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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

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I. INTRODUCTION

1. On 13 June 1993, the Government of the Kingdom of Saudi Arabia (hereinafter referred to as Saudi Arabia) requested accession to the General Agreement on Tariffs and Trade (GATT 1947). At its meeting on 21 July 1993, the GATT 1947 Council of Representatives established a Working Party to examine the application of the Government of Saudi Arabia to accede to the General Agreement under Article XXXIII, and to submit to the Council recommendations which may include a draft Protocol of Accession. Membership of the Working Party was open to all contracting parties indicating the wish to serve on it. In pursuance of the decision of the General Council of the World Trade Organization (WTO) of 31 January 1995, the GATT 1947 Accession Working Party was transformed into a WTO Accession Working Party. The terms of reference and the membership of the Working Party were reproduced in document WT/ACC/SAU/2/Rev.17.

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

DOCUMENTATION PROVIDED

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

Economic Development Plans

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

Economic Policies

- Competition Policies

- draft law on Competition Policies

- Pricing Policies

- Council of Ministers Resolution of November 1992
- Council of Ministers Resolution No. 260 of 23.10.1422H (cancelling Council of Ministers Resolution of November 1992)
- Council of Ministers Resolution No. 163 of 20.6.1424H (18 August 2003)

- Privatization

- Economic Reform Program of the Kingdom of Saudi Arabia, WT/ACC/SAU/54 (4 April 2003)
- Council of Ministers Resolution No. 60 of 1.4.1418H (1997)
- Council of Ministers Resolution No. 257 of 11.11.1421H (5 February 2001)
- Royal Approval issued in 1417 (1997)
- Council of Ministers Resolution of 1419H (1999)
- Council of Ministers Resolution 169 of 11.8.1419H (30 November 1998)

- Investment Regime

- New Foreign Investment Law, replacing the Foreign Capital Investment Law, promulgated by Royal Decree No. M/1 of 5.1.1412H (9 April 2000)
- "Negative List" (issued by Supreme Economic Council Decision No. [...] under Article 3 of the Foreign Investment Law)
- Implementing Regulations for Royal Decree No. M/1 of 9 April 2000 (issued 24 June 2002)
- First Foreign Investment Law, 1979
- Capital Market Law, issued under Royal Decree No. M/30, of 2.6.1424H (13 July 2003)
- Council of Ministers Decision No. 50 of 21.4.1415H (27 September 1994)
- Council of Ministers Bureau Letter 8/490 of 28.6.1414H (13 December 1993)
- Guide to the Licensing of Foreign Investment in Saudi Arabia
- Information on Foreign Investment by Sectors
- Information on Recent Foreign Investments Granted Licenses

Framework For Making and Enforcing Policies

- Basic Law of Government, Royal Decree No. A/90 of 27.8.1412H (1 March 1992)
- Consultative Council Law
- Council of Ministers Law
- Gulf Co-operation Council (GCC) Common Customs Law and its Rules of Interpretation
- Commercial Register Law and its Implementing Regulations
- Commercial Agencies Law and its Implementing Regulations
- Companies Law and its Implementing Regulations
- Law on Import Licensing Procedures and the Import Licensing Guide
- Combat of Commercial Fraud Law and its Implementing Regulations
- Negotiable Instruments Law and its Implementing Regulations

- Trade Names Law and its Implementing Regulations
- Board of Grievances Law of 17.1.1402H (14 November 1981)
- Council of Ministers' Resolution No. 165 of 24.6.1423H (1 September 2002)

Policies Affecting Trade in Goods

- Trading Rights
 - Law on Commercial Names issued pursuant to Royal Decree No. M/15 of 12.8.1420H (20 November 1999) and the associated rules and regulations
 - Professional Companies Law
- Customs Tariffs
 - Customs Law and Implementing Regulations
 - Customs Tariff
- Import Licensing Systems
 - Council of Ministers Decision No. 84 (July 2000)
 - The Import Licensing Law issued vide Council of Ministers Decision No. 88 of 6.4.1432H (July 2002)
 - Telecommunications Act, Article 39
 - Information on the Application of Import Licensing
 - Information on Preferential Trading Arrangements
 - Response to Questionnaire on Import Licensing Procedures
- Quantitative Import Restrictions, Including Prohibitions and Quotas
 - Ministry of Commerce and Industry Decision No. 1308 of 27.5.1424H (27 July 2003)
- Customs Valuation
 - Royal Decree No. 190 of 16.12.1409H (19 July 1989)
 - Royal Decree No. 425 of 5.3.1372H (22 November 1952)
 - Response to Questionnaire on Customs Valuation Procedures
- Other Customs Formalities
 - Council of Ministers Order No. 5 of 3.1.1406H (10 September 1985)

Internal Policies Affecting Trade in Goods

- Industrial Policy, Including Subsidies
 - Saudi Industrial Development Fund Law
- Technical Barriers to Trade
 - 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, WT/ACC/SAU/34

- List of standards deemed to be equivalent to Saudi standards, WT/ACC/SAU/15
- SASO standards, adopted as GCC Standards and thereby incorporated as national standards in other GCC Countries, WT/ACC/SAU/29 (Annex III)
- Procedures for the development of SASO standards, WT/ACC/SAU/29 (Annex IV)
- Comprehensive Guidelines and Procedures concerning the ICCP
- Appeals procedures, included as an Appendix to the ICCP Guidelines
- Saudi Conformity Assessment Program
- SASO Comprehensive Directive of July 2000 (circulated to Working Party members in October 2000)
- Regulated Product Categories Applicable Standards
- Preshipment Inspection
 - Council of Ministers Decision No. 213 of 3.8.1424H (30 September 2003) cancelling the ICCP
- Sanitary and Phytosanitary Measures
 - Shelf life of food products, WT/ACC/SAU/27
 - Council of Ministers Decision No. 109 of 34.4.1424H (30 June 2003)
 - Council of Ministers Decision No. 85 of 1.4.1421H (4 July 2000)
- Agricultural Policy
 - Tables on domestic support and export subsidies, WT/ACC/SAU/19 and 28; and WT/ACC/SPEC/SAU/1/Rev.6 and Corr.1
 - Royal Decree No. 58 of 3.12.1382 founding the Saudi Arabian Agricultural Bank
 - Royal Decree No. 4/B/49434 of 8.12.1423H (10 February 2003)
- Trade Related Intellectual Property Regime
 - The Law for the Protection of Copyrights (Old)
 - New Copyright Law Issued vide Council of Ministers' Decision of 9 June 2003
 - Trade Marks Law
 - Council of Ministers' Decision No. 140 of 5 August 2002 (New WTO-consistent Trade Marks Law)
 - Companies Law
 - Labour Law
 - Banks Control Law
 - Geographical Indications Law
 - Copyright Law
 - GCC Patent Law
 - Saudi Patent Law
- Policies Affecting Trade in Services
 - Council of Ministers Resolution No. 190 of 16.11.1409 H (concerning Rules and Procedures to be Followed by the Board of Grievances and the Board of Grievances Law)
 - Law of Residency
 - Labour and Workers Regulations

- GCC Documents

- Unified Economic Agreement, signed 11 November 1981 under the Gulf Cooperation Council
- Information on Non-Oil Exports to Gulf Cooperation Council States
- Rules for the Coordination of Industrial Establishments in the Gulf Cooperation Council States
- Standard Rules for Giving Priority in Government Purchases to National Products and Products of National Origin of Gulf Cooperation Council States
- GCC Common External Tariff

- Domestic Development Measures and Documents

- Law for the Protection and Encouragement of National Industries
- Saudi Industrial Development Fund Law
- Banking Control Law (Articles 1-4)
- 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

- Sector-Specific Measures

- Ministerial Resolution by the Ministry of Communications concerning Applications for Licenses by Maritime Companies and Firms for Carrying on Maritime Carriage (Articles 1-7)
- Ministerial Resolution No. 4104/20/M of 4.11.1408H (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 (Part 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), Regulation of Carrying on the Profession of Legal Consultancy (Articles 1-2 and 4-7)
- Law Concerning the Carrying on of the Profession of Pharmacy and Trading in Medicaments and Medical Preparations (Article 1.5)
- Government Purchases Law and Implementing Regulations

- Grievance/Dispute Measures

- Rules and Procedures of the Board of Grievances
- Law of Arbitration and Implementing Regulations to the Law of Arbitration

- Other Measures and Documents

- Import Statistics

- 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 April 1972)
- Council of Ministers Resolution No. 124 of 29.5.1403 (13 March 1983)

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

5. The representative of Saudi Arabia informed members of the Working Party that Saudi Arabia had adopted free market principles ensuring that private enterprise would always be the main focus of economic activity, and 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 had laid the foundation for the Kingdom's transformation into a modern industrialized state. The Third and Fourth Plans furthered the diversification of the economy and concentrated on infrastructure projects in educational, health, training and other social services, and by encouraging the growth of the private non-oil sector. The Fifth Development Plan broadened the main objectives of the previous plans and further strengthened the private sector's role in economic diversification of the Kingdom.

6. He further recalled that the Sixth Development Plan continued the main objectives of the previous development plans. It set out to meet the Kingdom's development needs through maximizing the private sector's contribution in 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's period. The development of the country's scientific and technological capabilities and the protection of the environment against pollution as well as the preservation of the country's natural resources, were also among the general objectives of the Sixth Plan, and later plans. Over the past three decades, non-oil GDP increased more than five-fold and private investment increased seven-fold. Infant mortality rates dropped by over 80 per cent; the ratio of physicians per person improved by more than 95 per cent. Over the same period, school enrolment rose from 600,000 to more than 4.7 million and Saudi Arabia had among the lowest pupil-teacher ratios in the world.

7. The representative of Saudi Arabia further added that Saudi Arabia had also improved its trade with other nations of the world. In 2003, he reported, Saudi Arabia was the world's 25th-largest importer/exporter, with a foreign investment balance of US\$ 78 billion. The Kingdom's gross domestic product grew from US\$ 20 billion in 1970 to US\$ 190 billion in 2002. Also, he stated, Saudi Arabia maintained one of the least restrictive exchange and trade systems in the world. Indeed, with limited exceptions noted below in this Report, Saudi Arabia only maintained trade restrictions for religious, health or security reasons.

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

9. The representative of Saudi Arabia also described aspects of the Eighth Development Plan, covering the years 2005-2009, which was still being prepared. He noted that, under the Plan, Saudi Arabia would continue to focus on higher growth rates and increasing investment, foreign as well as domestic. As with the previous Plan, Saudi Arabia would continue to develop its human resources. The Eighth Development Plan would likely have additional emphasis on commitment to a long-term development strategy linked to time frames and quantitative objectives. This aspect of the

Plan, he said, would allow Saudi Arabia to measure its progress and ensure that its policies were appropriate and were assisting the Kingdom in achieving its goals.

10. The representative of Saudi Arabia stated that the diversification of the economy could only be achieved through much broader private sector participation in the economy. The private sector had already begun to pursue a wide range of business opportunities unrelated to government expenditures and this trend was expected to accelerate as private sector management, production and marketing capabilities strengthened and the competitive atmosphere improved. Institutional support for private sector-led growth and diversification would be provided by the Government, through liberalization and facilitation of investment and rapid development of Saudi Arabia's financial sector. Saudi Arabia also recognized the need to build a technology base. Whilst Saudi Arabia had kept up to date with global scientific and technological developments, this had largely been through the import of sophisticated technology owned by foreign partners. Saudi Arabia still needed to improve its indigenous technological capabilities to the level of that existing in developed countries. The Government planned to assist through the expansion and improvement of educational courses and facilities related to science and technology at all levels, as well as improvement of the overall structural support for private sector initiatives. In addition, Saudi Arabia was aware of the need to impart to its citizens the knowledge and skills that would enable them to participate effectively in all social, economic and cultural activities, as well as to further develop vocational and technical education so that the country's skilled manpower needs could be met.

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

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

II. ECONOMIC POLICIES

- Monetary and Fiscal Policies

13. The Saudi Arabian Monetary Agency (SAMA) is charged with carrying out the Kingdom's monetary policy. The objective of monetary policy is the maintenance of domestic price and exchange rate stability. To promote domestic price stability, SAMA takes measures to ensure that the growth in domestic liquidity is broadly in line with the growth and availability of goods and services in the economy and the banking system is endowed with adequate liquidity so that the credit needs of all the sectors of the economy are adequately met. For maintaining the stability of the fixed exchange rate, SAMA monitors the Riyal market to ensure its smooth functioning and takes corrective measures if there are any disruptive activities. SAMA has been highly successful in achieving these objectives over the years. The domestic price situation has remained highly stable for years, with the average annual increase in the cost of living index recording an average rise of less than one per cent per annum over the last two decades. The exchange rate of the Riyal vis-à-vis the U.S. dollar has also been maintained at SAR 3.75 per U.S. dollar since 1986. The sustained stability in domestic prices and the exchange rate over a prolonged period of time has greatly facilitated the growth process of the Saudi economy.

14. The primary objective of Saudi Arabia's fiscal policy was to encourage economic growth and diversification of the economy and thereby improve living standards, educational opportunities and public services. Diversification of the economy would speed Saudi Arabia's integration into the global economy by increasing its participation in the technology and communications sectors, and basic industrial sectors, leading to the strengthening of Saudi Arabia's technical infrastructure. Diversification would also strengthen and diversify Saudi educational institutions. He further noted that the preparations for Saudi Arabia's accession to the WTO had further improved the climate for foreign and domestic investment and trade. The major source of the Kingdom's revenues was oil, which accounted for roughly 80% of total revenue; non-oil revenue consists of corporate taxes, customs duties and miscellaneous administrative fees.

15. In response to requests for information on the national budget, he further noted that revenues for 2004 were projected at SAR 200 billion, with expenditures budgeted at SAR 230 billion. The budget for 2004 included new projects amounting to SAR 41.6 billion, mostly in the areas of education, health, social development, roads, municipalities and water services. Annualized appropriations for the main development and public service sectors for 2004 were as follows: SAR 63.7 billion for education, including technical and vocational training; SAR 24.3 billion for health services and social development; SAR 8.6 billion for municipal services; SAR 7.3 billion for

transportation and telecommunications; and SAR 15.1 billion for other infrastructure developments, especially in the water, industry and agricultural sectors. He reported that revenues for 2003 had amounted to SAR 295 billion, with expenditures of SAR 250 billion, resulting in a surplus of SAR 45 billion, which was used to retire part of the domestic debt. There had been increases in certain expenditures related to developments in the regional and domestic security situations, as well as expenditures related to settlements of late payments. The remaining revenue was used to retire part of the domestic debt.

- **Taxation and Zakat**

16. Some members of the Working Party requested information on how "Zakat" applied to Saudi Arabian citizens and how income tax applied to foreigners. These members noted that it appeared that the Zakat and income tax were applied in such a manner that foreign investors typically carried a higher total tax burden than Saudi citizens. The representative of Saudi Arabia stated that there was a general misunderstanding about Zakat and income tax. It was not correct to say that the tax burden (as distinct from the nominal rates) was higher for foreigners than for Saudi nationals or Saudi companies. The percentage of corporate income tax applied to a non-Saudi did not exceed 20 per cent of net income, while the percentage of Zakat may reach or even exceed 100 per cent of net profit. Also, he reported, it was incorrect to say that all Saudi persons are subject only to Zakat; just like non-Saudis, Saudis engaged in natural gas investment or oil or hydrocarbons production activities are subject to income tax. Zakat was a religious duty, and because its rate and basis of collection was prescribed by religion, it could not be altered.

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

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

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

- Persons subject to taxation included: (i) shares held by non-Saudis in a company located in Saudi Arabia; (ii) a resident non-Saudi natural person who does business in the Kingdom; (iii) a non-resident, non-Saudi who does business in the Kingdom through a permanent establishment; (iv) a non-resident, non-Saudi on other income subject to tax from sources within the Kingdom; (v) a Saudi or non-Saudi engaged in natural gas investment activities or oil and hydrocarbon production activities.
- The maximum rate of corporate tax on net profit had been reduced from 45 to 30 per cent, and now stood at 20 per cent, with the special exceptions described below, as per Council of Ministers Decision on 12.1.2004 (in contrast, Zakat was payable on net worth). The tax base of a taxpayer engaged in natural gas investment activities was subject to tax at the rate of 30 per cent; internal rates of return higher than eight per cent were subject to higher taxes. The tax base of a taxpayer engaged in oil and other hydrocarbon production is subject to tax at the rate of 85% per cent.
- Income tax was payable by foreign natural persons, foreign partners and foreign shareholders in business entities, as described above, on their net profit. However, wages and salaries were exempt from taxation.
- Corporate tax was payable by non-Saudi corporations operating inside Saudi Arabia or both inside and outside of Saudi Arabia at the same time, as described above, based on: (i) the total share of foreign partners in the net profits of Saudi corporations (limited liability companies and joint stock companies); and (ii) the total shares of foreign partners in the net profit of Saudi partnerships.
- Unlike Zakat, corporate tax was not payable in relation to any year in which the company did not make a profit or was not in operation.
- For corporate tax, there was a provision for carry forward of losses for unlimited number of years.

19. Members of the Working Party thanked the representative of Saudi Arabia for the above information and requested clarification of how Zakat revenues were collected and allocated to the budget, in particular whether they were allocated to the General Fund, and whether Zakat revenues were required to be used for particular purposes. In response, the representative of Saudi Arabia provided the following information. Zakat revenues were earmarked for social welfare purposes set by the Social Welfare Organization under the Ministry of Labour and Social Affairs. The entities subject to Zakat are Saudi individuals who conduct business in the Kingdom, Saudi companies of all types that conduct business in the Kingdom and shares of Saudis in joint companies. The Department of Zakat and Income Tax (DZIT), he further reported, applied registration, filing, collection and enforcement procedures on payers of Zakat.

- Foreign Exchange and Payments

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

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

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

23. He noted that Saudi Arabia was a market economy with liberal trade and payment policies. Remittances by expatriate workers are also free of restrictions. These totalled US\$15.9 billion in 2002, equivalent to roughly 8.4 per cent of the nominal gross domestic product (GDP). There were no restrictions on capital movements.

24. Saudi Arabia's balance of payments position has improved remarkably over the past few years. The current account has been in surplus since 1999. The surplus has risen from 0.3 per cent of GDP in 1999 to 6.3 per cent of GDP in 2002 and is expected to rise further in 2003. Exports of goods and services during 2002 amounted to US\$ 81.4 billion, approximately 43.2 per cent of GDP. Imports of goods and services stood at US\$ 53.6 billion, or 28.5 per cent of GDP. Over the years 1999-2002, the net foreign assets of SAMA, the central bank of the Kingdom, have increased from US\$ 37.9 billion to US\$ 42 billion. This amount is sufficient to cover 9.4 months' of imports of goods and services.

- **Competition Policy**

25. The representative of Saudi Arabia stated that, with the exception of certain sectors discussed below, Saudi Arabia's competition policies were based on free-market principles. A draft law on competition policy is currently in the legislative process. The draft Law was passed by the Shoura Council and was currently before the Supreme Economic Council; it would then be transmitted to the Council of Ministers. The draft Law contained provisions, *inter alia*, on cartel and monopoly-type practices, on mergers and on unfair commercial practices. In response to a question by a member of the Working Party, the representative of Saudi Arabia reported that, although the draft Law would be the first statute banning anti-competitive acts, Islamic law prohibited a number of anti-competitive practices under the general rule requiring fair dealing in all commercial exchanges. In addition, as a member of the Paris Convention, Saudi Arabia complied with Article 10 *bis* of the Convention, "Unfair Competition". The draft Law would supplement and codify these prohibitions.

- **Pricing Policies**

26. Members of the Working Party requested information regarding restrictions on prices maintained by the Kingdom of Saudi Arabia. In response, the representative of Saudi Arabia reported that prices for goods and services in every sector in Saudi Arabia were freely determined by market forces with the exception of the goods listed at Annex A of this Report, which were subject to price regulation within the Kingdom to maintain price stability. He stated that there were no government-administered prices in the services sector. These policies were pursued to secure the needs and welfare of consumers and preserve important social interests of the Kingdom.

27. The representative of Saudi Arabia further reported that the price regulations were applied on a non-discriminatory basis, regardless of whether a product or service was supplied by the government or by the private sector and regardless of the nationality of the supplier. He confirmed that the price controls were applied in a WTO-consistent fashion and that Saudi Arabia would publish the prices of goods and services subject to price control requirements, as well as any modifications, in the official gazette, the *Umm Al-Qura*. In addition, he referred the members of the Working Party to Annex A, "List of Items Subject to Price Controls".

28. In response to a question from a member of the Working Party, the representative of Saudi Arabia stated that all petroleum-based and natural gas-based products in the Kingdom were made available to industrial users regardless of whether the users were Saudi or foreign owned. Exports of these products, he confirmed, were based entirely on international market conditions. He further stated that the prices of certain petroleum-based and natural gas-based products to domestic

industries and consumers were set in a manner consistent with WTO rules. The same prices applied to all users in the Kingdom, whether Saudi or non-Saudi. The representative added that the Kingdom's price control mechanisms conformed to Article III of the GATT 1994 and the transparency requirements of the WTO, and that the Kingdom would ensure that this remained the case in the future. The representative of Saudi Arabia also confirmed that, following its accession, Saudi Arabia would continue to apply the price controls described in Paragraphs 26-27 and listed in Annex A, as well as any future price controls, in a WTO-consistent fashion. He stated that Saudi Arabia would take into account the interests of exporting WTO Members as provided for in Article III:9 of the GATT 1994.

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

30. The representative of Saudi Arabia originally had noted that Council of Ministers Resolution No. 68 of December 1992 set butane, propane or natural gasoline (NGLs) prices 30 per cent lower than the export prices charged for those products. This was done to take account of the costs associated with NGL exports to world markets, including refrigerating, storage, mooring and marketing. The NGLs were available to all industries and all users within the Kingdom whether Saudi or non-Saudi. All other products were priced at arm's length, and there were no specific discounts. He noted that, currently, heavy naptha was not subject to any discount and was priced at the prevailing international price.

31. At a later stage, the representative of Saudi Arabia confirmed that the Council of Ministers Resolution 68 on the government pricing system of butane, propane, natural gasoline had been

cancelled by Council of Ministers Resolution 260, of 23.10.1422 (7 January 2002), transmitted by Communication No. 19756/R of 21.11.1422 (4 February 2002). He confirmed that Council of Ministers Resolution 260 required that pricing of NGLs supplied to domestic industries be commercially based.

[to be completed]

- **Privatization**

32. 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 WT/ACC/SAU/54 (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 the following 19 small, medium and large state-owned enterprises and activities, on the basis of the definition of "privatization" in Saudi Arabia's Privatization Strategy approved by the Supreme Economic Council ("Privatization is the process of transferring ownership or management of public enterprises, projects, and services to the private sector, relying on market mechanisms and competition, through a number of methods, including contracts for managing, operating, leasing, financing or selling all or part of the government's assets to the private sector"):

- Water and sewage.
- Desalination.
- Communications.
- Air transportation and services.
- Railways.
- Roads, including management, operation, maintenance and construction.
- Airport services.
- Mail services.
- Grain silos and flour mills.
- Port services.
- Services for industrial cities.
- Government-owned hotels.
- Sports clubs.
- Municipal services, including slaughterhouses and waste removal.
- Educational services, including school construction and transportation and recruitment of Saudis into the private sector.
- Agricultural services, such as quarantine and operation of laboratories and clinics.

- Health services, such as operation of health facilities and patient transportation.

33. The representative of Saudi Arabia added that the Saudi Government also decided to sell state-owned shares in the following joint stock companies: the Saudi Arabian Basic Industries Corporation (SABIC), the Saudi Electricity Company (SEC), the Saudi Arabian Mining Company (Ma'aden), the Saudi Telecommunications Company (STC), Saudi Arabian Airlines, the National Commercial Bank and the Saudi Arabian Fertilizer Company.

- **Legal Basis for Privatization**

34. In response to questions from members of the Working Party, the representative of Saudi Arabia stated that the legal basis for the privatization program was the Council of Ministers Resolution No. 60 of 1.4.1418H (1997). According to this Resolution, the objectives of the privatization strategy were as follows:

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

35. According to Council of Ministers Resolution No. 257 dated 11.11.1421H (5 February 2001), the Supreme Economic Council of Saudi Arabia was responsible for supervising the privatization program and monitoring its implementation. In response to a question from a member of the Working Party, the representative of Saudi Arabia stated that foreign entities could purchase shares of state-owned enterprises subject to privatization. He further stated that objectives (iii) and (iv), above, were complementary and not mutually exclusive.

36. He further noted that the basic principles that were taken into consideration when implementing the privatization process were the need for disclosure and transparency, the need for expeditious implementation, the need to change the management pattern., and the need to create a

regulatory framework for privatized sectors. He further noted that according to the Privatization Strategy, the criteria for determining priorities in selecting enterprises to be privatized were based on the positive effect on the national economy, the readiness of the enterprise for privatization, the social benefits of privatizing the enterprise, the inadequacies of the services provided by the public enterprises, and the absorptive capacity of the capital market. In response to further questions from some members of the Working Party, the representative of Saudi Arabia stated that the methods of privatization included Management Contracts, Lease Contracts, Financing Contracts and Sale Contracts.

- **Status of Privatization**

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

- a) Saudi Electricity Company (19 per cent private ownership);
- b) Saudi Arabian Fertilizer Company (57 per cent private ownership);
- c) Saudi Arabian Basic Industries Corporation (SABIC) (30 per cent private ownership);
- d) Saudi Telecommunications Company (30 per cent private ownership); and
- e) National Commercial Bank (50 per cent private ownership).

38. He further stated that the Saudi Arabian Mining Company (Ma'aden) and Saudi Arabian Airlines had not yet been privatized, but that preparations for their privatization were underway.

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

- i. Tasks related to the management, operation and maintenance of port berths, as well as the provision of associated equipment, had been assigned to the private sector in accordance with 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 Dammam by a railroad.
- ii. Efforts are underway to attract private-sector investment in a North-South railroad connection to increase Saudi Arabia's ability to develop its mineral resources.
- iii. The education sector received applications from the private sector to finance the construction of schools and to participate in providing higher education services through private colleges.
- iv. Saudi Arabia has announced that it will privatize Saudi Post. Competition will be allowed in this sector.

- v. The Council of Ministers' Resolution 169 of 11/8/1419 (30 November 1998) approved the restructuring of the electricity sector. Initial investments are to be made within the next few years.
- vi. A Saudi Joint Stock Utility Company had been established in the twin industrial cities of Jubail and Yanbu to operate, maintain, manage and expand the tasks of infrastructure utilities as part of the privatization program.
- vii. The Saudi Telecommunications Company was established as a business-oriented stock company providing all telecommunications services previously provided by the MOPTT. In 2002, a 30 per cent stake was sold to Saudi nationals in the private sector.
- viii. In Jeddah Industrial City, a concession structured on a BOT (build-operate-transfer) basis was granted to a private entity to rehabilitate, maintain and expand a waste-water treatment facility. This was completed in March 2002.
- ix. In Jubail, a pilot concession on a build, renovate and transfer basis was being pursued as a part of a joint venture with a salt water concession company. This model will be used for future desalinization plants.

40. The representative of Saudi Arabia stated that from the date of accession, Saudi Arabia would provide WTO members with periodic reports on the status of privatization in the Kingdom. The Working Party took note of this commitment.

- State-Owned Enterprises

41. The representative of Saudi Arabia gave the following information on Saudi Arabia's major 100 per cent state-owned enterprises:

i. Saudi Arabian Oil Company (Saudi Aramco):

The Saudi Arabian Oil Company (Saudi Aramco) was a state-owned company established by Royal Decree in 1988. The objective and purpose of Saudi Aramco was the exploitation of crude oil and natural gas. Saudi Aramco produced crude oil and natural gas in the Kingdom. It also refined and marketed products within Saudi Arabia and entered into joint ventures in these activities with local and international oil companies. Although owned by the government, it was and still is run by an independent management and board of directors.

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

Ma'aden was established in 1996 as an autonomous joint stock company, owned by the government with a capital of SAR 4000 million, which would be privatized gradually. The company undertakes several mining activities related to all stages of the mining industry, including development and improvement of the mining industry and products as well as related industries. The company operates on a commercial basis to realize profit.

iii. Saudi Arabian Airlines (SAUDIA):

SAUDIA initially was 100 per cent owned by the Saudi government. The first steps to privatize SAUDIA were taken in 1994, when SAUDIA laid the ground work to allow it to operate in accordance with commercial principles in order to meet the challenges of competition in the market. In this respect, SAUDIA restructured its administrative and executive sectors. The Kingdom has decided to privatize SAUDIA and currently is making preparations to do so.

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

GSFMO is a public enterprise which was established by Royal Decree in February 1972. Of the 11 GSFMO facilities, 6 are integrated silo, flour mill and feed mill facilities and five are solely silo facilities.

v. Saline Water Conversion Corporation (SWCC):

SWCC is responsible for all of the desalination plants in Saudi Arabia. SWCC is an independent entity under the jurisdiction of the Ministry of Water and Electricity. Under SWCC, Saudi Arabia's desalinated water output surpassed one billion cubic meters in 2002. The Kingdom's desalination plants provide drinking water to major urban areas through over 2,000 kilometres of pipelines.

vi. Saudi Railways Organization:

Saudi Railways Organization is an autonomous state agency under the jurisdiction of the Ministry of Transport. The infrastructure capital is owned by the Kingdom. The total network consists of 1018 kilometres of railroad line.

vii. Specialized Financial Institutions (SFI):

In the financial sector, there are two government-owned SFIs:

- a. Saudi Arabian Agricultural Bank (SAAB);
- b. Saudi Industrial Development Fund (SIDF);
- c. Public Investment Fund (PIF);
- d. Real Estate Development Fund (REDF); and
- e. Ministry of Finance Lending Program.

42. The representative of Saudi Arabia stated that the role of the SAAB had been explained in Paragraphs 226-227 of the Report; the role of SIDF had been explained in Paragraph 165 of the Report. The PIF was originally established to finance projects in the public sector. That continues to be the major focus of the PIF. However, its role had evolved. For very large projects which were

strategically important, but for which private-sector investors on their own could not raise financing, the PIF provided long-term financing on a commercial basis on the condition of co-financing by commercial banks. Further, the PIF was the custodian of the shares owned by the government in publicly traded companies. It also managed the sale of the shares of government-owned enterprises as the government embarked on privatization. He stated that the role of the PIF would gradually shrink as the private sector assumed a leading role in the economy and the privatization program progressed. (Regarding privatization, the representative referred to Paragraphs 32-40 of the Report.) The representative further stated that the objective of the REDF was to provide interest-free loans to Saudis to build houses for their own use. He also reported that the Ministry of Finance Lending Program was started some 30 years ago to provide funding for some essential sectors where the private sector funding was not forthcoming because of a shortage of funds or non-availability of commercial lending at that time. The lending was now for human resource development.

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

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

45. The representative of Saudi Arabia stated that from the date of accession to the WTO Saudi Arabia would comply with WTO provisions, including the requirements of Article XVII of the GATT 1994, the WTO Understanding on that Article, and Article VIII of the GATS regarding State trading, with respect to all State-owned enterprises and other enterprises and entities with special or exclusive privileges as defined by those Articles or Understanding. Saudi Arabia would also abide by the requirements of Article XVII of the GATT 1994, the WTO Understanding on that Article, and Article VIII of the GATS concerning notification, non-discrimination, and the application of

commercial considerations in the trade transactions of all such entities. The Working Party took note of these commitments.

- **Investment Regime**

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

47. The representative of Saudi Arabia clarified that, to address developments that took place in the international and regional economic landscape, the investment laws were overhauled in April 2000, by the enactment of a new foreign investment law to build on the strengths of the old law and provide additional incentives to increase the level of FDI in the Kingdom. The new 2000 Foreign Investment Law provided the legal structure necessary to attract additional investment. One of the features of the new Law was its departure from tariff incentives and use of other FDI-promoting measures in conformity with the recent global liberalization of trade and investment. A comparison of the old 1979 Law and the new 2000 Law is attached as Annex B. In addition, in response to questions by members of the Working Party, the representative of Saudi Arabia confirmed that SAGIA imposed no other requirements or criteria for new investments or foreign investments.

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

49. 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. Therefore, foreign investors are no longer required to take local partners and are permitted to own real estate for company and housing purposes. There is a minimum capital investment requirement of SAR 25 million for agricultural projects, SAR 5 million for industrial projects and SAR 2 million for services projects. In response to a further question by a member of the Working Party, the representative of Saudi Arabia reported that the different requirements were set to ensure that investors were committed to the venture. In addition, he stated, the services requirement was set lower to reflect the generally lower level of capital required for such ventures. The agricultural requirement was set higher than the other two to ensure that such projects would be large and thus able to take advantage of economies of scale and efficient water use. The minimum capital investment requirement could be reduced by the Board of Directors of SAGIA for projects established in specified areas (i.e., less-developed areas in the country), for projects requiring a high degree of technical expertise or for export projects. Under the new Foreign Investment Law, a foreign investment may take one of the two following forms:

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

50. The Saudi representative stated that a project, whether wholly-owned by foreign investors or a joint-venture, licensed in accordance with the Law, enjoyed all benefits, incentives and guarantees available to a national project. Under the new Law, a foreign investor was entitled to transfer, outside the Kingdom of Saudi Arabia, the proceeds from the sale of his shares or the excess funds from the liquidation of his assets or the profits earned by the enterprise or from the disposal of the business in any other legal manner. Further, the investor was entitled to transfer outside the Kingdom of Saudi Arabia the required funds to settle any contractual obligations related to the project. Article 11 of the new Foreign Investment Law provided legal safeguards against confiscation or expropriation of foreign investments. It was not permissible to confiscate foreign investments, wholly or partially, except by a court order. In addition, it was not permissible to expropriate the ownership of foreign investments, wholly or partially, except for the public interest, and on payment of reasonable compensation in accordance with the law. The representative stated that foreign investment was permissible in all activities, except a short "negative list", which would be revised and shortened periodically. Members of the Working Party also inquired as to the specific content of the "negative list." In response, the representative of Saudi Arabia stated that the negative list, which was issued by

a decision of the Supreme Economic Council under Article 3 of the Foreign Investment Law, did not target specific companies; rather, it applied to certain limited industrial and services sectors. The Saudi representative reported that many of the items on the list would be removed upon accession, to reflect the commitments in Saudi Arabia's Schedule on Specific Commitments in Services annexed to its Protocol of Accession. He further noted that, following accession, Saudi Arabia would annually review and remove additional items from the negative list each year (beyond Saudi Arabia's WTO commitments), to further liberalize the economy. The negative list, including significant exceptions allowing the provision of certain printing and publishing services and certain telecommunications services, was at Annex C.

51. Some members of the Working Party requested clarification of the incentives offered by Saudi Arabia to foreign investors to invest in Saudi Arabia in order to support the inflow of technology and expertise, in particular whether technology transfer was in any way a condition for investment approval in all or certain areas. The representative of Saudi Arabia replied that under the new Foreign Investment Law of 9 April 2000, technology transfer was not a condition for investment approval. A foreign investor had to approach only one authority - the Saudi Arabian General Investment Authority (SAGIA) - to obtain a license. In response to a further question, the representative confirmed that investors could obtain information and assistance, as well as all of the necessary registration forms, including the forms for specific licenses, from SAGIA. SAGIA was required to decide on the investment application within 30 days from the date all required documents were submitted. SAGIA would also serve as the enquiry point on laws, regulations and procedures relating to foreign investment. The SAGIA license provided the foreign investor all of the privileges held by local investors. In response to a question from a member of the Working Party regarding whether the SAGIA license was the only license or approval required by a foreign investor, the representative from Saudi Arabia stated that, after obtaining the SAGIA license, the foreign investor was treated the same as any local investor and, thus, for certain businesses, must apply for other licenses, depending upon the nature of the business. The licensing requirements, he reported, were the same for Saudis and non-Saudis. For example, a company (whether Saudi or non-Saudi) seeking to establish a company and set up a hospital—whether backed by a national or a foreign investor—would need to obtain a company registration and permit from the Ministry of Commerce and Industry and a health practice permit for hospitals from the Ministry of Health. Similar requirements would apply to persons seeking to establish a school or a department store. In response to a further question, the representative noted that the new Foreign Investment Law and the implementing regulations provided that foreign investment ventures had the right to own real estate to the extent necessary to carry out their licensed activities and to accommodate their employees, in accordance with regulations of property ownership for non-Saudis. Further, it was provided that foreign investors had the right to

sponsor and bring their non-Saudi employees, subject to the numerical limits set out in Saudi Arabia's Services Schedule and Paragraph 55 of the Working Party Report. He reported that Saudis were not subject to these restrictions. The representative confirmed that individuals contemplating investing in Saudi Arabia, and their support staff, could obtain visas for period of up to six months, for single entry or multiple entries, based on a request to SAGIA, the Chamber of Commerce or the Ministry of Foreign Affairs, including Saudi embassies.

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

53. Some members of the Working Party asked whether the government had issued licenses to 100 per cent foreign-owned operations. In response the representative of Saudi Arabia stated that 1,278 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.

54. 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 buying or selling their shares. In its continuous review and assessment of the development of the financial market, the Kingdom of Saudi Arabia had allowed the establishment of a close-ended fund (SAIF) listed on the London Stock Exchange through which international investors could participate in the Saudi shares market. In November 1999, Saudi Arabia had made further changes to its regulations and now permits foreigners to invest in open-ended mutual funds managed by banks that invest in the Saudi equity shares market.

55. In response to questions from members of the Working Party, the representative of Saudi Arabia reported that the newly adopted Capital Market Law, promulgated by Royal Decree No. M/30, dated 2.6.1424H (13 July 2003), established a strong government regulatory body, the Capital Market Authority (CMA). The CMA had rule-making and enforcement powers necessary to guarantee that the Kingdom's security market was fair, efficient and vibrant. The CMA had the authority to promulgate and enforce rules for the disclosures necessary in connection with the offering of securities, the continuous disclosure obligations of publicly traded companies, disclosures and practices in connection with takeovers of public companies, the regulation of proxy solicitations and to define and police insider trading and other abusive securities practices. Most notably, the CMA had powers to license non-bank financial intermediaries engaged in investment banking activities, such as corporate finance, asset management and brokerage activities. Non-bank financial intermediaries had been required to incorporate as a joint stock company, with a minimum capital of SAR 50 million.

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

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

58. 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.

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

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

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

61. The representative of Saudi Arabia noted that, upon accession to the WTO, the hiring and employment restrictions set forth above would be modified to comply with the provisions of the Saudi commitment on services as described in Saudi Arabia's Schedule of Commitments on Services.

III. FRAMEWORK FOR MAKING AND ENFORCING POLICIES

62. The representative of Saudi Arabia explained that the Basic Law of Government, instituted by Royal Decree No. A/90 dated 27.8.1412H (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.

63. 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.

64. In response to a question from the members of the Working Party, the representative of Saudi Arabia confirmed that, under Article 70 of the Basic Law of Government (Royal Decree No. A/90 of 27.8.1412H (1 March 1992)), Royal Decrees were the legal instrument by which international Agreements and treaties were implemented into domestic law. In accordance with the lawmaking process described above, international Agreements and treaties were first referred to the Council of Ministers and the Consultative Council for approval. Upon receiving approval of both bodies the relevant Agreement or treaty became part of domestic law by means of Royal Decree. International Agreements and treaties did not take precedence over other provisions of domestic law, nor did other provisions of domestic law take precedence over international Agreements or treaties.

Rather, conflicts or inconsistencies between international Agreements and treaties and other provisions of domestic law were resolved in accordance with the same rules of interpretation that were applied to domestic legislation. In response to a question from a member of the Working Party, the representative further noted that the rules of interpretation were as follows: (i) absent a statement to the contrary in domestic law, an international agreement could not override contrary domestic legislation (e.g., the prohibition on the importation, sale or consumption of alcoholic beverages could not be supplanted by an international agreement); (ii) given an apparent inconsistency between an international agreement and domestic law, the text of each would be interpreted so as to avoid any conflict; (iii) where the text did not resolve the conflict, recourse could be had to the intent and purpose of the agreement and the law.

65. In response to a question from members of the Working Party, the representative of Saudi Arabia stated trade policies were implemented by means of the enactment of an appropriate new law (nizam). As part of the lawmaking process, the draft legislation was prepared by the relevant government agency (e.g., the Ministry of Commerce and Industry), which then submitted it to the Council of Ministers and the Consultative Council for comments. Both bodies reviewed the draft law and either agreed the text put forward by the government agency or proposed changes to it. If the Council of Ministers and the Consultative Council had divergent views of the draft legislation then those views were communicated to the King who resolved the matter by deciding which view should prevail. The final text of the legislation was then promulgated in the official gazette (*Umm Al-Qura*). The representative of Saudi Arabia further explained that a new law would originate in the ministry having authority over the subject matter of the law. The ministry would submit the draft law to the Council of Ministers, which would conduct an initial review. If the Council approved the draft, it would send the draft to the Bureau of Experts. The Bureau of Experts would review the draft to ensure that the draft would accomplish its purpose and comply with international legal and/or technical norms. If the Bureau approved the draft law, it would submit it to the Shoura Council, Saudi Arabia's consultative legislative council. The role of the Shoura in this process was to ensure the compatibility of the draft law with international legal norms and with Saudi Arabia's local and international policies. The Shoura Council would then send the law to the Council of Ministers for its final approval. Last, the Council of Ministers, having approved the draft law, would submit it to the King for his assent. After the King issued a Royal Decree enacting the law, the law was returned to the ministry that drafted the law. Subject to the law and the Royal Decree, the ministry would be responsible for all aspects of implementation, including the promulgation of implementing regulations required for implementation within the time period specified in the law and the Royal Decree and, in some cases where necessary, additional laws (subject to approval of the Council of Ministers).

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

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

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

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

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

- Ministry of the Department of Customs, which was charged with the responsibility of implementing the Customs Law and the Customs Tariff of Saudi Arabia.
- iii. The Ministry of Petroleum and Mineral Resources formulated and implemented the oil policies of the Kingdom and supervised concessions in the oil and mining sectors.
 - iv. The Ministry of Agriculture was the principal government body responsible for the development and encouragement of the agricultural sector in Saudi Arabia. It formulated and implemented agricultural policies and was responsible for matters relating to sanitary and phytosanitary measures.
 - v. The Ministry of Health was responsible for supervising the health industry and for matters related to the import and sale of medicines and medical supplies.
 - vi. The Ministry of Information and Culture was responsible for implementation of the Copyright Law and matters relating thereto.
 - vii. The Saudi Arabian Standards Organization (SASO) established and approved voluntary standards and mandatory technical regulations for imported and domestically produced goods. It was also concerned with the sampling, inspection and testing of goods to ensure conformity with standards.
 - viii. The Saudi Arabian Monetary Agency (SAMA) acted as the central bank of Saudi Arabia. It was responsible for monetary and exchange rate policies and the supervision of banks.

69. Members of the Working Party inquired as to the role of the Chamber of Commerce in Saudi Arabia. In response, the representative of Saudi Arabia reported that each of the principal commercial centres in Saudi Arabia had its own Chamber of Commerce. Each local Chamber was a private association to which local businesses (including traders, professionals and industrialists) belonged. The Chambers funded their operations by means of annual membership subscriptions, which varied depending on the size of the member business. Hence, larger businesses paid higher membership subscriptions than smaller ones; dues ranged from SAR 330/year (smaller retail stores, e.g., a grocery which was not part of a chain) to SAR 900 (small businesses, e.g., a real estate broker) to SAR 2,100 (medium-sized businesses, e.g., partnerships and limited liability companies with a registered capital of less than SAR 5 million) to SAR 5,200/year (the largest businesses, e.g., joint stock companies, banks and limited liability companies with a registered capital of SAR 5 million or more). Apart from these dues, there were no other Chamber obligations. Each business (apart very small businesses) was required to produce evidence of Chamber of Commerce membership as part of the process of obtaining Commercial Registration. Commercial Registration was required for the reason that it allowed the government to establish the true identity of the business for the purposes of enforcing business-related laws; it allowed the government to ensure that it would track each business, hold the correct businesses accountable and, if appropriate, prosecute it. Membership in the Chamber was required because the Chamber, by its nature, imposed peer pressure which increased compliance with the laws.

70. The representative of Saudi Arabia further reported that each Chamber was governed by a Board of Directors, which was largely elected by the membership. The activities of the Chambers

were supervised in part by the Ministry of Commerce and Industry, which also had the right to appoint representatives to the Boards of Directors. He stated that the Chamber performs a valuable notarial service for members by authenticating signatures. He further stated that membership in the Chamber was required because it was a pre-requisite to obtaining commercial registration from the Ministry of Commerce and Industry and that an application for membership, therefore, could not be refused. Annual dues for the Chamber varied with the size of the business and Members had the right to participate in the organization and administration of the Chamber by means of voting for membership in its governing body. He further stated that "commercial centres" referred to centres of population within the Kingdom. There were currently 14 Chambers in the Kingdom, located in the following cities: Abha, Ahasa, Dammam, Hail, Jeddah, Majama, Makkah, Medina, Najran, Qassim, Quariyat, Riyadh, Tabuk and Taif.

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

- i. Companies Law and Implementing Regulations
- ii. Professional Companies Law and Implementing Regulations
- iii. Commercial Register Law and Implementing Regulations
- iv. Commercial Agencies Law and Implementing Regulations
- v. Trade Names Law and Implementing Regulations
- vi. Negotiable Instruments Law
- vii. Trade Marks Law and Implementing Regulations
- viii. Composition with Creditors Law
- ix. Combat of Commercial Fraud Law and Implementing Regulations
- x. Commercial Statements Law
- xi. Import Licensing Guide
- xii. Import Licensing Procedures
- xiii. Patents of Inventions Law and Implementing Regulations
- xiv. GCC Common Customs Law and Implementing Regulations

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

73. The representative of Saudi Arabia stated that Saudi Arabia provided for a wide range of judicial, arbitral and administrative procedures with respect to trade matters. An aggrieved party had a final right of appeal against all administrative decisions in matters of trade to a judicial body known as the Board of Grievances. The first channel of redress was to appeal administrative bodies. For example, with regard to matters under the jurisdiction of the Customs Department, such as classification and valuation, there was an administrative system for appeal against rulings. Disputes

pertaining to 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" could be appealed to the head of the Ministry or Agency concerned.

74. 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 17.1.1402H (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. Although there were no fixed time frames, the Board was required to supply to all parties to any appeal a judicial judgment which included the reasons for the decision. The time required depended upon the complexity of the case and similar other factors. Article (47) of the Board of Grievances Law provided for the publications of the judicial decisions.

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

76. 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.

77. 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, and would respond quickly to instances in which inconsistencies were brought to the attention of Saudi officials. He noted, however, that this principle did not apply in respect of fundamental religious rules and principles, such as prohibiting the consumption of alcohol and pork. 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.

78. 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 of 24.6.1423H (1 September 2002).

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

80. In response to questions from members of the Working Party, the representative of Saudi Arabia confirmed that only the central government had authority over matters covered by the WTO Agreements and that the central government was superior in authority to sub-central governments. The authority of sub-central governments in Saudi Arabia, he noted, was quite limited in comparison to the situation in many countries. For example, even as regards issues typically classified as local issues, e.g., local construction projects and water and sewage treatment, to the degree that sub-central governments had any role whatsoever, the role was limited by and exercised within tight constraints set by the central government.

81. The representative of Saudi Arabia confirmed that the provisions of the WTO Agreement, including Saudi Arabia's Protocol, would be applied by the central government uniformly throughout Saudi Arabia's customs territory and other territories under Saudi Arabia's control, including in regions engaging in border trade or frontier traffic, special economic zones, and other areas where special regimes for tariffs, taxes and regulations were established. He added that when apprised by a WTO Member of a situation where WTO provisions were not properly being applied in a uniform manner, central authorities would act to enforce WTO provisions without requiring affected parties to petition through the Courts. The Working Party took note of these commitments.

IV. POLICIES AFFECTING TRADE IN GOODS

- Trading Rights

82. The representative of Saudi Arabia noted that members of the Working Party had, in connection with trading rights (the right to import and export), requested an explanation of: (i) the requirements for approval; (ii) the grounds for disapproval; and (iii) whether a license was granted automatically upon satisfaction of (i). The representative of Saudi Arabia stated firstly, by way of clarification, that Saudi businesses and foreign companies with branches or offices in Saudi Arabia must apply for Commercial Registration under the Law on Commercial Registration described above. This was a general requirement which applied to all businesses (except for the smallest) irrespective of whether they were engaged in import or export trade. Commercial Registration was largely a routine procedure that involved the completion of an application form, the payment of a fee and the submission of documentation to the Ministry of Commerce and Industry. He further noted that the requirements described below applied both to foreign and Saudi businesses, and confirmed that any legal entity or natural person had the right to engage in importation or exportation regardless of Commercial Registration – although if a legal entity or natural person wished to engage in importation or exportation as a trading activity (to then distribute and/or sell the goods), that legal entity or natural person was required to be commercially registered.

83. At a later state the representative of Saudi Arabia again confirmed that there were no substantive requirements to register with the Ministry of Commerce and Industry in order to import, although there was a requirement to obtain Commercial Registration for the carrying on of business, whether manufacturing, retailing or trading. The representative stated that he understood an "importer of record" to be a person who wishes to import goods into Saudi Arabia, but has no presence or Commercial Registration in the Kingdom and does not wish to sell or distribute the goods in the Kingdom. Such persons, he stated, were not subject to the minimum investment requirements set forth in Paragraph 45 of the Working Party Report; they did not need to invest in the Kingdom to act as the importer of record, nor did they need to join the Chamber of Commerce or obtain Commercial Registration. For other foreign businesses, to obtain a Commercial Registration for the carrying on of business in Saudi Arabia, they had to first obtain a foreign investment license from the Saudi Arabian General Investment Authority (SAGIA). Upon receiving a foreign investment license from SAGIA, foreign businesses would apply to obtain a commercial registration from the Ministry of Commerce and Industry. The rules and procedures for obtaining commercial registration applied to all entities, whether or not importer of record and were set forth in the Law on Commercial Registration issued pursuant to Royal Decree No. M/1 of 21.2.1416H (19 July 1995) and the Law on Commercial Names

issued pursuant to Royal Decree No. M/15 of 12.8.1420H (20 November 1999) and the rules and regulations promulgated thereunder. In respect of commercial registration, separate forms were to be filled in depending on the form of entity to be given commercial registration. The procedure in commercial registration further provided payment of a registration fee (for a registration valid for five years) of SAR 1,000 in case of establishments, SAR 4,000 in case of partnerships, SAR 6,000 in case of limited liability companies; and SAR 8,000 in case of joint stock companies. In the case of limited liability companies, draft articles of association were required to be submitted to the Ministry of Commerce and Industry for review. Once such forms had been duly prepared, they were checked and authenticated by a notary public. Having been signed, authenticated and legalized, these documents were then published in the official gazette (*Umm Al-Qura*). In the case of limited liability companies, after printing and formal signing of the articles of association before a notary public, such articles were submitted to the Ministry of Commerce and Industry and commercial registration was issued.

84. The representative of Saudi Arabia also noted that "commercial registration" was a separate procedure and different from registration as a "commercial agent" (as discussed separately below). He further noted that registration as a commercial agent was not necessary to obtain 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 required an import license or were otherwise subject to import restrictions or prohibitions. No requirements applied to the activity of importing (acting solely as the importer of record,), but a firm that wished to be legally eligible to import goods and then engage in business activity in the Kingdom (i.e., distribution and/or sale of the imported goods) should formally incorporate the activity of importing within its "scope of business" clause of its articles of association. For example, he stated, a firm with a Commercial Registration for "furniture sales" was allowed to import furniture for the purpose of selling it and did not require an import license to do so.

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

86. The representative of Saudi Arabia confirmed that the Commercial Registration set out the scope of business activities of the registered entity. A registered entity that wished to carry out activities not covered by its Commercial Registration could amend its articles of association to

include the new activities and apply to the Ministry of Commerce and Industry for its Commercial Registration to be amended so as to permit those new activities.

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

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

89. In addition to having Saudi nationality, the requirements for approval as a Commercial Agent under the above measures were: (i) a Commercial Registration certificate giving commercial agency as one of the applicant's business activities; (ii) a certificate from the Chamber of Commerce confirming that the applicant had paid his Chamber of Commerce subscriptions; and (iii) the submission of an application form and supporting documentation to the Ministry of Commerce and Industry, including a copy and a certified Arabic translation of the commercial agency or distribution contract which complied with the conditions set out in the law. The Saudi representative confirmed that the Ministry of Commerce and Industry had no discretion to deny registration of an entity as a Commercial Agent provided that the above requirements were satisfied and a registration fee was paid.

90. In essence, the representative of Saudi Arabia reported, the distinction between Commercial Registration and registration as a Commercial Agent was that Commercial Registration was an essential requirement to the conduct of any significant business activity in Saudi Arabia whereas Commercial Agency was required only in relation to a particular type of business activity.

91. The representative of Saudi Arabia noted that the Commercial Agencies Law did not require a foreign manufacturer/supplier to appoint an agent or distributor in Saudi Arabia. Any company,

whether Saudi or foreign, which was commercially registered to trade, could import goods without the need to get any further permission or authorization, except for the few items which required an import license as set forth in Annex E.

92. 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.

93. In response to a specific question, the representative of Saudi Arabia confirmed that no special or unique "activity license" requirements existed for foreign or domestic persons or firms engaging in importing or exporting goods, in contrast to the distributing of goods. He confirmed that individuals and firms were not restricted in their ability to import or export most goods except as listed in Annexes E, G, H and K to the Report and as described in their scope of business or their registration, and that they could easily change their registration to allow for trade. He further confirmed that there were no restrictions, such as capital or nationality requirements, on firms wishing to engage in foreign trade, and that the criteria for registration were published in the official gazette and generally applicable to all. In other words, the minimum capitalization and Commercial Registration requirements were not necessary either to become an importer of record or to export goods from Saudi Arabia (an entity outside of Saudi Arabia was free to order and receive goods from Saudi Arabia). He stated that there were, however, minimum capital requirements for investments, as set out in Paragraph 45 of the Working Party Report.

94. In response to specific questions, the representative of Saudi Arabia recognized the distinction drawn in the WTO between the right to import and export under the GATT and the right, under the GATS, to provide services such as distribution and transportation, with respect to imported goods. Saudi Arabia would, in implementing its obligations under GATT 1994, ensure that the relevant laws, regulations and requirements permit foreign firms to register strictly to engage in importation without limitation on equity or requirement to invest in Saudi Arabia. Commercial distribution in Saudi Arabia of imports as well as domestically produced goods would remain subject to the current requirements for commercial registration under the relevant laws, and to the Kingdom's commitments under the GATS. Moreover, Saudi Arabia maintained the right to require importers that were not registered to engage in commercial distribution to provide information in their customs document regarding the further disposition of the goods, once they entered Saudi Arabia.

95. The representative of Saudi Arabia said that Saudi Arabia's requirements on the right to trade would not contradict Articles III, VIII and XI of GATT 1994. The representative of Saudi Arabia confirmed that there would be no restrictions on the right of foreign and domestic individuals and

enterprises to import and export most goods to and from Saudi Arabia, except as provided in WTO Agreement, and for goods listed at Annexes E, G, H and K to the Report. Saudi Arabia emphasized that foreign enterprises and individuals had to comply with all WTO-consistent requirements related to importing and exporting, such as those concerning import licensing, TBT and SPS. However, foreign enterprises and individuals would not have the right to distribute goods within Saudi Arabia, as providing distribution services would be done in accordance with Saudi Arabia's Schedule of 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. At a later stage he confirmed that, although a foreign owned enterprise (whether commercially registered or not) could not act as a commercial agent, i.e., distribute goods on its own behalf, it could engage a Saudi Commercial agent (an independent Saudi person) to do so. He further clarified that the agent had to be an independent Saudi person; hiring a Saudi as an employee and paying him a salary to perform this function was not permitted.

96. The representative of Saudi Arabia confirmed that the commitment on trading rights had been given in all seriousness and in good faith and that, to fulfil this commitment, Saudi Arabia would, as necessary, review and amend its laws, including the Law on Import Licensing Procedures.

97. 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 its commitments in its Schedule on Services, and that it would also implement such laws and regulations in full conformity with these obligations. The Working Party took note of this commitment.

A. IMPORT REGULATION

- Import Regime

98. In response to a specific question, the representative of Saudi Arabia stated that the application of secondary and tertiary boycotts had been terminated by the Council of Ministers Decision No. (5) of 13 June 1995.

- Customs Tariff

99. The representative of Saudi Arabia informed members of the Working Party that, according to Article 20 of the Basic Law of Government, the authority for setting customs tariffs and for any

changes thereto, and for levying any surcharges, rests with the Council of Ministers. Imposition, amendment or abrogation of customs tariffs requires issuance of a Decree by the Council of Ministers that is endorsed by a Royal Decree.

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

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

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

- **Tariff Rate Quotas and Tariff Exemptions**

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

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

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

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

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

- Other Duties and Charges

107. 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 1999 offer.

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

Schedule, and would bind such other duties and charges at zero. The Working Party took note of this commitment.

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

109. The representative of Saudi Arabia stated that Saudi Arabia did not impose or charge any fees or charges for port clearance, customs processing, customs inspection or import or export licenses. He said that there was a small fee of SAR 20, which corresponded to the costs of the customs declaration form and use of Customs' computers to complete the declaration form. He said that fees for loading, unloading and handling of import and export cargoes were charged by private-sector operators. These fees were not imposed by the government. The representative of Saudi Arabia stated that if goods were left in the Customs sheds and were not cleared after a delay of 13 days from the date of unloading, storage charges at the following nominal rates were levied at the rate of SAR 20 per ton per day. However, no charges were levied if the delay was not caused by the importer, e.g., the delay in clearing the goods was due to:

- i. The Customs Department.
- ii. A natural disaster.
- iii. An official holiday.

110. In response to questions from members of the Working Party, the representative noted that the fees described in the section on Other Customs Formalities also reflected the costs of services rendered and that, in accordance with Article VIII:3 of the GATT 1994, Saudi Arabia would not impose substantial penalties for minor Customs breaches.

111. One member of the Working Party asked regarding the provision of port services. In response, the representative of Saudi Arabia reported that there presently were a number of companies operating in each of the Kingdom's ports. The rate structure was set by each Port Authority, based on the services provided and the packaging of the goods being imported, e.g., the number and size of the containers involved. He emphasized that the rates were not based on the value of the imports. (A list of fees and charges for services rendered was attached at Annex F.)

112. Members asked about fees imposed by Saudi Arabia for notarization or consularization of documents. In response, the representative of Saudi Arabia stated that authentication of certificates of origin and of invoices by Saudi consulates or by Chambers of Commerce was a general requirement imposed pursuant to Council of Ministers Order No. 5 dated 3.1.1406H (18.9.1985). The fee collected by the Ministry of Foreign Affairs for consularization was nominal, at US\$ 8 per document, regardless of the number of pages contained in the document. The practice had been necessary, he

said, to combat commercial fraud and to ensure that products prohibited for health reasons were not exported to Saudi Arabia.

113. The representative of Saudi Arabia stated that the requirement for notarization or consularization of trade documents and associated fees would be terminated by the date of accession. The Working Party took note of this commitment.

114. A member of the Working Party asked Saudi Arabia to explain requirements that are applied to imports of non-unitized cargo such as rice, in particular the port levy fee that is applied to such cargo. In response, the representative of Saudi Arabia stated that this levy was applied to compensate for the labour costs involved in unloading containers for customs inspection. The Member further asked whether such inspection was necessary given more modern methods of inspection, and asked Saudi Arabia to review these requirements. The representative of Saudi Arabia stated that Saudi Arabia would review its inspection system in the context of its ongoing process of modernization.

115. The representative of Saudi Arabia confirmed that any fees or charges on imports for services rendered would be in accordance with Article VIII of the GATT 1994. He further confirmed that the review of the inspection system would be completed within one year of the date of Saudi Arabia's accession to the WTO. The Working Party took note of this commitment.

- Import Licensing Systems

116. 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, together with the justification for the measures in document WT/ACC/SAU/29/Add.3, as well as document WT/ACC/SAU/49, 53 and 56. The representative of Saudi Arabia provided an Action Plan for the Implementation of the Import Licensing Agreement in document WT/ACC/SAU/40, and Council of Ministers Decision No. 84 in July 2000 and Decision No. 88 in July 2002. The Import Licensing Law issued vide Council of Ministers Decision No. 88 of 6.4.1432H (July 2002) incorporated into Saudi law the provisions of the WTO Agreement on Import Licensing Procedures. He further confirmed that some of the measures described in documentation submitted to the Working Party had been eliminated in order to conform with the requirements of the WTO Agreement, and that all measures remaining in place were described fully in Annexes E (List of Products Subject to Non-Automatic Import Licensing Requirements) and G (List of Banned Imports) to this Report. He also noted that additional information could be obtained from the concerned department or division of the respective Ministry

or from the Information Centre of the Ministry. The information could also be obtained from the Chamber of Commerce and Industry. He also noted that any person with a Commercial Registration (i.e., registration to do business), whether an individual or an entity, could apply for import license. In reply to a question from a member of the Working Party, the representative stated that the rules of procedure of the Board of Grievances provide that, if a first appeal to the Minister is rejected, the reasons of rejection must be given.

117. 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. At a later stage he provided the list of all products subject to import licensing in Annex E to this Report. The list, he reported had been updated (as compared to the list at document WT/ACC/SAU/30) and would be updated periodically to reflect developments within the Kingdom.

118. The representative of Saudi Arabia confirmed that in addition to the Ministry of Agriculture, Ministry of Commerce and Industry, Ministry of Health, Ministry of Information and Culture, Ministry of Interior, and Ministry of Petroleum and Natural Resources, the Ministry of Education (Department of Museums and Archaeology), the Communications and Information Technology Commission (CITC), the National Commission for Wild Life Conservation and Development (NCWCD) and the Chivalry Club all had responsibilities concerning the approval of import licenses. He also confirmed that there were no substantive requirements to register with the Ministry of Commerce and Industry in order to import, although there was a requirement to obtain Commercial Registration for the carrying on of business, whether manufacturing, retailing, trading, or professional. Any company, whether Saudi or foreign, which was commercially registered in the field of import trade could import goods without the need to get any further permission or authorization, except for items which required an import license. In response to a question from a member of the Working Party, the representative of Saudi Arabia reported that wheat imports did not require permits from the GSFMO.

119. Members of the Working Party noted, in particular, that Article 3.5(f) of the Agreement on Import Licensing provided that ordinarily an import license must be granted within 30 days of receipt of a complete application. These members noted that for some categories of goods, import licenses took longer than 30 days, in particular, radio communication apparatus (one to two months) and network equipment (six to twelve months). These members 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 license within 30 days. In response to a question, the representative of Saudi Arabia stated that the new Saudi legislation on import licensing procedures clearly provided that import licenses must be issued within 30 days of application; the 30-day limit applied to telecommunications equipment, as well.

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

- (i) In accordance with Article 39 of the Telecommunication Act and Article 3 of the Rules and Procedures of Pleading before the Bureau of Grievances, the procedure of appeal for a license applicant would be 90 days, starting from the day the appeal was submitted to the Minister of Telecommunication and Information Technology. The appeal must be submitted within 60 days of the applicant's notification of the rejection of his/her application. If the 90 days expired with no response, the appeal would have been rejected.

A case could be filed before the Bureau of Grievances to invalidate the Minister's decision within 60 days of the applicant's notification of the rejection of his/her appeal, or of the expiration of the 90 day period with no response. The time for the Bureau of Grievances to issue a decision depended on the nature of each case.

- (ii) ITU standards were generic and covered a wide range of specifications. Saudi Standards were in line with the ITU Standards, and covered local requirements.
- (iii) The application for using radio telecommunications equipment would be processed within one month of submission. After approval of the application, a one-year grace period was provided within which the equipment and assigned frequencies are to be brought into use. The applicant was to notify the CITC upon use of the equipment and frequencies and then the relevant license would be issued. The one-year period for bringing the equipment and frequencies into use expired if the applicant failed to notify the CITC of bringing the equipment and frequencies into use within a year or, alternatively, request an extension from CITC. Licenses for equipment and frequencies were renewable annually.

121. He further reported that the application for using radio-communications equipment shall be processed within one month of application and that the license to use the equipment and assigned frequencies must be exercised within a period of one year from approval. The licence holder must notify the CITC of its use of the equipment and frequencies and the licence is renewable annually. If the licence-holder were to fail to use the equipment and frequency within one year and to notify the CITC, the licence is considered to be cancelled.

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

123. Members of the Working Party also asked Saudi Arabia to clarify the grounds for, and particulars of, its import licensing regime for Chivalry Club. The representative from Saudi Arabia clarified that the regime was necessary to preserve a policy of great importance to the Kingdom. The regime allowed the Saudi authorities to closely monitor the importation of non-Arabian horses to ensure the preservation of the blood lines of the Arabian horse stock in Saudi Arabia. He explained that, only by closely monitoring imports of live horses, could this be ensured. In response to further questions, he noted that the importation of non-Arabian horses was not banned; the Chivalry Club would grant an import license 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 licenses. The representative reported that the applicable time limit was 30 days. He further reported that imports of horses, whether Arabian or non-Arabian, were not banned, but required a non-automatic import license

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

125. Some members of the Working Party requested information on the precise laws and regulations governing the time limits for issuing an import license. In response, the representative of Saudi Arabia stated that Council of Ministers Decision No. 88 of 6.4.1432H (July 2002) provided that the time limit for issuance of licenses was 30 days. In the event of an unsuccessful application for an import license, the person requesting the license could appeal the refusal to the Board of Grievances.

126. A member of the Working Party asked about the timing of appeals of decisions by particular ministries to reject an application. The Saudi representative confirmed that the entire procedure for appeal (including re-appeal) to the Ministry of Health generally would take thirty working days to

complete. He further stated that the process of appeal at the Ministry of Commerce and Industry depended upon the completion of the licensing requirements by the importer, i.e., if the importer were to complete the requirements, the license would be issued upon completion. In the case of chemicals, he reported, the issuance process would take one day; for distillation equipment, the process would require from two to three days. With regard to appeals to the Ministry of Agriculture, he stated that the process for the procedure of appeal, when the documents are correct and complete, requires only one day in most instances. In response to a comment by a member of the Working Party, the representative of Saudi Arabia confirmed that Council of Ministers Decision No. 88, 6.4.1432H, (July 2002) had established time limits for the processing of import licenses, as per Article 3.5(f) of the Agreement. The limit was set at 30 days.

127. In response to further requests for information, the representative of Saudi Arabia noted that decisions to not grant an import license 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. The Representative referred the members to Paragraphs 68-70 regarding the composition and workings of the Board of Grievances.

128. Some members of the Working Party asked whether petroleum and natural asphalt were subject to import licensing and requested that Saudi Arabia provide the justification pursuant to the relevant provisions of the WTO Agreement for the maintenance of import licensing on those products. In response, the representative of Saudi Arabia stated that no import licensing requirements currently existed for petroleum products, including asphalt. Pricing of these imports was discussed in the section of this Report entitled "Pricing Policies."

129. 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 license from the Ministry of Interior. He also noted that high-quality photocopiers required an import license 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 license to prevent misuse by criminals or terrorists. For this reason import licenses 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. Fire-fighting equipment could now be imported without a license, following a customs examination to determine compliance with Saudi or international standards. Concerning the review, he noted that the review had been completed and was reflected in the Attachments. He assured the members of the Working Party that the list would continue to be reviewed periodically and the findings and decisions of each review would be published in the Official Gazette *Umm al-Qura* and notified to the Council on Trade in Goods.

130. 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 had two purposes. First, it was necessary to administer a system of subsidies paid to importers of such equipment. Second, the import license was required even if the importer did not intend to apply for a subsidy payment in order to ensure that the equipment was suitable for the Kingdom's environment.

131. One member of the Working Party inquired as to the procedures for medical products, including pharmaceuticals. In response, the representative of Saudi Arabia stated that no import license is required for approved pharmaceutical and medical products, but that, as specified in Annex E, certain medical products were subject to non-automatic import licensing. In response to a further question, he confirmed that imports of medicine for human use under HTS numbers 30.03 and 30.04 were not subject to import licensing (as long as they had been approved for sale in Saudi Arabia), but that imports of medicines for veterinary use under those HTS numbers were subject to import licensing requirements, for the purposes of guaranteeing animal health and safety. He further reported that pharmaceutical or medical products not previously approved are subject to an approval process designed to evaluate the product and ensure that the manufacturer follows good manufacturing practices (GMP). The representative reported that this process may take up to 18 months. One of the Member's of the Working Party inquired as to whether KSA required pharmaceuticals to be registered in three EU countries in order to be registered in Saudi Arabia. The representative of Saudi Arabia reported that there was no such condition. The process for companies wishing to market their pharmaceuticals in Saudi Arabia was as follows:

- i. submit a completed registration form for the company;
- ii. the Technical Committee would examine the form and attachments and, upon preliminary approval, would establish a inspection group for the company and the product;

- iii. the inspection group would visit the company and its factory to ensure that the company applied Good Manufacturing Practice;
- iv. the final decision of the Technical Committee would be made based on the report of the inspection group; and
- v. after approval, the company would be allowed to obtain registration of its product(s).

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

133. A member of the Working Party asked Saudi Arabia to explain its reasons for requiring non-automatic import licenses for certain "distillation equipment". In response, the representative of Saudi Arabia stated that, in the past, imported distillation equipment had been used to produce alcoholic beverages. He explained that, as the production of alcoholic beverages was prohibited under Saudi law (Shari'a), the Kingdom of Saudi Arabia had decided to regulate imports of distillation equipment to address the problem. In reply to a question from a member of the Working Party, the representative of Saudi Arabia reported that there was no ban on the importation of distillation equipment and that importation required an import license from the Ministry of Commerce and Industry (and not from the Ministry of Industry and Electricity).

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

135. A member of the Working Party asked for details regarding the licensing procedures for veterinary drugs, vaccines, feeds and domestic animals. In response the representative of Saudi Arabia reported that, if the documents are correct and complete, the process for appeal and

issuance of the license by the Ministry of Agriculture would take one day. He further explained that the use of the term "feed additives" indicated that the provision in question applied only to feed additives and did not apply to feeds, and that a license was required to import other domestic animal-related products. In response to a further question from a Member of the Working Party regarding import licensing for other domestic animal-related products, the representative of Saudi Arabia stated that Annex E contained the requested information on all products subject to import licensing.

136. A member of the Working Party asked Saudi Arabia to clarify its regime as it applies to seeds and fertilizers. In response, the representative of Saudi Arabia noted the process of the Ministry of Health's examination and approval of an application for import license, or of an appeal (re-appeal), would take only one day where the documentation was complete. He reported that organizations permitted to provide a health certificate for seeds and fertilizers included the governmental authorities in the country of origin, as well as official laboratories in the country of origin that had been approved by the Ministry of Agriculture. Also, he reported, such certificates are issued by the Saudi Ministry of Health and are easily obtained where the products are free of pests and diseases. Regarding the specifications used by SASO to determine whether to approve an application for import license for seeds, the representative confirmed that the list of requirements had been submitted to the Working Party ("SASO Seed Specifications," attached to the Working Party Report at Annex H). The time limits for import licenses were based on the need to ensure that the Ministry of Agriculture could ensure the validity of importers' registration documents and to allow Saudi authorities to track import levels of seeds and fertilizers for statistical purposes.

137. 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 6.4.1432H (July 2002) incorporated into Saudi law the provisions of the WTO Agreement on Import Licensing Procedures. The salient features of the new Law were:

- i. Persons, firms and institutions eligible to make applications for import licenses are: (a) Saudi, foreign or joint venture companies registered under Saudi laws; (b) natural persons registered in the Commercial Register; and (c) Saudi nationals and non-Saudis holding residence permits, without commercial registration, provided they apply to import goods for their personal use.
- ii. Imports by categories (a) and (b) will be limited to goods related to the scope of business inscribed in their commercial registration.

- iii. Applications for automatic import licensing may be submitted on any working day prior to the customs clearance of goods. License will be issued within a maximum of 10 days from the date of application.
- iv. Applications for non-automatic import licences may be submitted within 21 days prior to the closing date of applications. Licenses will be issued within a period of 30 days from the date of application.
- v. Applications would not be rejected for minor variations in value or minor documentation errors.
- vi. License applicants have to approach only one administrative body. If necessary, that body would coordinate with other administrative bodies.
- vii. Non-automatic licensing is required for imports subject to quantitative or other restrictions (Saudi Arabia applies no quotas).
- viii. Article 9 of the Law contains detailed provisions on allocation of quotas in line with the provisions of Article 3 of the Agreement on Import Licensing Procedures (Saudi Arabia applies no quotas).
- ix. The Law requires publication in the Official Gazette of the amount of quotas and any changes thereto at least 30 days prior to the date of application (Saudi Arabia applies no quotas).
- x. In case of refusal of applications, the reasons for refusal will be provided upon request of the applicant.
- xi. Right of appeal to the Head of the administrative body is provided for, within a period of 15 days from the date of refusal. A further right of appeal to the Board of Grievances against the decision of the Head of the administrative body is provided for, within 30 days from the date of the decision.

138. A member of the Working Party asked a further question regarding sub-section ii, above. With regard to this question, the representative referred the member to Paragraphs 88-89.

139. Members of the Working Party asked Saudi Arabia to provide a list of products subject to automatic and non-automatic import licensing requirements. The representative of Saudi Arabia stated that Saudi Arabia did not subject any imports to automatic licensing; a list of imports subject to non-automatic licensing requirements was attached at Annex E. In addition, he confirmed that Saudi Arabia had appended to the Working Party Report its response to the questionnaire "Information on Import Licensing Procedures."

140. The representative of Saudi Arabia confirmed that Saudi Arabia would, from the date of accession, eliminate and not introduce, re-introduce or apply non-tariff measures such as licensing, permits, prior authorization requirements, licensing requirements and other restrictions having equivalent effect that cannot be justified under the provisions of the WTO Agreement. Any further amendments to the import licensing regime after accession would be fully in accordance with all relevant provisions of the WTO, including the Agreement on Import Licensing Procedures. The representative added that Saudi Arabia no longer required licensing for "milk for industrial use." 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.

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

141. In response to questions from members of the Working Party, the representative of Saudi Arabia supplied details regarding quantitative restrictions maintained in Saudi Arabia. In addition to information contained in the Memorandum on the Foreign Trade Regime, the representative of Saudi Arabia provided a 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. This list was later updated by the list of banned imports attached at Annex G. 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.

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

- i. Long-Life Pasteurized Milk - Saudi Arabia had removed the import ban and replaced it with a tariff.
- ii. Dates - Saudi Arabia had removed the import ban and replaced it with a tariff.
- iii. Rice from the United States - Saudi Arabia did not ban imports of rice from the United States.
- iv. Poultry, Beef and Lamb from the United States - Saudi Arabia did not ban imports of poultry, beef or lamb from the United States.
- v. Offal – The import of offal was permitted from all countries, except those with livestock with infectious diseases, pursuant to the Guidelines on the Import of Meat and Meat Products (Ministry of Commerce and Industry Decision No. 123 of 16.1.1422H, as amended by Ministry of Commerce and Industry Decision No. 1308 of 27.5.1424H (27 July 2003)). The latter Decision permitted imports of offal from countries with livestock free of infectious diseases and provided safeguards for such

- imports. These measures were imposed to protect the health and safety of persons living in the Kingdom.
- vi. Therapeutic Medicines Used in Animal Feed - The Ministry of Agriculture was studying this issue to ensure the protection of domestic livestock.
 - vii. Lentils from Australia - The ban on lentils from Australia had been lifted after the Agreement between Saudi Arabia and Australia had been signed. The ban, and the problem that occasioned it, had been the subject of successful bilateral discussions between Saudi Arabia and Australia. Saudi Arabia and Australia had agreed that the ban would be lifted and that Australia would certify future shipments.
 - viii. Tires - The Ministry of Commerce and Industry had banned imports of certain tires following a series of fatal accidents in the United States caused by design and/or manufacturing issues. The action had been taken due to public safety concerns and in light of the fact that, given the climate of Saudi Arabia, similar accidents would be even more likely to occur there than in the United States. The Ministry requested the investigation results from the concerned U.S. authorities and, in the meantime, took the prudential action of banning imports of those tires, pending review of the results. The ban was limited to those tire models, produced at specific facilities, which were most similar to the tires involved in the accidents. The ban, therefore, applied only to the certain tire models and sizes, produced at certain facilities. The representative of Saudi Arabia noted that specific information was available on request.
 - ix. Used and Retreaded Tires - Saudi Arabia had banned imports of used and retreaded tires to protect public safety. Given the climate of Saudi Arabia, used and retreaded tires are particularly subject to failure and the safety of imports of these products could not be assured.

143. 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. In response to a comment from a Member, the representative assured the Working Party that the list of banned imports would be reviewed on an ongoing basis to remove items where permitting importation would not compromise the legitimate objectives of the Kingdom. Any further changes to Saudi law after accession would be fully in accordance with all relevant provisions of the WTO. He further confirmed that any discretionary authority permitting officials of the Kingdom of Saudi Arabia to suspend imports and exports or otherwise restrict the quantity of trade would be applied from the date of accession in conformity with the 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**

144. 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.

145. Concerning Article 11 of the Customs Valuation Agreement and the right of appeal to a judicial authority, the representative of Saudi Arabia stated that appeal rights for a relevant person before an independent judicial body (i.e., the Board of Grievances) was guaranteed by Royal Decree No. 190 of 16.12.1409H (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 of 5.3.1372H (22 November 1952), which required that such information be published in the official gazette *Umm Al-Qura* along with all other government notices such as changes in rates of duty. The representative of Saudi Arabia noted that Article 26 of the Customs Valuation Law and Article 1.3 of the Rules of Implementation of the Customs Valuation Law implemented Article 11 of the Customs Valuation Agreement. He confirmed that Decisions 3.1 and 4.1 of the Customs Valuation Committee would be implemented through Ministerial Decision not later than the date of accession.

146. 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. Saudi Arabia sought flexibility for two years from the

date of accession to the WTO, but would take steps to attempt to remove the minimum values in one year. Also, he stated, Saudi Arabia would undertake a careful study as soon as possible to devise procedures for discontinuing the minimum values altogether. In response to questions from members of the Working Party, the representative of Saudi Arabia stated that Saudi Arabia was using and wished to continue using minimum values for the following products:

HS 21.02 – Yeast;
HS 40.11 – Tires;
HS 57.01 – Carpets;
HS 57.02 – Carpets;
HS 60.01 – Blankets; and
HS 85.25 – Mobile phones.

147. In response to a question from a member of the Working Party, the representative of Saudi Arabia stated that post-clearance audit is a sophisticated system with which Saudi Officials have no experience. Therefore, he reported, it would take time to establish such a system and then train Saudi officials to properly administer it.

148. Members asked the reason why Saudi Arabia was seeking a reservation to allow it to maintain minimum values for these products. In response, the representative of Saudi Arabia cited the massive under-valuation of imports of these items. Saudi Customs authorities have found it exceedingly difficult to check the undervaluation, despite the provisions of Article 17 of the Customs Valuation Agreement and paragraph 6 of Annex III to this Agreement. Therefore, the reservation was necessary to assist Saudi authorities in this effort.

149. 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. Following accession to the WTO, Saudi Arabia would undertake studies to determine if it was feasible to lift the reservations.

150. 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 promulgated. He confirmed that Saudi Arabia was able to implement the Customs Valuation Agreement from the date of its accession to the WTO. The representative of Saudi Arabia submitted the Common Customs Law of the GCC

States and the Rules of Implementation, which contained the new WTO-consistent system of valuation. Articles 26, 27 and 28 of the Law and Article 1 of the Rules of Implementation deal with customs valuation. These were consistent with the provision of the Customs Valuation Agreement. The representative said that Saudi Arabia had applied the new Common Customs Law and the Rules of Implementation with effect from 1 January 2003. Saudi Arabia thus already had implemented the WTO Customs Valuation Agreement, except in regard to the minimum values for the products noted above. In response to a question from a member of the Working Party regarding the consistency of the GCC Common Customs Law with WTO provisions, he stated that, wherever necessary, consistency with the WTO provisions would be achieved through Ministerial Decrees and Executive Orders issued by the Director General of Customs.

151. The representative of Saudi Arabia stated that, with regard to Article 20 of the Customs Valuation Agreement, 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. (Saudi Arabia would avail itself of a transition period for use of minimum values and would seek a reservation with regard to paragraphs 3 and 4 of Annex III of the Customs Valuation Agreement, as noted above.) In this regard, the Customs Law and implementing regulations fully reflected 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. 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 these commitments.

- **Rules of Origin**

152. 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. A textile product was deemed to be "expensive" depending on an analysis of factors such as the quality the brand name, texture, design and the price

relative to other fabrics. This requirement was introduced to protect consumers against misleading or deceptive practices.

153. In response to a question from a member of the Working Party, the representative of Saudi Arabia stated that the GCC does not contain its own rules of origin. Rather, he stated, the GCC adopts the rules of international economic agreements in force, i.e., the WTO Agreement on Rules of Origin and work there under.

154. 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 representative of Saudi Arabia confirmed that Saudi Arabia would frame its rules of origin and notify them to the Secretariat immediately following accession. 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**

155. 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. The representative of Saudi Arabia recalled the commitment given in Paragraph 107 in this regard.

- **Other Border Measures**

156. Members of the Working Party asked Saudi Arabia to describe the new customs procedures, following the establishment of the GCC Customs Union, particularly as they related to goods first imported through other GCC member states. One member of the Working Party observed that in some cases Saudi Arabia had turned back imports destined for its market that first entered through and paid duties in other GCC member states. The representative of Saudi Arabia stated that all customs procedures (i.e., lodgement of the customs declaration, inspection of the goods, assessment and collection of customs duties) were conducted in the first GCC member state where the goods entered from outside the GCC. Goods destined for another GCC member state, after completion of customs formalities in the first GCC state, were allowed to leave after affixing customs seals and accompanied by a copy of the customs import declaration showing the value of the goods and payment of duty.

There was no further assessment and collection of duty in the country of final destination, with the exception of "sensitive" goods for which the remainder of the tariff rate of the country of origin (e.g., tariff rate of Saudi Arabia minus 5 per cent) would be collected at entry. The representative said that in the absence of specifics and details it was difficult to say if and why the imports were turned back. It might be that the seals were not intact or the consignment was not accompanied by the customs declaration or, for example, the import of goods banned in Saudi Arabia but not in the GCC state of first importation (e.g., alcoholic beverages).

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

- **Application of Internal Taxes to Imports**

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

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

- **Preshipment Inspection**

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

161. In response to comments of various members of the Working Party regarding the role of the ICCP and preshipment inspection, the representative of Saudi Arabia reported that the ICCP was being phased out pursuant to Council of Ministers Decision No. 213 of 3.8.1424H (30 September 2003).

162. In response to a request by members of the Working Party, the representative of Saudi Arabia stated that a list of items subject to preshipment inspection had been attached to the Working Party Report at Annex I. He further reported that this list was identical to the list at Annex J (products subject to mandatory inspection (ICCP)).

163. 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. The Working Party took note of these commitments.

- **Anti-Dumping, Countervailing duties, Safeguard regimes**

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

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

166. The representative of Saudi Arabia said that Saudi Arabia would not apply any anti-dumping, countervailing or safeguard measures to imports from WTO Members until it had notified and implemented appropriate laws in conformity with the provisions of the WTO Agreements on the Implementation of Article VI, on Subsidies and Countervailing Measures and on Safeguards. He confirmed that Saudi Arabia would ensure that such legislation would be in full conformity with the relevant WTO provisions, including Articles VI and XIX of the GATT 1994 and the Agreement on the Implementation of Article VI, the Agreement on Subsidies and Countervailing Measures and the Agreement on Safeguards. After such legislation was implemented, Saudi Arabia would only apply any antidumping duties, countervailing duties and safeguard measures in full conformity with the relevant WTO provisions. The Working Party took note of these commitments.

B. EXPORT REGULATIONS

- Export restrictions

167. Some members of the Working Party enquired whether the Kingdom of Saudi Arabia maintained any export controls. In response, the representative of Saudi Arabia stated that Saudi Arabia maintained no export bans, except on some items such as date seedlings, breeding horses and subsidized wheat and wheat flour. He informed the Working Party that the legal bases for the bans were as set out in Annex K, i.e., GATT 1994 Article XX(a), (b), (d), (f) and (j). Some members of the Working Party asked whether Saudi Arabia intended to remove those bans prior to its accession to the WTO. In response, the representative of Saudi Arabia stated that there were no bans on the export of wheat and wheat flour, unless the wheat and wheat flour had been subsidized and the subsidy had not been repaid (i.e., if the subsidy had been returned to the government, the product could be exported). He further added that Saudi Arabia banned the export of date seedlings and breeding horses because the local breeds and varieties of these two items were pure and rare. The representative indicated that a list of banned exports was attached to the Working Party Report at Annex K; a list of exports subject to authorization/licensing was attached at Annex L. He added that upon accession to the WTO, Saudi Arabia would do whatever was required under applicable WTO rules.

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

169. 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 representative of Saudi Arabia also confirmed that the requirement of approval to re-export food would be abolished as from the date of accession. The re-export of subsidized food items would be subject to repayment of the amount of subsidy. The Working Party took note of these commitments.

170. 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**

171. Some members of the Working Party requested information on export duties applied by Saudi Arabia. Those members noted that the export duties applied by Saudi Arabia appeared to be imposed only for revenue purposes and would have trade distorting effects. In response, the representative of Saudi Arabia stated that Article XI of the GATT 1994 expressly permitted the imposition of export duties, and did not restrict the right to impose such duties. Export duties applied only to un-tanned hides and skins, falling under HS Nos. 4101, 4102 and 4103. The rate of export duty was SAR 2000/ton (roughly 20 per cent).

- **Export subsidies**

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

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

IV. INTERNAL POLICIES AFFECTING TRADE IN GOODS

- Industrial Policy, Including Subsidies

174. 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.

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

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

- **Technical Barriers to Trade**

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

- Description of Saudi Regime

178. The representative of Saudi Arabia further informed members of the Working Party that Saudi Arabia had established and was implementing a TBT regime consistent with the provisions of the TBT Agreement. This had been done by issuing and implementing the SASO Technical Directive (having the force of law) on 18 July 2000; the Technical Directive was now being revised by SASO. The major features of the system were:

- i. All SASO standards, mandatory standards (technical regulations) and conformity assessment procedures were designed to be fully compatible with the TBT Agreement.
- ii. SASO had established a single contact point for information (Enquiry Point) vide Part Four of the Technical Directive. It also would provide relevant documents upon request.
- iii. The Ministry of Commerce and Industry was the authority responsible for making notifications to the WTO.
- iv. Item 2 of Part Four of the Technical Directive required a non-discriminatory and cost-based fee structure.
- v. Items 4/5/1 of Part Two of the Technical Directive required publication of notices of proposed technical regulations, standards and conformity assessment procedures in the journal issued by SASO.
- vi. Items 3/3/1 and 4/5/4 of Part Two of the Technical Directive provided for a 60-day comment period and non-discriminatory consideration of comments in the preparation of final regulations.
- vii. Item 4/8 of Part Two of the Technical Directive provided for a reasonable period of time between the final publication and entry into force of a technical regulation.
- viii. Item 2/1 of Part Two of the Technical Directive stated that SASO would follow the Code of Good Practice for the preparation, adoption and application of standards issued by ISO and IEC.
- ix. Item 2/3 of Part Two of the Technical Directive and Item 2 of Part Three of the Technical Directive provided for national treatment and non-discrimination with respect to products in the context of development and application of technical regulations and conformity assessment procedures.

- x. Item 2/4 of Part Two of the Technical Directive states "Saudi voluntary and mandatory standards shall not create unnecessary barriers to international trade except what violates the Islamic legislation (e.g., requirements for halal meat and labelling requirements for "alcohol free" malt beverages), national security requirements, prevention of deceptive practices, and the protection of human health or safety, animal or plant life or health or the protection of environment".
- xi. Item 4/9 of Part Two of the Technical Directive provided for on-going review of technical regulations to ensure they are appropriate to achieve the desired legitimate objectives.
- xii. Items 3/1 and 4/1 of Part Two of the Technical Directive required SASO to consider relevant international standards as a basis for preparing Saudi technical regulations and standards unless these international standards or their parts are ineffective or inappropriate means for achieving the intended, legitimate objectives. This, for example, could be due to their inconsistency with Islamic law or due to climatic, geographical factors or basic technical problems.
- xiii. According to Items 3/2 and 4/4 of Part Two of the Technical Directive, technical regulations and standards should be prepared on the basis of product performance requirements rather than in terms of design or descriptive characteristics.
- xiv. Item 4/3 of Part Two of the Technical Directive required SASO to consider equivalent technical regulations of other Members unless they were ineffective or inappropriate for achieving the intended legitimate objectives.
- xv. Item 2 of Part Three of the Technical Directive required SASO to accept the results of conformity assessment procedures conducted by bodies in exporting Member countries provided that relevant Saudi Arabian national deviations were taken into account.

179. 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 consisted of all concerned Ministries, Government Agencies and the Private Sector. There was coordination between SASO and other Saudi authorities on issuing any regulations that might affect trade between Saudi Arabia and other countries. He said that technical committees made recommendations to SASO on whether a standard should be voluntary or a mandatory (i.e., a technical regulation, in WTO terms). The criteria for adopting a standard as mandatory (as a technical regulation) would be based on the fulfilment of legitimate objectives as provided in the TBT Agreement, such as protection of health, safety, national security, Islamic Law, the environment and prevention of deceptive practices. In reply to a question whether guidelines and/or criteria would be developed to assist in determining whether an existing mandatory standard (technical regulation) should remain mandatory when it was reviewed, the representative of Saudi Arabia stated that the criteria for adopting mandatory standards (technical regulations) would also apply to a review of existing mandatory standards (technical regulations). In response to a question from a member of the Working Party, the representative of Saudi Arabia noted that the development of Saudi voluntary standards and mandatory standards (technical regulations) would proceed in accordance with SASO's General Outline of the Measures for Drafting Saudi Standards.

180. In response to additional questions from a member of the Working Party, the representative of Saudi Arabia reported that SASO currently was reviewing the Technical Directive, the reference in the Technical Directive to "ISO Code of Good Practice" would be changed to "TBT Code of Good Practice" and statements such as "whenever possible or "as much as possible" would be removed from the Technical Directive. The representative further stated that, to make the procedures more transparent, they would be placed on the SASO website (www.saso.org.sa), they would be available from the Chamber of Commerce and SASO would provide copies on request. Also, Part III of the Technical Directive would be changed to reflect the Ministerial Decision withdrawing the ICCP and the new legislation on accredited laboratories.

181. In response to questions from members of the Working Party, he noted that Saudi Arabia was a member of ISO, IEC, OIML and CAC. All Saudi voluntary standards and mandatory standards (technical regulations) were notified to all other members of those international organizations. A high percentage of Saudi voluntary standards and mandatory standards (technical regulations) used international standards and other widely accepted national standards as references. He provided members of the Working Party with a list of SASO voluntary standards and mandatory standards (technical regulations) that had been based upon CODEX standards, together with a complete list of the 2,261 Saudi voluntary standards and mandatory standards (technical regulations), including a cross-reference to the international standards adopted in their entirety as SASO voluntary standards and mandatory standards (technical regulations) (in document WT/ACC/SAU/34). The percentage changes constantly as Saudi Arabia adopts pre-existing international standards. In response to a comment from a member of the Working Party, the representative of Saudi Arabia confirmed that the procedures for the development of SASO standards provided in Annex IV of WT/ACC/SAU/29 remained valid.

182. Some members of the Working Party requested a list of the standards deemed to be equivalent to Saudi mandatory standards (technical regulations). In response, the representative of Saudi Arabia stated that the Saudi Arabian Standards Organization had published the list of mandatory standards (technical regulations), and in this connection referred to the information in document WT/ACC/SAU/15. Certain Saudi mandatory standards (technical regulations) had a corresponding ISO or IEC equivalent which was indicated in the published list of SASO mandatory standards (technical regulations). Other Saudi mandatory standards (technical regulations) used international standards or other recognized national standards or technical regulations as a reference. He noted that a predetermination of the equivalency of such mandatory standards (technical regulations) was not feasible, due to the diversity and incorporation of the national requirements and deviations of various countries (e.g., climatic differences).

183. Some members requested further information on the manner in which SASO developed mandatory standards (technical regulations). In response, the representative of Saudi Arabia stated that mandatory standards (technical regulations) were adopted only when they were considered to be vital for the legitimate objectives, such as national security requirements; the prevention of deceptive practices; or protection of human health and safety, animal or plant life health or the environment. However, recent policy within SASO had been to refer most mandatory standards (technical regulations) to technical committees irrespectively. (A list of the technical committees was attached to the Working Party Report at Annex M.) All parties concerned with the subject matter of the draft mandatory standards (technical regulations) were normally represented on the relevant "technical committees" as active members; they included pertinent governmental, academic, industry and trade sectors. For this reason, only one draft circulation period was necessary to provide adequate opportunity for comments by other interested parties. In case of development of draft mandatory standards (technical regulations) by the SASO technical staff, the first draft circulation period provided the opportunity for comments raised by all concerned parties to be taken into consideration in the preparation of the second draft. He also provided the Working Party with a copy of the procedures for the development of SASO mandatory standards (technical regulations) in Annex IV to document WT/ACC/SAU/29. He further reported that, as noted in Saudi Arabia's Technical Directive, Saudi Arabia would comply with all relevant provisions of the TBT Agreement, including the Code of Good Practice, as from the date of accession.

184. 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 mandatory standards (technical regulations) raised questions under Article 4 of the PSI Agreement and the transparency provisions of the WTO. Those members asked whether GCC member states were obliged to adopt the GCC mandatory standards (technical regulations) 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 and Metrology Organization for GCC Countries" stipulated that Gulf mandatory standards (technical regulations) were adopted by consensus of all members, while voluntary or guideline standards were adopted by majority. Thus, he said, GCC mandatory standards (technical regulations), adopted by consensus, were binding on Saudi Arabia. Some members of the Working Party also requested a list of GCC member countries that had officially adopted and incorporated SASO-developed mandatory standards (technical regulations), by product category (in full or in part) into their national mandatory standards (technical regulations). In response, the representative of Saudi Arabia provided a list of SASO mandatory standards (technical regulations) which had been adopted as GCC mandatory standards (technical regulations) and thereby

incorporated as national mandatory standards (technical regulations) in other GCC Countries in Annex III to WT/ACC/SAU/29.

185. In response to further questions, the representative of Saudi Arabia stated 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.

186. At a later stage, the representative of Saudi Arabia stated in response to comments of various members of the Working Party regarding the ICCP that the ICCP would be phased out pursuant to Council of Ministers Decision No. 213 of 3.8.1424H (30 September 2003), and would no longer operate as from 30 August 2004. As the ICCP was being phased out, Saudi Arabia would undertake a review of the products subject to mandatory certification. He also noted that Saudi Arabia had introduced a law on the accreditation of private laboratories. Applications had been received from members of the business community wishing to participate in this regime. Moreover, the procedure for operating private laboratories had been established and approved in April 2002, by the appropriate authority. The objective of this regime was to perform testing on both domestically produced as well as imported products. He further stated that, pursuant to Council of Ministers Decree No. 213, Saudi Arabia would be examining the issue of whether to use certificates from approved laboratories (or other options) and would make and disseminate this determination by 31 August 2004.

187. He further reported that, until 31 August 2004 and the elimination of the ICCP system, the existing ICCP system would be in place. 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. An exporter of regulated products to Saudi Arabia could obtain a Certificate of Conformity via three ways: (i) Preshipment Compliance Verification (for non-registered/non-verified products); (ii) Registration and Preshipment Inspection; or (iii) Type-Approval Licensing. He noted that the last option allows manufacturers that have achieved full compliance with the relevant standards to export their products with minimum intervention by the program. Full

compliance should be proven through type testing of the product(s) at a SASO-approved laboratory (a laboratory recognized by SASO), in addition to assessment, approval and surveillance of the manufacturer's quality-control system to ensure continuous compliance. Once the manufacturer's quality-control system is licensed and approved by SASO, there would be no preshipment inspection requirement for each consignment. Once a manufacturer had been issued a Type-Approval License, preshipment inspection for each consignment was no longer required. He stated that the compliance procedure for Certificates of Conformity was incorporated in the ICCP Comprehensive Procedures and Guidelines Attachment to Appendix D, Request for Certification.

188. Some members of the Working Party requested additional information on the mechanism for cancellation of certificates of conformity presently and after 31 August 2004, 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 License. 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 License was only a possibility in extreme cases, such as fraud or material inaccuracy.

189. Some members of the Working Party asked whether certificates granted by other national or international certification bodies were taken into consideration. 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, SASO would issue and validate the confirming Statement of Registration or Type Approval License and the SASO Country Office would carry out all functions associated with Registration and issue the final Certificates of Conformity. For products holding a SASO Type Approval License, certificates of conformity could be issued by the manufacturers themselves. This applied to all products and countries.

190. Some members of the Working Party requested Saudi Arabia to confirm that access to the SASO Quality Mark would be on a non-discriminatory basis and without distinction to the origin of the product. In response, the representative of Saudi Arabia stated that access to Saudi Quality Mark,

a voluntary program, would be on a non-discriminative basis, without distinction as to the origin of the products. In response to an additional question, the representative confirmed that domestic and foreign suppliers could apply to obtain the Quality Mark for imported products. Use of the Quality Mark would be granted in a non-discriminatory fashion to those domestic and foreign suppliers that met the requirements of the program.

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

192. A member of the Working Party inquired as to the rationale for the application of different emission standards to new and used heavy vehicles. The representative of Saudi Arabia replied that new heavy vehicles were subject to more demanding standards because they could meet them; he reported that the Kingdom was unaware of any instance of non-compliance and that the standard was not, in practice, a bar to imports. A lower standard had been set for used heavy vehicles, he reported, because otherwise used heavy vehicles would not be able to be operated absent significant and extremely costly modifications.

193. The member asked why Saudi Arabia subjected "cover tissues" to mandatory certification and preshipment inspection. The representative of Saudi Arabia replied that this was necessary because the cover tissues include items that come into contact with the human body and, thus, may pose a health risk if they are not in compliance.

194. Members of the Working Party asked Saudi Arabia to confirm that the Saudi Conformity Assessment Program (SCAP) would comply with WTO rules and that any fees charged for assessing the conformity of the products originating in the territories of other Members were equitable in relation to any fees chargeable for assessing the conformity of like products of national origin or originating in any other country, as foreseen in the TBT Agreement. The representative from Saudi Arabia 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 technical regulation. At a later stage, the representative of Saudi Arabia stated that SASO intended to discontinue SCAP in light of the phase out of the ICCP. He reported that SCAP would be removed from the third part of the Technical Directive.

195. In response to a question from members of the Working Party, the representative of Saudi Arabia noted that a list of items subject to mandatory certification had been attached to the Working Party Report at Annex J. The representative later assured the members that the list was up to date and complete, and would be reviewed in light of the commitment to phase out the ICCP.

- **Transparency**

196. Some members of the Working Party requested that the Government of Saudi Arabia publish draft technical regulations in a single official journal or other publication that was available to the general public, and other interested parties. The representative of Saudi Arabia stated that SASO would start publishing all draft technical regulations in a single official journal issued during the first half of 2004. He later confirmed that this schedule would be met and that the new website was still under construction. He further confirmed that, until this goal was reached, all Saudi draft technical regulations would continue to be announced in all Saudi newspapers and circulated to all foreign embassies in Saudi Arabia. The Working Party took note of these commitments.

- **Implementation of TBT Agreement Obligations**

197. 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, as well as planned improvements, including the enactment of implementing legislation. The Action Plan had been fully implemented by means of the SASO Comprehensive Directive of July 2000, which incorporated the substance of the TBT Agreement. In response to a question from a member of the Working Party, the representative of Saudi Arabia reported that the Saudi Arabian Standards Organization (SASO) (P.O. Box 3437, Riyadh 11471, Saudi Arabia; tel: 966-14-520-000; fax: 966-14-520-086; www.saso.org.sa) was the operational enquiry point for issues relating to the TBT Agreement.

198. 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.

- **Sanitary and phytosanitary measures**

199. In response to requests for information, the representative of Saudi Arabia supplied detailed information on the Saudi Arabian Sanitary and Phytosanitary (SPS) 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 and an SPS Agreement Action Plan in document WT/ACC/SAU/42.

200. The representative of Saudi Arabia stated that one of the legal bases for SPS requirements in Saudi Arabia was Royal Decree No. M/10 of 3.3.1392H (16 April 1972), developed by SASO, the competent standardization body in Saudi Arabia. He noted that SPS measures were enforced through Council of Ministers Decisions No. 85 (July 2002) and No. 943 (July 2003). In response to further questions from members of the Working Party, the representative of Saudi Arabia stated that the SASO Technical Directive implemented Saudi Arabia's obligations under the TBT Agreement, while the Saudi Unified SPS Procedures implemented Saudi Arabia's obligations under the SPS Agreement. He further stated that SASO would review relevant technical regulations to ensure their conformity with the provisions of the SPS Agreement.

201. The representative of Saudi Arabia stated that 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.

202. In addition, the representative of Saudi Arabia stated that the veterinary quarantine bylaw issued vide Council of Ministers Decision Number 109 of 34.4.1424H (30 June 2003), covered sanitary and veterinary requirements and measures pertaining to animals and animal products conforming to the ruling of the International Zoosanitary Code specifying the regulations recommended for international trade with regard to animals and animal products issued by the Office International des Epizootics. He noted also that the agricultural quarantine bylaw issued by the Decree of the Council of Ministers Number 207 of 26.1.1396H (28 January 1976), set out requirements and phytosanitary measures conforming to the rules issued from IPPC initially based on FAO publications. 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.

203. In response to further requests for information regarding the role of the GCC and risk assessment, the representative of Saudi Arabia stated that, in regard to Saudi Arabia's quarantine

system and associated risk assessment, the Council of Ministers had issued Decision No. 109 of 30.4.1424H (30 June 2003). Through Decision No. 109, Saudi Arabia had adopted the veterinary quarantine system applicable to GCC countries. (He reported that a revised plant quarantine system was still under consideration.) The representative noted that the Customs Union of the GCC countries had adopted a system of one port of entry for all goods imported to GCC countries. According to the system, any item that was allowed to enter any GCC port was allowed to enter all GCC countries and customs procedures such as inspection, laboratory analysis and customs fees were handled in the first port of entry. Thus, this system of risk assessment in all GCC countries was unified.

204. A member of the Working Party asked how Saudi Arabia would ensure that measures applied by Saudi Arabia would meet the requirements of Article 5 of the SPS Agreement (i.e., that the measures applied in each member were not more restrictive than is necessary to deal with the risks faced by that particular member). The representative of Saudi Arabia explained that, because there was free movement of goods between GCC countries due to the establishment of the customs union, it was not feasible to restrict imports in one GCC country and to allow imports in other GCC countries. Some members of the Working Party indicated that this could result in Saudi Arabia applying a ban on imports even though those imports did not pose a disease risk in Saudi Arabia, simply as a result of another GCC country imposing such a ban. Those members were of the view that this may be inconsistent with the requirements of Article 5 of the SPS Agreement. In response, the representative of Saudi Arabia assured the members that Saudi Arabia was aware of this concern and that any bans would be applied only in a manner consistent with Article 5 of the SPS Agreement as of the date of accession.

205. The representative of Saudi Arabia further reported that Saudi Arabia earlier had issued 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, as well as the Ministry of Commerce and Industry and the Ministry of Municipalities. Sanitary measures for fresh vegetables and fruits were governed by SASO standards and applied by the Ministry of Agriculture. When no approved international standards applied to these products, the Kingdom of Saudi Arabia implemented the standards applied by Members of the WTO and abided by the relevant provisions of the SPS Agreement. In such cases, Saudi Arabia ensured that a proper risk assessment was undertaken to ascertain that the measure concerned did not exceed Saudi Arabia's appropriate level of protection. Standards concerning sanitary measures for food commodities (meat, meat products and processed foods) are approved by SASO but applied by the Ministries of Industry and Commerce on locally made products, and by the Ministry of Commerce and 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 and Industry. 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.

206. 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, the Codex Alimentarius Commission (CAC) 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.

207. 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. In response to a comment by a Member of the Working Party, the representative noted that, as with TBT standards, SASO currently was in the process of publishing Saudi food draft standards in a single journal issued by SASO, in order to increase transparency and provide notification of future changes to SPS import requirements. (Until this goal were reached, all Saudi SPS measures would continue to be disseminated as described above.) Furthermore, information regarding Saudi Arabia's SPS regime, including its SPS measures, would be disseminated on the internet. The representative confirmed that Saudi Arabia would provide notification of future changes to import requirements relating to SPS matters.

208. Members of the Working Party asked Saudi Arabia to identify any additional steps taken to implement obligations in the SPS Agreement regarding transparency and risk assessment. The representative of Saudi Arabia stated that SPS obligations had been implemented by recent decisions by the Council of Ministers. In particular, he noted that Council of Ministers Decision No. 85 of 1.4.1421H (4 July 2000), included a number of provisions implementing obligations of the

SPS Agreement. First, Decision No. 85 required the Ministry of Commerce and Industry to notify the WTO and all WTO Members of all actions relating to SPS issues and to respond to any inquiries regarding the same. Second, under the Decision, a Technical Standing Committee was established to monitor Saudi SPS measures and ensure that they are implemented in accordance with Saudi Arabia's WTO obligations. The Technical Standing Committee comprised representatives from the Ministry of Commerce and Industry, the Ministry of Agriculture, the Ministry of Health, SASO and the Customs Department. Third, Decision No. 85 required the Ministry of Commerce and Industry to prepare a list of all Saudi SPS measures; this list is attached as Annex N. In response to a question by a member of the Working Party, the representative assured the member and confirmed that Saudi Arabia would strictly follow the provisions of Council of Ministers Decision No. 85 and would notify the WTO and all WTO Members of all actions relating to SPS issues and respond to any inquiries regarding the same.

209. Some members of the Working Party stated that the information on Saudi Arabia's SPS measures gave a good overview of the regime. They sought confirmation that measures were based on risk assessments carried out in accordance with Article 5 of the SPS Agreement. In response, the representative of Saudi Arabia confirmed that Saudi Arabia's SPS measures conformed to all standards, guidelines or recommendations issued by the international bodies specifically designated by the SPS Agreement, i.e., the Codex Alimentarius Commission, the 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. 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. In cases where Saudi Arabia decides it is necessary to provide a level of protection which is higher than that provided for in guidelines and recommendations issued by internationally recognized bodies Saudi Arabia took full account of 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.

210. 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 of 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 Decision No. 109 of 30.4.1424H (30 June 2003), "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.

211. One member of the Working Party asked for a clarification of Saudi Arabia's treatment of meat in sealed containers, where the meat had first entered another GCC country. The representative from Saudi Arabia noted that Saudi Arabia understood the importance of this issue. At a later stage, he noted that Ministerial Decree No. 5618 of 15.11.1424H (8 January 2004) had been issued. That Decree allowed such imported shipments to transit third countries provided that the containers were appropriately sealed and shipments appropriately documented.

212. 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.

213. 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 Saudi Arabia was revising its shelf-life requirements to ensure they comply with the provisions of the SPS and TBT Agreements.

214. He further stated that Saudi Arabia's shelf-life standards originally had been adopted in the light of Saudi Arabia's extreme climate and other conditions specific to Saudi Arabia. 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 and 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, 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.

215. 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.

216. 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.

217. In response to additional inquiries by members of the Working Party, the representative of Saudi Arabia confirmed that Saudi Arabia had re-examined its shelf-life requirements. A technical committee from different Government Ministries (Ministry of Commerce and Industry, Ministry of Health, Ministry of Agriculture, Ministry of Municipality, Universities and SASO) had reviewed Saudi technical regulations on the shelf-life of food products according to SPS, TBT, Codex Alimentarius Commission, International Scientific References, Research and Field Scientific Studies carried out in the Kingdom of Saudi Arabia or abroad. The revised Saudi standard, which incorporated the deletion of the statement of not allowing any food product which had overpassed more than half of its shelf-life, had been approved by the Council of Ministers and would be implemented before or from the date of accession.

218. The representative of the Kingdom of Saudi Arabia stated by the date of accession Saudi Arabia would adopt in place of shelf-life standards a use-by date selected by manufacturers. Imports of products would be allowed when the indicated use-by date had not expired at the time of importation. The Working Party took note of this commitment.

219. Some members of the Working Party noted that the SPS Agreement required that WTO Members accept the SPS measures of other members, subject to confirming objectively that those measures were adequate to achieve the importing country's level of SPS protection.

220. The representative of Saudi Arabia stated that, upon accession, when Saudi Arabia was satisfied that the SPS certification of an exporting country was credible and it achieved the appropriate level of protection determined to be necessary by Saudi Arabia in accordance with the SPS Agreement, then Saudi Arabia would accept would accept the SPS measures of the exporting country as required by Article 4 of the SPS Agreement. The Working Party took note of this commitment.

221. 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 SPS Agreement. 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. He reported that the salient features of the new Saudi Law include the following:

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

222. In response to a comment from a member of the Working Party, the representative of Saudi Arabia confirmed that Saudi measures regarding GMOs complied with relevant WTO obligations and were in place only to the extent necessary to protect human, animal or plant life or health. He further stated that Saudi Arabia does not prevent imports of GMO products; it has only imposed GMO import labelling requirement that is covered by Article 2 of the TBT Agreement. The purpose of the Saudi

regime is to ensure that consumers are informed regarding the nature of the products they are purchasing. He noted that labelling is perhaps the most widely accepted and least disruptive means for ensuring consumers have information about the products available on the market so that they can make informed purchasing decisions. He further confirmed that genetically modified products could be certified in the country of origin on the basis of consumption or use, provided that they would be imported into Saudi Arabia for the same purpose. In response to a further question from a member of the Working Party, he stated that SASO currently is studying the introduction of labelling requirement specifications for GMO products and plans to invite experts from various countries to participate in Saudi Arabia in a round-table discussion. Following the discussion, SASO will decide whether to: (i) maintain the current regime; (ii) abolish labelling requirements altogether; or (iii) adopt voluntary labelling.

223. One member of the Working Party asked as to the identity of the operational enquiry point for the SPS Agreement. The representative of Saudi Arabia reported that the Ministry of Commerce and Industry would serve this function (Post Office Box 11162, Riyadh, Kingdom of Saudi Arabia; telephone number 966-14-027-574; www.commerce.gov.sa).

224. The representative of Saudi Arabia stated that Saudi Arabia's sanitary and phytosanitary standards system would be in compliance with WTO provisions under the Agreement on the Application of Sanitary and Phytosanitary Measures as of the date of accession to the WTO, and that Saudi Arabia would apply all measures of the Agreement on the Application of Sanitary and Phytosanitary Measures in the least trade-distorting manner from the date of accession without recourse to any transition period. The Working Party took note of these commitments.

- Trade Related Investment Measures

225. Some members of the Working Party congratulated Saudi Arabia on its generally very liberal investment regime and asked whether there were any measures in place in Saudi Arabia that were inconsistent with the requirements of the Agreement on Trade Related Investment Measures (TRIMs). In response, the representative of Saudi Arabia stated that there were no measures in place in Saudi Arabia that were inconsistent with the requirements of the Agreement on 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, although any such requirements in the services sector would be in conformity with Saudi Arabia's Schedule of Commitments on Services.

226. The representative of Saudi Arabia stated that Saudi Arabia would not maintain any measures inconsistent with the TRIMs Agreement and would apply the TRIMs Agreement from the date of accession without recourse to any transition period. The Working Party took note of this commitment.

- **State Trading**

227. 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 Grain Silos and Flour Mills Organization (GSFMO) was established by a Royal Decree in February 1973 to support the development of the domestic agricultural sector, particularly wheat production for national security reasons, by forming a grain storage and flour production conglomerate, as well as by creating a stable market for grains in order to safeguard farmers from price fluctuations. Wheat flour produced by GSFMO was subject to price controls for the aim of providing all people (especially the poor) with a stable, low-cost food source. GSFMO had been the only organization allowed to import grains, flour and animal feed. The import regime for these products had now been liberalized; importers in the private sector now could import these products. GSFMO no longer imports these products. In response to a question, the representative of Saudi Arabia stated that 18 private firms were importing these products following the termination of GSFMO monopoly. Saudi Arabia confirmed that GSFMO was no longer a state-trading import enterprise. In response to a question from a member of the Working Party, the representative confirmed that wheat imports did not require a GSFMO permit.

228. A member of the Working Party inquired as to the medium-term direction of Saudi Arabia's policies regarding grain supports and trade. In response, the representative stated that Saudi Arabia was committed to further liberalising this sector. He further noted that the World Bank was now studying a comprehensive plan for full divestiture of the GSFMO.

229. The representative of Saudi Arabia confirmed that, after accession to the WTO, Saudi Arabia would observe WTO provisions concerning grain supports and state trading, 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**

230. In response to questions from members of the Working Party, the representative of Saudi Arabia stated that, although there were no free zones or free economic zones established or operating in Saudi Arabia, Articles 77-88 of the GCC Unified Customs Law permitted the establishment of such zones.

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

- **Trade in Transit**

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

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

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

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

- **Agricultural Policy**

235. The representative of Saudi Arabia provided information on its agriculture sector, including tables on domestic support and export subsidies in documents WT/ACC/SAU/19 and 28, and WT/ACC/SPEC/SAU/1/Rev.6 and Corr.1.

236. 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 of 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 were very low.

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

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

237. He confirmed that the total "agricultural subsidies" package had been notified under non-product-specific support on supporting Table DS:9 of the domestic support tables. He added that the

Bank had also been responsible for the disbursement of a package of agricultural subsidies incurred by the government towards reduction of agricultural expenditures in order to increase the average return on agricultural production. These subsidies included: engines, irrigation pumps, agricultural machinery, poultry equipment, dairy production equipment; in addition, transport costs from the country of origin of high-breed cows imported to the Kingdom were also paid. The following table shows total agricultural subsidies disbursed through the bank during the period 1992-2001:

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

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

238. 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 1 million tons in 1998, and to less than 200,000 tons in 2001. Domestically produced barley was purchased by the GSFMO, and then sold to livestock producers at the fixed price of SAR 400/ton (US\$ 107/ton). The representative of Saudi Arabia stated that GSFMO stopped receiving domestic barley according to Royal Decree No. 4/B/49434 of 8.12.1423H (10 February 2003). The farmers were advised to convert to other products that consume less water.

239. 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. He added that the specific support for the dairy sector was included in the agricultural subsidies listed in Paragraph 227 of the Working Party Report, as well as in supporting Tables DS:7 and DS:9.

240. 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.

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

242. Saudi Arabia's commitments on [agricultural tariffs on] domestic support and export subsidies for agricultural products are contained in the Schedule of Concessions and Commitments on Goods (document WT/ACC/) annexed to Saudi Arabia's draft Protocol of Accession.

- Trade in Civil Aircraft

243. 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.

V. TRADE RELATED INTELLECTUAL PROPERTY REGIME

- General

- Industrial Property Protection

244. The representative of Saudi Arabia confirmed that the policy objective in the area of intellectual property was to provide effective and adequate protection to all categories of intellectual property in conformity with the provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights. 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 texts of the Trademarks Regulations, Patents Law and the Law for the Protection of Copyrights (L/7645/Add.1).

245. 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. In response, the Representative of Saudi Arabia reaffirmed Saudi Arabia's commitment to meeting the obligations of the TRIPS Agreement and provided additional relevant information as set forth below.

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

246. In response to questions from members of the Working Party, the representative of Saudi Arabia confirmed that different Saudi agencies were responsible for different aspects of intellectual property formulation and implementation, depending on the precise nature of the issue involved. For example, the Ministry of Commerce and Industry was responsible for implementing the Trade Marks Law and for formulating and implementing policy regarding the protection of undisclosed information, pursuant to the Companies Law, the Labour Law, the Banking Control Law and the new Unfair Competition Law, currently under consideration, that would deal comprehensively with this issue. He further stated that the King Abdulaziz City for Science and Technology (KACST) was responsible for implementing the Law on Patents, Industrial Designs, Plant Varieties and Layout Designs of Integrated Circuits. He added that the Ministry of Culture and Information was responsible for implementing the Copyright Law.

- **Membership in International Intellectual Property Conventions**

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

- i. The Convention Establishing the WIPO.
- ii. The Berne Convention.
- iii. The Paris Convention.

- iv. The Universal Copyright Convention.
- v. The Arab Regional Copyright and Related Rights Agreement.

- Application of MFN and National Treatment to Foreign Nationals

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

- Fees and Taxes

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

- Copyrights

250. No fees or charges.

- Patents

	Individuals	Companies
	SAR	SAR
Application Fee	400	800
Patent Grant and Publication	500	1,000
Annual Fees	400	800
Amendments/Additions to Patent Applications	100	200
Change of Ownership	200	400
Certified Copies from Register	50	100
Grant of Compulsory Licence	4,000	8,000
Registering Licence Agreement	400	800

- Trade Marks, Including Service Marks

- Application Fee: SAR 1,000
- Registration Fee: SAR 3,000
- Renewal of Registration: SAR 3,000
- Changes or Modifications to Registration: SAR 1,000
- Late Fee for Delayed Renewal (w/i 6 mos.): SAR 1,000

- **Substantive Standards of Protection, Including Procedures for the Acquisition and Maintenance of Intellectual Property Rights**
- **Copyright**

251. 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 had joined the Berne and Paris Conventions.

252. 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 (Royal Decree M/41 (30 August 2003)), 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. The 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, including protection for 50 years; (3) legal use 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 new Law provided in detail for all types of infringements and piracies and strengthened penalties (including provisions for: (i) imprisonment of up to six months (which can be doubled for repeat offenders); (ii) a maximum fine of SAR 250,000 (which can be doubled for repeat

offenders); and (iii) compensation for damages and defamation due to the conduct of the violator) to meet the requirements of the TRIPS Agreement. In response to a question from a member of the Working Party, the representative of Saudi Arabia reported that the implementing regulations had not yet been promulgated. He said that, as soon as the regulations were available, a copy would be provided to the Secretariat and they would be translated into English and posted on the internet by the Ministry of Culture and Information.

- **Patents**

253. 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 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 would be 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.

254. As to compulsory licensing, the representative of Saudi Arabia stated that the amendment of the Patent Law would conform national law and practice to the requirements of Article 31 of the TRIPS Agreement. The review of the Patent Law had revealed that, in comparison with Article 27(3) of the TRIPS Agreement, the exclusion of patentability contained in paragraphs (a) and (b) of Article (8) was in accordance with Article 27 (1) of the TRIPS Agreement which limits the patentable inventions to those which were related to products or processes; paragraph (c) of Article (8) was in full compliance with subparagraph (b) of Article 27(3) of the TRIPS Agreement except that paragraph (c) did not exclude "micro-organisms" from "plants and animals" and did not include "non-biological processes" as processes excluded from "biological processes for the production of plants and animals"; 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 the draft Law 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 and included provisions not only on Patents, but also on Industrial Designs, Plant Varieties and Layout Designs of Integrated Circuits.

- **Trademarks**

255. In response to requests for information concerning the protection of trademarks in Saudi Arabia, the representative of Saudi Arabia gave a description of various provisions of the existing 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 (Royal Decree M/21) was issued vide Council of Ministers' Decision No. 140 of 5 August 2002, to bring Saudi Arabia's trademarks regime into compliance with the provisions of the TRIPS Agreement. In response to a question, the representative confirmed that Royal Decree M/21, implemented by Council of Ministers Decision No. 140, was the only law in effect regarding trademarks; this law had superseded all other laws on trademarks.

- **Geographical Indications, Including Appellations of Origin**

256. Members of the Working Party asked for details regarding Saudi Arabia treatment of geographical indications. In response, the representative of Saudi Arabia stated that the new WTO-consistent Trade Marks Law, which also contained provisions regarding geographic indications, was issued vide Council of Ministers' Decision No. 140 of 5 August 2002. The new Trade Marks Law, he said, was consistent with WTO TRIPS Agreement and contained provisions on protection of geographical indications.

- **Industrial Designs**

257. In response to requests for information concerning the protection available for industrial designs, the representative of Saudi Arabia responded that industrial designs would be protected by the industrial designs provisions in the draft Law on Patents, Industrial Designs, Plant Varieties and Layout Designs of Integrated Circuits, to be implemented by The King Abdulaziz City for Science and Technology (KACST).

- **Layout Designs of Integrated Circuits**

258. In response to requests for information concerning the protection available for layout designs, the representative of Saudi Arabia noted that protection of layout designs of integrated circuits was covered by the draft Law on Patents, Industrial Designs, Plant Varieties and Layout Designs of Integrated Circuits, consistent with WTO obligations.

- **Plant Variety Protection**

259. In response to questions from members of the Working Party, the representative of Saudi Arabia stated that protection of plant varieties was provided by the draft Law on Patents, Industrial Designs, Plant Varieties and Layout Designs of Integrated Circuits.

- **Undisclosed Information**

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

- **Enforcement**

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

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

263. 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, Shari'a provided significant protection of intellectual property rights. Saudi Arabia was working to codify all laws required by the Agreements on TRIPS.

264. 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 draft Law on Patents, Industrial Designs, Plant Varieties and Layout Designs of Integrated Circuits, were at an advanced stage in the legislative process and would soon be enacted.

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

- **General Obligations**

266. Regarding General Obligations, the representative of Saudi Arabia stated that Saudi intellectual property laws include provisions for the enforcement of the rights they provide in compliance with the provisions of the TRIPS Agreement. The Copyright Law, the Trademark Law and the proposed Law on Patents, Layout Designs of Integrated Circuits, Plant Varieties and Industrial Designs each contain enforcement provisions. He further stated that the Law of the Board of Grievances (the administrative judiciary of Saudi Arabia), the Rules and Procedures of the Board of Grievances and the proposed Border Measures Regulations related to IPR also contain provisions regarding enforcement. The laws, he said, contain provisions guaranteeing fairness and equity, while

still providing for robust enforcement. The laws also provide for further appeal to the Board of Grievances to contest the decisions of the administrative bodies. Under these laws, he reported, administrative and judicial decisions were required to be in writing and well-reasoned. All administrative and judicial procedures, including the Board of Grievances procedures, were free of cost.

- **Civil and Administrative Procedures**

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

- **Provisional Measures**

268. Regarding provisional measures, the representative of Saudi Arabia informed the Working Party that Articles 49-51 of the Trademark Law and Articles 22 and 24 of the Copyright Law provide for provisional measures. These provisions, he assured the members, are in compliance with Section 3 of Part III of the TRIPS Agreement.

- **Special Requirements Related to Border Measures**

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

270. The representative of Saudi Arabia reported that the issue of special requirements related to border measures would be covered by the proposed Border Measures Regulations and the

Implementing Regulation of the Copyright Law. He reported that these provisions would comply fully with Section 4 of Part III of the TRIPS Agreement.

- **Criminal Procedures**

271. With regard to criminal procedures, the representative of Saudi Arabia stated that they were addressed by Article 22 of the Copyright law and Articles 43-45 of the Trademark Law. These provisions, he confirmed, complied with Section 5 of Part III of the TRIPS Agreement.

272. The representative of Saudi Arabia stated that Saudi Arabia would apply fully all the provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights from the date of accession to the WTO, without recourse to any transition period. The Working Party took note of this commitment.

VI. POLICIES AFFECTING TRADE IN SERVICES

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

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

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

276. Some members of the Working Party requested information on the regulation of the financial services sector and in particular requested information on the conditions under which a foreign bank could obtain a licence to establish a branch within Saudi Arabia. In response, the representative of Saudi Arabia stated that banking firms' activities were regulated by the Banking Control Law. Under Article 2 of the Banking Control Law, a natural or legal person was required to have a license to engage in a banking business. Under Article 3 of the Law, the licensing requirements for a Saudi

national bank stipulated, *inter alia*, that it must be a Saudi joint stock company. This included joint venture banks. A foreign bank could be granted a licence to establish branches in Saudi Arabia if it satisfied the conditions determined by the Council of Ministers upon the recommendation of the Minister of Finance. The representative of Saudi Arabia added that the Saudi Arabian Monetary Agency (SAMA) always acted consistently with the requirements of Articles XVI and XVII of the GATS when considering an application for a new licence. Upon the recommendation of the Saudi Arabian Monetary Agency, the Minister of Finance and the Council of Ministers would evaluate the recommendation taking into account the following objective considerations: the macroeconomic needs of the financial and banking system; the development of new products and services; the level of existing competition in the market; the benefits to the consumer; the introduction of new technologies; the impact on the financial stability and soundness of the banking system; the professional and business standing of the founders and members of the Board of Directors; and the capital adequacy of the proposed enterprise.

277. He further added that Saudi Arabia provided for a wide range of judicial, arbitral and administrative procedures with respect to trade in services. Saudi Arabia had administrative procedures for the review of administrative decisions affecting trade in services. Such decisions could be appealed to the Board of Grievances under the Council of Ministers Resolution No. 190 of 16.11.1409H Concerning Rules and Procedures of the Board of Grievances and the Board of Grievances Law. Commercial disputes were generally covered by the Board of Grievances and some other standing and ad hoc committees. Some members of the Working Party asked the representative of Saudi Arabia to provide information on the review of decisions concerning the licensing of service providers in Saudi Arabia. In response, the representative of Saudi Arabia stated that a number of Ministries and Agencies were involved in approval of the right to provide a service in Saudi Arabia; for example: the Ministry of Commerce and Industry for engineers, legal practitioners, accountants and insurers; the Ministry of Defence and Aviation for civil aviation, tourism and travel agents; the General Organization for Technical Education and Occupational Training for technical institutes and national occupational centres; the Ministry of Health for medical practitioners, pharmacists, hospitals; the Ministry of Communications for maritime transport; and the Saudi Arabian Monetary Agency for banks and cooperative insurance companies. In all cases, the Ministries and Agencies involved had internal standing committees of senior officials to review initial administrative decisions pertaining to licensing. Decisions of standing committees could be appealed to the responsible Minister or Agency head. Administrative Decisions involving potential civil suits against the government could be brought before the Board of Grievances.

278. In response to requests for information on the nature and extent of incentives, tax exemptions and subsidies available to service providers in Saudi Arabia, on a national treatment basis, the representative of Saudi Arabia stated that no tax holidays were now available within the new Foreign Investment Regulations of April 2000.

279. In response to requests for information concerning restrictions on the provision of professional services, the representative of Saudi Arabia stated that all professional services were treated in the same manner. A licence was required to provide professional services. To be eligible for a licence the company was required to be: reputable and well recognized in the field of its profession; to have been registered and successfully practising in the field for at least ten years; and to be prepared to participate in the training and the building of Saudi nationals' experience and introducing relevant technology. In addition, the foreign company should employ or have at least one representative in Saudi Arabia. That representative should stay in Saudi Arabia for a period not less than nine months per year; have at least a university degree in the field of the company specialization; and have not less than ten years experience successfully. In response to requests for further information concerning the conditions required to be fulfilled in order to be eligible for grant of a licence, the representative of Saudi Arabia stated that a foreign company would be considered as reputable, well recognized and practising in the field successfully if it was registered under the companies law of its home country, was certified as financially viable by its bankers, produced copies of audited balance sheets for the last two years, produced a list of previous contracts/assignments, outside Saudi Arabia, certified by the Chamber of Commerce and Industry in the company's home country, and also produced certificates of satisfactory completion of assignments from former clients. Concerning the participation in training and the introduction of technology, the applicant company should give an undertaking that it would train Saudi nationals and would introduce the new technologies and know-how that it employed in its home country. He also added that the foreign existing companies already licensed to operate in Saudi Arabia had a period of one year to fulfil those conditions. If they do not do that, the licence may be cancelled. New companies had to fulfil the conditions from the beginning of their business activities.

280. Some members of the Working Party asked whether Saudi Arabia planned to liberalise the limitations placed on the participation of foreigners in security underwriting, commodity brokerage services and currency exchange operations, as well as the limitations placed on the participation of foreigners in land transportation and professional services. In response, the representative of Saudi Arabia stated that, although there were limitations on the participation of both foreign and domestic individuals in providing security underwriting, commodity brokerage services and currency

exchange operations, there were no such limitations on domestic and foreign banks, except the requirements to be licensed. There were no plans to liberalise those conditions.

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

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

283. In response to questions concerning the limitations placed upon the total number of natural persons employed in particular sectors, the representative of Saudi Arabia stated that as a matter of principle, work was considered a Saudi citizen's right. Consequently, a foreigner would not be employed when to do so would displace a Saudi worker. The Labour and Workers Regulations required that any enterprise, Saudi or foreign owned, would ensure that the percentage of the Saudi workers engaged by the employer should not be less than 75 per cent of the total workforce.

However, the Regulations also permitted the Minister of Labour to reduce the required percentage in circumstances where qualified Saudi workers were not available. Foreign workers were required to obtain work permits from the Ministry of Labour, and an application for a permit was required to be accompanied by a submission from the proposed employer confirming the non-availability of qualified Saudis for the work. All service providers' activities, regardless of ownership were obliged to reserve certain positions for Saudis, including personnel officers, recruitment officers, receptionists, treasurers, civilian security guards, and transaction follow-up clerks to government departments.

284. Some members of the Working Party requested clarification of the qualification requirements and procedures for approval of foreign service providers. In response, the representative of Saudi Arabia stated that different categories of services required different types of approval. For example, for medical services, the service provider should have a medical degree from a recognized institution. For educational services, the service provider should have adequate academic qualifications in the relevant disciplines from a university or a recognized institution. For the provider of accounting and auditing service, the provider should be a certified accountant from a recognized institute. In addition, all foreign companies should possess the necessary technical expertise, financial capabilities, and occupational proficiency.

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

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

request to own real estate is a prerequisite before its review by a Ministerial Committee headed by the Minister of Interior.

287. In response to questions from members of the Working Party, the representative of Saudi Arabia provided the following information regarding the Kingdom's insurance regime. He stated that Cooperative Insurance in the Kingdom was undertaken through registered insurance companies operating in a cooperative manner as provided within the articles of the Law on Supervision of Cooperative Insurance Companies and in accordance with the principles of Islamic Shari'a. Cooperative Insurance operated with the purpose of maintaining an efficient, fair, safe and stable insurance market for the benefit and protection of policyholders and shareholders. Cooperative insurance aimed to strengthen values like cooperation and social solidarity (takaful) among the insured by indemnifying those among them who sustain losses insured against as well as sharing equitably the amount of such losses among themselves.

288. The representative of Saudi Arabia further stated that cooperative insurance companies offered both policyholders and shareholders the opportunity to benefit from their contributions and investments through the distribution of the surplus of insurance operations between the shareholders and policyholders. To facilitate a clear accounting for the distribution of the surplus, the insurance and re-insurance operations accounts were kept separate from the shareholders investments accounts. Insurance operations accounts were maintained from the contributions paid to the company by policyholders and were reserved for payments of claims and expenses of the company's operation. Policyholders were entitled to a percentage of the surplus from the income generated from the operations and the return on investment from the policyholders' contributions at the end of the year in the form of reduction of premium or by monetary distribution. Shareholders investments accounts were maintained from the investment of the shareholders' capital and the insurance operations' fund. The net investment returns from the insurance operations fund were added as investment return to the insurance operations accounts and the rest was available for the shareholders.

289. The Implementing Regulations of this Law were to be issued by an order of the Minister of Finance and would specify the insurance activities covered in this Law. The implementing regulations would: (i) provide transparency by making public all rules and regulations affecting the insurance and reinsurance industry; (ii) promote competition in the market place; and (iii) provide consumer and private-sector protection.

290. Subject to the provisions of the Cooperative Health Insurance Law, promulgated by Royal Decree M/10 of 1.5.1420H, the Cooperative Insurance Law granted the Saudi Arabian

Monetary Agency (SAMA), through a clear, transparent and consistent regulatory and supervisory process, the powers to:

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

291. The main object of the insurance and reinsurance companies was to engage in insurance and reinsurance activities, not to undertake any other activities unless they are complementary or necessary. Insurance and reinsurance companies could not directly own brokerage companies or establishments. Reinsurance companies could not own reinsurance brokerage companies or establishments. However, insurance companies could, subject to obtaining the SAMA's approval, own companies or establishments engaged in reinsurance brokerage activities.

292. The capital of the insurance company should not be less than SAR 100,000,000 and the paid-up capital of a reinsurance company or an insurance company engaged at the same time in reinsurance activities should not be less than SAR 200,000,000. The minimum capital should not be altered without the SAMA's approval and in accordance with the Companies Law.

293. Following the completion of bilateral negotiations with WTO Members, the schedule of specific commitments on services of Saudi Arabia would be reproduced in Part II of the Annex to the Protocol of Accession of Saudi Arabia. The representative of Saudi Arabia noted that the measures described above in this section entitled "Services" of this Report would in no way affect Saudi Arabia's obligations in Services described in its Schedule of Specific Commitments in Services annexed to Saudi Arabia's Protocol of Accession.

- **Government Procurement**

294. 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.

295. 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.

296. 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**

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

298. In response, the representative of Saudi Arabia stated that Article 71 of the Basic Law requires that all laws be published in *Umm Al-Qura*, the Official Journal, before they entered into effect, and that laws become effective on the date of publication unless a later date was specified. He added that the *Umm Al-Qura* also is the official journal for publication of regulations, implementing regulations, decrees, decisions, Ministerial orders, international Agreements and concessions, which also could not come into effect prior to publication there. These rules, however, did not extend to administrative orders. He further added that Article 47 of the Board of Grievances Law required the publication of judicial decisions. There were no other requirements for publication or notification

currently in effect. He also confirmed that his government has set up a single operational enquiry point (the Ministry of Commerce and Industry (Post Office Box 11162, Riyadh, Kingdom of Saudi Arabia; telephone number 966-14-027-574; www.commerce.gov.sa)) in conformity with the requirements of Article III of the General Agreement on Trade in Services and the WTO Agreements on TBT and SPS.

299. A Member stated that timely review of legislation published in *Umm Al-Qura* was difficult, as copies were not immediately available to the general public and many private-sector entities were unable to obtain copies of laws and regulations with sufficient time to become acquainted with their provisions prior to the date of implementation. In addition, although all laws and regulations were published in the Journal, the non-publication of administrative orders presented problems of adjustment in cases of new import or export requirements. This Member suggested that Saudi Arabia consider posting the *Umm Al-Qura* on the internet to improve access by the public to laws, regulations, judicial decisions and administrative rulings of general application, and welcomed any other practical steps taken by Saudi Arabia to ensure prompt and accessible publication of legislation and regulations in the Official Journal.

300. The representative of Saudi Arabia confirmed that from the date of accession his government would fully implement Article X of the GATT 1994, Article III of the GATS and the other WTO transparency requirements, including those requiring notification and publication. As such, all laws, regulations, decrees, judicial decisions and administrative rulings of general application pertaining to or affecting customs issues, trade in goods, services, intellectual property and the control of foreign exchange would be published promptly in the *Umm Al-Qura* in a manner that fulfils the WTO requirements and no such law, regulation or other normative act or measure would become effective or be enforced prior to such publication. He further confirmed that the government also had decided to expand the transparency provided with regard to legislation and measures having similar effect in the areas of trade and investment. In this regard, Saudi Arabia would, from the date of accession, establish or designate an official website (and possibly a supplemented official journal or an expanded *Umm Al-Qura*), updated on a regular basis and readily available to WTO members, individuals and enterprises, dedicated to the publication of all regulations, decisions, orders, administrative rulings of general application, and other measures pertaining to or affecting trade in goods, services, and TRIPS prior to enactment. The publication of such regulations and other measures would include, as appropriate, the names of the authorities (including contact points) responsible for implementing a particular measure and the effective date of the measure. Also, it would list the products and services affected by the particular measure, identified by appropriate tariff line and classification. He added

that Saudi Arabia intended to post the contents of current and past editions of the Official Journal on this website as well, and keep them current. The Working Party took note of these commitments.

- **Notifications**

301. The representative of Saudi Arabia said that, upon entry into force of the Protocol of Accession, Saudi Arabia would submit all 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**

302. 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 paragraphs 5(b) and 8(b). 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 harmonize trade and commercial policies. He also submitted the programme for the implementation of the Agreement Facilitating and Developing Trade Exchange among Arab States to create a Free Trade Area and the Agreement Facilitating and Developing Trade Exchanges among Arab States. Saudi Arabia would notify these Agreements upon becoming a WTO Member.

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

304. In response to additional questions from a member of the Working Party, the representative of Saudi Arabia stated that the 1981 List is the basic document that is the foundation of the GCC. Further to this List, the first GCC FTA was established; later, the GCC Summit took a decision on further economic integration and established a Customs Union (which came into force 1 January 2003). The representative added that customs tariffs had been removed on all trade among GCC countries and that there were no exceptions. As for treatment of imports into one member of the

customs union when they are shipped to another, the representative of Saudi Arabia referred to Paragraphs 147-148 of the Report. He also stated that there were no rules of origin for the GCC Customs Union. As for other restrictions, the representative reported that particular goods imported into one member of the customs union could not be shipped to another member if their importation into the other member was banned (e.g., the import ban on alcohol and pork in Saudi Arabia).

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

306. In response to another question from a member of the Working Party, the representative of Saudi Arabia stated that the GCC Supreme Council, which met annually and comprised Heads of State/Heads of Governments, was the ultimate decision making body in the GCC. The Ministerial Council, comprising Foreign Ministers, was responsible for overall implementation and implementation of decisions of the Supreme Council. Below the Ministerial Council were different functional bodies, the most important of which was the Financial and Economic Cooperation Committee, which was in charge of reviewing financial and economic policy of the customs union.

307. The representative of Saudi Arabia stated that implementation of the Arab Free Trade Area was progressing with the aim of having a full-fledged free trade area from 2005. Tariffs of member countries in the context of the Arab Free Trade Area (AFTA) had been reduced by 80 per cent. Future plans included negotiations to create a customs union. In response to further questions from members of the Working Party, the representative stated that AFTA included the following member states of the Arab League: Bahrain, Egypt, Israel, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Qatar, Saudi Arabia, Sudan, Syria, Tunisia, United Arab, Emirates and Yemen. He added that there were no further preferential provisions that went beyond the current 80 per cent level (except for those AFTA members that were also members of the GCC and, thus, part of a customs union). He further stated that Saudi Arabia granted an 80 per cent discount from its MFN tariff rates to imports from all AFTA members, and that services were not included in the AFTA.

308. Saudi Arabia and other GCC member states have discussed with the European Communities the possibility of establishing a free trade area.

309. 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**

310. [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 that these commitments had been incorporated in paragraph 2 of the Draft Protocol of Accession of Saudi Arabia to the WTO.]

311. [Having carried out the examination of the foreign trade regime of Saudi Arabia and in the light of the explanations, commitments and concessions made by the representative of Saudi Arabia, the Working Party reached the conclusion that Saudi Arabia be invited to accede to the Marrakech Agreement Establishing the WTO under the provisions of Article XII. For this purpose, the Working Party has prepared the draft Decision and Protocol of Accession reproduced in the Appendix to this report, and takes note of Saudi Arabia's Schedule of Concessions and Commitments on Goods [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 Marrakech Agreement Establishing the WTO.]

ANNEXES

- Annex A: List of Items Subject to Price Controls
- Annex B: Comparison of the Old 1979 Foreign Investment Law and the New 2000 Foreign Investment Law
- Annex C: "Negative List"
- Annex D: Summary of the Provisions of the Capital Market Law
- Annex E: List of Products Subject to Non-Automatic Import Licensing Requirements
- Annex F: Fees and Charges for Port Services
- Annex G: List of Banned Imports
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- Annex I: List of Items Subject to Preshipment Inspection
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- Annex K: List of Banned Exports
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- Annex M: List of Technical Committees
- Annex N: List of SPS Measures Maintained by the Kingdom of Saudi Arabia (to be submitted)

ANNEX A

List of Items Subject to Price Controls

No.	Item	Current Controlled Price
1.	Wheat	SAR 20/21 per 40 kg
2.	Fuel oil	6–12 Halalas/Litre
3.	Gasoline	90 Halalas/Litre
4.	Diesel	37 Halalas/Litre
5.	Kerosene	43.5 Halalas/Litre
6.	Liquefied Petroleum Gas (LPG) (Cooking Gas)	72 Halalas/Litre
7.	Asphalt	300 SAR/Metric Ton
8.	Natural Gas (Ethane and Methane)	281 Halalas/MMBTU
9.	Crude Oil (Fuel)	10 Halalas/Litre

(1 SAR = 100 halalas)

The Council of Ministers is the responsible legal authority.

ANNEX B

Comparison of the Provisions of the Old and New Foreign Investment Laws

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

Authorities Providing Services to and Regulating Investors

Old Law: Several Ministries and Government Agencies.

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

Investment Fields Open to Foreign Investors

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

New Law: All fields are open for investment, except those included in the negative list.

Period for Taking a Decision on the Investment Application

Old Law: Not specified.

New Law: Maximum 30 days.

Possibility of Obtaining More Than One License

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

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

Type of Foreign Investment

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

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

Incentives

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

Investment Guarantees

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

Real Estate Ownership

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

Penalties for Violations

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

Tax Exemption

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

New Law: Taxes on profits were reduced to 30 per cent and losses may be transferred to coming years. A further tax reduction is under discussion.

Sponsorship

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

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

ANNEX C

"Negative List"

I. Industrial Sectors

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

II. Services Sectors

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

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

ANNEX D

Summary of Provisions of the Capital Market Law

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

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

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

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

ANNEX E

List of Imports Subject to Non-Automatic Licensing

S. No.	HS Code	Description	WTO Justification
1.	01 01 10 10	Arabian breed, pure-bred horses	GATT Art. XI:2(b)
2.	01 01 10 20	Arabian breed, pure-bred horses	GATT Art. XI:2(b)
3.	01 01 90 10	Arabian breed, pure-bred horses	GATT Art. XI:2(b)
4.	01 01 90 20	Arabian breed, pure-bred horses	GATT Art. XI:2(b)
5.	06 02 20 10	Date palm, and sapling thereof	GATT Art. XX(b)
6.	23 09 90 50	Preparations for the animal forage	GATT Art. XX(b)
7.	Chapters 28 and 29	Chemicals	GATT Art. XXI
8.	ex 30.03	Medicines, for veterinary use	GATT Art. XX(b)
9.	ex 30.04	Medicines, for veterinary use	GATT Art. XX(b)
10.	25 01 00 30	Sodium chloride;	GATT Art. XXI
11.	27.12, except 27 12 10 00	Paraffine, vaseline	GATT Art. XXI
12.	31 02 30 00	Explosives, fireworks, gunpowder, Propellant powders, prepared explosivesDetonating fuses, percussion or detonating caps, igniters, electric detonators, safety fuses, sulphate turpentine oils; Polymethyl methacrylate; Cellulose nitrates; Aluminium powders and flakes; Magnesium powder and flakes.	GATT Art. XXI
13.	31 02 50 00		
14.	36 01 00 00		
15.	36 02 00 00		
16.	36 03 00 10		
17.	36 03 00 90		
18.	25 01 00 30		
19.	35 03 00 10		
20.	38 05 10 00		
21.	39 06 10 00		
22.	39 12 20 00		
23.	76 03 20 00		
24.	81 04 30 00		
25.	31.02	Chemical fertilizers	GATT Art. XXI
26.	31.03	Chemical fertilizers	GATT Art. XXI
27.	31.04	Chemical fertilizers	GATT Art. XXI
28.	31.05, except 31 02 30 00 and 31 02 50 00	Chemical fertilizers	GATT Art. XXI
29.	36 04 10 00	Lighting fireworks for occasions	GATT Art. XXI
30.	36 04 90 00		
31.	38 08 30 00	Herbicides, anti-sprouting products, plant-growth regulators	GATT Art. XX(b)
32.	ex 58 07 10 00	Military uniforms, military badges etc.	GATT Art. XXI
33.	ex 58 07 90 00		
34.	ex 61 01		
35.	ex 61 03		
36.	ex 62 01		
37.	ex 62 03		
38.	65 05 90 94	Peak caps	GATT Art. XXI
39.	65 06 10 30	Helmets, for military use	GATT Art. XXI
40.	ex 73 26 90 99	Other items of iron and steel, for military use	GATT Art. XXI
41.	ex 90 05 10 00	Night vision binoculars	GATT
42.	83 01 40 20	Security equipment such as security surveillance	GATT Art. XXI

S. No.	HS Code	Description	WTO Justification
43.	85 25 40 00	Cameras, CTV systems, anti-theft alarm systems,	
44.	85 43 89 20	Cameras, CTV systems, anti-theft alarm systems,	
45.	85 31 10 00	Magnetic card or thumb impression operated	GATT Art. XXI
46.	90 22 19 90	Access/exit doors and equipments, metal	
47.	90 22 19 10	Detecting doors and equipments, baggage screening equipments	GATT Art. XXI
48.	84 19 40 00	Distillation equipment	GATT Art. XX(a)
49.	84 59 61 00	Key cutting, copying and repairing machines and instruments of any type	GATT Art. XX(d)
50.	84 59 69 00	Key cutting, copying and repairing machines and instruments of any type	GATT Art. XX(d)
51.	84 72 30 00	Postage franking machines	GATT Art. XX(d)
52.	85 25 20 11	Transmission apparatus	GATT Art. XXI
53.	85 25 20 19	Transmission apparatus	GATT Art. XXI
54.	85 25 20 20	Transmission apparatus	GATT Art. XXI
55.	85 25 20 30	Transmission apparatus	GATT Art. XXI
56.	85 25 20 40	Transmission apparatus	GATT Art. XXI
57.	85 25 20 50	Transmission apparatus	GATT Art. XXI
58.	85 25 20 60	Transmission apparatus	GATT Art. XXI
59.	85 25 20 90	Transmission apparatus	GATT Art. XXI
60.	85.26 in addition to any other relevant heading	Transmission apparatus	GATT Art. XXI
61.	ex 87.03	Armoured vehicles	GATT Art. XXI
62.	89 02 00 00	Fishing vessels	GATT Art. XXI
63.	Chapter 93	Arms and ammunitions	GATT Art. XXI
64.	Different headings	Wild animals and products thereof, according to CITES	GATT Art. XX(b)
65.	Different headings	Cultural and archaeological property	GATT Art. XX(f)
66.	Different headings	Products containing currency pictures, models or wrappers in shape of currency or otherwise.	GATT Art. XX(d)

ANNEX F

Fees and Charges for Port Services

1.	General Cargo	—	SR 35 Per Ton or Part Thereof
2.	Vehicles and Equipment	—	SR 35 Per Ton or Part Thereof
3.	Bagged Cargo and Foodstuff	—	SR 20 Per Ton or Part Thereof
4.	Bagged Cement	—	SR 10 Per Ton or Part Thereof
5.	Bulk Cargo (including bulk handled at the cement silos, grains, oils or similar), excluding crude oil, gas and liquefied petroleum products	—	SR 6 Per Ton or Part Thereof
6.	Exported Bulk Cement and Clinker	—	SR 3 Per Ton or Part Thereof
7.	Container 20 Feet Long or Less	—	SR 270 Per Unit
8.	Container Over 20 Feet Long	—	SR 415 Per Unit
9.	Sheep/Goat	—	SR 2 Per Head
10.	Other Livestock	—	SR 5 Per Head

ANNEX G

List of Banned Imports

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

S. No.	HS Code	Description	WTO Justification
39.	29 39 91 10, in addition to other relevant headings		
40.	31.01	Animal or vegetable raw natural organic fertilizer	GATT Art. XX(b)
41.	12 11 90 90	Goro nut	GATT Art. XXI
42.	12 11 90 90	Betel	GATT Art. XX(b)
43.	22.03	Alcoholic beverages and intoxicants of all kinds, including those containing alcohol in any intoxicating proportion	GATT Art. XX(a)
44.	22.04		
45.	22.05		
46.	22.06		
47.	22 07 20 90		
48.	22.08, except 22 08 90 11 and 22 08 90 19		
49.	24 03 99 20	Tobacco snuff – Tobacco "sawika"	GATT Art. XX(b)
50.	25 24 00 00	Asbestos and products thereof	GATT Art. XX(b)
51.	ex 29.31	Sarin toxic gas	GATT Art. XX(b)
52.	30 06 80 00	Industrial waste and hazardous refuse	GATT Art. XX(b)
53.	36 04 10 00	Fireworks of the kind used by children such as snaps, rockets, sulfuric jitters and night stars, etc, falling within this scope	GATT Art. XX(b)
54.	40.12, except 40 12 90 00	Used and retreaded tyres	GATT Art. XX(b)
55.	49 01 99 10	The Holy Quran	GATT Art. XX(a)
56.	49 07 00 11	Saudi Arabian stamps	GATT Art. XX(d)
57.	49 09 00 20	Greeting Cards with electric circuit	GATT Art. XXI
58.	49 11 10 90	Coupons of Hadi (sacrificial animals)	GATT Art. XX(d)
59.	49 11 10 90	Blank invoices of foreign companies abroad	GATT Art. XX(d)
60.	85 12 30 00	Security car radar detection equipments	GATT Art. XXI
61.	85 25 20 90	Video Booster	GATT Art. XXI
62.	85 28 12 99	Satellite Internet receiver	GATT Art. XXI
63.	85 29 10 00	Satellite Internet receiver	GATT Art. XXI
64.	85 25 20 70	Mobile phone fitted with camera	GATT Art. XXI
65.	85.42	Mobile chips and prepaid mobile cards	GATT Art. XX(d)
66.	85 31 80 90	Apparatus releasing sounds of Police Car sirens or of some animals	GATT Art. XXI
67.	ex 87.01	Damaged Vehicles, and Right-hand Drive Vehicles	GATT Art. XX(b)
68.	ex 87.02		
69.	ex 87.03		
70.	ex 87.04		
71.	ex 87.05		
72.	ex 87.09		
73.	ex 87.11	Two, three and four wheeler children's motor cycles or vehicles	GATT Art. XX(b)
74.	90 13 10 00	Binoculars in which electric circuit is used and it directly projects red light on the target	GATT Art. XXI
75.	93 02 00 00	Revolvers and pistols in the shape of mobile phones, lighters, pagers, pens or other pistols	GATT Art. XXI
76.	93 04 00 90		
77.	93 07 00 90		
78.	95 03 80 00	Remote control airplanes and parts thereof	GATT Art. XXI
79.	95 03 90 00	Noise making pistols and guns, and toy pistols similar in shape to real pistols	GATT Art. XXI
80.	97 05 00 00	Mummified animals	GATT Art. XX(a)

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

ANNEX H

SASO Seed Specifications

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

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

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

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

Conditions and Requirements

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

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

Conditions for Rejection of a Shipment

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

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

Bacterial Diseases

- 1. Bacterial leafstreak or black chaff attack of wheat and barley caused by bacteria *xanthomonas translucens*.
- 2. Bacterials leaf blight attack of wheat and barley caused by bacteria *pseudomonas syringa*.
- 3. Bacterial spike blight attack of wheat and barley caused by bacteria *corynebacteriaum tritici*.
- 4. Bacterial basal glume rot attack of wheat and barley caused by *pseudomonas atrofaciens*.

Viral Diseases

- 1. Barley stripe mosaic virus.

Nematodes Diseases

- 2. Ear cockle caused by *Anguina tritici*.
- 3. In addition, a shipment can be rejected if there is evidence of attack by any other seed transmission diseases where the number of attack seeds is at least 5 seeds/kg.
- 4. A shipment or consignment can be rejected if there is evidence of attack by any kind of insects at any stage.

ANNEX I**Items Subject to Preshipment Inspection**

Item	Harmonised System Commodity Codes
Group I – Toys	
Toys incl. Video Games and other Electronic Toys	8712.00 / 9501 / 9502 / 9503 / 9504.10 / 9504.90 / 9505 / From 9506.99 /
Playground, Amusement and Fairground Equipment	9508 / From 3407 /
Group II - Electrical and Electronics	
Air conditioning systems up to 60,000 btu (5 tons)	8415.10.20 / 8415.81.20 / 8415.82.20 / 8415.83.20
Combined function audio and/or video systems (non professional)	8518.30 / 8518.50 / 8520.30 /Combinations of II-03, II-04, II-41, II-43
Non professional stand-alone audio products(except radio receivers)	8518.21 / 8518.22 / 8518.29 / 8518.40 / 8519.21 / 8519.29 / 8519.31 / 8519.39 / 8519.92 / 8519.93 / 8519.99 / 8520.20 / 8520.90
Video playing and recording systems (non professional)	8521.10 / 8521.90 / 8525.40 /
Generator sets up to 12 kw	8502.11 / 8502.20
Motors up to 12kw	8501.10 / 8501.31 / 8501.32 / 8501.40 / 8501.51 / 8501
Fax and telex machines	8517.21 / 8517.22
Household cooking appliances	8516.60 / 8516.72
Clothes washing machines up to 10 kg and household dish-washing machines	8450.11 / 8450.12 / 8450.19 / 8422.1
Clothes drying machines up to 10 kg	8451.21
Electric irons, ironers and clothes steamers	8451.30 / 8516.40 / 8516.32
Domestic electromechanical kitchen appliances incl. Food processors, meat choppers and grinders	8509.40 / 8509.80
Personal care/grooming appliances (shavers, hair clippers, hair-removal devices and massagers)	8510.10 / 8510.20 / 8510.30 / 9019.10
Lift and elevator systems	8428.10 / 8431.31
Household microwave ovens	8516.50
Electric ovens up to 10 kw	8516.60
Copy machines and accessories	9009.11 / 9009.12 / 9009.30 / 9009.21 / 9009.22 / 9009.90
Personal computers (desktops/portables), storage units, peripherals and other input/output devices	8471.41 / 8471.49 / 8471.50 / 8471.60 / 8471.70 / 8473.30
Power transformers and distribution transformers up to 1000 kva	8504.21 / 8504.22 / 8504.31 / 8504.32 / 8504.33 / 8504.34
Household refrigerators and freezers up to 40 cu ft incl. Household refrigerating display cabinets	8418.10 / 8418.21 / 8418.22 / 8418.29 / 8418.30 / 8418.40 / 8418.50
Telephone sets, incl. mobile, cordless telephones and modems	8517.11 / 8517.19 / 8517.50 / 8525.20
Electric wires and cables up to 1000v	8544.51 / 8544.59
Non-industrial vacuum cleaners, water suction appliances and shampooers	8509.10 / 8509.80
Household electric fires and heaters	8516.29 / 8516.21
Drinking water coolers and fountains	8418.69.10
Evaporative air coolers (desert coolers and humidifiers) up to 1.5 kw	8415.10.10 / 8415.82.10 / 8415.82.90 / 8415.83.10 / 8415.83.90
Domestic electric fans	8414.51 / 8414.60
Compressors for cooling units up to 60,000 btu	8414.30
Tea and coffee brewing appliances, and appliances for heating liquids	8516.71
Incandescent, fluorescent and discharge luminaires, fixtures and lampholders	9405.10 / 9405.20 / 8536.61
Manually operated household switches, circuit breakers and fuses up to 40a	8536.10 / 8536.20 / 8536.50
Incandescent, fluorescent and discharge lamps	8539.21 / 8539.22 / 8539.29 / 8539.31 / 8539.32
Ballasts for discharge type lamps (including tubular fluorescent lamps)	8504.10
Starters for discharge type lamps (including tubular fluorescent lamps)	8532.10

Item	Harmonised System Commodity Codes
General use mains plugs, socket outlets and mains configuration adapters	8536.69
Luminaires for road and street lighting	9405.40
Batteries, including rechargeable and automotive	8506.10 / 8506.30 / 8506.40 / 8506.50 / 8506.60 / 8506.80 / 8507.10 / 8507.30 / 8507.40
Immersed swimming pool luminaries	8517.21 / 8517.22
9405.40	
Hair care equipment (hand-held hair dryers, hair curlers, waving apparatus and curling tong heaters)	8516.31, 8516.32
Water pumps up to 12 kw	8413.70
TV sets (colour/black and white)	8528.12 / 8528.13
General use mains voltage converters, power supplies and battery chargers	8504.40
Stand alone radio receivers	8527.12 / 8527.13 / 8527.19 / 8527.21 / 8527.29
Storage and instant type water heaters up to 200 litres	8516.10
Watt hour meters	9028.30
Household sewing machines	8452.10
Group III – Automotive	
Passenger automobiles, trucks, buses and multi-purpose vehicles (new)	8701 / 8702 / 8703 / 8704 / 8705
Passenger automobiles, trucks, buses and multi-purpose vehicles (used)	8701 / 8702 / 8703 / 8704 / 8705
Automotive glass (windshield, side and rear glass)	7007.21
Vehicle spare parts (new), including radiators and hoses, brakes and parts, lights, filters, silencers and exhaust pipes, clutches and parts, child restraints, spark plugs, wiper blades and motors, safety belts, fuel tanks, mirrors, bumpers, door locks and hinges, tire tubes, and v-belts, gauges, rims and steering rods	40.09 / 4010.22 / 4013.10, 4013.90 / 70.09 / 8301.20 / 8302.30 / 8421.23 / 8421.31 / 8501.10 / 8511.10 / 8512.20 / 8512.40 / 8539.10 / 8708.10 / 8708.70 / 8708.21 / 8708.29 / 8708.91 / 8708.92 / 8708.93 / 8708.94 / 8708.99 / 9026.20 / 9026.80 / 9401.20
New tyres for passenger automobiles, trucks, buses and multi-purpose vehicles	4011.10 / 4011.20
Group IV – Chemical	
Engine, transmission, hydraulic, turbine, and transformer oils, brake fluid and anti-freeze/ coolant	2710.00.52 / 2710.00.53 / 2710.00.54 / 2710.00.55 / 2710.00.94 / 2710.00.95 / 2710.00.96 / 38.19 / 38.20
Paints	All 3208 / All 3209
Perfumes and cosmetics	3302.90 / All 3303 / All 3304 / All 3305 / All 3306 / 3307.10 / 3307.20 / 3307.30 / 3307.49.10 / 3307.90.10 / 3401.1
Domestic use pesticides and insecticides	3808
Group V- Others	
Aluminium and aluminium alloy products for architectural application	7604 / 7606 / 7608 / 7609 / 7610 / 7616
Steel and iron alloy pipes	7304 / 7305 / 7306 / 7307
Gold and silver jewellery (including gemstones)	7113.11 / 7113.19 / 7113.20 / 7114.11 / 7114.19 / 7114.20 / 7116.10 / 7116.21
Head dress for men - cotton shemagh and ghutras	6505.90.10 / 6505.90.30
Fire extinguishers up to 24kg	8424.10
Cement	2523.21 / 2523.29.10 / 2523.29.20
Safety matches	3605.00
Low pressure regulators, and pressure cookers	8481.10 / 7323.93 / 7323.99
Toilet paper and facial tissues, paper towels, and serviettes	4818.10 / 4818.20 / 4818.30
Cigarettes only	2402.20
Household and camping gas appliances, including heaters, cookers, barbecues, and lamps	7321.11 / 7321.81 / 9405.50

ANNEX J**Items Subject to Mandatory Certification**

Item	Harmonised System Commodity Codes
Group I – Toys	
Toys, incl. Video Games and other Electronic Toys	8712.00 / 9501 / 9502 / 9503 / 9504.10 / 9504.90 / 9505 / From 9506.99 /
Playground, Amusement and Fairground Equipment	9508 / From 3407 /
Group II - Electrical and Electronics	
Air conditioning systems up to 60,000 btu (5 tons)	8415.10.20 / 8415.81.20 / 8415.82.20 / 8415.83.20
Combined function audio and/or video systems (non professional)	8518.30 / 8518.50 / 8520.30 /Combinations of II-03, II-04, II-41, II-43
Non professional stand-alone audio products (except radio receivers)	8518.21 / 8518.22 / 8518.29 / 8518.40 / 8519.21 / 8519.29 / 8519.31 / 8519.39 / 8519.92 / 8519.93 / 8519.99 / 8520.20 / 8520.90
Video playing and recording systems (non professional)	8521.10 / 8521.90 / 8525.40 /
Generator sets up to 12 kw	8502.11 / 8502.20
Motors up to 12kw	8501.10 / 8501.31 / 8501.32 / 8501.40 / 8501.51 / 8501
Fax and telex machines	8517.21 / 8517.22
Household cooking appliances	8516.60 / 8516.72
Clothes washing machines up to 10 kg and household dish-washing machines	8450.11 / 8450.12 / 8450.19 / 8422.1
Clothes drying machines up to 10 kg	8451.21
Electric irons, ironers and clothes steamers	8451.30 / 8516.40 / 8516.32
Domestic electromechanical kitchen appliances incl. Food processors, meat choppers and grinders	8509.40 / 8509.80
Personal care/grooming appliances (shavers, hair clippers, hair-removal devices and massagers)	8510.10 / 8510.20 / 8510.30 / 9019.10
Lift and elevator systems	8428.10 / 8431.31
Household microwave ovens	8516.50
Electric ovens up to 10 kw	8516.60
Copy machines and accessories	9009.11 / 9009.12 / 9009.30 / 9009.21 / 9009.22 / 9009.90
Personal computers (desktops/portables), storage units, peripherals and other input/output devices	8471.41 / 8471.49 / 8471.50 / 8471.60 / 8471.70 / 8473.30
Power transformers and distribution transformers up to 1000 kva	8504.21 / 8504.22 / 8504.31 / 8504.32 / 8504.33 / 8504.34
Household refrigerators and freezers up to 40 cu ft incl. Household refrigerating display cabinets	8418.10 / 8418.21 / 8418.22 / 8418.29 / 8418.30 / 8418.40 / 8418.50
Telephone sets, incl.mobile, cordless telephones, and modems	8517.11 / 8517.19 / 8517.50 / 8525.20
Electric wires and cables up to 1000v	8544.51 / 8544.59
Non-industrial vacuum cleaners, water suction appliances and shampoos	8509.10 / 8509.80
Household electric fires and heaters	8516.29 / 8516.21
Drinking water coolers and fountains	8418.69.10
Evaporative air coolers (desert coolers and humidifiers) up to 1.5 kw	8415.10.10 / 8415.82.10 / 8415.82.90 / 8415.83.10 / 8415.83.90
Domestic electric fans	8414.51 / 8414.60
Compressors for cooling units up to 60,000 btu	8414.30
Tea and coffee brewing appliances, and appliances for heating liquids	8516.71
Incandescent, fluorescent and discharge luminaires, fixtures and lampholders	9405.10 / 9405.20 / 8536.61
Manually operated household switches, circuit breakers and fuses up to 40a	8536.10 / 8536.20 / 8536.50
Incandescent, fluorescent and discharge lamps	8539.21 / 8539.22 / 8539.29 / 8539.31 / 8539.32
Ballasts for discharge type lamps (including tubular fluorescent lamps)	8504.10
Starters for discharge type lamps (including tubular fluorescent lamps)	8532.10

Item	Harmonised System Commodity Codes
General use mains plugs, socket outlets and mains configuration adapters	8536.69
Luminaires for road and street lighting	9405.40
Batteries, including rechargeable and automotive	8506.10 / 8506.30 / 8506.40 / 8506.50/ 8506.60 / 8506.80 / 8507.10 / 8507.30 / 8507.40
Immersed swimming pool luminaries	9405.40
Hair care equipment (hand-held hair dryers, hair curlers, waving apparatus and curling tong heaters)	8516.31, 8516.32
Water pumps up to 12 kw	8413.70
TV sets (colour/black and white)	8528.12 / 8528.13
General use mains voltage converters, power supplies and battery chargers	8504.40
Stand alone radio receivers	8527.12 / 8527.13 / 8527.19 / 8527.21 / 8527.29
Storage and instant type water heaters up to 200 litres	8516.10
Watt hour meters	9028.30
Household sewing machines	8452.10
Group III – Automotive	
Passenger automobiles, trucks, buses and multi-purpose vehicles (new)	8701 / 8702 / 8703 / 8704 / 8705
Passenger automobiles, trucks, buses and multi-purpose vehicles (used)	8701 / 8702 / 8703 / 8704 / 8705
Automotive glass (windshield, side and rear glass)	7007.21
Vehicle spare parts (new), including radiators and hoses, brakes and parts, lights, filters, silencers and exhaust pipes, clutches and parts, child restraints, spark plugs, wiper blades and motors, safety belts, fuel tanks, mirrors, bumpers, door locks and hinges, tire tubes, and v-belts, gauges, rims and steering rods.	40.09 / 4010.22 / 4013.10, 4013.90 / 70.09 / 8301.20 / 8302.30 / 8421.23 / 8421.31 / 8501.10 / 8511.10 / 8512.20 / 8512.40 / 8539.10 / 8708.10 / 8708.70 / 8708.21 / 8708.29 / 8708.91/ 8708.92 / 8708.93 / 8708.94 / 8708.99 / 9026.20 / 9026.80 / 9401.20
New tyres for passenger automobiles, trucks, buses and multi-purpose vehicles	4011.10 / 4011.20
Group IV – Chemical	
Engine, transmission, hydraulic, turbine, and transformer oils, brake fluid and anti-freeze/coolant	2710.00.52 / 2710.00.53 / 2710.00.54 / 2710.00.55 / 2710.00.94 / 2710.00.95 / 2710.00.96 / 38.19 / 38.20
Paints	All 3208 / All 3209
Perfumes and cosmetics	3302.90 / All 3303 / All 3304 / All 3305 / All 3306 / 3307.10 / 3307.20 / 3307.30 / 3307.49.10 / 3307.90.10 / 3401.1
Domestic use pesticides and insecticides	3808
Group V – Others	
Aluminium and aluminium alloy products for architectural application	7604 / 7606 / 7608 / 7609 / 7610 / 7616
Steel and iron alloy pipes	7304 / 7305 / 7306 / 7307
Gold and silver jewellery (including gemstones)	7113.11 / 7113.19 / 7113.20 / 7114.11 / 7114.19 / 7114.20 / 7116.10 / 7116.21
Head dress for men - cotton shemagh and ghutras	6505.90.10 / 6505.90.30
Fire extinguishers up to 24kg	8424.10
Cement	2523.21 / 2523.29.10 / 2523.29.20
Safety matches	3605.00
Low pressure regulators and pressure cookers	8481.10 / 7323.93 / 7323.99
Toilet paper and facial tissues, paper towels and serviettes	4818.10 / 4818.20 / 4818.30
Cigarettes only	2402.20
Household and camping gas appliances, including heaters, cookers, barbecues and lamps	7321.11 / 7321.81 / 9405.50

ANNEX K

List of Banned Exports

S. No.	HS Code	Description	WTO Justification
1.	ex 01.01 10 10	Arabian breed, pure-bred horses, females	GATT Art. XX (b)
2.	ex 01.01 10 20	Arabian breed, pure-bred horses, females	GATT Art. XX (b)
3.	ex 01.01 90 10	Race horses, females	GATT Art. XX (b)
4.	ex 01.01 90 20	Ponies, females	GATT Art. XX (b)
5.	ex 01.02	Bovine animals, females	GATT Art. XX (b)
6.	ex 01.04	Sheep and goats, females	GATT Art. XX (b)
7.	ex 01.06 19 11	Camels, females	GATT Art. XX (b)
8.	0602.2010	Date palm saplings of following types: Khalas, Nabut Saif, Munifi, Safri, Magfizi, Barhi, Sukkari, Shalabi, Safari, Barni, Ajwa, Ambara, Hulwa and Rothana	GATT Art. XX (b)
9.	12.14	Green fodder and hay	GATT Art. XX (b)
10.	ex 22.01 90 10	Zamzam water	GATT Art. XX (a)
11.	44.01 10 00	Wood	GATT Art. XX (j)
12.	72.04	Scrap iron	GATT Art. XX (d)
13.	97.06	Antiques and archaeological and historical items	Art. XX(f) of GATT 1994

ANNEX L

List of Exports Subject to Authorization/Licensing

S. No.	HS Code	Description	WTO Justification
1.	01 01 10 10	Horses, pure-bred	GATT Art. XI: 2(b)
2.	01 01 10 20	Horses, pure-bred	GATT Art. XI: 2(b)
3.	01 01 90 10	Horses, pure-bred	GATT Art. XI: 2(b)
4.	01 01 90 20	Horses, pure-bred	GATT Art. XI: 2(b)
5.	10.01	Wheat	GATT Art. XX (d)
6.	10 03 00 00	Barley	GATT Art. XX (d)
7.	10 05 90 10	Golden corn	GATT Art. XX (d)
8.	10 05 90 20	White corn	GATT Art. XX (d)
9.	11.01 00 10	Wheat flour	GATT Art. XX (d)
10.	12 01	Soyabeans	GATT Art. XX (d)
11.	19 01 10 10	Milk based infant food	GATT Art. XX (d)
12.	19 01 10 20	Milk based infant food	GATT Art. XX (d)
13.	25 05	Sand	GATT Art. XX (i)
14.	25 06 21 10	Sand mixed aggregates	GATT Art. XX (i)
15.	25 06 21 20	Sand mixed aggregates	GATT Art. XX (i)
16.	25 15 11 00	Marble	GATT Art. XX (i)
17.	25 17	Stone mixtures	GATT Art. XX (i)
18.	25 22	Limestone	GATT Art. XX (i)
19.	27.13	Asphalt, fuel oil, gasoline, diesel, kerosene,	GATT Art. XX (g)
20.	27.14	Liquefied Petroleum Gas (LPG), and Natural Gas (Methane and Ethane)	GATT Art. XX (g)
21.	27 10 11 except 27 10 11 11 27 10 11 12 27 10 11 13 27 10 11 42	Fuels	GATT Art. XX (g)
22.	27 11	Gases, including liquefied gases	GATT Art. XX (g)
23.	27 13 20 00	Asphalt	GATT Art. XX (g)
24.	27 14 90 10	Asphalt and bitumen	GATT Art. XX (g)
25.	28.44	Radioactive materials	GATT Art. XX (b)
26.	28.45	Radioactive materials	GATT Art. XX (b)
27.	90 22 19 10	Radioactive materials	GATT Art. XX (b)
28.	90 22 19 90	Radioactive materials	GATT Art. XX (b)
29.	29 03 19 10	Ozone depleting materials	GATT Art. XX (b)
30.	29 03 45		
31.	29 03 49		
32.	30.03	Medicines	GATT Art. XX (b)
33.	30.04	Medicines	GATT Art. XX (b)
34.	73 11 00 30	Filled gas cylinders	GATT Art. XXI
35.	84 07 90 00	Agricultural machinery	GATT Art. XX (d)
36.	84 08 80 00		
37.	84 11		
38.	84 12 80 00		
39.	84 13 50 00		
40.	84 13 60 00		
41.	84 13 70 00		
42.	84 13 81 00		
43.	84 32		
44.	84 33		
45.	87 01 10 00		

S. No.	HS Code	Description	WTO Justification
46.	87 01 30 00		
47.	87 01 90 00		
48.	85 48 10 00	Scraps of batteries etc.	GATT Art. XX (b)
49.	Different Headings	Wild fauna and flora, and products thereof	GATT Art. XX (g)

ANNEX M

List of General Committees and Branch Technical Committees

1. Agriculture and Food Products General Committee

- a. Food Safety
- b. Meat and Fish
- c. Dairy and Dairy Products
- d. Cereals and Legumes Products
- e. Confectionary
- f. Fruits, Vegetables, Condiments and Spices and their Products

2. Construction and Building Materials General Committee

- a. Tiles
- b. Sanitary Ware
- c. Cement and Concrete
- d. Doors and Windows
- e. Pipes
- f. Glass
- g. Construction Sectors

3. Electrical and Electronic Products General Committee

- a. Household Appliances and Their Accessories
- b. Cables and Their Accessories
- c. Electronics and Communications Sets
- d. Luminaires and Their Accessories
- e. Electrical Systems and Accessories
- f. Power Generation, Transmission and Distribution
- g. Medical Appliances and Supplies

4. Mechanical and Metal Products General Committee

- a. Motor Vehicles
- b. Pressure Vessels and Steam Boilers
- c. Air Conditioning and Refrigeration
- d. Metal and Wooden Kitchens
- e. Office and School Furniture
- f. Water Pump and Irrigation Systems
- g. Steel Cans Used for Canning
- h. Amusement Park Devices

5. Chemical and Petroleum Products General Committee

- a. Petroleum Products
- b. Detergents and Hygienic and Cosmetic Products
- c. Plastics
- d. Chemicals
- e. Paints and Varnishes

6. Textile Products General Committee

- a. Textile Products

7. Measurement and Calibration General Committee

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

ANNEX N

List of Saudi SPS Measures

H.S. No.	Description of product	Nature of SPS measure	Justification	Country(ies)
0101	Live Equine Animals	Banned because of Screw Worm	Article 5 of SPS Agreement	Panama
0102	Live Bovine Animals			
010410	Live Sheep			
010420	Live Goats			
0102	Live Bovine Animals	Banned because of BSE (Bovine Spongiform Encephalopathy)	Article 5 of SPS Agreement	Britain, Spain, Portugal, Italy, Germany, France, Greece, Austria, Belgium, Switzerland, Holland, Denmark, Finland, Slovenia, Luxembourg, Canada, Ireland, Czech Republic, Northern Ireland, USA (Washington State)
0102	Live Bovine Animals	Banned because of FMD (Foot and Mouth Disease)	Article 5 of SPS Agreement	Uruguay, Syria
0102	Live Bovine Animals	Banned because of FMD (Foot and Mouth Disease)	Article 5 of SPS Agreement	All African and European Countries, China, India, Malaysia, Yemen, Iran, Iraq, Jordan, Taiwan, Pakistan, Turkey, Lebanon
010410	Live Sheep			
010420	Live Goats			
0201	Live Bovine Animals	Banned, Because of Rinder Pest	Article 5 of SPS Agreement	All African Countries (except South Africa), Pakistan, Iran, Afghanistan, Mongolia
0201 0202 02060200 02062100 02066200 02062900 15020010 16025010 16025090 16029010 16029021 16029029 16029030 16030010	All types of Bovine Meat and its Products	Banned, Because of BSE (Bovine Spongiform Encephalopathy)	Article 5 of SPS Agreement	All EU countries, Switzerland, Japan, Cyprus, Slovakia, Hungary, Czech Republic, Estonia, Lithuania

H.S. No.	Description of product	Nature of SPS measure	Justification	Country(ies)
0201 0202 020602000 02062100 02066200 02062900 15020010 16025010 16025090 16029010 16029021 16029029 16029030 16030010	All types of Bovine Meat and its Products	Banned, Because of Rinder Pest	Article 5 of SPS Agreement	All African Countries (except South Africa), Pakistan, Iran, Afghanistan, Mongolia
0201 0202 020602000 02062100 02066200 02062900 15020010 16025010 16025090 16029010 16029021 16029029 16029030 16030010	All types of Bovine Meat and Its Products	Banned because of FMD (Foot and Mouth Disease)	Article 5 of SPS Agreement	All African Countries (except South Africa), All European Countries, China, India, Malaysia, Yemen, Iran, Iraq, Jordan, Taiwan, Pakistan, Lebanon
0204 02068010 02068090 02069011 02069012 02069019 02069090	All types of Sheep and Goat Meat and Their Products	Banned because of FMD (Foot and Mouth Disease)	Article 5 of SPS Agreement	All African Countries (except South Africa, Sudan, Ethiopia), All European Countries, China, Malaysia, Yemen, Iran, Iraq, Jordan, Taiwan, Lebanon
0207 0407	Poultry Meat and Its Products	Banned because of Avian Influenza	Article 5 of SPS Agreement	Hong Kong, Vietnam, South Korea, China, Thailand, Indonesia, Pakistan, Japan
0105	Live Birds	Banned because of West Nile Fever	Article 5 of SPS Agreement	USA

H.S. No.	Description of product	Nature of SPS measure	Justification	Country(ies)
0101 0105 01063100 01063200 01063910 01063920	Live Equine Animals Live Birds	Banned because of West Nile Fever	Article 5 of SPS Agreement	Oman, Morocco
0105 01063100 01063200 01063910 01063920 04070011	Live Birds Hatching Eggs	Banned because of Avian Influenza	Article 5 of SPS Agreement	All Asian countries, USA, Canada
0105 01063100 01063200 01063910 04070011	Live Birds Hatching Eggs	Banned because of ILT	Article 5 of SPS Agreement	Egypt, Syria, Jordan
0207 0407 0408	Poultry Meat and Its Products Eggs	Banned due to Contamination with Nitrofin (Carcinogenic Herbicide)	Article 5 of SPS Agreement	Germany
0302 0303 0304 0306 0307	Fish (Fresh, Chilled, Frozen)	Cholera - Related	Article 5 of SPS Agreement	Infected Areas (World Wide)
04029110 04029120 04029410 04031000 04039020 0404	Fresh Milk and Milk Products (Short Shelf Life)	Cholera - Related	Article 5 of SPS Agreement	Infected Areas (World Wide)

H.S. No.	Description of product	Nature of SPS measure	Justification	Country(ies)
07039000 07041000 07042000 07049000 07051100 07051900 07097000 07099050 077099060 07103000	Leafy Vegetables	Cholera - Related	Article 5 of SPS Agreement	Infected Areas (World Wide)
08011000 08011900	Coconut Trees and all Products	Banned because of C.C.C Viroid	Article 5 of SPS Agreement	Philippines, Solomon Islands, Guam

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)]

APPENDIX

Questionnaire

Information On Import Licensing Procedures

I. OUTLINE OF SYSTEMS

1. The Kingdom of Saudi Arabia maintains a non-automatic licensing system that is administered in accordance with the provisions of the new Law on Import Licensing Procedures, issued by Council of Ministers Decision No. 88, dated 6.4.1423H (June 2002).

II. PURPOSES AND COVERAGE OF LICENSING

1. Identify each licensing system maintained and state what products, appropriately grouped, are covered.

Ans: A list of items subject to non-automatic licensing is attached to the Working Party Report as Annex E.

2. The system applies to goods originating in and coming from which countries?

Ans: The system applies to goods originating in and coming from all countries.

3. Is the licensing intended to restrict the quantity or value of imports, and if not, what are its purposes? Have alternative methods of accomplishing the purposes been considered and if so which? Why have they not been adopted?

Ans: No, the licensing is not intended to restrict the quantity or value of imports. The purpose of licensing is to ensure that goods that do not meet the requirements of different laws, regulations or decisions are not imported. Alternative methods have not been considered.

4. Cite the law, regulation and/or administrative order under which the licensing is maintained. Is the licensing statutorily required? Does the legislation leave designation of products to be subjected to licensing to administrative discretion? Is it possible for the government (or the executive branch) to abolish the system without legislative approval?

Ans: Licensing is maintained under Council of Ministers Decision No. 84 (July 2000) and Decision No. 88 of the Council of Ministers, dated 6.4.1423H (June 2002). The list of items subject to licensing requirements may be amended by the Minister of Commerce and Industry on the basis of comments received from respective government agencies. The system can only be abolished by a decision of the Council of Ministers.

III. PROCEDURES

1. For products under restriction as to the quantity or value of imports (whether applicable globally or to a limited number of countries or whether established bilaterally or unilaterally):

(a to k)

Ans: There are no restrictions on the quantity or value of imports ((a) to (k) are thus not applicable).

2. Where there is no quantitative limit on importation of a product or on imports from a particular country:

- (a) How far in advance of importation must application for a license be made? Can licenses be obtained within a shorter time-limit or for goods arriving at the port without a license (for example, owing to inadvertency)?

Ans: Applications for non-automatic licenses may be submitted within 21 days prior to the closing date of applications.

- (b) Can a license be granted immediately on request?

Ans: The maximum period for deciding on license applications is 30 days. However, in practice, licenses normally are granted in a shorter period.

- (c) Are there any limitations as to the period of the year during which application for license and/or importation may be made? If so, explain.

Ans: There are no limitations as to the period of the year during which applications or importation may be made.

- (d) Is consideration of license applications effected by a single administrative organ? Or must the application be passed on to other organs for visa, note or approval? If so, which? Does the importer have to approach more than one administrative organ?

Ans: Yes, by a single administrative body. In some cases, the body may coordinate with other bodies, but the applicant does not have to approach more than one administrative body.

3. Under what circumstances may an application for a license be refused other than failure to meet the ordinary criteria? Are the reasons for any refusal given to the applicant? Have applicants a right of appeal in the event of refusal to issue a license and, if so, to what bodies and under what procedures?

Ans: Applications are not refused other than for reasons of failure to meet the ordinary criteria. Reasons for refusal of a license are given upon request of the applicant. Applicants have a right of appeal in the event of refusal of a license. The initial appeal can be made to the Head of the administrative body within 15 days of the decision. An appeal against the decision of the Head of the administrative body lies to the Board of Grievances within 30 days of the decision.

IV. ELIGIBILITY OF IMPORTS TO APPLY FOR LICENSE

1. Are all persons, firms and institutions eligible to apply for licenses:

- (a) under restrictive licensing systems?
- (b) under non-restrictive systems?

If not, is there a system of registration of persons or firms permitted to engage in importation? What persons or firms are eligible? Is there a registration fee? Is there a published list of authorized importers?

Ans: Eligibility of parties under restrictive and under non-restrictive licensing systems is the same. The eligible categories are as follows:

- (i) Saudi, foreign or joint venture companies registered under applicable Saudi laws.
- (ii) Natural persons listed in the Commercial Register.
- (iii) Saudi nationals and non-Saudis holding residence permits but not registered in the Commercial Register provided the imported goods are for their personal use.

Imports by parties in (i) and (ii) above shall be limited to goods related to the scope of their business as inscribed in the Commercial Register.

[There is no Section V in the official WTO form; apparently there was a clerical issue when the form was issued.]

VI. DOCUMENTATION AND OTHER REQUIREMENTS FOR APPLICATION FOR LICENSE

1. What information is required in applications? Submit a sample form. What documents is the importer required to supply with the application?

Ans: The applicant has to provide description of the item/s, their value and weight, and copies of the invoice and the bill of lading. Saudi Arabia has submitted to the Secretariat Council of Ministers Decision No. 84 (July 2000) and its attachments, which include the necessary form, and other details for application for licence.

2. What documents are required upon actual importation?

Ans: Documents required are: the import license, original invoice and certificate of origin. The last two are requirements for customs clearance and not requirements of the licensing system.

3. Is there any licensing fee or administrative charge? If so, what is the amount of the fee or charge?

Ans: There are no licensing fees or administrative charges.

4. Is there any deposit or advance payment requirement associated with the issue of licenses? If so, state the amount or rate, whether it is refundable, the period of retention and the purpose of the requirement.

Ans: There are no deposit or advance payment requirements associated with the issue of a license.

VII. CONDITIONS OF LICENSING

1. What is the period of validity of a license? Can the validity of a license be extended? How?

Ans: The period of validity of a license is one year from the date of issue. Extension may be granted if it is in the public interest.

2. Is there any penalty for the non-utilization of a license or a portion of a license?

Ans: There is no penalty for non-utilization of a license or portion of a license.

3. Are licenses transferable between importers? If so, are any limitations or conditions attached to such transfer?

Ans: Licenses are not transferable between importers.

4. Are any other conditions attached to the issue of a license:

- (a) for products subject to quantitative restriction?
- (b) for products not subject to quantitative restriction?

Ans: No other conditions are attached.

VIII. OTHER PROCEDURAL REQUIREMENTS

1. Are there any other administrative procedures, apart from import licensing and similar administrative procedures, required prior to importation?

Ans: There are no other administrative procedures.

2. Is foreign exchange automatically provided by the banking authorities for goods to be imported? Is a license required as a condition to obtaining foreign exchange? Is foreign exchange always available to cover licenses issued? What formalities must be fulfilled for obtaining the foreign exchange?

Ans: There are no foreign exchange restrictions or controls in Saudi Arabia.
