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**1 ARTICLE X**

**1.1 Text of Article X**

**Article X**

*Amendments*

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

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

- Article IX of this Agreement;
- Articles I and II of GATT 1994;
- Article II:1 of GATS;
- Article 4 of the Agreement on TRIPS.

3. Amendments to provisions of this Agreement, or of the Multilateral Trade Agreements in Annexes 1A and 1C, other than those listed in paragraphs 2 and 6, of a nature that would alter the rights and obligations of the Members, shall take effect for the Members that have accepted them upon acceptance by two thirds of the Members and thereafter for each other Member upon acceptance by it. The Ministerial Conference may decide by a

three-fourths majority of the Members that any amendment made effective under this paragraph is of such a nature that any Member which has not accepted it within a period specified by the Ministerial Conference in each case shall be free to withdraw from the WTO or to remain a Member with the consent of the Ministerial Conference.

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

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

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

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

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

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

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

## **1.2 Article X:1**

### **1.2.1 "Amendments to this Agreement or the Multilateral Trade Agreements in Annex 1"**

1. At its meeting of 6 December 2005, the Council for TRIPS approved a proposal, pursuant to Article X:1, for a decision on an amendment to the TRIPS Agreement for forwarding to the General Council.<sup>1</sup> The Council also approved the forwarding, along with the draft decision, of the text of two statements to be made by the Chairman of the General Council prior to the adoption by the General Council of the proposal.<sup>2</sup>

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<sup>1</sup> Proposal for General Council decision: IP/C/41. Decision by Council for TRIPS: IP/C/M/49, paras. 214-215.

<sup>2</sup> JOB(05)/319 and Corr.1; JOB(05)/320.

2. On 6 December, the General Council then adopted the proposed Decision on amending the TRIPS Agreement; prior to adoption, the Chairman read out the two agreed statements.<sup>3</sup>

3. On 27 November 2014, the General Council adopted – together with two other decisions<sup>4</sup> and following a statement by the Chairman,<sup>5</sup> the Protocol Amending the Marrakesh Agreement Establishing the World Trade Organization.<sup>6</sup>

### **1.3 Article X:3**

4. On 23 January 2017, the Protocol Amending the TRIPS Agreement entered into force in accordance with Article X:3 of the WTO Agreement.<sup>7</sup> The General Council extended the period for acceptance of the Protocol Amending the TRIPS Amendment several times, most recently until 31 December 2019 or such later date as may be decided by the Ministerial Conference.<sup>8</sup>

5. The Protocol Amending the Marrakesh Agreement Establishing the World Trade Organization, done at Geneva on 27 November 2014, entered into force on 22 February 2017 in accordance with Article X:3 of the WTO Agreement.<sup>9</sup>

### **1.4 Article X:8**

#### **1.5 Amendment to Annex 3 of the WTO Agreement**

6. On 27 July 2017, the General Council adopted a decision under Article X:8 of the WTO Agreement to amend the Trade Policy Review Mechanism as of 1 January 2019.<sup>10</sup>

### **1.6 Article X:9**

#### **1.6.1 Additions of Plurilateral Trade Agreements**

7. No Plurilateral Trade Agreements has been added to Annex 4.

#### **1.6.2 Deletions of Plurilateral Trade Agreements**

8. On 30 September 1997, the International Dairy Council decided to terminate the International Dairy Agreement as of 1 January 1998,<sup>11</sup> and the International Meat Council decided to terminate the International Bovine Meat Agreement at the end of 1997.<sup>12</sup> Each decision requested that the Ministerial Conference delete the respective Agreement from Annex 4, pursuant to Article X:9.<sup>13</sup> On 10 December 1997, the General Council adopted decisions deleting the International Dairy Agreement and the International Bovine Meat Agreement from Annex 4.<sup>14</sup>

### **1.7 Article X:10**

#### **1.7.1 "Amendments to a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement"**

9. Amendments to the respective Plurilateral Trade Agreements are governed by Article 9.5 of the Agreement on Trade in Civil Aircraft, Article XXIV:9 of the original Agreement on Government Procurement (1994), and Article XXII:11 of the Agreement on Government

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<sup>3</sup> Decision: WT/L/641. Adoption: WT/GC/M/100, paras. 24-34. Agreed statements: WT/GC/M/100, paras. 28-29.

<sup>4</sup> Public Stockholding for Food Security Purposes, WT/L/939 and Post-Bali Work WT/L/941.

<sup>5</sup> WT/GC/M/154, para. 1.10.

<sup>6</sup> WT/L/940.

<sup>7</sup> WT/Let/1236.

<sup>8</sup> WT/L/1024.

<sup>9</sup> WT/Let/1241.

<sup>10</sup> WT/L/1014.

<sup>11</sup> IDA/8.

<sup>12</sup> IMA/8.

<sup>13</sup> IDA/8, IMA/8.

<sup>14</sup> WT/L/251, WT/L/252.

Procurement, as amended by the Protocol Amending the Agreement on Government Procurement. The now terminated International Dairy Agreement and International Bovine Meat Agreement had amendment provisions in Article VIII:4 and Article VI:4, respectively.

10. Article XXIV:7(b) and (c) of the Agreement on Government Procurement (1994) provide for negotiations to improve and update its text, extend its coverage and eliminate remaining discriminatory measures. In December 2006, negotiators reached an understanding on the revision of the 1994 Agreement, and reached agreement on a process to conclude negotiations on expansion of coverage, based on the revised text. The revised text, checked for legal and linguistic consistency, was made available in December 2010, on the understanding that its adoption is subject to a mutually satisfactory outcome to the related negotiations on the coverage of the Agreement.<sup>15</sup> On 30 March 2012, the Committee on Government Procurement adopted the Protocol Amending the Agreement on Government Procurement.<sup>16</sup> The Protocol entered into force on 6 April 2014, in accordance with Article XXIV:9 of the Agreement on Government Procurement (1994).<sup>17</sup>

11. The Agreement on Trade in Civil Aircraft has been amended on three occasions, in 1986,<sup>18</sup> 2001<sup>19</sup> and 2015.<sup>20</sup>

Current as of: February 2018

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<sup>15</sup> GPA/W/297 (2006 text); GPA/89, paras. 20-21 (conditions governing adoption of text); GPA/W/313 and Corr.1 (text as at 13 December 2010).

<sup>16</sup> A numbering error in the French version of the Protocol was rectified on 4 June 2012 (WT/Let/854). The certified and rectified true copy of the Protocol was circulated in WT/Let/858 on 12 June 2012. The package adopted by the Committee on 30 March 2012 was also reproduced in three separate language versions in GPA/113.

The Chairman of the Committee on Government Procurement noted the following "understandings" before gavelling the decision:

- "Following deposit of the required instruments of acceptance, the schedules of the Parties, circulated in document GPA/W/316 of 27 March 2012, would need to be reformatted. At that stage, the titles that appeared over each Party's Appendix I offer or Appendix I future commitments in that document would be deleted in favour of a simple reference to the name of the relevant Party. Furthermore, the content of Appendices II-IV, which each Party was required to submit, at the latest, at the time of deposit of its instrument of acceptance, would be filled in. These changes would, in due course, need to be certified by the Director-General. Parties would be kept informed throughout the process." (GPA/M/46, para. 4); and
- "With regard to the offer of Armenia, the text relating to Armenia's offer that could be found on page 38 of document GPA/W/316 of 27 March 2012 under the heading "Final Appendix I Offer of the Republic of Armenia" would be replaced by the updated offer that had just been circulated, in document GPA/O/RFO/ARM/1 of 30 March 2012." (GPA/M/46, para. 5).

<sup>17</sup> WT/Let/936.

<sup>18</sup> GATT document AIR/65.

<sup>19</sup> TCA/4.

<sup>20</sup> TCA/9.