

1 ARTICLE I.....	1
1.1 Text of Article I	1
1.2 Text of note <i>ad</i> Article I.....	2
1.3 Articles I:2 and I:4: historical preferences	3
1.4 Exceptions and derogations to the MFN principle	3
1.4.1 Enabling Clause	3
1.4.1.1 Text and adoption of the Enabling Clause.....	3
1.4.1.2 Notification, consultation and transparency for preferential measures	5
1.4.1.3 Regional trade agreements (RTAs) notified under the Enabling Clause	6
1.4.1.4 Special treatment of the least developed country Members	8
1.4.2 Waivers of Article I:1	9
1.4.2.1 Waiver on Preferential Tariff Treatment for Least-Developed Countries	9
1.4.2.2 Decision on duty-free and quota-free market access for least-developed countries.....	10
1.4.2.3 Other waivers of Article I:1	12

1 ARTICLE I OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE 1994

1.1 Text of Article I

Article I

General Most-Favoured-Nation Treatment

1. With respect to customs duties and charges of any kind imposed on or in connection with importation or exportation or imposed on the international transfer of payments for imports or exports, and with respect to the method of levying such duties and charges, and with respect to all rules and formalities in connection with importation and exportation, and with respect to all matters referred to in paragraphs 2 and 4 of Article III,* any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties.

2. The provisions of paragraph 1 of this Article shall not require the elimination of any preferences in respect of import duties or charges which do not exceed the levels provided for in paragraph 4 of this Article and which fall within the following descriptions:

- (a) Preferences in force exclusively between two or more of the territories listed in Annex A, subject to the conditions set forth therein;
- (b) Preferences in force exclusively between two or more territories which on July 1, 1939, were connected by common sovereignty or relations of protection or suzerainty and which are listed in Annexes B, C and D, subject to the conditions set forth therein;
- (c) Preferences in force exclusively between the United States of America and the Republic of Cuba;
- (d) Preferences in force exclusively between neighbouring countries listed in Annexes E and F.

* For the convenience of the reader, asterisks mark the portions of the text which should be read in conjunction with notes and supplementary provisions.

3. The provisions of paragraph 1 shall not apply to preferences between the countries formerly a part of the Ottoman Empire and detached from it on July 24, 1923, provided such preferences are approved under paragraph 5¹ of Article XXV which shall be applied in this respect in the light of paragraph 1 of Article XXIX.

(footnote original) ¹ The authentic text erroneously reads "subparagraph 5 (a)".

4. The margin of preference* on any product in respect of which a preference is permitted under paragraph 2 of this Article but is not specifically set forth as a maximum margin of preference in the appropriate Schedule annexed to this Agreement shall not exceed:

- (a) in respect of duties or charges on any product described in such Schedule, the difference between the most-favoured-nation and preferential rates provided for therein; if no preferential rate is provided for, the preferential rate shall for the purposes of this paragraph be taken to be that in force on April 10, 1947, and, if no most-favoured-nation rate is provided for, the margin shall not exceed the difference between the most-favoured-nation and preferential rates existing on April 10, 1947;
- (b) in respect of duties or charges on any product not described in the appropriate Schedule, the difference between the most-favoured-nation and preferential rates existing on April 10, 1947.

In the case of the contracting parties named in Annex G, the date of April 10, 1947, referred to in subparagraph (a) and (b) of this paragraph shall be replaced by the respective dates set forth in that Annex.

1.2 Text of note *ad* Article I

Ad Article I

Paragraph 1

The obligations incorporated in paragraph 1 of Article I by reference to paragraphs 2 and 4 of Article III and those incorporated in paragraph 2 (b) of Article II by reference to Article VI shall be considered as falling within Part II for the purposes of the Protocol of Provisional Application.

The cross-references, in the paragraph immediately above and in paragraph 1 of Article I, to paragraphs 2 and 4 of Article III shall only apply after Article III has been modified by the entry into force of the amendment provided for in the Protocol Modifying Part II and Article XXVI of the General Agreement on Tariffs and Trade, dated September 14, 1948.¹

(footnote original) ¹ This Protocol entered into force on 14 December 1948.

Paragraph 4

The term "margin of preference" means the absolute difference between the most-favoured-nation rate of duty and the preferential rate of duty for the like product, and not the proportionate relation between those rates. As examples:

- (1) If the most-favoured-nation rate were 36 per cent *ad valorem* and the preferential rate were 24 per cent *ad valorem*, the margin of preference would be 12 per cent *ad valorem*, and not one-third of the most-favoured-nation rate;
- (2) If the most-favoured-nation rate were 36 per cent *ad valorem* and the preferential rate were expressed as two-thirds of the most-favoured-nation rate, the margin of preference would be 12 per cent *ad valorem*;

- (3) If the most-favoured-nation rate were 2 francs per kilogramme and the preferential rate were 1.50 francs per kilogramme, the margin of preference would be 0.50 franc per kilogramme.

The following kinds of customs action, taken in accordance with established uniform procedures, would not be contrary to a general binding of margins of preference:

- (i) The re-application to an imported product of a tariff classification or rate of duty, properly applicable to such product, in cases in which the application of such classification or rate to such product was temporarily suspended or inoperative on April 10, 1947; and
- (ii) The classification of a particular product under a tariff item other than that under which importations of that product were classified on April 10, 1947, in cases in which the tariff law clearly contemplates that such product may be classified under more than one tariff item.

1.3 Articles I:2 and I:4: historical preferences

1. A Secretariat Note dated 18 December 1992 provides an overview of the status of historical preferences under Article I:2 of the General Agreement on Tariffs and Trade 1994 (GATT 1994) as of that date.¹

2. On 14 October 1996, the General Council approved waivers in respect of the base date for Article I:4 of the GATT 1994 for South Africa and Zimbabwe until 31 December 1997, anticipating that the bilateral agreements of these countries would be incorporated into a regional trade agreement before the expiration date of 31 December 1997.²

1.4 Exceptions and derogations to the MFN principle

1.4.1 Enabling Clause

1.4.1.1 Text and adoption of the Enabling Clause

3. On 28 November 1979, the GATT Council adopted the Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries (the "Enabling Clause").³ The text of the Enabling Clause is set out below:

"Following negotiations within the framework of the Multilateral Trade Negotiations, the CONTRACTING PARTIES *decide* as follows:

1. Notwithstanding the provisions of Article I of the General Agreement, contracting parties may accord differential and more favourable treatment to developing countries⁴, without according such treatment to other contracting parties.

2. The provisions of paragraph 1 apply to the following:⁵

¹ [MTN.TNC/LD/W/1](#). See also US reports on the waiver in respect of the Former Trust Territory of the Pacific Islands (e.g. [WT/L/816](#)), referring to the US Virgin Islands, Guam and American Samoa as territories subject to Article I:2 and Annex D to the GATT 1994.

² [WT/L/188](#), [WT/L/189](#); and [WT/GC/M/13](#).

³ BISD 26S/203.

⁴ (*footnote original*) The words "developing countries" as used in this text are to be understood to refer also to developing territories.

⁵ (*footnote original*) It would remain open for the CONTRACTING PARTIES to consider on an *ad hoc* basis under the GATT provisions for joint action any proposals for differential and more favourable treatment not falling within the scope of this paragraph.

(a) Preferential tariff treatment accorded by developed contracting parties to products originating in developing countries in accordance with the Generalized System of Preferences,⁶

(b) Differential and more favourable treatment with respect to the provisions of the General Agreement concerning non-tariff measures governed by the provisions of instruments multilaterally negotiated under the auspices of the GATT;

(c) Regional or global arrangements entered into amongst less-developed contracting parties for the mutual reduction or elimination of tariffs and, in accordance with criteria or conditions which may be prescribed by the CONTRACTING PARTIES, for the mutual reduction or elimination of non-tariff measures, on products imported from one another;

(d) Special treatment on the least developed among the developing countries in the context of any general or specific measures in favour of developing countries.

3. Any differential and more favourable treatment provided under this clause:

(a) shall be designed to facilitate and promote the trade of developing countries and not to raise barriers to or create undue difficulties for the trade of any other contracting parties;

(b) shall not constitute an impediment to the reduction or elimination of tariffs and other restrictions to trade on a most-favoured-nation basis;

(c) shall in the case of such treatment accorded by developed contracting parties to developing countries be designed and, if necessary, modified, to respond positively to the development, financial and trade needs of developing countries.

4. Any contracting party taking action to introduce an arrangement pursuant to paragraphs 1, 2 and 3 above or subsequently taking action to introduce modification or withdrawal of the differential and more favourable treatment so provided shall:⁷

(a) notify the CONTRACTING PARTIES and furnish them with all the information they may deem appropriate relating to such action;

(b) afford adequate opportunity for prompt consultations at the request of any interested contracting party with respect to any difficulty or matter that may arise. The CONTRACTING PARTIES shall, if requested to do so by such contracting party, consult with all contracting parties concerned with respect to the matter with a view to reaching solutions satisfactory to all such contracting parties.

5. The developed countries do not expect reciprocity for commitments made by them in trade negotiations to reduce or remove tariffs and other barriers to the trade of developing countries, i.e., the developed countries do not expect the developing countries, in the course of trade negotiations, to make contributions which are inconsistent with their individual development, financial and trade needs. Developed contracting parties shall therefore not seek, neither shall less-developed contracting parties be required to make, concessions that are inconsistent with the latter's development, financial and trade needs.

6. Having regard to the special economic difficulties and the particular development, financial and trade needs of the least-developed countries, the developed countries shall exercise the utmost restraint in seeking any concessions or contributions for commitments made by them to reduce or remove tariffs and other barriers to the trade of such countries,

⁶ (*footnote original*) As described in the Decision of the CONTRACTING PARTIES of 25 June 1971, relating to the establishment of "generalized, non-reciprocal and non-discriminatory preferences beneficial to the developing countries" (BISD 18S/24).

⁷ (*footnote original*) Nothing in these provisions shall affect the rights of contracting parties under the General Agreement.

and the least-developed countries shall not be expected to make concessions or contributions that are inconsistent with the recognition of their particular situation and problems.

7. The concessions and contributions made and the obligations assumed by developed and less-developed contracting parties under the provisions of the General Agreement should promote the basic objectives of the Agreement, including those embodied in the Preamble and in Article XXXVI. Less-developed contracting parties expect that their capacity to make contributions or negotiated concessions or take other mutually agreed action under the provisions and procedures of the General Agreement would improve with the progressive development of their economies and improvement in their trade situation and they would accordingly expect to participate more fully in the framework of rights and obligations under the General Agreement.

8. Particular account shall be taken of the serious difficulty of the least-developed countries in making concessions and contributions in view of their special economic situation and their development, financial and trade needs.

9. The contracting parties will collaborate in arrangements for review of the operation of these provisions, bearing in mind the need for individual and joint efforts by contracting parties to meet the development needs of developing countries and the objectives of the General Agreement."

4. For further information concerning the background and GATT practice in respect of the Enabling Clause, see the GATT Analytical Index, pages 53-59.

1.4.1.2 Notification, consultation and transparency for preferential measures

5. The functions of the CONTRACTING PARTIES under Paragraph 4 with respect to notification and consultations have been carried out by the Committee on Trade and Development under the General Agreement on Tariffs and Trade 1947 (GATT 1947) and the WTO.

6. On 14 December 2010, the General Council adopted a Transparency Mechanism for Preferential Trade Arrangements (PTAs), applying to all preferences under paragraph 2 of the Enabling Clause except for those under paragraph 2(c); to "preferential treatment accorded by any Member to products of least-developed countries"; and to "any other non-reciprocal preferential treatment authorized under the WTO Agreement".

7. The Transparency Mechanism for PTAs calls for Members granting such non-reciprocal preferences to notify them as early as possible (when practicable before the application of preferential treatment and at the latest within three months after the treatment is in force). Notifications are to provide legislation and related instruments and are to be considered by the Committee on Trade and Development on the basis of a factual presentation prepared by the Secretariat. Each PTA is to be considered in a single formal meeting of the Committee. Changes affecting the implementation of a PTA are also to be notified. All information notified is to be made available on the WTO website, and the Secretariat is to maintain an electronic database accessible to the public.⁸ The Transparency Mechanism is to apply on a provisional basis until Members approve its permanent application.⁹

8. From 1 January 1995 through 31 December 2019, the following Members have notified Generalized System of Preferences (GSP) schemes to the WTO: Australia¹⁰, Canada¹¹,

⁸ The electronic database is accessible at: <http://ptadb.wto.org>.

⁹ [WT/L/806](#). The CTD subsequently agreed on the modalities to implement the Transparency Mechanism (see [WT/COMTD/M/82](#)).

¹⁰ [WT/COMTD/N/18](#).

¹¹ [WT/COMTD/N/15](#) and [Add.1-3](#).

European Union¹², Iceland¹³, Japan¹⁴, New Zealand¹⁵, Norway¹⁶, Russian Federation¹⁷, Switzerland¹⁸, and the United States.¹⁹ GSP schemes notified to the GATT 1947 are listed at page 50 of the GATT Analytical Index.

9. In addition, notifications under the Transparency Mechanism for PTAs have been made by the European Union concerning its trade preferences for Pakistan²⁰, by the United States concerning its trade preferences for Nepal²¹, and by Montenegro²² concerning its Duty-Free Quota Free (DFQF) scheme for least-developed countries (LDCs).

1.4.1.3 Regional trade agreements notified under the Enabling Clause

10. As noted above, functions concerning notifications and consultation under Paragraph 4 have been carried out by the Committee on Trade and Development under the GATT 1947 and the WTO. Under paragraph 4(a) of the Enabling Clause, Members are required to notify arrangements concluded under the legal cover of the Enabling Clause, and the modification or withdrawal thereof, to the Committee on Trade and Development.

11. From 1 January 1995 through 31 December 2019, the Committee on Trade and Development has received 58 notifications of regional trade agreements (RTAs) among developing country Members, of which five accessions to an existing agreement.²³ For a complete list of RTAs notified to the GATT/WTO, see the table at the end of document on Article IV of the WTO Agreement (Practice).

12. Additional information on three regional trade agreements previously notified to the GATT 1947 Committee on Trade and Development has also been submitted to the WTO Committee on Trade and Development:

- (a) the Memorandum of Understanding on Closer Relations between Bolivia and the Southern Common Market Agreement (MERCOSUR)²⁴;
- (b) Common Effective Preferential Tariffs (CEPT) scheme for the ASEAN Free Trade Area (AFTA)²⁵; and
- (c) periodical reports on measures taken under the 1980 Treaty of Montevideo of the Latin American Integration Association (LAIA).²⁶

13. At the entry into force of the WTO on 1 January 1995, one agreement (Southern Common Market, or MERCOSUR) notified to the GATT 1947 under the Enabling Clause was being examined

¹² [WT/COMTD/N/4](#) and [Add.1-17](#).

¹³ [WT/COMTD/N/17](#) and [Corr.1](#).

¹⁴ [WT/COMTD/N/2](#) and [Add.1-16](#).

¹⁵ [WT/COMTD/N/5](#) and [Add.1-2](#).

¹⁶ [WT/COMTD/N/6](#) and [Add.1-7](#).

¹⁷ [WT/COMTD/N/42](#) and [WT/COMTD/PTA1/N/1](#).

¹⁸ [WT/COMTD/N/7](#) and [Add.1-5](#).

¹⁹ [WT/COMTD/N/1](#) and [Add.1-11](#).

²⁰ [WT/COMTD/N/41](#).

²¹ [WT/COMTD/N/52](#).

²² [WT/COMTD/PTA2/N/1](#).

²³ Regarding regional trade arrangements notified under the Enabling Clause within the GATT framework, see document on Article I of the GATT 1947 (GATT Analytical Index, pp. 56-58). Also, regarding the role of the GATT Committee on Trade and Development in the operation of the Document on the Enabling Clause (GATT Analytical Index, pp. 1048-1049).

²⁴ The Memorandum was circulated in [WT/COMTD/4](#). At the time of the Memorandum, the parties to the MERCOSUR were Argentina, Brazil, Paraguay, and Uruguay.

²⁵ See [WT/COMTD/3](#). ASEAN is the abbreviation of the Association of South-East Asian Nations, whose members are Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, Philippines, Singapore, Thailand, and Viet Nam.

²⁶ See [WT/COMTD/7](#), [WT/COMTD/11](#), [WT/COMTD/59](#), [WT/COMTD/72](#), [WT/COMTD/76](#), [WT/COMTD/77](#), [WT/COMTD/78](#), [WT/COMTD/80](#), [WT/COMTD/81](#), [WT/COMTD/82](#), [WT/COMTD/84](#), [WT/COMTD/85](#), [WT/COMTD/88](#), and [WT/COMTD/93](#). In June 2017, a notification was submitted on behalf of Argentina, Brazil, Chile, Mexico, Paraguay and Uruguay, concerning agreements concluded by these LAIA member countries under the 1980 Montevideo Treaty in 2016 ([WT/COMTD/N/53](#)). This notification remained under discussion in the

in a working party established by the GATT 1947 Committee on Trade and Development. In order to facilitate continuation of the work of the MERCOSUR Working Party in the WTO, on 14 September 1995, the Committee on Trade and Development adapted its terms of reference as follows²⁷:

"To examine the Southern Common Market Agreement (MERCOSUR) in the light of the relevant provisions of the Enabling Clause and of the GATT 1994, including Article XXIV, and to transmit a report and recommendations to the Committee on Trade and Development for submission to the General Council, with a copy of the report transmitted as well to the Council for Trade in Goods. The examination in the Working Party will be based on a complete notification and on written questions and answers."²⁸

14. The review of MERCOSUR was later taken over by the Committee on Regional Trade Agreements (Committee on RTAs).²⁹

15. Up to December 2006, the Committee reviewed RTAs on the basis of procedures applied in respect of all notifications under the Enabling Clause. When an agreement was notified under the Enabling Clause, it was inscribed on the agenda of the Committee on Trade and Development. Subsequent actions of the Committee might have included "noting" the agreement, requesting additional information, or transferring it to the Committee on RTAs for examination. In addition, the Committee also reviewed reports made by parties on changes to, or operation of, their agreements.

16. On 2 November 1998, the Committee on Trade and Development adopted general guidelines with respect to information on RTAs submitted to it.³⁰ On 6 March 2007, the Committee on Trade and Development adopted a common and simplified notification format for regional trade agreements.³¹

17. On 14 December 2006, the General Council adopted a Decision on a Transparency Mechanism for Regional Trade Agreements³², to be applied on a provisional basis and replaced by a permanent mechanism adopted as part of the overall results of the Doha Round. The Decision applies to RTAs notified under paragraph 2(c) the Enabling Clause, as well as RTAs notified under Article XXIV of the GATT 1994 and Article V of the General Agreement on Trade in Services (GATS).

18. This Decision calls on Members to notify RTAs as early as possible, and no later than directly after ratification and before the application of preferential treatment. All notified agreements, irrespective of the clause under which they had been notified, are subject to common transparency procedures. The Decision also provides that Members' consideration of each notified RTA shall be normally concluded within one year after the notification date. To assist Members in their consideration, the Secretariat is to prepare a factual presentation of the RTA, on its own responsibility and in full consultation with the parties of the RTA. The Secretariat is also to prepare a factual abstract for each RTA notified under the Enabling Clause up to 31 December 2006. These

Committee on Trade and Development in the course of 2018. In addition, at the November 2018 meeting of the CTD, the Chairman announced that several additional notifications by LAIA member countries had been submitted and would be circulated as soon as possible. (See [WT/COMTD/M/107](#))

²⁷ MERCOSUR was notified to the GATT 1947 under the Enabling Clause (GATT 1947 document [L/6985](#) and [L/4044](#)). See also documents in the [WT/COMTD/1](#) series and GATT documents [L/7370/Add.1](#) and [L/7540](#).

²⁸ [WT/COMTD/M/3](#), section A; and [WT/COMTD/5](#). Regarding the discussions leading to these terms of reference, see *GATT Analytical Index*, Article I, p. 58.

²⁹ The tasks of this working party, as well as all others working parties established by the Council for Trade in Goods for the examination of regional trade agreements notified under Article XXIV of GATT 1947 or 1994 were taken over by the Committee on Regional Trade Agreements (Committee on RTAs) after its establishment on 6 February 1996. See [WT/L/127](#), fn 2. In this regard, see also Section on Article XXIV of the GATT 1994 below.

³⁰ [WT/COMTD/M/22](#), section H. The text of the adopted procedures can be found in [WT/COMTD/16](#). These procedures were adopted following recommendations made by the Committee on RTAs at its meeting on 20 February 1998. See the material on the Committee on Trade and Development in the document on Article IV of the WTO Agreement (Practice).

³¹ Notification format: [WT/COMTD/63](#). This format had been previously adopted on 13 October 2006 by the Committee on RTAs; following its adoption, the Committee on RTAs agreed to recommend it to the relevant bodies. See also [WT/REG/M/44](#), paras. 17-19; and [WT/COMTD/M/62](#), paras. 49-55.

³² [WT/L/671](#). See also Section on Article XXIV of the GATT 1994 below.

Secretariat reports and other written materials submitted are to be made available on the WTO website. Each notified RTA is to be considered at a single formal meeting.

19. On 4 December 2007, the Committee on Trade and Development agreed that the consideration of regional trade agreements notified under paragraph 2(c) of the Enabling Clause, carried out in dedicated sessions of the Committee, would essentially follow the same procedures used by the Committee on RTAs in its consideration of agreements notified under Article XXIV of the GATT 1994 and Article V of the GATS.³³ Regarding the procedures for the examination and consideration of RTAs, see the Section of the Committee on Regional Trade Agreements in the document on Article IV of the WTO Agreement (Practice).

20. At its 89th Session on 19 June 2018, the Committee on RTAs adopted a template for notifying changes to an existing RTA under paragraph 14 of the Transparency Mechanism, and agreed to recommend it to the Committee on Trade and Development. The Committee on Trade and Development adopted this template at its meeting on 21 November 2018.³⁴

21. Between 2008 and 2019, discussions took place in the Committee on Trade and Development concerning the notification status of the Customs Union of the Gulf Cooperation Council and other RTAs notified under both Article XXIV of the GATT 1994 and the Enabling Clause.³⁵

22. As regards agreements notified under the Enabling Clause involving non-WTO Members, the Committee on Trade and Development agreed on 13 March 2009 to adopt the procedures used by the Committee on RTAs in the consideration of these agreements in the Committee on Trade and Development.

23. The Committee on Trade and Development has held dedicated sessions on RTAs on 16 October 2008, 15 July 2009, 14 September 2009, 28 June 2010, 16 September 2013, 16 March 2016, 15 November 2016, 14 March 2017, 21 November 2018, and 22 November 2019.³⁶ Thirteen RTAs have been considered in these sessions. The notifications, other documentation, and status of WTO consideration of RTAs notified under the Enabling Clause are available from the Regional Trade Agreements database on the WTO website.³⁷

24. On 21 November 2018, the Committee on Trade and Development adopted a template for notifications of changes to all existing RTAs.³⁸ All factual abstracts due for agreements notified under the Enabling Clause are posted on the WTO Database on Regional Trade Agreements.

1.4.1.4 Special treatment of the least-developed country Members

25. The Transparency Mechanism for Preferential Trade Arrangements adopted on 14 December 2010 applies in respect of preferential trade arrangements taking the form of preferential treatment accorded by any Member to products of LDCs. These arrangements are to be considered by the Committee on Trade and Development. See the section on the Committee on Trade and Development of the document on Article IV of the WTO Agreement (Practice).

26. From 1999 to 2019, the Committee on Trade and Development received notifications under the Enabling Clause from the following Members, of their special treatment in respect of the least-developed countries in the context of any general or specific measures in favour of developing

³³ [WT/COMTD/M/67](#), paras. 47-49.

³⁴ Template: [WT/COMTD/98](#). See also [WT/COMTD/M/107](#), paras. 70-72.

³⁵ See [WT/COMTD/66](#) and [Add.1-3](#); [WT/COMTD/W/175](#); [WT/COMTD/M/79](#) to WT/COMTD/M/110 (to be issued), except [WT/COMTD/M/94](#), [WT/COMTD/M/96](#), and [WT/COMTD/M/102](#).

³⁶ [WT/COMTD/RTA/M/1-9](#), as well as [WT/COMTD/RTA/M/10](#); [WT/COMTD/RTA2/M/1](#); [WT/COMTD/RTA9/M/1](#); and [WT/COMTD/RTA10/M/1](#).

³⁷ Website: <http://rtais.wto.org/ui/PublicMaintainRTAHome.aspx>.

³⁸ Notification format: [WT/COMTD/98](#). This format had been previously adopted on 19 June 2018 by the Committee on RTAs; following its adoption, the Committee on RTAs agreed to recommend it to the relevant bodies. See also [WT/REG/M/89](#), paras. 1.35-1.37; and [WT/COMTD/M/107](#), paras. 70-72.

countries: Australia³⁹, Canada⁴⁰, the European Communities⁴¹, Iceland⁴², Japan⁴³, New Zealand⁴⁴, Norway⁴⁵, Russian Federation⁴⁶, Switzerland⁴⁷, and the United States.⁴⁸

27. See also the section below on the Waiver on Preferential Tariff Treatment for Least-Developed Countries.

1.4.2 Waivers of Article I:1

1.4.2.1 Waiver on Preferential Tariff Treatment for Least-Developed Countries

28. At its meeting of 15 June 1999, the General Council adopted a decision on Preferential Tariff Treatment for Least-Developed Countries. This decision waives Article I:1 of the GATT 1994⁴⁹ in order to provide a means for developing country Members to offer preferential tariff treatment to products of LDCs. The decision sets forth:

"1. Subject to the terms and conditions set out hereunder, the provisions of paragraph 1 of Article I of the GATT 1994 shall be waived until 30 June 2009, to the extent necessary to allow developing country Members to provide preferential tariff treatment to products of least-developed countries, designated as such by the United Nations, without being required to extend the same tariff rates to like products of any other Member.

2. Developing country Members wishing to take actions pursuant to the provisions of this Waiver shall notify to the Council on Trade in Goods the list of all products of least-developed countries for which preferential tariff treatment is to be provided on a generalized, non-reciprocal and non-discriminatory basis and the preference margins to be accorded. Subsequent modifications to the preferences shall similarly be notified.

3. Any preferential tariff treatment implemented pursuant to this Waiver shall be designed to facilitate and promote the trade of least-developed countries and not to raise barriers or create undue difficulties for the trade of any other Member. Such preferential tariff treatment shall not constitute an impediment to the reduction or elimination of tariffs on a most-favoured-nation basis.

4. In accordance with the provisions of paragraph 4 of Article IX of the WTO Agreement, the General Council shall review annually whether the exceptional circumstances justifying the Waiver still exist and whether the terms and conditions attached to the Waiver have been met.

5. The government of any Member providing preferential tariff treatment pursuant to this Waiver shall, upon request, promptly enter into consultations with any interested Member with respect to any difficulty or any matter that may arise as a result of the implementation of programmes authorized by this Waiver. Where a Member considers that any benefit accruing to it under GATT 1994 may be or is being impaired unduly as a result of such implementation, such consultation shall examine the possibility of action for a satisfactory adjustment of the matter. This Waiver does not affect Members' rights as set forth in the Understanding in Respect of Waivers of Obligations under GATT 1994.

³⁹ [WT/COMTD/N18](#).

⁴⁰ [WT/COMTD/N/15](#) and [Add.1-3](#).

⁴¹ [WT/COMTD/N/4](#) and [Add.1-7](#).

⁴² [WT/COMTD/N/17](#) and [Corr.1](#).

⁴³ [WT/COMTD/N/2](#) and [Add.1-16](#). See also [WT/COMTD/29](#) and [WT/LDC/SWG/IF/12](#).

⁴⁴ [WT/COMTD/N/5/Add.2](#). See also [WT/GC/36](#) and [WT/COMTD/27](#).

⁴⁵ [WT/COMTD/N/6](#) and [Add.1-7](#).

⁴⁶ [WT/COMTD/N/42](#) and [WT/COMTD/PTA1/N/1](#).

⁴⁷ [WT/COMTD/N/7](#) and [Add.1-5](#).

⁴⁸ [WT/COMTD/N/1](#) and [Add.1-11](#).

⁴⁹ [WT/L/304](#).

6. This waiver does not affect in any way and is without prejudice to rights of Members in their actions pursuant to the provisions of the 1979 Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries."⁵⁰

29. On 27 May 2009, the General Council adopted a decision extending this waiver until 30 June 2019.⁵¹ The waiver was further extended until 30 June 2029 by another decision of the General Council adopted on 16 October 2019.⁵²

30. The Transparency Mechanism for Preferential Trade Arrangements includes within its stated scope preferences "taking the form of preferential treatment accorded by any Member to products of least-developed countries". On 14 March 2001, the Council for Trade in Goods agreed that any market access measures taken in favour of the LDCs, whether under the Enabling Clause or under the 1999 waiver, would be referred for advice to the Sub-Committee on LDCs of the Committee on Trade and Development.⁵³

31. From the date of the 1999 waiver to 31 December 2019, Chile, China, Chinese Taipei, India, Republic of Korea, Morocco, and Thailand notified preferential tariff treatment for the least-developed countries to the Council for Trade in Goods.⁵⁴ The following developing country Members notified tariff reduction or duty-free treatment for the LDCs to the Committee on Trade and Development before June 1999: Turkey⁵⁵, Egypt⁵⁶, and Mauritius.⁵⁷

1.4.2.2 Decision on duty-free and quota-free market access for LDCs

32. In 2005, at the Sixth Ministerial Conference in Hong Kong, China, the Ministers adopted a decision regarding the provision of DFQF market access to LDCs⁵⁸, as follows:

"We agree that developed-country Members shall, and developing-country Members declaring themselves in a position to do so should:

(a) (i) Provide duty-free and quota-free market access on a lasting basis, for all products originating from all LDCs by 2008 or no later than the start of the implementation period in a manner that ensures stability, security and predictability.

(ii) Members facing difficulties at this time to provide market access as set out above shall provide duty-free and quota-free market access for at least 97 per cent of products originating from LDCs, defined at the tariff line level, by 2008 or no later than the start of the implementation period. In addition, these Members shall take steps to progressively achieve compliance with the obligations set out above, taking into account the impact on other developing countries at similar levels of development, and, as appropriate, by incrementally building on the initial list of covered products.

(iii) Developing-country Members shall be permitted to phase in their commitments and shall enjoy appropriate flexibility in coverage.

(b) Ensure that preferential rules of origin applicable to imports from LDCs are transparent and simple, and contribute to facilitating market access.

⁵⁰ [WT/L/304](#).

⁵¹ [WT/L/759](#).

⁵² [WT/L/1069](#).

⁵³ [G/C/M/47](#), Section IV.

⁵⁴ [G/C/6](#) and [WT/LDC/SWG/IF/18](#) (Morocco); [WT/COMTD/N/12](#), [Rev.1](#) and [Rev.1/Add.1](#) (Korea); [WT/COMTD/N/38](#) and [Add.1](#) (India); [WT/COMTD/N/39](#), [Add.1](#), [Add.1.Rev.1](#), and [Add.2](#) (China); [WT/COMTD/N/40](#) and [Corr.1](#) (Chinese Taipei); [WT/COMTD/N/44](#), [Add.1](#), and [Add.1.Rev.1](#) (Chile); and [WT/COMTD/N/46](#) (Thailand).

⁵⁵ [WT/COMTD/W/39](#).

⁵⁶ [WT/COMTD/W/47](#).

⁵⁷ [WT/COMTD/W/53](#).

⁵⁸ Decision 36) on Measures in Favour of Least-Developed Countries, in Annex F of the Hong Kong Ministerial Declaration ([WT/MIN\(05\)/DEC](#)).

Members shall notify the implementation of the schemes adopted under this decision every year to the Committee on Trade and Development. The Committee on Trade and Development shall annually review the steps taken to provide duty-free and quota-free market access to the LDCs and report to the General Council for appropriate action.

We urge all donors and relevant international institutions to increase financial and technical support aimed at the diversification of LDC economies, while providing additional financial and technical assistance through appropriate delivery mechanisms to meet their implementation obligations, including fulfilling SPS and TBT requirements, and to assist them in managing their adjustment processes, including those necessary to face the results of MFN multilateral trade liberalisation."

33. On 3 March 2006, the Committee on Trade and Development agreed to include an agenda item concerning the above decision and the steps taken by Members to provide DFQF market access to LDCs.⁵⁹ Following the mandate in the above decision, the Committee carried out its first annual review of the decision's implementation on 28 November 2006.⁶⁰

34. In 2013, at the Ninth Ministerial Conference in Bali, Indonesia, the Ministers adopted a decision regarding the provision of DFQF market access to LDCs⁶¹, as follows:

1. "Developed-country Members that do not yet provide duty-free and quota-free market access for at least 97% of products originating from LDCs, defined at the tariff line level, shall seek to improve their existing duty-free and quota-free coverage for such products, so as to provide increasingly greater market access to LDCs, prior to the next Ministerial Conference;

Developing-country Members, declaring themselves in a position to do so, shall seek to provide duty-free and quota-free market access for products originating from LDCs, or shall seek to improve their existing duty-free and quota-free coverage for such products, so as to provide increasingly greater market access to LDCs, prior to the next Ministerial Conference;

Members shall notify duty-free and quota-free schemes for LDCs and any other relevant changes pursuant to the Transparency Mechanism for Preferential Trade Arrangements;

The Committee on Trade and Development shall continue to annually review the steps taken to provide duty-free and quota-free market access to the LDCs, and report to the General Council for appropriate action;

To aid in its review, the Secretariat shall, in close coordination with Members, prepare a report on Members' duty-free and quota-free market access for LDCs at the tariff line level based on their notifications;

The General Council is instructed to report, including any recommendations, on the implementation of this Decision to the next Ministerial Conference."

35. Pursuant to the Bali Ministerial Decision, the Committee on Trade and Development continued conducting its annual review of the steps taken to provide DFQF market access to the LDCs, and report to the General Council for appropriate action.⁶² Pursuant to the Work Programme for the

⁵⁹ The discussion that took place under this agenda item in 2006 can be found in the minutes of the meetings, [WT/COMTD/M/57](#) – [WT/COMTD/M/59](#).

⁶⁰ Report, review transmitted as part of CTD annual report to the General Council: [WT/COMTD/58](#). See also [WT/COMTD/M/61](#).

⁶¹ Decision on Duty-Free and Quota-Free (DFQF) Market Access for Least Developed Countries ([WT/MIN\(13\)/44](#) - [WT/L/919](#)).

⁶² At the time of writing, the most recent report by the CTD on this matter to the General Council - transmitted as part of CTD's annual report to the General Council - can be found in [WT/COMTD/97](#). Secretariat reports on DFQF market access for LDCs were prepared in 2014 ([WT/COMTD/W/206](#)), 2015 ([WT/COMTD/W/214](#)) and 2016 ([WT/COMTD/W/222](#)). In 2017 and 2018, it was not possible for the Secretariat to prepare its report on DFQF market access for LDCs, because of divergent views among some Members on the scope and coverage of the report (this state of affairs was reported to the General Council in [WT/COMTD/96](#) and [WT/COMTD/97](#)).

LDCs⁶³, the Sub-Committee on LDCs has been carrying out annual reviews on market access for LDCs based on factual annual studies prepared by the Secretariat.⁶⁴

1.4.2.3 Other waivers of Article I:1

36. For further information on waivers currently in force and all waivers granted by the General Council and by the Ministerial Conference, see the section on Articles IX:3 and IX:4 in the document on Article IX of the WTO Agreement (Practice).

Current as of: March 2020

⁶³ Adopted in 2002 ([WT/COMTD/LDC/11](#)), and revised in 2013 ([WT/COMTD/LDC/11/Rev.1](#)).

⁶⁴ The 2018 LDC market access report prepared by the Secretariat is contained in document [WT/COMTD/LDC/W/66](#).