



**T H E W T O  
A G R E E M E N T S  
S E R I E S**

**I**

---

**A G R E E M E N T  
E S T A B L I S H I N G  
T H E W T O**

---

## THE WTO AGREEMENTS SERIES

This series offers a set of handy reference booklets on selected WTO agreements, the legal foundation for the international trading system used by the bulk of the world's trading nations. Each volume in the series contains the text of one agreement, an explanation designed to help the user understand the text, and in some cases supplementary material.

The agreements were the outcome of the 1986-1994 Uruguay Round of world trade negotiations held under the auspices of what was then the GATT (the General Agreement on Tariffs and Trade). The full set is available in *The Results of the Uruguay Round of Multilateral Trade Negotiations: The Legal Texts*. It includes about 60 agreements, annexes, decisions and understandings, but not the commitments individual countries made on tariffs and services. A full package of agreements that includes the over-20,000 pages of commitments is available from WTO Publications in a 34-volume set, and also a CD-ROM, *The Results of the Uruguay Round*.

This series of smaller volumes includes introductions explaining the accompanying legal texts. They are intended to be an authoritative aid for understanding the agreements, but because of the legal complexity and the fact that a number of issues have not been tested — for example in the WTO's dispute settlement procedures — the introductions cannot be taken as legal interpretations of the agreements.

Another WTO publication, *Guide to the Uruguay Round Agreements* (shortly to be published jointly by the WTO and Kluwer Law International), is a comprehensive explanation of all the agreements. A simpler guide to the agreements is in *Trading into the Future*, a booklet and electronic guide introducing all aspects of the WTO's work that can also be found on the WTO website: <http://www.wto.org>.

### The volumes in this series

(the sequence follows their order of appearance in the WTO Agreement):

- |  |  |
|--|--|
| 1. Agreement Establishing the WTO      | 11. Rules of Origin                            |
| 2. GATT 1994 and 1947                  | 12. Import Licensing Procedures                |
| 3. Agriculture                         | 13. Subsidies and Countervailing Measures      |
| 4. Sanitary and Phytosanitary Measures | 14. Safeguards                                 |
| 5. Textiles and Clothing               | 15. Services                                   |
| 6. Technical Barriers to Trade         | 16. Trade-Related Intellectual Property Rights |
| 7. Trade-Related Investment Measures   | 17. Dispute Settlement                         |
| 8. Anti-dumping                        | 18. Trade Policy Reviews                       |
| 9. Customs Valuation                   | 19. Trade in Civil Aircraft                    |
| 10. Preshipment Inspection             | 20. Government Procurement                     |

### Contacting the WTO:

#### For publications, write to:

WTO Publications, World Trade Organization, Centre William Rappard, rue de Lausanne 154,  
CH-1211 Genève 21, Switzerland

**Tel:** (41 22) 739 52 08 / 739 53 08

**Fax:** (41 22) 739 57 92

**e-mail:** [publications@wto.org](mailto:publications@wto.org)

**On-line bookshop:** <http://www.wto.org/wto/publicat/publicat.htm>

#### For general information, write to:

Information and Media Relations Division, World Trade Organization, Centre William Rappard, rue de Lausanne 154,  
CH-1211 Genève 21, Switzerland

**Tel:** (41 22) 739 50 07

**Fax:** (41 22) 739 54 58

**e-mail:** [enquiries@wto.org](mailto:enquiries@wto.org)

**Website:** <http://www.wto.org>

## CONTENTS

<b>ABBREVIATIONS</b>	<b>iii</b>
<b>PREFACE</b>	<b>iv</b>
<b>THE BASIC STRUCTURE OF WTO AGREEMENTS</b>	<b>v</b>
<b>INTRODUCTION The Agreement Establishing the World Trade Organization</b>	<b>1</b>
<b>Overview</b>	<b>1</b>
<b>Functions of the WTO</b>	<b>1</b>
Objectives	1
Implementing agreements	2
Negotiations	2
Disputes and policy reviews	2
Developing countries	2
Coherence	3
<b>The structure of the WTO</b>	<b>3</b>
Ministerial Conference and General Council	3
Goods, services and TRIPS councils	3
Committees reporting to General Council	4
<b>Figure I.1 The WTO's structure</b>	<b>5</b>
Other bodies	6
Bureaucracy and finance	6
<b>Membership</b>	<b>7</b>
<b>Decision-making</b>	<b>8</b>
<b>Coherence in global economic policymaking</b>	<b>9</b>
<b>Note: the WTO Agreement and the Uruguay Round Final Act</b>	<b>11</b>
<b>TEXT: MARRAKESH AGREEMENT ESTABLISHING THE WORLD TRADE ORGANIZATION</b>	<b>13</b>
<b>Article I</b> Establishment of the Organization	13
<b>Article II</b> Scope of the WTO	13
<b>Article III</b> Functions of the WTO	14
<b>Article IV</b> Structure of the WTO	14
<b>Article V</b> Relations with Other Organizations	15
<b>Article VI</b> The Secretariat	15
<b>Article VII</b> Budget and Contributions	16
<b>Article VIII</b> Status of the WTO	16
<b>Article IX</b> Decision-Making	17
<b>Article X</b> Amendments	18
<b>Article XI</b> Original Membership	19
<b>Article XII</b> Accession	20
<b>Article XIII</b> Non-Application of Multilateral Trade Agreements between Particular Members	20

<b>Article XIV</b> Acceptance, Entry into Force and Deposit	20
<b>Article XV</b> Withdrawal	21
<b>Article XVI</b> Miscellaneous Provisions	21
<b>Explanatory Notes:</b>	22
<b>LIST OF ANNEXES</b>	<b>23</b>
<b>ANNEX 1</b>	<b>23</b>
<b>ANNEX 2 UNDERSTANDING ON RULES AND PROCEDURES GOVERNING THE SETTLEMENT OF DISPUTES</b>	<b>23</b>
<b>ANNEX 3 TRADE POLICY REVIEW MECHANISM</b>	<b>23</b>
<b>ANNEX 4 PLURILATERAL TRADE AGREEMENTS</b>	<b>23</b>
<b>ANNEX 1A MULTILATERAL AGREEMENTS ON TRADE IN GOODS</b>	<b>24</b>
General interpretative note to Annex 1A:	24
<b>TEXT: FINAL ACT EMBODYING THE RESULTS OF THE URUGUAY ROUND OF MULTILATERAL TRADE NEGOTIATIONS</b>	<b>25</b>
<b>TEXT: Decision on Measures in Favour of Least-Developed Countries</b>	<b>26</b>
<b>TEXT: Declaration on the Contribution of the World Trade Organization to Achieving Greater Coherence in Global Economic Policymaking</b>	<b>28</b>
<b>TEXT: Decision on Trade and Environment</b>	<b>30</b>
<b>Decision on the Acceptance of and Accession to the Agreement Establishing the World Trade Organization</b>	<b>33</b>

## **ABBREVIATIONS**

<b>DSU</b>	Dispute Settlement Understanding
<b>GATS</b>	General Agreement on Trade in Services
<b>GATT</b>	The General Agreement on Tariffs and Trade, established in 1947. The abbreviation is used for both the legal text and the institution
<b>GATT 1947</b>	The text of GATT as used until amended by the WTO Agreements which came into force in 1995
<b>GATT 1994</b>	The General Agreement on Tariffs and Trade, as revised in 1994, which is part of the WTO Agreements. GATT 1994 includes GATT 1947 together with amendments.
<b>ICITO</b>	Interim Commission for the International Trade Organization, the provisional agency handling financing and staffing of GATT.
<b>ITO</b>	International Trade Organization, the proposed third Bretton Woods agency (with International Monetary Fund and World Bank) that was never set up.
<b>TPRM</b>	Trade Policy Review Mechanism
<b>TRIPS</b>	Trade-Related Aspects of Intellectual Property Rights
<b>WTO</b>	The World Trade Organization, established as the successor to the GATT on 1 January 1995

## **PREFACE**

### THE AGREEMENT ESTABLISHING THE WTO

The World Trade Organization (WTO) provides the institutional and legal foundation for the new multilateral trading system that came into being on 1 January 1995. The Agreement Establishing the WTO is a comparatively short agreement that sets out its role, structure and powers. It is also the first text of permanent importance in the package of agreements signed in Marrakesh on 15 April 1994 at the end of the Uruguay Round negotiations. Named after the country where it was launched in 1986, the Uruguay Round came under the auspices of the General Agreement on Tariffs and Trade (GATT). It lasted seven and a half years and it was the last of eight rounds of GATT negotiations.

GATT was the WTO's predecessor. It had a far weaker institutional basis, but it provided a system of rights and obligations for trade in goods. These were set out in a number of legal texts: the General Agreement itself, negotiated in 1947 and little changed thereafter, and a large number of related agreements or decisions reached over the years.

Although the General Agreement's provisions applied to all its signatory countries (or "Contracting Parties"), some of the most important among the other agreements had been signed by comparatively few countries. The business of the GATT was carried on by institutions that had been developed somewhat haphazardly in response to evolving needs, and the necessary financing and staff were formally provided through a moribund provisional agency, the Interim Commission for the International Trade Organization (ICITO), which for more than 40 years had served no other purpose. Dispute settlement arrangements had also evolved on a largely ad hoc basis, with separate arrangements to resolve disputes arising under the General Agreement and under most of the limited-membership agreements. All this has now changed.

This agreement (called here for short the WTO Agreement) and others contained in the Final Act of the Uruguay Round are part of the treaty which established the WTO. The WTO superseded the GATT as the umbrella organization for international trade, but the text of the General Agreement remains in force as one of the WTO's agreements. Amended once again, it is now called GATT 1994 and it includes the original version ("GATT 1947"). It and the supplementary agreements on trade in goods form a package that has the official title of the "Multilateral Agreement on Trade in Goods". This in turn is Annex 1A of the "Marrakesh Agreement Establishing the World Trade Organization.

The WTO Secretariat has prepared this booklet to assist public understanding of the WTO Agreement. The first section is an introduction to the agreement. The second section contains the legal text of the agreement. It also includes related legal documents — the text of the Final Act (see explanation on page 11) and ministerial decisions cited in the introduction. The booklet is not intended to provide legal interpretation of the agreement.

May 1998

# THE BASIC STRUCTURE OF WTO AGREEMENTS

## The conceptual framework

Broadly speaking, the WTO agreements for the two largest areas of trade — goods and services — share a common three-part outline, even though the detail is sometimes quite different.

<b>In a nutshell</b>					
The basic structure of the WTO agreements					
	<b>Goods</b>	<b>Services</b>	<b>Intellectual property</b>	<b>Disputes</b>	<b>Trade policy reviews</b>
<i>Basic principles</i>	<b>GATT</b>	<b>GATS</b>	<b>TRIPS</b>	<b>Dispute settlement</b>	<b>TPRM</b>
<i>Additional details</i>	Other goods agreements and annexes	Services annexes			
<i>Market access commitments</i>	Countries' schedules of commitments	Countries' schedules of commitments (and MFN exemptions)			

- ◆ They start with **broad principles**: the General Agreement on Tariffs and Trade (GATT) (for goods), and the General Agreement on Trade in Services (GATS). (The agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) also falls into this category although at present it has no additional parts.)
- ◆ Then come **additional agreements and annexes** dealing with the special requirements of specific sectors or issues. These deal with the following specific sectors or issues:

### **For goods (under GATT)**

Agriculture  
 Health regulations for farm and food products (SPS)  
 Textiles and clothing  
 Product standards (TBT)  
 Investment measures  
 Anti-dumping measures

Customs valuation methods  
 Preshipment inspection  
 Rules of origin  
 Import licensing  
 Subsidies and counter-measures  
 Safeguards

### **For services**

#### **(the GATS annexes)**

Movement of natural persons  
 Air transport  
 Financial services  
 Shipping  
 Telecommunications

- ◆ Finally, there are the detailed and lengthy **schedules (or lists) of commitments** made by individual countries allowing specific foreign products or service-providers access to their markets. For GATT, these take the form of binding commitments on tariffs for goods in general, and combinations of tariffs and quotas for some agricultural goods. For GATS, the commitments state how much access foreign service providers are allowed for specific sectors, and they include lists of types of services where individual countries say they are not applying the “most-favoured-nation” principle of non-discrimination.

Much of the Uruguay Round dealt with the first two parts: general principles and principles for specific sectors. At the same time, market access negotiations were possible for industrial goods. Once the principles had been worked out, negotiations could proceed on the commitments for sectors such as agriculture and services. Negotiations after the Uruguay Round have focused largely on market access commitments: financial services, basic telecommunications, and maritime transportation (under GATS), and information technology equipment (under GATT).

The agreement in the third area of trade covered by the WTO — on intellectual property — is at the level of basic principles although some details on specific areas (for example on copyright, patents, trademarks, geographical indications) are handled in the agreement. Other details come from conventions and agreements outside the WTO.

The agreements on dispute settlement and trade policy reviews are also essentially at the level of basic principles.

### **Also important**

One other set of agreements not included in the diagram above is also important: the two “**plurilatera**” agreements not signed by all members: civil aircraft, government procurement. (Originally there were four: the agreements on dairy products and bovine meat were terminated at the end of 1997.)

### **The legal framework**

The conceptual structure is reflected in the way the legal texts are organized. A short **Marrakesh Agreement Establishing the World Trade Organization** sets up the legal and institutional foundations. Attached to it is a much lengthier set of four annexes.

- ◆ **Annex 1** contains most of the detailed rules, and is divided into three sections:
  - **1A**, containing the revised **General Agreement on Tariffs and Trade**, the other agreements governing trade in goods, and a protocol which ties in individual countries’ specific commitments on goods;
  - **1B**, the **General Agreement of Trade in Services**, texts on specific services sectors, and individual countries’ specific commitments and exemptions; and
  - **1C**, the **Agreement on Trade-Related Aspects of Intellectual Property Rights**.

Collectively, the agreements included in Annex 1 are referred to as the **Multilateral Trade Agreements**, since they comprise the substantive trade policy obligations which all the members of the WTO have accepted.

- ◆ **Annex 2** sets the rules and procedures for **dispute settlement**.
- ◆ **Annex 3** provides for regular **reviews** of developments and trends in national and international trade policy.
- ◆ **Annex 4** covers four “**plurilateral**” agreements (later reduced to two) which are within the WTO framework but which have limited membership.

Finally, the Marrakesh texts include a number of **decisions and declarations** on a wide variety of matters that were adopted at the same time as the WTO Agreement itself.

## **INTRODUCTION**

# The Agreement Establishing the World Trade Organization

*The World Trade Organization (WTO) provides the institutional and legal foundation for the new multilateral trading system that came into being on 1 January 1995.*

*The comparatively short agreement that sets out its role, structure and powers is also the first text in the package of Uruguay Round agreements signed in Marrakesh on 15 April 1994 that is of permanent importance.*

### **Overview**

The WTO Agreement<sup>1</sup> creates an entirely new international organization to administer “an integrated, more viable and durable multilateral trading system encompassing the General Agreement on Tariffs and Trade, the results of past liberalization efforts, and all of the results of the Uruguay Round of Multilateral Trade Negotiations” (Preamble, para.4). The agreement defines the functions of the organization, its structure, the qualifications for membership, and decision-making procedures and requirements. It also calls for efforts to improve the coherence of global economic policy-making. However, the WTO Agreement itself contains no substantive trade policy obligations: these are to be found only in the annexes.

### **Functions of the WTO**

#### *Objectives*

The Preamble to the WTO Agreement essentially sets out, in the broadest terms, the objectives of the whole body of agreements reached at the end of the Uruguay Round. Much of the language of the Preamble is taken over from the GATT, with several modifications. Thus, principal objectives of the WTO, as of the GATT, are raising standards of living, ensuring full employment, expanding production and trade, and allowing optimal use of the world’s resources. The WTO Preamble adds three elements. It refers to production of and trade in goods and services (the GATT spoke only of goods); it states the objective of sustainable development, “seeking both to protect and preserve the environment”; and it recognizes the need for positive efforts to ensure that developing countries, and especially the least-developed countries, “secure a share in international trade commensurate with the needs of their economic development” (Preamble, paras. 1 and 2). The declared means of achieving these objectives is exactly the same as that laid down 47 years earlier in the GATT: “reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment

---

<sup>1</sup> Confusingly, this short text of sixteen articles has no official name of its own. The title which heads it — Marrakesh Agreement Establishing the World Trade Organization — in fact covers not only the WTO itself, but also all the other Uruguay Round agreements attached to it in its Annexes. For this introduction, the sixteen-article text will be referred to as the WTO Agreement, to distinguish it from the broader Marrakesh Agreement. (See also the note at the end of this introduction that relates the WTO Agreement to the Uruguay Round Final Act.)

in international trade relations” (Preamble, para.3).

The stated objectives are clearly those of the Marrakesh package of agreements as a whole. The role of the World Trade Organization itself is defined by Article III of the WTO Agreement, which defines five functions for it.

### *Implementing agreements*

The first, and broadest, function is to “facilitate the implementation, administration and operation, and further the objectives, of this Agreement and of the Multilateral Trade Agreements”, and also to “provide the framework for the implementation, administration and operation of the Plurilateral Trade Agreements” (Article III:1). The wording reflects the difference between the multilateral agreements, to which all member governments are committed, and the plurilateral agreements which are under the WTO umbrella but cannot expect the same degree of support.

### *Negotiations*

The WTO’s second function is to be a negotiating forum. Again, a distinction is made between negotiations for which the WTO shall provide the forum, and those for which it may provide a forum (Article III:2). The first category, specifically reserved to the WTO, consists of multilateral negotiations on matters dealt with in the annexes to the agreement — that is, on the subjects already covered by the GATT and the Uruguay Round. The second category is defined only as “further” negotiations concerning multilateral trade relations, as may be decided by the WTO’s Ministerial Conference: should such negotiations take place, the WTO can also provide the framework for putting their results into effect.

### *Disputes and policy reviews*

The third and fourth functions of the WTO are to administer the arrangements in Annexes 2 and 3 for the settlement of disputes that may arise between members and for the review of trade policies (Article III:3 and III:4). Finally, the WTO is to cooperate, as appropriate, with the International Monetary Fund and the World Bank “with a view to achieving greater coherence in global economic policymaking” (Article III:5).

### *Developing countries*

The WTO Agreement’s Preamble and Article III are buttressed by two separate texts that were adopted by Ministers on the same day that they signed the Marrakesh agreements.

One text, of particular importance because it has a bearing on virtually every other agreement in the Uruguay Round package, is a decision on measures in favour of least-developed countries. Its central point is that these countries, as long as they remain in the least-developed category,<sup>2</sup> will only be required to undertake commitments and concessions under the Uruguay Round agreements “to the extent consistent with their individual development, financial and trade needs, or their administrative and institutional capabilities”<sup>3</sup>, and that the rules and transitional arrangements in the agreements “should be applied to

Para. 2 (iii)). The decision gave least-developed countries an additional year to submit their schedules of commitments on goods and services (Para. 1).<sup>4</sup> Other provisions require regular reviews to ensure that special and differential measures in their favour are put promptly into effect; encourage early action to reduce trade barriers facing products of interest to them; and call on developed countries to be careful of the effects any import relief measures they take may have on

---

<sup>2</sup> The categorization referred to is that established, and periodically reviewed, by the United Nations.

<sup>3</sup> Decision on Measures in Favour of Least-Developed Countries, para. 1.

<sup>4</sup> The requirement to have schedules of commitments for goods and services, a condition of membership in the WTO, is discussed below under “Membership”.

exports of the least-developed countries. Finally, the decision promises the least-developed countries substantially increased technical assistance in the development, strengthening and diversification of their production and exports, as well as continuing review of their specific needs (Para. 2). There is no comparable general text covering developing countries other than those in the least-developed category. Special and differential treatment for developing countries is instead included in most of the separate agreements and arrangements reached in the Uruguay Round, where it usually takes the form of less stringent obligations (e.g. longer transition periods) than are imposed on developed countries.

### *Coherence*

The second ministerial text bearing on the functions of the WTO is a declaration on its role in achieving “greater coherence in global economic policymaking”.<sup>5</sup> As the title of the declaration suggests, it is directly linked with the fifth function of the WTO, already referred to. Its content and significance are discussed below.

## **The structure of the WTO**

The WTO Agreement provides the new organization with a clear structure, political guidance, a proper staff, and appropriate financial arrangements.

### *Ministerial Conference and General Council*

The structure is headed by a Ministerial Conference, composed of all members of the WTO, which is to meet at least once every two years. The conference has full powers under the agreement: it is to “carry out the functions of the WTO and take actions necessary to this effect”, and has “the authority to take decisions on all matters under any of the Multilateral Trade Agreements” (*WTO Agreement, Article IV:1*). The GATT had no equivalent body, although its sessions of the GATT Contracting Parties were occasionally held at Ministerial level, and its work in consequence lacked continuity in political leadership.

Between sessions of the Ministerial Conference, its functions are exercised by the General Council, also made up of the full membership of the WTO (*Article IV:2*). The General Council is in effect responsible for the continuing management of the organization. It supervises all aspects of the WTO’s work, and at the same time is able to handle even the most important matters that may need urgent attention. For these purposes, it meets regularly but — at least on the basis of experience so far — not particularly frequently: the emerging pattern appears to be about half a dozen meetings a year. Most of the national representatives at these meetings are the permanent heads of their countries’ delegations in Geneva.

The General Council has also been given two additional specific tasks. The WTO Agreement requires it to convene as the Dispute Settlement Body and as the Trade Policy Review Body. These are responsible respectively for the operation of the dispute settlement and trade policy review arrangements of the WTO.<sup>6</sup> Meetings for these purposes take place much more frequently: experience so far is that the Dispute Settlement Body meets about once a month, and the Trade Policy Review Body still more often.

### *Goods, services and TRIPS councils*

The WTO Agreement provides for three separate sets of subsidiary bodies reporting to the General Council. The most important group, responsible for the main operational aspects of the WTO, consists of the three Councils which supervise work arising from the obligations which all member countries have

---

<sup>5</sup> Declaration on the Contribution of the World Trade Organization to Achieving Greater Coherence in Global Economic Policymaking adopted by Ministers in Marrakesh on 15 April 1994.

<sup>6</sup> These arrangements are discussed in separate booklets in this series.

assumed under the agreements on trade in goods, trade in services, and trade-related aspects of intellectual property matters. A second set of subsidiary bodies is responsible for broad functions that cut across sectoral responsibilities. The third group consists of the bodies established under the Plurilateral Trade Agreements, which by definition contain the obligations that bind only those WTO members that have accepted them.

The three subsidiary Councils are the Council for Trade in Goods, the Council for Trade in Services, and the Council for Trade-Related Aspects of Intellectual Property Rights (known for short as the Council for TRIPS). Each operates under the general guidance of the General Council, and is to carry out the functions assigned to it by the goods, services or TRIPS agreements, and by the General Council. The Council for Trade in Goods covers the agreements in Annex 1A to the WTO Agreement: that is, the GATT itself, and all the multilateral understandings, agreements and decisions reached on trade in goods either as a result of the Uruguay Round, or carried over from earlier years. The Council for Trade in Services oversees the General Agreement on Trade in Services (GATS). The Council for TRIPS oversees the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). Each of the Councils is open to all WTO members who may wish to attend (Article IV:5). The Councils are to meet as necessary, and can set up subsidiary bodies (Article IV:6).

### *Committees reporting to General Council*

The second group of permanent bodies reporting to the General Council and specified in the WTO Agreement consists of the Committee on Trade and Development, the Committee on Balance-of-Payments Restrictions, and the Committee on Budget, Finance and Administration. To these has been added the Committee on Regional Trade Agreements, set up in 1996 (Article IV:7).<sup>7</sup> All the first three committees had direct counterparts under the old GATT: the difference is that they now have to cover the wider responsibilities of the WTO. Many, or even most, of their tasks are specifically laid down elsewhere in the WTO Agreement, or in its annexes.<sup>8</sup> However, the Committee on Trade and Development is also required to review periodically the application of the special provisions of the Multilateral Trade Agreements in favour of least-developed countries, and has set up a sub-committee for this purpose (Article IV:7). These permanent committees are open to all WTO members, although it is only the Committee on Trade and Development whose membership approaches in numbers that of the WTO itself. One important body, the Committee on Trade and Environment, was created under the terms of a Ministerial decision in Marrakesh.<sup>9</sup> Initially established to report to the first meeting of the Ministerial Conference, held in December 1996, its work programme has been further extended.

---

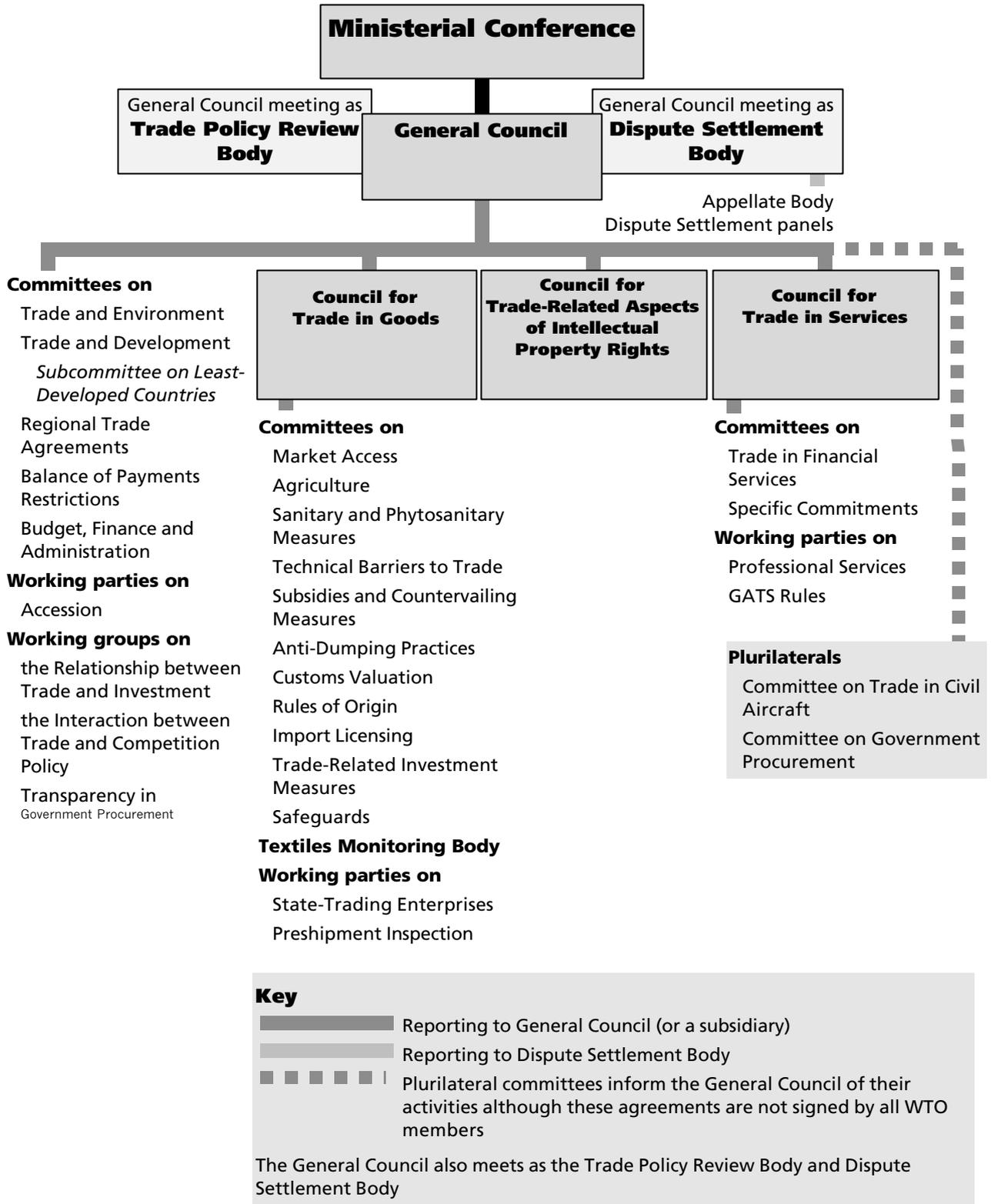
<sup>7</sup> The Committee on Regional Trade Agreements, set up in February 1996 by decision of the General Council (Decision of 6 February 1996, WT/L/127), has the responsibility of examining all bilateral, regional and plurilateral trade agreements that are preferential in nature, and also considers the systemic implications of such agreements and regional initiatives for the multilateral trading system.

<sup>8</sup> The GATT Committee on Trade and Development was set up to supervise application of Part IV (Articles XXXVI, XXXVII and XXXVIII) of the GATT, and its WTO successor, with its sub-committee on least-developed countries, is similarly concerned with trade issues affecting developing countries. The Committee on Balance-of-Payments Restrictions carries out functions under GATT Articles XII and XVIII:B and related provisions, as well as under GATS Article XII. Article VII of the WTO Agreement itself defines the tasks of the Committee on Budget, Finance and Administration.

<sup>9</sup> Decision on Trade and Environment, adopted by Ministers in Marrakesh on 15 April 1994. See also Annex II of the present study.

**Figure I.1**  
**The WTO's structure**

All WTO members may participate in all councils, committees, etc, except Appellate Body, Dispute Settlement panels, Textiles Monitoring Body, and plurilateral committees.



Article VII:2). The most important element in the financial regulations is the scale of contributions which determines the share of the WTO's budget to be paid by each member government. The basic principle is that contributions are proportionate to the share of each country's exports and imports in the total trade among members. Under the GATT, this was measured in terms only of goods; under the WTO it is the share of goods and services. There is a minimum 0.03% contribution

---

<sup>10</sup> Two other bodies, the International Dairy Council and International Meat Council, fell into the same category, but were wound up at the end of 1997, along with the plurilateral agreements which they administered. See also Annex I of the present volume.

applicable to countries with a share of less than that amount in total trade among WTO members.<sup>11</sup> Article VIII gives the WTO legal personality, and provides it and its staff with the privileges and immunities needed to exercise its functions on a basis similar to that of specialized agencies of the United Nations.

## Membership

The WTO Agreement provides for two ways of becoming a member of the organization. The first, “original membership”, essentially covers the situation of governments which were Contracting Parties to the old GATT (“GATT 1947”), and is governed by rules which mean that the possibility of joining the WTO by this route was available only for a limited period. The second approach to membership is by “accession”, which effectively means by negotiating the terms of membership with the governments that are already members. Once membership has been achieved, the approach used ceases to be of significance: original members and members by accession are all on the same footing, subject to any special terms of accession.<sup>12</sup>

Original members were required to be Contracting Parties to the GATT at the date of entry into force of the WTO (1 January 1995), to have accepted the WTO Agreement, and also to have made concessions and commitments for both goods and services, embodied in schedules that had been duly accepted and annexed, respectively, to the GATT 1994 and the GATS (*WTO Agreement*, Article XI:1). It is these requirements, and in particular the fact that all original members had to accept the WTO Agreement without reservations (Article XVI:5), that establishes the all-embracing nature of the new organization and of the rights and obligations for which it provides. Least-developed countries who became original members of the WTO are subject to the same basic conditions, but “will only be required to undertake commitments and concessions to the extent consistent with their individual development, financial or trade needs or their administrative and institutional capabilities” (Article XI:2). Although elaborate provisions were made in a Ministerial Decision<sup>13</sup> to give adequate time for all qualifying countries to accede to the WTO as original members, a final cut-off date was also provided. “Unless the Ministers decide otherwise”, new original members were to be able to join only during the two years following entry into force of the WTO (*WTO Agreement*, Article XIV:1). Almost all GATT contracting parties managed to ratify their accessions before the end of 1996, and a short extension of the time-limit permitted the last of them to join in March 1997.<sup>14</sup>

The accession route into the WTO remains open indefinitely to any state, and also any separate customs territory which is free to conduct its own external trade policy and other policies governed by the WTO agreements. (One prominent such territory — Hong Kong, China — is an original WTO member, as is Macao.) The conditions for membership are not specified: accession is simply to be “on terms to be agreed Article XII:1). It may however be assumed that, although they will be tailored to the particular circumstances of the country concerned, they will be intended to put that country on a footing similar to that of the existing members.

The WTO Agreement itself imposes few substantive obligations on members. Two exceptions, for all countries, are the requirement to pay their shares in the expenses of the WTO (Article VII:4) and to ensure the conformity of their laws, regulations and administrative procedures with their obligations under the agreements in the WTO package (Article XVI:4).

---

<sup>11</sup> WTO document WT/BF/A/13, 3 November 1995.

<sup>12</sup> Decision on the Acceptance of and Accession to the Agreement Establishing the World Trade Organization, Preamble.

<sup>13</sup> Decision on the Acceptance of and Accession to the Agreement Establishing the World Trade Organization.

<sup>14</sup> With accession to the WTO by the Republic of Congo, on 27 March 1997, as the organization’s 131st member, all former contracting parties to the GATT (except the former Yugoslavia) had become WTO members.

The counterpart to the provisions on joining the WTO is of course the set of provisions on leaving it. Any WTO member can withdraw, but the withdrawal will apply to all the multilateral agreements as well as the WTO itself, and will take effect only six months after written notice has been given (Article XV:1.).

For political or other reasons, certain countries may not wish to have WTO rules apply between them. This is possible, provided either of the members concerned makes its position clear at the time that it or the other country becomes a member (Article XIII:1.). However, no country that was a GATT contracting party may invoke this right to “non-application” against another former GATT contracting party unless it was already invoking the equivalent GATT provision (Article XXXV of the General Agreement) (Article XIII:2). This rule ensured that the changeover from the GATT to the WTO could not be used as an opportunity to introduce new trade restrictions.

### **Decision-making**

An important provision of the WTO Agreement states that, except as otherwise provided, the WTO is to be “guided by the decisions, procedures and customary practices” followed under the old GATT (Article XVI:1). The implications of this principle for decision-making are spelled out further: “the WTO shall continue the practice of decision-making by consensus followed under GATT 1947” (Article IX:1).

Votes were seldom taken in GATT. The tradition was that decisions were normally taken only after an issue had been discussed to the point at which an agreement had been developed which all countries were ready to support, or at least not to oppose. Voting, when it took place, was normally a mere formality, and usually concerned the approval of the pre-negotiated terms on which a country either acceded to the GATT or was permitted (by a “waiver” of its normal obligations) to deviate from the requirements of a particular rule. The rules on decision-making under the WTO seem likely to lean in practice even more heavily towards the use of consensus rather than formal voting.

As far as formal voting is concerned, each WTO member has one vote. The general rule is that decisions of the Ministerial Council or the General Council shall be by a majority of the votes cast (Article IX:1). Matters become more complicated, however, if the vote concerns interpretations of the WTO Agreement or the Multilateral Trade Agreements, amendment of these agreements, the grant of waivers, or the accession of new members.

Interpretations can be adopted only if supported by a three-fourths majority of the membership (Article IX:2). Even the submission of proposals for amendments normally requires consensus support (although if consensus cannot be achieved, support by a two-thirds majority of the membership suffices), and approval of proposals in most cases would require favourable votes by two-thirds of the membership (Article X:1). Moreover, certain key articles that guarantee centrally-important rights have an entrenched status, and cannot be changed unless all members so agree. These are Article IX of the WTO (the waiver rules), Articles I and II of the GATT (respectively, the most-favoured-national rule and the schedules of concessions on goods), and Articles II:1 of the GATS and 4 of the TRIPS agreement (in each case, the most-favoured-nation rule of that agreement) (Article X:). If an amendment to the WTO, GATT or TRIPS agreements would alter the rights and obligations of members, it will take effect for members which accept it when two-thirds of the membership has voted in favour. The Ministerial Conference may decide by a three-fourths majority of the membership that any such amendment is of such a nature that any member which does not accept it “shall be free to withdraw from the WTO or to remain a member with the consent of the Ministerial Conference” (Article X:3). Similar but separate provisions govern amendments to the GATS rules on general obligations or specific commitments (Article X:).

Requests for waivers from obligations under the WTO Agreement or any of the Multilateral Trade Agreements require approval by three-quarters of the membership, and must spell out the reasons for granting the waiver, and the conditions on which it is granted, including its termination date (Article IX:3

and 4).<sup>15</sup> Decisions on the accession of new members require approval by two-thirds of the membership (Article XII:2).

These voting requirements, tougher than those set by the old GATT, were introduced because of fears that a number of countries might otherwise be tempted to join forces to vote through waivers or other decisions that would deprive the outvoted minority of rights under the WTO. In the last resort, the requirements would provide a strong defence if such a threat should ever materialize. It was soon realized, however, that their practical effect could be to make it very hard to take important decisions, even when no member is actually opposed to the decision. The total membership of the WTO is already over 130, and may reach 150 in the fairly near future. A requirement that three-quarters of the membership approve a proposed waiver, or that two-thirds of the membership vote in favour of a country's accession to the WTO, could therefore demand the affirmative votes of more than 100 countries. This condition could be difficult to fulfil, since the failure of quite a small number of countries to vote (and many countries do not have permanent representation in Geneva) could be sufficient to block action. In consequence, the General Council agreed in November 1995 on an important clarification of the decision-making rules in Articles IX and XII of the WTO Agreement. It underlines that in considering requests for waivers or accessions, the General Council shall seek to reach agreement by consensus. Votes will be taken only if consensus cannot be reached. While any WTO member may request a vote, it should, in order to do so, be present at the meeting at which the matter is considered: "the absence of a member will be assumed to imply that it has no comments on or objections to the proposed decision on the matter".<sup>16</sup> It seems apparent already that, following this agreement, formal votes will be even less frequent in the WTO than they were under the GATT.

One further clarification of the decision-making procedures of the WTO has been reached since the Uruguay Round agreements were signed. As part of the process of drawing up rules of procedure for the various WTO bodies, the member governments agreed that voting should take place only in the General Council and Ministerial Conference. When an agreement cannot be reached by consensus in a subsidiary body such as the Council for Goods, the matter will be passed up to the General Council for further consideration.

### **Coherence in global economic policymaking**

The WTO Agreement makes provision in its Article V for the organization to establish cooperative arrangements with other intergovernmental organizations, as well as non-governmental organizations, whose responsibilities and interests are related to those of the WTO (Article V:1 and 2). In November 1995, for instance, the WTO General Council noted<sup>17</sup> an exchange of letters under the terms of this provision between the Director-General of the WTO and the Secretary-General of the United Nations which ensures close cooperation in future between the two organizations, even though WTO members had earlier decided<sup>18</sup> that it would not be appropriate for the WTO to seek a more formal "specialized agency" relationship with the UN. Provisions of this kind are normal in the basic rules of any organization. However, the WTO Agreement is unusual in specifically calling on the new organization to cooperate with two other agencies, the International Monetary Fund (IMF) and the International Bank for Reconstruction

---

<sup>15</sup> For waivers of obligations under the GATT, a separate Understanding establishes further provisions (GATT 1994: Understanding in Respect of Waivers of Obligations under the General Agreement on Tariffs and Trade 1994). See separate booklet on GATT.

<sup>16</sup> Decision-making procedures under Articles IX and XII of the WTO Agreement: statement by the Chairman, agreed by the General Council on 15 November 1995. WT/L/93.

<sup>17</sup> WTO document WT/GC/W/10, 3 November 1995.

<sup>18</sup> Report of the Preparatory Committee for the World Trade Organization, document PC/R, 31 December 1994.

and Development (World Bank), and in including this requirement among the basic functions of the WTO (Article III:5). The reason is that, whereas cooperation with other organizations is seen as necessary because of specific overlaps between their tasks and those of the WTO, in the case of the IMF and World Bank there is a concern, shared with the WTO, to ensure that international economic policies as a whole work in harmony.

The IMF and World Bank, established as a result of the 1944 Bretton Woods conference, have for the past half-century been the world's main instruments of monetary and financial cooperation. Plans for a counterpart third economic agency, the International Trade Organization, were stillborn, leaving only the weaker provisional agreement, the GATT, as basis for international cooperation on trade policy matters. During the Uruguay Round, the participants discussed how a strengthened GATT might cooperate more closely with the Bretton Woods agencies. All countries agreed that such cooperation was desirable in order to ensure that the operations of the three agencies were consistent and mutually reinforcing. Many, but not all, governments also felt that cooperation could serve a wider purpose: they believed that it could help to overcome what they saw as a tendency for international monetary, financial and trade policies to work on occasion at cross-purposes. The outcome of these discussions was the negotiation of a Ministerial declaration, approved in Marrakesh as part of the Uruguay Round package, that calls on the WTO to contribute "to achieving greater coherence in global economic policymaking".<sup>19</sup> The requirement in Article III of the WTO Agreement that the new organization cooperate with the IMF and World Bank includes the same language on policy "coherence", and was in fact included in the agreement, after the draft declaration had already been negotiated, as a means of carrying the declaration into operation.

The declaration states that globalization of the world economy has led to ever-growing interactions between the economic policies pursued by individual countries. Successful cooperation in each area of economic policy contributes to progress in other areas. The declaration cites links between exchange rate stability and the expansion of trade, sustainable growth and development, as well as the role of aid and investment flows and debt relief. Trade liberalization, it recalls, is an increasingly important component in the success of adjustment programmes undertaken by many countries, and has been supported by the IMF and World Bank. The results of the Uruguay Round — including improved market access, strengthened trade rules, a better forum for further liberalization and more effective surveillance — "mean that trade policy can in the future play a more substantial role in ensuring the coherence of global economic policymaking". However, trade policy measures alone cannot redress difficulties whose origins lie outside the trade field. This, the declaration concludes, "underscores the importance of efforts to improve other elements" of policymaking "to complement the effective implementation of the results achieved in the Uruguay Round".

The declaration does not seek to prescribe in detail how the WTO should cooperate with the Bretton Woods agencies. It calls only for the international economic institutions to follow "consistent and mutually supportive policies", and for whatever cooperation is developed to respect "the mandate, the confidentiality requirements and the necessary autonomy in decision-making procedures of each institution". A further call to avoid "the imposition on governments of cross-conditionality or additional conditions" reflects the worry of some countries that a closer alliance between powerful international agencies might otherwise have this undesired result. Finally, the declaration sets in motion the process of developing closer links between the WTO and the Bretton Woods agencies by inviting the WTO's Director-General to review possibilities for future cooperation with his counterparts at the IMF and World Bank. Discussions to this end were launched in 1995, soon after the WTO came into existence, and separate agreements concluded between the WTO and the IMF and WTO and the World Bank were signed, respectively, in December 1996 and April 1997.

---

<sup>19</sup> Declaration on the Contribution of the World Trade Organization to Achieving Greater Coherence in Global Economic Policymaking.

**Note: the WTO Agreement and the Uruguay Round Final Act**

The WTO Agreement is preceded by two other texts, neither of which involves obligations that are still relevant. One (the Marrakesh Declaration of 15 April 1994) is an essentially political declaration by Ministers, celebrating conclusion of the Uruguay Round. The other (the Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations) is the formal agreement by which each country's representative recognized the attached substantive texts as representing the results of the Round.

The Final Act distinguishes between three groups of texts.

- ◆ The first group consists of what is now known as the Marrakesh Agreement: that is, the WTO agreement itself, plus all the agreements annexed to it. By signing the Final Act, each government undertook to submit the Marrakesh Agreement for ratification by the national legislature or other appropriate authority.
- ◆ The second group, consisting of Ministerial Decisions and Declarations related to the Uruguay Round results, did not need ratification, and therefore were actually adopted through signature of the Final Act.
- ◆ The third group contains just one text, the Understanding on Commitments in Financial Services, which did not require adoption.

Two points in the Final Act are worth noting: the target date of 1 January 1995 which was set (and met) for entry into force of the WTO; and the conditions for acceptance, which reflect the requirements for original membership set out in Article XI:1 of the WTO Agreement.

(See also "The Basic Structure of WTO Agreements", page v–vi.)



---

**TEXT:**  
**MARRAKESH 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 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 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 IA. 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.<sup>1</sup> 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<sup>2</sup> 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.<sup>3</sup>
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<sup>4</sup> 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

---

<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> 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.

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 IA and IC, 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 IA and IC, 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.

DONE at Marrakesh this fifteenth day of April one thousand nine hundred and ninety-four, in a single copy, in the English, French and Spanish languages, each text being authentic.

**Explanatory Notes:**

The terms “country” or “countries” as used in this Agreement and the Multilateral Trade Agreements are to be understood to include any separate customs territory Member of the WTO.

In the case of a separate customs territory Member of the WTO, where an expression in this Agreement and the Multilateral Trade Agreements is qualified by the term “national”, such expression shall be read as pertaining to that customs territory, unless otherwise specified.

## LIST OF ANNEXES

### **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

**ANNEX 1A**  
MULTILATERAL AGREEMENTS ON TRADE IN GOODS

General interpretative note to Annex 1A:

In the event of conflict between a provision of the General Agreement on Tariffs and Trade 1994 and a provision of another agreement in Annex 1A to the Agreement Establishing the World Trade Organization (referred to in the agreements in Annex 1A as the “WTO Agreement”), the provision of the other agreement shall prevail to the extent of the conflict.

---

**TEXT:**  
**FINAL ACT**  
**EMBODYING THE RESULTS OF THE**  
**URUGUAY ROUND OF MULTILATERAL TRADE NEGOTIATIONS**

1. Having met in order to conclude the Uruguay Round of Multilateral Trade Negotiations, representatives of the governments and of the European Communities, members of the Trade Negotiations Committee, agree that the Agreement Establishing the World Trade Organization (referred to in this Final Act as the “WTO Agreement”), the Ministerial Declarations and Decisions, and the Understanding on Commitments in Financial Services, as annexed hereto, embody the results of their negotiations and form an integral part of this Final Act.
2. By signing the present Final Act, the representatives agree
  - (a) to submit, as appropriate, the WTO Agreement for the consideration of their respective competent authorities with a view to seeking approval of the Agreement in accordance with their procedures; and
  - (b) to adopt the Ministerial Declarations and Decisions.
3. The representatives agree on the desirability of acceptance of the WTO Agreement by all participants in the Uruguay Round of Multilateral Trade Negotiations (hereinafter referred to as “participants”) with a view to its entry into force by 1 January 1995, or as early as possible thereafter. Not later than late 1994, Ministers will meet, in accordance with the final paragraph of the Punta del Este Ministerial Declaration, to decide on the international implementation of the results, including the timing of their entry into force.
4. The representatives agree that the WTO Agreement shall be open for acceptance as a whole, by signature or otherwise, by all participants pursuant to Article XIV thereof. The acceptance and entry into force of a Plurilateral Trade Agreement included in Annex 4 of the WTO Agreement shall be governed by the provisions of that Plurilateral Trade Agreement.
5. Before accepting the WTO Agreement, participants which are not contracting parties to the General Agreement on Tariffs and Trade must first have concluded negotiations for their accession to the General Agreement and become contracting parties thereto. For participants which are not contracting parties to the General Agreement as of the date of the Final Act, the Schedules are not definitive and shall be subsequently completed for the purpose of their accession to the General Agreement and acceptance of the WTO Agreement.
6. This Final Act and the texts annexed hereto shall be deposited with the Director-General to the CONTRACTING PARTIES to the General Agreement on Tariffs and Trade who shall promptly furnish to each participant a certified copy thereof.

DONE at Marrakesh this fifteenth day of April one thousand nine hundred and ninety-four, in a single copy, in the English, French and Spanish languages, each text being authentic.

[List of signatures to be included in the treaty copy of the Final Act for signature]

---

**TEXT:**  
**Decision on Measures in Favour of  
Least-Developed Countries**

Ministers,

Recognizing the plight of the least-developed countries and the need to ensure their effective participation in the world trading system, and to take further measures to improve their trading opportunities;

Recognizing the specific needs of the least-developed countries in the area of market access where continued preferential access remains an essential means for improving their trading opportunities;

Reaffirming their commitment to implement fully the provisions concerning the least-developed countries contained in paragraphs 2(d), 6 and 8 of the Decision of 28 November 1979 on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries;

Having regard to the commitment of the participants as set out in Section B (vii) of Part I of the Punta del Este Ministerial Declaration;

1. Decide that, if not already provided for in the instruments negotiated in the course of the Uruguay Round, notwithstanding their acceptance of these instruments, the least-developed countries, and for so long as they remain in that category, while complying with the general rules set out in the aforesaid instruments, 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. The least-developed countries shall be given additional time of one year from 15 April 1994 to submit their schedules as required in Article XI of the Agreement Establishing the World Trade Organization.

2. Agree that:

- (i) Expeditious implementation of all special and differential measures taken in favour of least-developed countries including those taken within the context of the Uruguay Round shall be ensured through, inter alia, regular reviews.
- (ii) To the extent possible, MFN concessions on tariff and non-tariff measures agreed in the Uruguay Round on products of export interest to the least-developed countries may be implemented autonomously, in advance and without staging. Consideration shall be given to further improve GSP and other schemes for products of particular export interest to least-developed countries.
- (iii) The rules set out in the various agreements and instruments and the transitional provisions in the Uruguay Round should be applied in a flexible and supportive manner for the least-developed countries. To this effect, sympathetic consideration shall be given to specific and motivated concerns raised by the least-developed countries in the appropriate Councils and Committees.
- (iv) In the application of import relief measures and other measures referred to in paragraph 3(c) of Article XXXVII of GATT 1947 and the corresponding provision of GATT 1994, special consideration shall be given to the export interests of least-developed countries.

- (v) Least-developed countries shall be accorded substantially increased technical assistance in the development, strengthening and diversification of their production and export bases including those of services, as well as in trade promotion, to enable them to maximize the benefits from liberalized access to markets.
3. Agree to keep under review the specific needs of the least-developed countries and to continue to seek the adoption of positive measures which facilitate the expansion of trading opportunities in favour of these countries.

---

**TEXT:**  
**Declaration on the Contribution of  
the World Trade Organization to Achieving  
Greater Coherence in Global Economic Policymaking**

1. Ministers recognize that the globalization of the world economy has led to ever-growing interactions between the economic policies pursued by individual countries, including interactions between the structural, macroeconomic, trade, financial and development aspects of economic policymaking. The task of achieving harmony between these policies falls primarily on governments at the national level, but their coherence internationally is an important and valuable element in increasing the effectiveness of these policies at national level. The Agreements reached in the Uruguay Round show that all the participating governments recognize the contribution that liberal trading policies can make to the healthy growth and development of their own economies and of the world economy as a whole.

2. Successful cooperation in each area of economic policy contributes to progress in other areas. Greater exchange rate stability, based on more orderly underlying economic and financial conditions, should contribute towards the expansion of trade, sustainable growth and development, and the correction of external imbalances. There is also a need for an adequate and timely flow of concessional and non-concessional financial and real investment resources to developing countries and for further efforts to address debt problems, to help ensure economic growth and development. Trade liberalization forms an increasingly important component in the success of the adjustment programmes that many countries are undertaking, often involving significant transitional social costs. In this connection, Ministers note the role of the World Bank and the IMF in supporting adjustment to trade liberalization, including support to net food-importing developing countries facing short-term costs arising from agricultural trade reforms.

3. The positive outcome of the Uruguay Round is a major contribution towards more coherent and complementary international economic policies. The results of the Uruguay Round ensure an expansion of market access to the benefit of all countries, as well as a framework of strengthened multilateral disciplines for trade. They also guarantee that trade policy will be conducted in a more transparent manner and with greater awareness of the benefits for domestic competitiveness of an open trading environment. The strengthened multilateral trading system emerging from the Uruguay Round has the capacity to provide an improved forum for liberalization, to contribute to more effective surveillance, and to ensure strict observance of multilaterally agreed rules and disciplines. These improvements mean that trade policy can in the future play a more substantial role in ensuring the coherence of global economic policymaking.

4. Ministers recognize, however, that difficulties the origins of which lie outside the trade field cannot be redressed through measures taken in the trade field alone. This underscores the importance of efforts to improve other elements of global economic policymaking to complement the effective implementation of the results achieved in the Uruguay Round.

5. The interlinkages between the different aspects of economic policy require that the international institutions with responsibilities in each of these areas follow consistent and mutually supportive policies. The World Trade Organization should therefore pursue and develop cooperation with the international organizations responsible for monetary and financial matters, while respecting the mandate, the confidentiality requirements and the necessary autonomy in decision-making procedures of each institution, and avoiding the imposition on governments of cross-conditionality or additional conditions. Ministers further invite the Director-General of the WTO to review with the Managing Director of the International Monetary Fund and the President of the World Bank, the implications of the WTO's responsibilities for its

cooperation with the Bretton Woods institutions, as well as the forms such cooperation might take, with a view to achieving greater coherence in global economic policymaking.

---

**TEXT:**  
**Decision on Trade and Environment**

Ministers,

Meeting on the occasion of signing the Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations at Marrakesh on 15 April 1994,

Recalling the preamble of the Agreement establishing the World Trade Organization (WTO), which states that members' "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,"

Noting:

- ◆ the Rio Declaration on Environment and Development, Agenda 21, and its follow-up in GATT, as reflected in the statement of the Chairman of the Council of Representatives to the CONTRACTING PARTIES at their 48th Session in December 1992, as well as the work of the Group on Environmental Measures and International Trade, the Committee on Trade and Development, and the Council of Representatives;
- ◆ the work programme envisaged in the Decision on Trade in Services and the Environment; and
- ◆ the relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights,

Considering that there should not be, nor need be, any policy contradiction between upholding and safeguarding an open, non-discriminatory and equitable multilateral trading system on the one hand, and acting for the protection of the environment, and the promotion of sustainable development on the other,

Desiring to coordinate the policies in the field of trade and environment, and this without exceeding the competence of the multilateral trading system, which is limited to trade policies and those trade-related aspects of environmental policies which may result in significant trade effects for its members,

Decide:

- ◆ to direct the first meeting of the General Council of the WTO to establish a Committee on Trade and Environment open to all members of the WTO to report to the first biennial meeting of the Ministerial Conference after the entry into force of the WTO when the work and terms of reference of the Committee will be reviewed, in the light of recommendations of the Committee,
- ◆ that the TNC Decision of 15 December 1993 which reads, in part, as follows:
  - “(a) to identify the relationship between trade measures and environmental measures, in order to promote sustainable development;

- (b) to make appropriate recommendations on whether any modifications of the provisions of the multilateral trading system are required, compatible with the open, equitable and non-discriminatory nature of the system, as regards, in particular:
- the need for rules to enhance positive interaction between trade and environmental measures, for the promotion of sustainable development, with special consideration to the needs of developing countries, in particular those of the least developed among them; and
  - the avoidance of protectionist trade measures, and the adherence to effective multilateral disciplines to ensure responsiveness of the multilateral trading system to environmental objectives set forth in Agenda 21 and the Rio Declaration, in particular Principle 12; and
  - surveillance of trade measures used for environmental purposes, of trade-related aspects of environmental measures which have significant trade effects, and of effective implementation of the multilateral disciplines governing those measures;”

constitutes, along with the preambular language above, the terms of reference of the Committee on Trade and Environment,

- ◆ that, within these terms of reference, and with the aim of making international trade and environmental policies mutually supportive, the Committee will initially address the following matters, in relation to which any relevant issue may be raised:
  - the relationship between the provisions of the multilateral trading system and trade measures for environmental purposes, including those pursuant to multilateral environmental agreements;
  - the relationship between environmental policies relevant to trade and environmental measures with significant trade effects and the provisions of the multilateral trading system;
  - the relationship between the provisions of the multilateral trading system and:
    - (a) charges and taxes for environmental purposes;
    - (b) requirements for environmental purposes relating to products, including standards and technical regulations, packaging, labelling and recycling;
  - the provisions of the multilateral trading system with respect to the transparency of trade measures used for environmental purposes and environmental measures and requirements which have significant trade effects;
  - the relationship between the dispute settlement mechanisms in the multilateral trading system and those found in multilateral environmental agreements;
  - the effect of environmental measures on market access, especially in relation to developing countries, in particular to the least developed among them, and environmental benefits of removing trade restrictions and distortions;
  - the issue of exports of domestically prohibited goods,
- ◆ that the Committee on Trade and Environment will consider the work programme envisaged in the Decision on Trade in Services and the Environment and the relevant provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights as an integral part of its work, within the above terms of reference,

- ◆ that, pending the first meeting of the General Council of the WTO, the work of the Committee on Trade and Environment should be carried out by a Sub-Committee of the Preparatory Committee of the World Trade Organization (PCWTO), open to all members of the PCWTO,
- ◆ to invite the Sub-Committee of the Preparatory Committee, and the Committee on Trade and Environment when it is established, to provide input to the relevant bodies in respect of appropriate arrangements for relations with inter-governmental and non-governmental organizations referred to in Article V of the WTO.

---

## **Decision on the Acceptance of and Accession to the Agreement Establishing the World Trade Organization**

Ministers,

Noting that Articles XI and XIV of the Agreement Establishing the World Trade Organization (hereinafter referred to as “WTO Agreement”) provide that only contracting parties to the GATT 1947 as of the entry into force of the WTO Agreement for which schedules of concessions and commitments are annexed to GATT 1994 and for which schedules of specific commitments are annexed to the General Agreement on Trade in Services (hereinafter referred to as “GATS”) may accept the WTO Agreement;

Noting further that paragraph 5 of the Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations (hereinafter referred to as “Final Act” and “Uruguay Round” respectively) provides that the schedules of participants which are not contracting parties to GATT 1947 as of the date of the Final Act are not definitive and shall be subsequently completed for the purpose of their accession to GATT 1947 and their acceptance of the WTO Agreement;

Having regard to paragraph 1 of the Decision on Measures in Favour of Least-Developed Countries which provides that the least-developed countries shall be given an additional time of one year from 15 April 1994 to submit their schedules as required in Article XI of the WTO Agreement;

Recognizing that certain participants in the Uruguay Round which had applied GATT 1947 on a de facto basis and became contracting parties under Article XXVI:5(c) of the GATT 1947 were not in a position to submit schedules to GATT 1994 and the GATS;

Recognizing further that some States or separate customs territories which were not participants in the Uruguay Round may become contracting parties to GATT 1947 before the entry into force of the WTO Agreement and that States or customs territories should be given the opportunity to negotiate schedules to GATT 1994 and the GATS so as to enable them to accept the WTO Agreement;

Taking into account that some States or separate customs territories which cannot complete the process of accession to GATT 1947 before the entry into force of the WTO Agreement or which do not intend to become contracting parties to GATT 1947 may wish to initiate the process of their accession to the WTO before the entry into force of the WTO Agreement;

Recognizing that the WTO Agreement does not distinguish in any way between WTO Members which accepted that Agreement in accordance with its Articles XI and XIV and WTO Members which acceded to it in accordance with its Article XII and wishing to ensure that the procedures for accession of the States and separate customs territories which have not become contracting parties to the GATT 1947 as of the date of entry into force of the WTO Agreement are such as to avoid any unnecessary disadvantage or delay for these States and separate customs territories;

Decide that:

1. (a) Any Signatory of the Final Act
  - ◆ to which paragraph 5 of the Final Act applies, or
  - ◆ to which paragraph 1 of the Decision on Measures in Favour of Least-Developed Countries applies, or

- ◆ which became a contracting party under Article XXVI:5(c) of the GATT 1947 before 15 April 1994 and was not in a position to establish a schedule to GATT 1994 and the GATS for inclusion in the Final Act, and

any State or separate customs territory

- ◆ which becomes a contracting party to the GATT 1947 between 15 April 1994 and the date of entry into force of the WTO Agreement

may submit to the Preparatory Committee for its examination and approval a schedule of concessions and commitments to GATT 1994 and a schedule of specific commitments to the GATS.

(b) The WTO Agreement shall be open for acceptance in accordance with Article XIV of that Agreement by contracting parties to GATT 1947 the schedules of which have been so submitted and approved before the entry into force of the WTO Agreement.

(c) The provisions of subparagraphs (a) and (b) of this paragraph shall be without prejudice to the right of the least-developed countries to submit their schedules within one year from 15 April 1994.

2. (a) Any State or separate customs territory may request the Preparatory Committee to propose for approval by the Ministerial Conference of the WTO the terms of its accession to the WTO Agreement in accordance with Article XII of that Agreement. If such a request is made by a State or separate customs territory which is in the process of acceding to GATT 1947, the Preparatory Committee shall, to the extent practicable, examine the request jointly with the Working Party established by the CONTRACTING PARTIES to GATT 1947 to examine the accession of that State or separate customs territory.

(b) The Preparatory Committee shall submit to the Ministerial Conference a report on its examination of the request. The report may include a protocol of accession, including a schedule of concessions and commitments to GATT 1994 and a schedule of specific commitments for the GATS, for approval by the Ministerial Conference. The report of the Preparatory Committee shall be taken into account by the Ministerial Conference in its consideration of any application by the State or separate customs territory concerned to accede to the WTO Agreement.