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1 ARTICLE XVI OF THE MARRAKESH AGREEMENT ESTABLISHING THE WORLD TRADE ORGANIZATION

1.1 Text of Article XVI

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.

1.2 Article XVI:1

1.2.1 "the WTO shall be guided by the decisions, procedures and customary practices followed by the CONTRACTING PARTIES to GATT 1947"

1. A Secretariat Technical Note on the accession process observes that the process is "guided by the decisions, procedures and customary practices" of the General Agreement on Tariffs and Trade 1947 (GATT 1947).¹

1.3 Article XVI:2

1.3.1 "To the extent practicable, the Secretariat of GATT 1947 shall become the Secretariat of the WTO"

2. Because the GATT 1947 was applied provisionally², the secretariat services for the GATT 1947 were provided by the Secretariat of the Interim Commission for the International Trade Organization (ICITO).³ The Agreement on the Transfer of Assets, Liabilities, Records, Staff and Functions from the ICITO and the General Agreement on Tariffs and Trade (GATT) to the World Trade Organization provided that "the staff of the ICITO shall perform the duties of the Secretariat of the WTO until the appointment of the staff of the Secretariat of the WTO". The Agreement also provided that the ICITO would be dissolved as of the date on which the members of the Secretariat were appointed.⁴

3. On 16 October 1998, the General Council adopted a Decision on Conditions of Service Applicable to the Staff of the WTO Secretariat, providing, *inter alia*, that "the WTO Secretariat shall be established on 1 January 1999."⁵ For more information regarding the WTO Secretariat, see the document on Article VI of the WTO Agreement (Practice).

1.3.2 "the Director-General to the CONTRACTING PARTIES to GATT 1947 ... shall serve as Director-General of the WTO"

4. Mr Peter Sutherland, Director-General to the GATT 1947, served as the first Director-General to the WTO from 1 January 1995 to 30 April 1995.

5. For more information regarding the appointment of the Director-General and a list of all subsequent Directors-General, see the document on Article VI of the WTO Agreement (Practice).

1.4 Article XVI:5

1.4.1 "Reservations in respect of any of the provisions of the Multilateral Trade Agreements"

6. Article XVI:5 prohibits reservations to the Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement) unless specifically permitted.

7. The agreements negotiated in the Tokyo Round of multilateral trade negotiations each included a reservations clause. The Agreement on Government Procurement (GPA) did not permit reservations, whereas other Tokyo Round agreements provided that reservations were permitted only with the consent of the other parties to that agreement. When these agreements were attached to the WTO Agreement in the Uruguay Round, their reservation provisions were retained. Thus, the Agreement on Technical Barriers to Trade (Article 15.1), the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 (Anti-Dumping Agreement, Article 18.2), the Agreement on Import Licensing Procedures (Article 8.1), and the Agreement on Subsidies and Countervailing Measures (Article 32.2) each provide that "[r]eservations may not be entered in respect of any of the provisions of this Agreement without the consent of the other Members." A similar provision appears as Article 72 of the Agreement on Trade-Related Aspects of Intellectual

¹ [WT/ACC/10/Rev.4](#), section II.

² See GATT Analytical Index, pp. 1086-1087.

³ GATT Analytical Index, pp. 1122-1123.

⁴ [PC/9, L/7580](#); signed and executed agreement issued as [ICITO/1/39](#); approved in [WT/GC/M/1, WT/L/36](#).

⁵ [WT/L/282](#).

Property Rights. No reservation has been made under any of these Agreements other than the Customs Valuation Agreement.

8. Similarly to the other Tokyo Round agreements, described in the paragraph above, Article 21 of the Customs Valuation Agreement provides that "[r]eservations may not be entered in respect of any of the provisions of this Agreement without the consent of the other Members". However, the Protocol to the 1979 Customs Valuation Agreement, also negotiated in the Tokyo Round, provided for certain reservations by developing countries. In the Uruguay Round, the Customs Valuation Protocol was incorporated into Annex III of the Customs Valuation Agreement. Paragraph 2 of this Annex allows developing countries which currently value goods on the basis of officially established minimum values to make "a reservation to enable them to retain such values on a limited and transitional basis under such terms and conditions as may be agreed to by the Members." Paragraph 3 allows for reservations concerning reversal of sequential order of Articles 5 and 6, and Paragraph 4 allows for reservations to apply Article 5.2 whether or not the importer so requests. For the latter two types of reservations, it is stipulated that "[i]f developing countries make such a reservation, the Members shall consent to it under Article 21 of the Agreement." For information concerning the number of developing country Members that have made reservations under the Customs Valuation Agreement, see the document on Annex III of the Customs Valuation Agreement (Practice).

1.4.2 "Reservations in respect of a provision of a Plurilateral Trade Agreement"

9. Article XXIV:4 of the Agreement on Government Procurement (1994) bars reservations in respect of any of the provisions of that Agreement. Likewise, Article XXII:3 of the amended Agreement on Government Procurement bars reservations in respect of any of the provisions of that amended Agreement.

10. Article 9.2.1 of the Agreement on Trade in Civil Aircraft provides that reservations may not be entered in respect of any of the provisions of that agreement without the consent of the other signatories.

11. Article VIII:1(b) of the International Dairy Agreement permitted reservations with regard to the application of the Annex (on minimum prices) with respect to any product(s) specified therein, if the other parties consented. The International Bovine Meat Agreement, which was limited to information exchange, did not provide for reservations. Both of these agreements have been terminated and deleted from Annex 4. For more information, see the sections on Article X:9, deletions of Plurilateral Trade Agreements, in the document on Article X of the WTO Agreement (Practice). No reservations had been made under any of these Plurilateral Trade Agreements before their termination.

1.5 Article XVI:6

1.5.1 Registration of the Agreement

12. The WTO Agreement was registered by the United Nations on 1 June 1995⁶ in accordance with Article 102 of the United Nations Charter.⁷

Current as of: August 2022

⁶ Registration Number 31874. See also the United Nations Treaty Collection, available at <https://treaties.un.org/pages/showDetails.aspx?objid=08000002800ade6c>.

⁷ Article 102 of the United Nations Charter provides:

"1. Every treaty and every international agreement entered into by any Member of the United Nations after the present Charter comes into effect shall as soon as possible be registered by the Secretariat and published by it.

2. No party to any such treaty or international agreement which has not been registered in accordance with the provisions of paragraph 1 of this Article may invoke that treaty or agreement before any organ of the United Nations."