the Council of Ministers or his designated representative. Ten further members from the private sector and government officials were appointed by royal order.

123. The Grain Silos and Flour Mills Organization (GSFMO) was established by a Royal Decree in 1973 in order to support the development of the domestic agricultural sector, particularly wheat production for national security reasons. GSFMO was charged with forming a grain storage, flour production and animal feed processing conglomerate as well as with creating a stable market for grains in order to safeguard farmers from price fluctuations. It was the only organization allowed to import grains, flour, and animal feed. GSFMO used to be the only organization to import wheat and barley. The import regime of these products had now been liberalized. Importers in the private sector could import wheat and barley. GSFMO no longer imports these products. It was no longer a state-trading enterprise. In response to a question, the representative of Saudi Arabia stated that 18 private firms were importing wheat and barley following the termination of GSFMO monopoly.

124. The representative of Saudi Arabia confirmed that after accession to the WTO, Saudi Arabia would observe WTO provisions, in particular, Article XVII of the GATT 1994, the WTO Understanding on that Article, and Article VIII of the GATS regarding state trading, with respect to the State-owned enterprises and other enterprises and entities with special or exclusive privileges identified above, in particular abiding by the provisions for notification, non-discrimination, and the application of commercial considerations for trade transactions. The Working Party took note of these commitments.

Free Zones

125. The representative of Saudi Arabia stated that Saudi Arabia had no free zones or free economic zones and stated that if any 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.

Agricultural policy

126. The representative of Saudi Arabia provided information on its agriculture sector, including tables on domestic support and export subsidies in document WT/ACC/SAU/19 and WT/ACC/SPEC/SAU/1/Rev.6 and Corr.1. Saudi Arabia also engaged in negotiations on domestic supports and export subsidies. In this connection, the representative of Saudi Arabia also described the special flexibilities Saudi Arabia would require in the support of its agriculture sector in document WT/ACC/SAU/28. The commitments reflecting the results of these negotiations were annexed to the Protocol of Accession of Saudi Arabia to the WTO.

127. Some members of the Working Party requested that Saudi Arabia provide detailed information on the role of the Saudi Agricultural Bank, 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 the Saudi Arabian Agricultural Bank (SAAB) was founded by the Royal Decree No. 58 issued on 3/12/1382. 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 grants 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 was very low.

Year	No.	Total loans Amounts (thousands SRs)
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, the Annual Report No: 38, 1421/1422 (2001)

128. 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: engines, irrigation pumps, agricultural machinery, poultry equipments, 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 (Thousand SRIs)
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, The Annual Report, No: 38, 1421/1422 (2001)

US\$1 = SRIs 3.75

129. 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 green-houses 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 one million tons in 1998, and to less than 200,000 tons in 2001. Domestically produced barley was purchased by the Grains, Silos and Flour Milling Organization, and then sold to livestock producers at the fixed price of US\$ 133 per ton. The same programmes would be continued during the Seventh Plan period in order to promote and encourage implementation of agricultural development.

130. 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 the imported cows under special conditions.

131. 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.

132. Some members of the Working Party requested that the representative of Saudi Arabia clarify the role of the Grains, Silos, Flour Milling Organization (GSFMO) in the export and subsidisation 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 licences. 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.

Trade in Civil Aircraft

133. Some members of the Working Party asked that Saudi Arabia enter a commitment to accede to the Agreement on 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 Civil Aircraft.

Trade Related Intellectual Property Regime

134. In addition to the Memorandum on the Foreign Trade Regime, the representative of Saudi Arabia provided the Working Party with a Supplementary Memorandum on Trade Related Intellectual Property Rights (WT/ACC/SAU/5). The representative of Saudi Arabia provided the Working Party with the text of the Trademarks Regulations, Patents Law, and the Law for the Protection of Copyrights (L/7645/Add.1).

135. 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 Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), 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.

- **Copyright**

136. With reference to copyright, some members of the Working Party considered that Saudi Arabia's laws did not fully reflect its obligations under the Universal Copyright Convention. In addition, the provisions of the Saudi laws did not provide protection for sound recordings. Saudi Arabia had not yet joined the Berne, Paris, or Geneva Phonograms Conventions. Membership in such multilateral intellectual property agreements demonstrated a strong commitment to protection and supports local enforcement. Other apparent deficiencies included the fact that there were no laws that protect broadcasts and satellite transmissions, and that the term of protection for audiovisual works was 25 years, not 50 years as called for in the TRIPS Agreement. Saudi Arabia's laws also appeared to lack sufficient legal penalties to deter piracy, e.g., substantial fines or prison sentences. In response, the representative of Saudi Arabia stated that Saudi Arabia's intellectual property regime would be brought into full conformity with the requirements of the Agreement on TRIPS, from the date of Saudi Arabia's accession to the WTO. In document WT/ACC/SAU/39, the representative of Saudi Arabia provided members of the Working Party with a detailed plan on the steps being taken to ensure full implementation of the TRIPS Agreement according to the Action Plan. The representative stated that Saudi Arabia would soon join the Bern and Paris Conventions.

137. In response to questions from members of the Working Party, the representative of Saudi Arabia stated that ongoing reviews of the WTO conformity of Saudi law had so far revealed that there were some areas of incompatibility that would need to be rectified either through amendment of existing legislation or enactment of new laws. It would also be necessary to introduce the administrative machinery to ensure the enforcement of TRIPS standards. Later, the representative of Saudi Arabia informed Working Party members that Saudi Arabia had enacted a new Copyright Law, which was in full conformity with the provisions of the TRIPS Agreement. The new Copyright Law was issued vide Council of Ministers' Decision of 9 June 2003. Main features of the new Law were: (1) more explicit protection for computer software and data bases; (2) more specific protection to audio-visual works and sound recordings; (3) legal usage of foreign works such as translations and copying would be clarified according to the TRIPS Agreement; (4) duration of protection of all artistic and literary works would be provided according to the requirements of the Berne Convention.

In the area of enforcement, the amended law would provide in detail all types of infringements and piracies and strengthen penalties to meet the requirements of the TRIPS Agreement.

- **Patents**

138. 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 protection were not currently patentable, even though the TRIPS Agreement required the protection of plant varieties (Article 27(3)). The representative of Saudi Arabia stated that the protection of plant varieties would be provided in accordance with the provisions of Article 27(3)(b) of the TRIPS Agreement. Patent holders in Saudi Arabia were accorded the rights mentioned in Article 28 of TRIPS. A patent holder was required to make full industrial use of the patent in Saudi Arabia within two years. Although the current 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 it was foreseen that the period of protection for nationals of WTO Members, could be automatically granted a five year extension after the elapse of the initial 15 year protection period. The representative of Saudi Arabia confirmed that amendments of the Patent Law would include a term of protection of 20 years.

139. As to compulsory licensing, the representative of Saudi Arabia stated that the amendment of Saudi Arabia's Patent Law would conform national law and practise with the requirements of Article 31 of the TRIPS Agreement. The ongoing review of Saudi Arabian 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"; and that paragraph (d) of the Patent Law was in full compliance with sub-paragraph (a) of Article 27(3) of the TRIPS Agreement. The representative of Saudi Arabia informed Working Party members that a new Saudi Patent Law had been drafted and was at an advanced stage in the legislative process. He said that the draft law was in full conformity with the provisions of the TRIPS Agreement.

- **Trademarks**

140. 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 Trade Marks 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 a trademark under Saudi Arabia's Trademarks Regulations if their use caused a misunderstanding as to the source of products or services, or their origin. Since the production, sale, consumption and import of alcoholic beverages were prohibited in the Kingdom for religious reasons, geographical indications of origin of wines and spirits were not protected in Saudi Arabia. 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 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 Trade Marks Law, which also contained provisions on protection of Geographical Indications, was issued, vide Council of Ministers' Decision No. 140 of 5 August 2002.

- **Industrial designs**

141. In response to requests for information concerning the protection available for industrial designs, the representative of Saudi Arabia responded that industrial designs would be protected by a Proposed Industrial Designs Law which would be implemented by The King Abdulaziz City for Science and Technology (KACST).

- **Layout designs**

142. In response to requests for information concerning the protection available for layout designs, the representative of Saudi Arabia noted that Layout Designs of Integrated Circuits were not covered by current laws. This issue was under review and the protection provided would be consistent with WTO obligations.

- **Undisclosed information**

143. 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 & Industry. He added that anti-competitive practices would be covered by the law as well.

- **Enforcement**

144. 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. It was clear that much of the necessary legislation was in place, but that 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. In response to comments concerning the enforcement of border measures, the representative of Saudi Arabia stated that border measures in Saudi Arabia were broadly consistent with the provisions of the TRIPS Agreement which authorized the judicial or administrative bodies to issue a provisional seizure decision. The legal ground to make a detention order was contained in Articles 67 and 132(3) of the Implementing Rules of the Saudi Customs Law. Moreover, Customs authorities, in coordination with the Ministry of Commerce & Industry and the Ministry of Information, seize consignments infringing intellectual property rights, according to the applicable laws in Saudi Arabia.

145. The representative of Saudi Arabia stated that it was the intention of Saudi Arabia to fully comply with the requirements of the Agreement on TRIPS as soon as possible. Much of the required legislation was already in place. In addition, Shariah provided significant protection of intellectual property rights. Saudi Arabia was working towards codification of all laws required by the agreements on TRIPS.

146. In response to requests from members of the Working Party, the representative of Saudi Arabia stated that the Action Plan for the Implementation of the TRIPS Agreement presented in document WT/ACC/SAU/43, was being implemented. Some TRIPS laws, for example, Trade Marks Law, including Geographical Indications, Copyright Law and the GCC Patent Law (applicable to Saudi Arabia also) had already been enacted, while other IP laws, including the Saudi Patent Law, were at an advanced stage in the legislative process and would soon be enacted.

147. 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.

Policies Affecting Trade in Services

148. Following the completion of bilateral negotiations with WTO Members, the schedule of specific commitments on services of Saudi Arabia will be reproduced in Part II of the Annex to the Protocol of Accession of Saudi Arabia.

149. In response to requests from some members of the Working Party, the representative of Saudi Arabia confirmed that in the event that Saudi Arabia promulgated an insurance legislation allowing the supply of such services in the Kingdom, it would commit to ensure that foreign insurance service providers would not be treated less favourably than foreign providers of other financial services. The Working Party took note of this commitment.

Government Procurement

150. 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.

151. 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.

152. The representative of Saudi Arabia stated that, upon accession, his Government would seek observer status in the Government Procurement Committee and would follow the work of the Working Group on Transparency in Government Procurement Procedures. The Working Party took note of this commitment.

Transparency

153. Some members of the Working Party requested information on whether legislation was required to be published in any official journal prior to its entering into force. In response, the representative of Saudi Arabia stated that Article 71 of the Basic Law of Government provided that any law was required to be published in the Official Gazette before it could enter into effect. He further added that Article 47 of the Board of Grievances Law required the publication of judicial decisions.

154. The representative of Saudi Arabia said that from the date of accession all laws and regulations and decrees, judicial decisions and administrative rulings of general application related to

trade would be published in a manner that complied with all requirements of the WTO Agreements, including Article X of the GATT 1994.

Notifications

155. 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.

Trade Agreements

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

157. 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

158. [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 assurances given by Saudi Arabia in relation to certain specific matters which are reproduced in paragraphs [...]

of this report. The Working Party took note of the commitments given by Saudi Arabia in relation to certain specific matters which are reproduced in paragraphs [...] 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 .]

159. [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 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 Saudi Arabia's Schedule of Concessions and Commitments on Goods [to be prepared] and its Schedule of Specific Commitments on Services [to be prepared] 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 Marrakesh Agreement Establishing the WTO.]

[TO BE COMPLETED.]

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 WTO Agreement dated "date",

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.

DRAFT 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/SAU[...], dated [...] (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 [...].
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 [place] 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.

ANNEX I

SCHEDULE [...] – THE KINGDOM OF SAUDI ARABIA

Authentic only in the ... language.

(Circulated in document WT/ACC/SAU/[...]/Add.1)

**SCHEDULE OF SPECIFIC COMMITMENTS ON SERVICES
LIST OF ARTICLE II EXEMPTIONS**

Authentic only in the ... language.

(Circulated in document WT/ACC/SAU/[...]/Add.2)]
