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1 ARTICLE XI

1.1 Text of Article XI

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.

1.2 Text of the 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.

1.3 Text of the 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) *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 Expedient 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."

1.4 Article XI:1

1.4.1 "The contracting parties to GATT 1947 ... shall become original Members of the WTO"

1. Under Article XI:1, a government or the European Communities could become an original Member of the WTO if it was a participant in the Uruguay Round of multilateral trade negotiations, had schedules under GATT and GATS annexed to the Uruguay Round Final Act, and was a contracting party to GATT 1947 as of 1 January 1995.

2. Article XIV:1 set the deadline for acceptance of the WTO Agreement by original Members at 1 January 1997, unless determined otherwise. All contracting parties to GATT 1947 that were eligible to become original Members of the WTO before 1 January 1997 became original Members.¹

3. Currently, there are 164 Members of the WTO, of which 123 are original Members while 41 acceded to the WTO Agreement.²

4. The WTO Agreement entered into force for 76 original Members on 1 January 1995.³ The remaining 47 original Members accepted the WTO Agreement after 1 January 1995.⁴

¹ A Decision adopted by the General Council on 24 April 1997 (WT/L/208) extended the 1 January 1997 deadline for the Republic of the Congo retroactively to 25 February 1997, the date when the Director-General received notice of its ratification of the WTO Agreement. WT/L/208 notes that the Republic of the Congo was the only remaining contracting party to the GATT 1947 that was eligible for original Membership and had not yet become a Member.

² For information concerning accession to the WTO, see the document on Article XII of the WTO Agreement (Practice).

³ These 76 Members are: Antigua and Barbuda; Argentina; Australia; Austria; Kingdom of Bahrain; Bangladesh; Barbados; Belgium; Belize; Brazil; Brunei Darussalam; Canada; Chile; Costa Rica; Côte d'Ivoire; Czech Republic; Denmark; Dominica; European Union; Finland; France; Gabon; Germany; Ghana; Greece; Guyana; Honduras; Hong Kong, China; Hungary; Iceland; India; Indonesia; Ireland; Italy; Japan; Kenya; Republic of Korea; State of Kuwait; Luxembourg; Macao, China; Malaysia; Malta; Mauritius; Mexico; Morocco; Myanmar; Namibia; Netherlands; New Zealand; Nigeria; Norway; Pakistan; Paraguay; Peru; Philippines; Portugal; Romania; Saint Lucia; Saint Vincent and the Grenadines; Senegal; Singapore; Slovak Republic; South Africa; Spain; Sri Lanka; Suriname; Swaziland; Sweden; Tanzania; Thailand; Uganda; United Kingdom; United States; Uruguay; Bolivarian Republic of Venezuela; and Zambia. For further information, see the publication on the Status of WTO Legal Instruments, available at https://www.wto.org/english/res_e/publications_e/legal_instru_e.htm.

⁴ These 47 Members are: Angola; Benin; Plurinational State of Bolivia; Botswana; Burkina Faso; Burundi; Cameroon; Central African Republic; Chad; Colombia; Congo; Cuba; Cyprus; Democratic Republic of the Congo; Djibouti; Dominican Republic; Egypt; El Salvador; Fiji; the Gambia; Guatemala; Guinea; Guinea-Bissau; Haiti; Israel; Jamaica; Lesotho; Liechtenstein; Madagascar; Malawi; Maldives; Mali; Mauritania; Mozambique; Nicaragua; Niger; Poland; Rwanda; Sierra Leone; Slovenia; Solomon Islands; Switzerland; Togo; Trinidad and Tobago; Tunisia; Turkey; and Zimbabwe. For further information, see the publication on the Status of WTO Legal Instruments, available at https://www.wto.org/english/res_e/publications_e/legal_instru_e.htm.

1.4.2 Special cases regarding acceptance and accession in 1994-96

5. At Marrakesh, Ministers adopted the Decision on the Acceptance of and Accession to the Agreement Establishing the WTO⁵ to facilitate the WTO membership of four categories of governments that could not have become original Members of the WTO under the general rule in Article XI:1, namely:

- a. "Any Signatory of the Final Act ... to which paragraph 5 of the Final Act applies". Paragraph 5 of the Final Act provides that "[f]or 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."
- b. "Any Signatory of the Final Act ... to which paragraph 1 of the Decision on Measures in Favour of Least-Developed Countries applies". This provision provides that "[t]he least-developed countries shall be given additional time of one year from 15 April 1995 to submit their schedules as required in Article XI".⁶
- c. "Any Signatory of the Final Act ... 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".
- d. "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".

6. This Decision provides that any Final Act signatory falling within the categories described in the paragraph above could submit its GATT and GATS schedules for finalization to the Preparatory Committee for the WTO in late 1995. Any State or separate customs territory that became a GATT contracting party after 15 April 1994 but before the WTO Agreement entered into force could also submit GATT and GATS schedules to the Preparatory Committee for finalization. Those that finalized their schedules on time could accept the WTO Agreement as original Members. The Decision further provided:

"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.

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."⁷

7. Pursuant to the Ministerial Decision on Measures in Favour of Least-Developed Countries, least-developed country original members were accorded an additional one-year period from 15 April 1994 to submit their goods and services schedules. Accordingly, following approval by the WTO General Council⁸, the goods schedules of 21 specific least-developed Members⁹ and the services schedules of 21 specific least-developed Members¹⁰ were annexed to the Marrakesh

⁵ MTN.TNC/40. The text of the Decision is reproduced in section 1.2 above.

⁶ The text of the Decision can be found in section 1.3 above. The agreed modalities for agriculture in the Uruguay Round (reflected in MTN.GNG/MA/W/24 and MTN.GNG/MA/W/25) required participants to establish schedules including tariff bindings for all agricultural products, as well as commitments on domestic support and export subsidies.

⁷ The text of the Decision can be found in section 1.2 above.

⁸ WT/GC/M/4, item 2; WT/L/70. The General Council approved on an exceptional basis the schedules of the Solomon Islands at its meeting of 13 and 15 December 1995 (WT/GC/M/9, item 1(i)).

⁹ Angola; Botswana; Burkina Faso; Burundi; Central African Republic; Chad; Djibouti; the Gambia; Guinea; Guinea-Bissau; Haiti; Lesotho; Malawi; Maldives; Mali; Mozambique; Rwanda; Sierra Leone; Solomon Islands; Togo; and Democratic Republic of Congo.

¹⁰ Angola; Botswana; Burundi; Central African Republic; Chad; Djibouti; the Gambia; Guinea; Guinea-Bissau; Haiti; Lesotho; Malawi; Maldives; Mali; Mauritania; Mozambique; Rwanda; Sierra Leone; Solomon Islands; Togo; and Democratic Republic of Congo.

Protocol¹¹ and to the GATS, respectively, through two separate procès-verbaux done at Geneva on 20 and 21 December 1995.¹²

8. The General Council also adopted a decision on 31 January 1995 on Finalization of Negotiations on Schedules on Goods and Services for an additional group of GATT contracting parties (Grenada; Papua New Guinea; St. Kitts and Nevis; Qatar; and the United Arab Emirates). According to this Decision:

"Contracting parties to the GATT 1947, which became contracting parties in the course of 1994, and which submitted their draft Schedules to the GATT 1994 and to the GATS before the date of entry into force of the WTO Agreement but were unable to complete the negotiations on them before that date, may submit the negotiated Schedules to the GATT 1994 and the GATS to the General Council until 31 March 1995. The approval by the General Council of such schedules shall be deemed to be the approval of the terms of accession by the Members of the WTO under Article XII, paragraph 2 of the WTO Agreement."¹³

9. For this additional group of GATT contracting parties, there was no accession working party and the General Council's approval of their schedules was deemed to be the Members' approval of the terms of accession under Article XII. The WTO Agreement entered into force for each of these 30 days after its acceptance of a simplified Protocol of Accession.

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¹¹ Marrakesh Protocol, paragraph 1.

¹² Through a procès-verbal done at Geneva on 21 December 1995, the goods schedules of the 21 least-developed countries mentioned in footnote 9 above were annexed to the Marrakesh Protocol (WT/Let/79, WTO BISD 1996, Vol. 2/7-8). Further, through a procès-verbal done at Geneva on 20 December 1995, the services schedules of the 21 least-developed countries mentioned in footnote 10 above were annexed to the authentic text of the GATS (WT/Let/88, WTO BISD 1996, Vol.2/6-7).

¹³ WT/GC/M/1, item 4.I(f); decision in WT/L/30; proposed by Preparatory Committee in PC/17. On 3 April 1995, the General Council extended the deadline in WT/L/30 for the submission of negotiated schedules for goods and services until 24 April 1995 (WT/GC/M/3).