

## **2. Agreement Establishing the World Trade Organization (adopted at Marrakesh on April 15, 1994)**

### ***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 facilitate the implementation, administration and operation, and further the objectives, of this Agreement and of the Multilateral Trade Agreements, and shall also provide the framework for the implementation, administration and operation of the Plurilateral Trade Agreements.

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

## AGREEMENT ESTABLISHING THE WORLD TRADE ORGANIZATION [220]

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.

## **[220]** AGREEMENT ESTABLISHING THE WORLD TRADE ORGANIZATION

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***

[...]

### ***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. 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 States 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.

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<sup>4</sup> 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

## AGREEMENT ESTABLISHING THE WORLD TRADE ORGANIZATION [220]

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***

[...]

### ***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.

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### **3. Contracting Parties to the Agreement Establishing the World Trade Organization**

<i>Contracting Party</i>	<i>Entry into Force</i>
1. Albania	8 September 2000
2. Angola	23 November 1996
3. Antigua and Barbuda	1 January 1995
4. Argentina	1 January 1995
5. Armenia	5 February 2003
6. Australia	1 January 1995
7. Austria	1 January 1995
8. Bahrain, Kingdom of	1 January 1995
9. Bangladesh	1 January 1995
10. Barbados	1 January 1995
11. Belgium	1 January 1995
12. Belize	1 January 1995
13. Benin	22 February 1996
14. Bolivia	12 September 1995
15. Botswana	31 May 1995
16. Brazil	1 January 1995
17. Brunei Darussalam	1 January 1995
18. Bulgaria	1 December 1996
19. Burkina Faso	3 June 1995
20. Burundi	23 July 1995
21. Cambodia	13 October 2004
22. Cameroon	13 December 1995
23. Canada	1 January 1995
24. Central African Republic	31 May 1995
25. Chad	19 October 1996
26. Chile	1 January 1995
27. China	11 December 2001
28. Colombia	30 April 1995
29. Congo	27 March 1997
30. Costa Rica	1 January 1995
31. Côte d'Ivoire	1 January 1995
32. Croatia	30 November 2000
33. Cuba	20 April 1995
34. Cyprus	30 July 1995
35. Czech Republic	1 January 1995
36. Democratic Republic of the Congo	1 January 1997
37. Denmark	1 January 1995
38. Djibouti	31 May 1995
39. Dominica	1 January 1995
40. Dominican Republic	9 March 1995
41. Ecuador	21 January 1996
42. Egypt	30 June 1995
43. El Salvador	7 May 1995
44. Estonia	13 November 1999
45. European Communities	1 January 1995
46. Fiji	14 January 1996
47. Finland	1 January 1995
48. Former Yugoslav Republic of Macedonia	4 April 2003
49. France	1 January 1995
50. Gabon	1 January 1995

## PARTIES TO THE AGREEMENT ESTABLISHING THE WTO [221]

51. The Gambia	23 October 1996
52. Georgia	14 June 2000
53. Germany	1 January 1995
54. Ghana	1 January 1995
55. Greece	1 January 1995
56. Grenada	22 February 1996
57. Guatemala	21 July 1995
58. Guinea	25 October 1995
59. Guinea Bissau	31 May 1995
60. Guyana	1 January 1995
61. Haiti	30 January 1996
62. Honduras	1 January 1995
63. Hong Kong, China	1 January 1995
64. Hungary	1 January 1995
65. Iceland	1 January 1995
66. India	1 January 1995
67. Indonesia	1 January 1995
68. Ireland	1 January 1995
69. Israel	21 April 1995
70. Italy	1 January 1995
71. Jamaica	9 March 1995
72. Japan	1 January 1995
73. Jordan	11 April 2000
74. Kenya	1 January 1995
75. Korea, Republic of	1 January 1995
76. Kuwait	1 January 1995
77. Kyrgyz Republic	20 December 1998
78. Latvia	10 February 1999
79. Lesotho	31 May 1995
80. Liechtenstein	1 September 1995
81. Lithuania	31 May 2001
82. Luxembourg	1 January 1995
83. Macao, China	1 January 1995
84. Madagascar	17 November 1995
85. Malawi	31 May 1995
86. Malaysia	1 January 1995
87. Maldives	31 May 1995
88. Mali	31 May 1995
89. Malta	1 January 1995
90. Mauritania	31 May 1995
91. Mauritius	1 January 1995
92. Mexico	1 January 1995
93. Moldova	26 July 2001
94. Mongolia	29 January 1997
95. Morocco	1 January 1995
96. Mozambique	26 August 1995
97. Myanmar	1 January 1995
98. Namibia	1 January 1995
99. Nepal	23 April 2004
100. Netherlands and for the Netherlands Antilles	1 January 1995
101. New Zealand	1 January 1995
102. Nicaragua	3 September 1995
103. Niger	13 December 1996
104. Nigeria	1 January 1995
105. Norway	1 January 1995
106. Oman	9 November 2000
107. Pakistan	1 January 1995

## [221] PARTIES TO THE AGREEMENT ESTABLISHING THE WTO

108.	Panama	6 September 1997
109.	Papua New Guinea	9 June 1996
110.	Paraguay	1 January 1995
111.	Peru	1 January 1995
112.	Philippines	1 January 1995
113.	Poland	1 July 1995
114.	Portugal	1 January 1995
115.	Qatar	13 January 1996
116.	Romania	1 January 1995
117.	Rwanda	22 May 1996
118.	Saint Kitts and Nevis	21 February 1996
119.	Saint Lucia	1 January 1995
120.	Saint Vincent & the Grenadines	1 January 1995
121.	Senegal	1 January 1995
122.	Sierra Leone	23 July 1995
123.	Singapore	1 January 1995
124.	Slovak Republic	1 January 1995
125.	Slovenia	30 July 1995
126.	Solomon Islands	26 July 1996
127.	South Africa	1 January 1995
128.	Spain	1 January 1995
129.	Sri Lanka	1 January 1995
130.	Suriname	1 January 1995
131.	Swaziland	1 January 1995
132.	Sweden	1 January 1995
133.	Switzerland	1 July 1995
134.	Chinese Taipei	1 January 2002
135.	Tanzania	1 January 1995
136.	Thailand	1 January 1995
137.	Togo	31 May 1995
138.	Trinidad and Tobago	1 March 1995
139.	Tunisia	29 March 1995
140.	Turkey	26 March 1995
141.	Uganda	1 January 1995
142.	United Arab Emirates	10 April 1996
143.	United Kingdom	1 January 1995
144.	United States of America	1 January 1995
145.	Uruguay	1 January 1995
146.	Venezuela (Bolivarian Republic of)	1 January 1995
147.	Zambia	1 January 1995
148.	Zimbabwe	5 March 1995