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Agreement Establishing the World Trade Organization, 15th April 1994 (1867 UNTS 3), OXIO 145

World Trade Organization [WTO]

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Core Issues

1. The main organs of the World Trade Organization.
2. How the World Trade Organization makes decisions.
3. Who can become a member of the World Trade Organization.
4. How the Agreement Establishing the World Trade Organization can be amended.

This headnote pertains to: Agreement Establishing the World Trade Organization, a treaty which is the constituent instrument of an international organization. [Jump to full text](#)

Background

The act under review is the constitutive instrument of the World Trade Organization (WTO), the most important international organization for global trade. The WTO constitution is perceived to be particularly important because it reversed the trend whereby states placed increasing emphasis on institutional autonomy, vis-à-vis Member States, when creating organizations. The ‘member-driven’ nature of the WTO has led to questions regarding the extent to which traditional doctrines of the law of international organizations apply to the WTO.

The origins of what would become the WTO date back to the end of 1945 and the beginning of 1946, when the United States of America made a proposal within the framework of the United Nations Economic and Social Council (ECOSOC) to create an International Trade Organization (ITO). ECOSOC adopted a resolution calling for a conference to draft the organization’s charter. Those negotiations produced two texts: the Havana Charter for an International Trade Organization (‘Havana Charter’) and the General Agreement on Tariffs and Trade (‘GATT’), an agreement that regulates the reduction of tariffs on trade in goods. The Havana Charter never entered into force, but the GATT entered into force on a provisional basis from 1 January 1948, through the Protocol of Provisional Application of the General Agreement on Tariffs and Trade (PPA). The main reason for the provisional application was that the PPA contained an exception—usually referred to as the ‘grandfather rights’—allowing the contracting parties to maintain existing legislation, which was inconsistent with certain parts of the GATT. The provisions of the GATT were applied through the PPA until 1996.

While formally the GATT was a provisionally applied international agreement, over the years it became a de facto international organization. Through a number of negotiating rounds within the GATT institutional framework, a growing number of contracting parties agreed on the reduction of tariffs, and later on non-tariff trade barriers. In the early 1990s, during what was to become the last negotiating round under the GATT—the Uruguay Round (1986-1994)—several contracting parties, among them Canada and the European Community, suggested the establishment of a new international trade organization. At first, most developing countries and the USA opposed the idea. However, after a few years an agreement was concluded. The Agreement Establishing the World Trade Organization (‘WTO Agreement’) was signed in Marrakesh in April 1994, and entered into force on 1 January 1995. The other WTO agreements (including the GATT) and associated legal instruments can be found in four different annexes to the WTO Agreement. Annexes 1, 2, and 3 contain agreements and instruments binding on all members—the requirement that a member must accept to be bound by all these rules is usually referred to as the ‘single

undertaking' requirement. Annex 4 contains agreements and instruments binding on the members that have accepted them.

Summary

According to the WTO Agreement, the WTO 'shall have legal personality, and shall be accorded by each of its members such legal capacity as may be necessary for the exercise of its functions'. [Art VIII(1)] The WTO shall also be accorded 'such privileges and immunities as are necessary for the exercise of its functions'. [Art VIII(2)] Some of the main functions of the WTO are to facilitate the implementation, administration, and operation of the WTO Agreement and the multilateral trade agreements. The WTO shall also provide a forum for trade negotiations, and cooperate with the International Monetary Fund (IMF) and the International Bank for Reconstruction and Development, with a view to achieving greater coherence in global economic policy-making. [Art III]

The highest decision-making body in the WTO is the Ministerial Conference. This body consists of representatives of all members and meets at least once every two years. It has the authority to take decisions on all matters under the multilateral trade agreements. [Art IV(1)] Between its meetings, its functions are conducted by the General Council, which is also composed of representatives of all members. [Art IV(2)] The General Council convenes as appropriate to discharge the responsibilities of the Dispute Settlement Body, as regulated in the Dispute Settlement Understanding. [Art IV(3)] It also convenes to discharge the responsibilities of the Trade Policy Review Body, as provided for in the Trade Policy Review Mechanism. [Art IV(4)]

In addition to those two bodies, three councils operate under the General Council. The Council for Trade in Goods oversees the functioning of the multilateral trade agreements. The Council for Trade in Services oversees the functioning of the General Agreement on Trade in Services. And the Council for Trade-Related Aspects of Intellectual Property Rights oversees the functioning of the Agreement on Trade-Related Aspects of Intellectual Property Rights. Membership in these councils is open to representatives of all members. [Art IV(5)]

Furthermore, the three councils can establish subsidiary bodies. [Art IV(6)] Some subsidiary bodies that have been established by the Ministerial Conference are specifically mentioned in the WTO Agreement: the Committee on Trade and Development; the Committee on Balance-of-Payments Restrictions; and the Committee on Budget, Finance, and Administration. The Ministerial Conference also has the right to establish additional subsidiary committees. Membership in all of the above committees is open to representatives of all members. [Art IV(7)]

With regard to the organizational structure of the WTO, there is a Secretariat headed by a Director-General, the latter of which is appointed by the Ministerial Conference. [Art VI(1)-(2)] Moreover, the responsibilities of the Director-General, and the staff of the Secretariat, are to be 'exclusively international in character'. That is, in the discharge of their duties, they shall not 'seek or accept instructions from any government or any other authority external to the WTO'. [Art VI(4)]

For decision-making in the WTO, the practice is that decisions are taken by consensus. [Art IX(1)] A decision is considered to be taken by consensus 'if no member, present at the meeting when the decision is taken, formally objects'. [ref 1] However, specific rules concerning decision-making can be found in the different WTO agreements. Moreover, the main rule is that if consensus cannot be reached for a decision in the Ministerial Conference or the General Council, the decision shall be taken by a majority of the votes cast. Each member has one vote. Where the European Communities—now the European

Union (EU)—exercise their right to vote, they have the same number of votes as the number of their Member States which are members of the WTO. [Art IX(1)]

The WTO Agreement stipulates that the contracting parties to the GATT—and the EU—shall, under certain conditions, become ‘original members’ of the WTO. [Art XI(1)] In addition to this, any ‘[s]tate or separate customs territory possessing full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement and the Multilateral Trade Agreements’ may accede to the WTO Agreement. [Art XII(1)] Decisions on accession are taken by the Ministerial Conference, with a two-thirds majority vote. [Art XII(2)] Any member may withdraw from the WTO Agreement. Such withdrawal shall take effect upon the expiration of six months from the date on which written notice is received by the Director-General. [Art XV(1)]

Finally, it can be noted that the WTO Agreement contains detailed rules on how to amend the agreement. An amendment proposal can be made by any member by submission to the Ministerial Conference. For a certain period of time—normally 90 days—a decision of the Ministerial Conference to submit the proposal to the Members for acceptance has to be made by consensus. If consensus is not reached within this period, the decision can be taken by a two-thirds majority vote. A distinction is made between amendments of a nature that would ‘alter the rights and obligations of the members’, and amendments that would not. Unless the Ministerial Conference decides by a three-fourths majority vote that the amendment is of the latter type, the amendment shall be considered to be of the former type. [Art X(1)]

Amendments that alter the rights and obligations of members only take effect—for the members who have accepted them—upon acceptance by a two-thirds majority. Thereafter, the amendments will apply to each new member to accept them. For this type of amendment, the Ministerial Conference may also decide by a three-fourths majority vote that the amendment is of such nature that a member not having accepted it within a certain period ‘shall be free to withdraw from the WTO or to remain a member with the consent of the Ministerial Conference’. [Art X(3)] Amendments that would not alter the rights and obligations of members take effect for all members upon acceptance by two-thirds of the members. [Art X(4)] However, these procedures do not apply for amendments to provisions of Article IX (regulating decision-making) and X (regulating amendments) of the WTO Agreement. Such amendments take effect only upon acceptance by all members. [Art X(2)]

Analysis

The WTO Agreement created a new international organization, replacing the GATT institutional framework. The WTO differs from the institutional structure of other important international organizations. For example, the main rule is that all members are represented in all bodies, and that each member has one vote. This differs from, for example, the IMF, where many member countries are not represented in several of the most important bodies and where voting power is determined by a quota formula. Moreover, the WTO does not have an ‘executive body’, like the Executive Board in the IMF or the Security Council in the United Nations (UN). Due to the large number of WTO members, this approach has proved problematic; consequently, members often meet informally in smaller groups.

Furthermore, unlike many international organizations in which membership is open only to states, membership in the WTO is also open to ‘separate customs territories’. This has made it possible for Hong Kong, China; Macao, China; and Chinese Taipei to become members. In other organizations, international organizations are often given observer status but not full membership. In the WTO Agreement there are provisions concerning cooperation with other organizations, however, the only organization given full membership is the EU. Hence, both the EU and all EU Member States are full members of the WTO. Finally, when it comes

to the rather detailed amendment provisions in the WTO Agreement, special attention should be given to the distinction between amendments of a nature that would alter the rights and obligations of the members', and amendments that would not. The former only takes effect for members having accepted the amendment. Such distinction cannot, for example, be found in the amendment provisions of the constitutive instruments of other important international organizations such as the IMF and the UN.

Impact

The WTO Agreement strengthened the regulatory framework for international trade. Even though the GATT became what could be described as a de facto international organization, it worked on a provisional basis. The WTO Agreement created a full-fledged permanent international organization with an advanced dispute settlement mechanism. The other WTO agreements are placed in a number of different annexes to the WTO Agreement. Through the so-called single undertaking requirement, all members have accepted to be bound by most of these rules. So far there have been no amendments to the WTO Agreement.

Further Analysis and Relevant Materials

Leading Comments

M Matsushita, T J Schoenbaum, P C Mavroidis, and M Hahn *The World Trade Organization: Law, Practice, and Policy* (3rd edn Oxford University Press 2015)

M J Trebilcock *Advanced Introduction to International Trade Law* (Edward Elgar 2015)

P Van den Bossche and W Zdouc *The Law and Policy of the World Trade Organization: Text, Cases and Materials* (3rd edn Cambridge University Press 2012)

S Lester, B Mercurio, and A Davies *World Trade Law: Text, Materials and Commentary* (2nd edn Hart Publishing 2012)

D Bethlehem, D McRae, R Neufeld, and I Van Damme (eds) *The Oxford Handbook of International Trade Law* (Oxford University Press 2009)

Materials Cited

United Nations

Protocol of Provisional Application of the General Agreement on Tariffs and Trade (signed 30 October 1947, entered into force 1 January 1948) 55 UNTS 308

Havana Charter for an International Trade Organization (24 March 1948) UN Doc E/CONF.2/78

World Trade Organization

General Agreement on Tariffs and Trade (signed 30 October 1947, entered into force 1 January 1948) 55 UNTS 187

General Agreement on Trade in Services (15 April 1994) 1869 UNTS 183

Agreement on Trade-Related Aspects of Intellectual Property Rights (signed 15 April 1994, entered into force 1 January 1995) 1869 UNTS 299

Related Materials

United Nations

United Nations Economic and Social Council Resolution 1/13 (IV) (18 February 1946)

Reporter(s): Joachim Åhman

Source text

Original Source PDF

Agreement Establishing the World Trade Organization

The *Parties* to this Agreement,

Recognizing that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development,

Recognizing further that there is need for positive efforts designed to ensure that developing countries, and especially the least developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development,

Being desirous of contributing to these objectives by entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international trade relations,

Resolved, therefore, to develop an integrated, more viable and durable multilateral trading system encompassing the General Agreement on Tariffs and Trade, the results of past trade liberalization efforts, and all of the results of the Uruguay Round of Multilateral Trade Negotiations,

Determined to preserve the basic principles and to further the objectives underlying this multilateral trading system,

Agree as follows:

Article I Establishment of the Organization

The World Trade Organization (hereinafter referred to as "the WTO") is hereby established.

Article II Scope of the WTO

1. The WTO shall provide the common institutional framework for the conduct of trade relations among its Members in matters related to the agreements and associated legal instruments included in the Annexes to this Agreement.
2. The agreements and associated legal instruments included in Annexes 1 , 2 and 3 (hereinafter referred to as “Multilateral Trade Agreements”) are integral parts of this Agreement, binding on all Members.
3. The agreements and associated legal instruments included in Annex 4 (hereinafter referred to as “Plurilateral Trade Agreements”) are also part of this Agreement for those Members that have accepted them, and are binding on those Members. The Plurilateral Trade Agreements do not create either obligations or rights for Members that have not accepted them.
4. The General Agreement on Tariffs and Trade 1994 as specified in Annex 1A (hereinafter referred to as “GATT 1994”) is legally distinct from the General Agreement on Tariffs and Trade, dated 30 October 1947, annexed to the Final Act Adopted at the Conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment, as subsequently rectified, amended or modified (hereinafter referred to as “GATT 1947”).

Article III Functions of the WTO

1. The WTO shall provide the common institutional framework for the conduct of trade relations among its Members in matters related to the agreements and associated legal instruments included in the Annexes to this Agreement.
2. The WTO shall provide the forum for negotiations among its Members concerning their multilateral trade relations in matters dealt with under the agreements in the Annexes to this Agreement. The WTO may also provide a forum for further negotiations among its Members concerning their multilateral trade relations, and a framework for the implementation of the results of such negotiations, as may be decided by the Ministerial Conference.
3. The WTO shall administer the Understanding on Rules and Procedures Governing the Settlement of Disputes (hereinafter referred to as the “Dispute Settlement Understanding” or “DSU”) in Annex 2 to this Agreement.
4. The WTO shall administer the Trade Policy Review Mechanism (hereinafter referred to as the “TPRM”) provided for in Annex 3 to this Agreement.
5. With a view to achieving greater coherence in global economic policy-making, the WTO shall cooperate, as appropriate, with the International Monetary Fund and with the International Bank for Reconstruction and Development and its affiliated agencies.

Article IV Structure of the WTO

1. There shall be a Ministerial Conference composed of representatives of all the Members, which shall meet at least once every two years. The Ministerial Conference shall carry out the functions of the WTO and take actions necessary to this effect. The Ministerial Conference shall have the authority to take decisions on all matters under any of the Multilateral Trade Agreements, if so requested by a Member, in accordance with the

specific requirements for decision-making in this Agreement and in the relevant Multilateral Trade Agreement.

2. There shall be a General Council composed of representatives of all the Members, which shall meet as appropriate. In the intervals between meetings of the Ministerial Conference, its functions shall be conducted by the General Council. The General Council shall also carry out the functions assigned to it by this Agreement. The General Council shall establish its rules of procedure and approve the rules of procedure for the Committees provided for in paragraph 7 .

3. The General Council shall convene as appropriate to discharge the responsibilities of the Dispute Settlement Body provided for in the Dispute Settlement Understanding. The Dispute Settlement Body may have its own chairman and shall establish such rules of procedure as it deems necessary for the fulfilment of those responsibilities.

4. The General Council shall convene as appropriate to discharge the responsibilities of the Trade Policy Review Body provided for in the TPRM. The Trade Policy Review Body may have its own chairman and shall establish such rules of procedure as it deems necessary for the fulfilment of those responsibilities.

5. There shall be a Council for Trade in Goods, a Council for Trade in Services and a Council for Trade-Related Aspects of Intellectual Property Rights (hereinafter referred to as the "Council for TRIPS"), which shall operate under the general guidance of the General Council. The Council for Trade in Goods shall oversee the functioning of the Multilateral Trade Agreements in Annex 1A . The Council for Trade in Services shall oversee the functioning of the General Agreement on Trade in Services (hereinafter referred to as "GATS"). The Council for TRIPS shall oversee the functioning of the Agreement on Trade-Related Aspects of Intellectual Property Rights (hereinafter referred to as the "Agreement on TRIPS"). These Councils shall carry out the functions assigned to them by their respective agreements and by the General Council. They shall establish their respective rules of procedure subject to the approval of the General Council. Membership in these Councils shall be open to representatives of all Members. These Councils shall meet as necessary to carry out their functions.

6. The Council for Trade in Goods, the Council for Trade in Services and the Council for TRIPS shall establish subsidiary bodies as required. These subsidiary bodies shall establish their respective rules of procedure subject to the approval of their respective Councils.

7. The Ministerial Conference shall establish a Committee on Trade and Development, a Committee on Balance-of-Payments Restrictions and a Committee on Budget, Finance and Administration, which shall carry out the functions assigned to them by this Agreement and by the Multilateral Trade Agreements, and any additional functions assigned to them by the General Council, and may establish such additional Committees with such functions as it may deem appropriate. As part of its functions, the Committee on Trade and Development shall periodically review the special provisions in the Multilateral Trade Agreements in favour of the least-developed country Members and report to the General Council for appropriate action. Membership in these Committees shall be open to representatives of all Members.

8. The bodies provided for under the Plurilateral Trade Agreements shall carry out the functions assigned to them under those Agreements and shall operate within the

institutional framework of the WTO. These bodies shall keep the General Council informed of their activities on a regular basis.

Article V Relations with Other Organizations

1. The General Council shall make appropriate arrangements for effective cooperation with other intergovernmental organizations that have responsibilities related to those of the WTO.

2. The General Council may make appropriate arrangements for consultation and cooperation with non-governmental organizations concerned with matters related to those of the WTO.

Article VI The Secretariat

1. There shall be a Secretariat of the WTO (hereinafter referred to as “the Secretariat”) headed by a Director-General.

2. The Ministerial Conference shall appoint the Director-General and adopt regulations setting out the powers, duties, conditions of service and term of office of the Director-General.

3. The Director-General shall appoint the members of the staff of the Secretariat and determine their duties and conditions of service in accordance with regulations adopted by the Ministerial Conference.

4. The responsibilities of the Director-General and of the staff of the Secretariat shall be exclusively international in character. In the discharge of their duties, the Director-General and the staff of the Secretariat shall not seek or accept instructions from any government or any other authority external to the WTO. They shall refrain from any action which might adversely reflect on their position as international officials. The Members of the WTO shall respect the international character of the responsibilities of the Director-General and of the staff of the Secretariat and shall not seek to influence them in the discharge of their duties.

Article VII Budget and Contributions

1. The Director-General shall present to the Committee on Budget, Finance and Administration the annual budget estimate and financial statement of the WTO. The Committee on Budget, Finance and Administration shall review the annual budget estimate and the financial statement presented by the Director-General and make recommendations thereon to the General Council. The annual budget estimate shall be subject to approval by the General Council.

2. The Committee on Budget, Finance and Administration shall propose to the General Council financial regulations which shall include provisions setting out:

(a) the scale of contributions apportioning the expenses of the WTO among its Members; and

(b) the measures to be taken in respect of Members in arrears.

The financial regulations shall be based, as far as practicable, on the regulations and practices of GATT 1947.

3. The General Council shall adopt the financial regulations and the annual budget estimate by a two-thirds majority comprising more than half of the Members of the WTO.

4. Each Member shall promptly contribute to the WTO its share in the expenses of the WTO in accordance with the financial regulations adopted by the General Council.

Article VIII Status of the WTO

1. The WTO shall have legal personality, and shall be accorded by each of its Members such legal capacity as may be necessary for the exercise of its functions.

2. The WTO shall be accorded by each of its Members such privileges and immunities as are necessary for the exercise of its functions.

3. The officials of the WTO and the representatives of the Members shall similarly be accorded by each of its Members such privileges and immunities as are necessary for the independent exercise of their functions in connection with the WTO.

4. The privileges and immunities to be accorded by a Member to the WTO, its officials, and the representatives of its Members shall be similar to the privileges and immunities stipulated in the Convention on the Privileges and Immunities of the Specialized Agencies, approved by the General Assembly of the United Nations on 21 November 1947.

5. The WTO may conclude a headquarters agreement.

Article IX Decision-Making

1. The WTO shall continue the practice of decision-making by consensus followed under GATT 1947.¹ Except as otherwise provided, where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting. At meetings of the Ministerial Conference and the General Council, each Member of the WTO shall have one vote. Where the European Communities exercise their right to vote, they shall have a number of votes equal to the number of their member States² which are Members of the WTO. Decisions of the Ministerial Conference and the General Council shall be taken by a majority of the votes cast, unless otherwise provided in this Agreement or in the relevant Multilateral Trade Agreement.³

2. The Ministerial Conference and the General Council shall have the exclusive authority to adopt interpretations of this Agreement and of the Multilateral Trade Agreements. In the case of an interpretation of a Multilateral Trade Agreement in Annex 1, they shall exercise their authority on the basis of a recommendation by the Council overseeing the functioning of that Agreement. The decision to adopt an interpretation shall be taken by a three-fourths majority of the Members. This paragraph shall not be used in a manner that would undermine the amendment provisions in Article X.

3. In exceptional circumstances, the Ministerial Conference may decide to waive an obligation imposed on a Member by this Agreement or any of the Multilateral Trade Agreements, provided that any such decision shall be taken by three fourths of the Members unless otherwise provided for in this paragraph.

(a) A request for a waiver concerning this Agreement shall be submitted to the Ministerial Conference for consideration pursuant to the practice of decision-making by consensus. The Ministerial Conference shall establish a time-period, which shall not exceed 90 days, to

consider the request. If consensus is not reached during the time-period, any decision to grant a waiver shall be taken by three fourths ⁴ of the Members.

(b) A request for a waiver concerning the Multilateral Trade Agreements in Annexes 1A or 1B or 1C and their annexes shall be submitted initially to the Council for Trade in Goods, the Council for Trade in Services or the Council for TRIPS, respectively, for consideration during a time-period which shall not exceed 90 days. At the end of the time-period, the relevant Council shall submit a report to the Ministerial Conference.

4. A decision by the Ministerial Conference granting a waiver shall state the exceptional circumstances justifying the decision, the terms and conditions governing the application of the waiver, and the date on which the waiver shall terminate. Any waiver granted for a period of more than one year shall be reviewed by the Ministerial Conference not later than one year after it is granted, and thereafter annually until the waiver terminates. In each review, the Ministerial Conference shall examine whether the exceptional circumstances justifying the waiver still exist and whether the terms and conditions attached to the waiver have been met. The Ministerial Conference, on the basis of the annual review, may extend, modify or terminate the waiver.

5. Decisions under a Plurilateral Trade Agreement, including any decisions on interpretations and waivers, shall be governed by the provisions of that Agreement.

Article X Amendments

1. Any Member of the WTO may initiate a proposal to amend the provisions of this Agreement or the Multilateral Trade Agreements in Annex 1 by submitting such proposal to the Ministerial Conference. The Councils listed in paragraph 5 of Article IV may also submit to the Ministerial Conference proposals to amend the provisions of the corresponding Multilateral Trade Agreements in Annex 1 the functioning of which they oversee. Unless the Ministerial Conference decides on a longer period, for a period of 90 days after the proposal has been tabled formally at the Ministerial Conference any decision by the Ministerial Conference to submit the proposed amendment to the Members for acceptance shall be taken by consensus. Unless the provisions of paragraphs 2 , 5 or 6 apply, that decision shall specify whether the provisions of paragraphs 3 or 4 shall apply. If consensus is reached, the Ministerial Conference shall forthwith submit the proposed amendment to the Members for acceptance. If consensus is not reached at a meeting of the Ministerial Conference within the established period, the Ministerial Conference shall decide by a two-thirds majority of the Members whether to submit the proposed amendment to the Members for acceptance. Except as provided in paragraphs 2 , 5 and 6 , the provisions of paragraph 3 shall apply to the proposed amendment, unless the Ministerial Conference decides by a three-fourths majority of the Members that the provisions of paragraph 4 shall apply.

2. Amendments to the provisions of this Article and to the provisions of the following Articles shall take effect only upon acceptance by all Members:

Article IX of this Agreement ;

Articles I and II of GATT 1994;

Article II:1 of GATS ;

Article 4 of the Agreement on TRIPS .

3. Amendments to provisions of this Agreement, or of the Multilateral Trade Agreements in Annexes 1A and 1C, other than those listed in paragraphs 2 and 6, of a nature that would alter the rights and obligations of the Members, shall take effect for the Members that have accepted them upon acceptance by two thirds of the Members and thereafter for each other Member upon acceptance by it. The Ministerial Conference may decide by a three-fourths majority of the Members that any amendment made effective under this paragraph is of such a nature that any Member which has not accepted it within a period specified by the Ministerial Conference in each case shall be free to withdraw from the WTO or to remain a Member with the consent of the Ministerial Conference.

4. Amendments to provisions of this Agreement or of the Multilateral Trade Agreements in Annexes 1A and 1C, other than those listed in paragraphs 2 and 6, of a nature that would not alter the rights and obligations of the Members, shall take effect for all Members upon acceptance by two thirds of the Members.

5. Except as provided in paragraph 2 above, amendments to Parts I, II and III of GATS and the respective annexes shall take effect for the Members that have accepted them upon acceptance by two thirds of the Members and thereafter for each Member upon acceptance by it. The Ministerial Conference may decide by a three-fourths majority of the Members that any amendment made effective under the preceding provision is of such a nature that any Member which has not accepted it within a period specified by the Ministerial Conference in each case shall be free to withdraw from the WTO or to remain a Member with the consent of the Ministerial Conference. Amendments to Parts IV, V and VI of GATS and the respective annexes shall take effect for all Members upon acceptance by two thirds of the Members.

6. Notwithstanding the other provisions of this Article, amendments to the Agreement on TRIPS meeting the requirements of paragraph 2 of Article 71 thereof may be adopted by the Ministerial Conference without further formal acceptance process.

7. Any Member accepting an amendment to this Agreement or to a Multilateral Trade Agreement in Annex 1 shall deposit an instrument of acceptance with the Director-General of the WTO within the period of acceptance specified by the Ministerial Conference.

8. Any Member of the WTO may initiate a proposal to amend the provisions of the Multilateral Trade Agreements in Annexes 2 and 3 by submitting such proposal to the Ministerial Conference. The decision to approve amendments to the Multilateral Trade Agreement in Annex 2 shall be made by consensus and these amendments shall take effect for all Members upon approval by the Ministerial Conference. Decisions to approve amendments to the Multilateral Trade Agreement in Annex 3 shall take effect for all Members upon approval by the Ministerial Conference.

9. The Ministerial Conference, upon the request of the Members parties to a trade agreement, may decide exclusively by consensus to add that agreement to Annex 4. The Ministerial Conference, upon the request of the Members parties to a Plurilateral Trade Agreement, may decide to delete that Agreement from Annex 4.

10. Amendments to a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement.

Article XI Original Membership

1. The contracting parties to GATT 1947 as of the date of entry into force of this Agreement, and the European Communities, which accept this Agreement and the Multilateral Trade Agreements and for which Schedules of Concessions and Commitments are annexed to GATT 1994 and for which Schedules of Specific Commitments are annexed to GATS shall become original Members of the WTO.

2. The least-developed countries recognized as such by the United Nations will only be required to undertake commitments and concessions to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities.

Article XII Accession

1. Any State or separate customs territory possessing full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement and the Multilateral Trade Agreements may accede to this Agreement, on terms to be agreed between it and the WTO. Such accession shall apply to this Agreement and the Multilateral Trade Agreements annexed thereto.

2. Decisions on accession shall be taken by the Ministerial Conference. The Ministerial Conference shall approve the agreement on the terms of accession by a two-thirds majority of the Members of the WTO.

3. Accession to a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement.

Article XIII Non-Application of Multilateral Trade Agreements between Particular Members

1. This Agreement and the Multilateral Trade Agreements in Annexes 1 and 2 shall not apply as between any Member and any other Member if either of the Members, at the time either becomes a Member, does not consent to such application.

2. Paragraph 1 may be invoked between original Members of the WTO which were contracting parties to GATT 1947 only where Article XXXV of that Agreement had been invoked earlier and was effective as between those contracting parties at the time of entry into force for them of this Agreement.

3. Paragraph 1 shall apply between a Member and another Member which has acceded under Article XII only if the Member not consenting to the application has so notified the Ministerial Conference before the approval of the agreement on the terms of accession by the Ministerial Conference.

4. The Ministerial Conference may review the operation of this Article in particular cases at the request of any Member and make appropriate recommendations.

5. Non-application of a Plurilateral Trade Agreement between parties to that Agreement shall be governed by the provisions of that Agreement.

Article XIV Acceptance, Entry into Force and Deposit

1. This Agreement shall be open for acceptance, by signature or otherwise, by contracting parties to GATT 1947, and the European Communities, which are eligible to become original Members of the WTO in accordance with Article XI of this Agreement. Such acceptance shall apply to this Agreement and the Multilateral Trade Agreements annexed hereto. This Agreement and the Multilateral Trade Agreements annexed hereto shall enter into force on the date determined by Ministers in accordance with paragraph 3 of the Final

Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations and shall remain open for acceptance for a period of two years following that date unless the Ministers decide otherwise. An acceptance following the entry into force of this Agreement shall enter into force on the 30th day following the date of such acceptance.

2. A Member which accepts this Agreement after its entry into force shall implement those concessions and obligations in the Multilateral Trade Agreements that are to be implemented over a period of time starting with the entry into force of this Agreement as if it had accepted this Agreement on the date of its entry into force.

3. Until the entry into force of this Agreement, the text of this Agreement and the Multilateral Trade Agreements shall be deposited with the Director-General to the CONTRACTING PARTIES to GATT 1947. The Director-General shall promptly furnish a certified true copy of this Agreement and the Multilateral Trade Agreements, and a notification of each acceptance thereof, to each government and the European Communities having accepted this Agreement. This Agreement and the Multilateral Trade Agreements, and any amendments thereto, shall, upon the entry into force of this Agreement, be deposited with the Director-General of the WTO.

4. The acceptance and entry into force of a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement. Such Agreements shall be deposited with the Director-General to the CONTRACTING PARTIES to GATT 1947. Upon the entry into force of this Agreement, such Agreements shall be deposited with the Director-General of the WTO.

Article XV Withdrawal

1. Any Member may withdraw from this Agreement. Such withdrawal shall apply both to this Agreement and the Multilateral Trade Agreements and shall take effect upon the expiration of six months from the date on which written notice of withdrawal is received by the Director-General of the WTO.

2. Withdrawal from a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement.

Article XVI Miscellaneous Provisions

1. Except as otherwise provided under this Agreement or the Multilateral Trade Agreements, the WTO shall be guided by the decisions, procedures and customary practices followed by the CONTRACTING PARTIES to GATT 1947 and the bodies established in the framework of GATT 1947.

2. To the extent practicable, the Secretariat of GATT 1947 shall become the Secretariat of the WTO, and the Director-General to the CONTRACTING PARTIES to GATT 1947, until such time as the Ministerial Conference has appointed a Director-General in accordance with paragraph 2 of Article VI of this Agreement, shall serve as Director-General of the WTO.

3. In the event of a conflict between a provision of this Agreement and a provision of any of the Multilateral Trade Agreements, the provision of this Agreement shall prevail to the extent of the conflict.

4. Each Member shall ensure the conformity of its laws, regulations and administrative procedures with its obligations as provided in the annexed Agreements.

5. No reservations may be made in respect of any provision of this Agreement. Reservations in respect of any of the provisions of the Multilateral Trade Agreements may only be made to the extent provided for in those Agreements. Reservations in respect of a provision of a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement.

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

Annex 1

Annex 1A: Multilateral Agreements on Trade in Goods

General Agreement on Tariffs and Trade 1994

Agreement on Agriculture

Agreement on the Application of Sanitary and Phytosanitary Measures

Agreement on Textiles and Clothing

Agreement on Technical Barriers to Trade

Agreement on Trade-Related Investment Measures

Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994

Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994

Agreement on Preshipment Inspection

Agreement on Rules of Origin

Agreement on Import Licensing Procedures

Agreement on Subsidies and Countervailing Measures

Agreement on Safeguards

Annex 1B: General Agreement on Trade in Services and Annexes

Annex 1C: Agreement on Trade-Related Aspects of Intellectual Property Rights

Annex 2

Understanding on Rules and Procedures Governing the Settlement of Disputes

Annex 3

Trade Policy Review Mechanism

Annex 4 Plurilateral Trade Agreements

Agreement on Trade in Civil Aircraft

Agreement on Government Procurement

International Dairy Agreement

International Bovine Meat Agreement

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Footnotes:

1 The body concerned shall be deemed to have decided by consensus on a matter submitted for its consideration, if no Member, present at the meeting when the decision is taken, formally objects to the proposed decision.

2 The number of votes of the European Communities and their member States shall in no case exceed the number of the member States of the European Communities.

3 Decisions by the General Council when convened as the Dispute Settlement Body shall be taken only in accordance with the provisions of paragraph 4 of Article 2 of the Dispute Settlement Understanding.

* A decision to grant a waiver in respect of any obligation subject to a transition period or a period for staged implementation that the requesting Member has not performed by the end of the relevant period shall be taken only by consensus.