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## **1 ARTICLE VI**

### **1.1 Text of Article VI**

#### **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.

### **1.2 Article VI:1**

#### **1.2.1 WTO Secretariat**

1. The WTO Secretariat is based in Geneva, Switzerland and is headed by a Director-General.
2. Because the GATT 1947 was applied provisionally<sup>1</sup>, the secretariat services for the GATT 1947 were provided by the Secretariat of the Interim Commission for the International Trade Organization (ICITO).<sup>2</sup> The Agreement on the Transfer of Assets, Liabilities, Records, Staff and

<sup>1</sup> See GATT Analytical Index, pp. 1086-1087.

<sup>2</sup> GATT Analytical Index, pp. 1122-1123.

Functions from the Interim Commission of the International Trade Organization and the 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" and that the ICITO would be dissolved as of the date on which the members of the Secretariat were appointed.<sup>3</sup> Until an independent pension plan could be established for the WTO Secretariat, the ICITO remained in existence so that the ICITO staff could continue to participate in the United Nations Joint Staff Pension Fund.<sup>4</sup>

3. On 16 October 1998, the General Council adopted a Decision on Conditions of Service Applicable to the Staff of the WTO Secretariat, including Staff Regulations and Rules and the Regulations and Rules of the WTO Pension Plan; this Decision provided *inter alia* that "the WTO Secretariat shall be established on 1 January 1999."<sup>5</sup>

### **1.3 Article VI: 2**

#### **1.3.1 "the Ministerial Conference shall appoint the Director-General"**

4. The General Council has appointed the following Directors-General to date:
- a. Mr Peter Sutherland – from 1 January 1995 to 30 April 1995,<sup>6</sup>
  - b. Mr Renato Ruggiero – from 1 May 1995 to 30 April 1999,<sup>7</sup>
  - c. Mr Mike Moore – from 1 September 1999 to 31 August 2002,<sup>8</sup>
  - d. Dr Supachai Panitchpakdi – from 1 September 2002 to 31 August 2005,<sup>9</sup> and
  - e. Mr Pascal Lamy – from 1 September 2005 to 31 August 2009, and reappointed for a second four-year term starting 1 September 2009.<sup>10</sup>
  - f. Mr Roberto Carvalho de Azevêdo – from 1 September 2013 to 31 August 2017, and reappointed for a second four-year term starting 1 September 2017.<sup>11</sup>

#### **1.3.2 "regulations setting out the powers, duties, conditions of service and term of office of the Director-General"**

5. At its meeting of 22 July 1999, the General Council resolved that, "in order to improve and strengthen the current rules and procedures [for the appointment of the Director-General], a comprehensive set of rules and procedures for such appointments shall be elaborated and adopted by the end of September 2000."<sup>12</sup> The General Council approved a comprehensive set of procedures for the appointment of the Director-General at its meeting on 10-12 and

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<sup>3</sup> PC/9, L/7580; signed and executed agreement issued as ICITO/1/39; approved in WT/GC/M/1, L/36.

<sup>4</sup> See paragraph 8.

<sup>5</sup> WT/L/282.

<sup>6</sup> Mr Sutherland, as the former Director-General to the GATT 1947, served as the first Director-General pursuant to Article XVI:2 of the WTO Agreement.

<sup>7</sup> Appointed at the General Council meeting of 24 March 1995 (see WT/GC/M/2, p. 1).

<sup>8</sup> Appointed at the General Council meeting of 22 July 1999 (see WT/GC/M/46, p. 18; text of decision, WT/L/308).

<sup>9</sup> Also appointed at the meeting of 22 July 1999, to succeed to Mr Moore (see WT/GC/M/46, p. 18; text of decision, WT/L/308).

<sup>10</sup> Appointed at the meeting of 26 May 2005 (WT/GC/M/95, item 9); reappointed at the meeting of 29-30 April 2009 (WT/GC/M/119).

<sup>11</sup> Appointed at the meeting of 14 May 2013 (WT/GC/M/144); reappointed at the meeting of 27 February 2017 (WT/GC/M/166, item 1).

<sup>12</sup> WT/L/308, last paragraph.

20 December 2002.<sup>13</sup> These procedures have been applied in subsequent selection and appointment processes for the Director-General.<sup>14</sup>

## **1.4 Article VI:3**

### **1.4.1 "duties and conditions of service" of the WTO Secretariat**

#### **1.4.1.1 Staff Regulations and Rules**

6. The General Council adopted decisions regarding the terms of service applicable to the WTO staff at its meetings of 30 October 1995, 7, 8 and 13 November 1996, 7 February 1997, 30 June, 1 July 1997, and 24 April 1998.<sup>15</sup> The General Council further established a Working Group on Conditions of Service Applicable to the Staff of the WTO Secretariat<sup>16</sup> on 7 February 1997.

7. On 16 October 1998, taking into consideration the report of the Working Group, the General Council adopted the proposed Staff Regulations and Staff Rules.<sup>17</sup> The General Council agreed to amend the Staff Rules at its meetings of 8 and 9 February 2001<sup>18</sup>, 25, 26 and 30 August 2003<sup>19</sup>, 17-18 May 2004<sup>20</sup>, 13 December 2004<sup>21</sup>, 28 July 2009<sup>22</sup>, 30 November 2011<sup>23</sup>, 5 May 2015<sup>24</sup>, 27-28 July 2015<sup>25</sup>, 12 May 2016<sup>26</sup>, 26 July 2017<sup>27</sup> and 30 November 2017<sup>28</sup>.

#### **1.4.1.2 WTO Pension Plan**

8. The ICITO staff participated in the United Nations Joint Staff Pension Fund (UNJSPF).<sup>29</sup> On 16 October 1998, consequent to agreement on the conditions of service applicable to the staff and on establishment of an independent WTO Pension Plan (WTOPP), the Executive Committee of ICITO and the General Council decided to terminate the membership of ICITO in the UNJSPF on 31 December 1998. The General Council also decided to adopt the WTOPP Regulations and Administrative Rules.<sup>30</sup>

9. The Regulations of the WTO Pension Plan were amended by the General Council on 1 December 2005, on 28 July 2009, on 26 October 2011, on 30 November 2015 and on 26 July 2017.<sup>31</sup> The Administrative Rules were amended on 23 September 2005 and on 7 December 2016, and the Rules of Procedure were amended on 7 December 2016.<sup>32</sup>

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<sup>13</sup> WT/GC/M/77; WT/L/509. In addition, the General Council approved modified Conditions of Service for the Director-General, issued as WT/GC/67.

<sup>14</sup> See WT/GC/M/95, item 9 and WT/GC/M/119 (appointment and reappointment of Director-General Lamy).

<sup>15</sup> WT/GC/M/7, item 1, decision in WT/L/91; WT/GC/M/16, item 6, decision in WT/L/197; WT/GC/M/18, item 3, decision in WT/L/205; WT/GC/M/20, item 1, decision in WT/L/223; and WT/GC/M/28, item 1, decision in WT/L/269.

<sup>16</sup> WT/L/205.

<sup>17</sup> WT/GC/M/31, item 10(a); decision in WT/L/282; Annex 2 of WT/282 includes the Staff Regulations, Staff Rules and the Regulations and Administrative Rules of the WTO Pension Plan as adopted.

<sup>18</sup> WT/GC/M/63 item 3, amendments in WT/BFA/W/48/Rev.1 (performance award programme).

<sup>19</sup> WT/GC/N/82 item 2, amendments in WT/BFA/W/102.

<sup>20</sup> WT/GC/M/86, amendments in WT/BFA/W/112.

<sup>21</sup> WT/GC/M/90 item 9, amendments in WT/BFA/W/125/Rev.1.

<sup>22</sup> WT/GC/M/121 item 9, amendments in WT/BFA/W/185.

<sup>23</sup> WT/GC/M/134 item 6, amendments in WT/BFA/W/250 (see WT/BFA/128 item IV, para. 21, page 4).

<sup>24</sup> WT/GC/M/157 item 8, amendments in WT/BFA/W/353 and WT/BFA/353/Corr.1 (see WT/BFA/148 item 2).

<sup>25</sup> WT/GC/M/158 item 11, amendments in WT/BFA/W/360 (see WT/BFA/149 item 9).

<sup>26</sup> WT/GC/M/162 item 4, amendments in WT/BFA/153 item 10.

<sup>27</sup> WT/GC/M/168 item 11, amendments in WT/BFA/W/416/Rev.3 (see WT/BFA/164/Rev.1).

<sup>28</sup> WT/GC/M/170 item 11, amendments in WT/BFA/169.

<sup>29</sup> GATT Analytical Index, p. 1123.

<sup>30</sup> WT/GC/M/31, item 10(a); Decision including text of WTOPP Regulations and Administrative Rules, WT/L/282. See also WT/BFA/12, WT/BFA/W/2, WT/GC/M/28 and WT/GC/M/29.

<sup>31</sup> WT/GC/W/552 and WT/GC/M/100; WT/GC/W/606 and WT/GC/M/121; WT/GC/W/637 and WT/GC/M/133; WT/GC/W/706 and WT/GC/M/160; WT/GC/M/168 and WT/L/1010.

<sup>32</sup> WT/GC/W/725 and WT/GC/M/165

10. The General Council has approved agreements on the transfer of pension rights between the WTOPP and the UNJSPF<sup>33</sup>, the WTOPP and the pension scheme of the OECD<sup>34</sup>, the WTOPP and the pension schemes of the Coordinated Organizations<sup>35</sup> and the WTOPP and the European Communities Pension Scheme.<sup>36</sup>

11. The WTO Pension Plan Management Board presents a report each year to the General Council and to the participants, as per Art. 5(d) of the Regulations of the WTO Pension Plan.

**1.5 Article VI:4: responsibilities and conduct of Director-General and Secretariat staff**

12. See the Staff Regulations and Staff Rules of the World Trade Organization.<sup>37</sup>

Current as of: February 2018

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<sup>33</sup> WT/L/383; revised agreement in WT/L/588.

<sup>34</sup> WT/L/446.

<sup>35</sup> WT/L/513 and WT/GC/M/152; the Coordinated Organizations include the Council of Europe, the European Centre for Medium-Range Weather Forecasts (ECMWF), the European Space Agency (ESA), the North Atlantic Treaty Organization (NATO), The European Organisation for the Exploitation of Meteorological Satellites (EUMETSAT), European Institute for Securities Studies (ISS) and the European Union Satellite Centre (SatCen)

<sup>36</sup> WT/GC/W/561.

<sup>37</sup> Annex 2 to WT/L/282 and Annex B to Annex 2, e.g. Regulation 1.4 of the Staff Regulations and point 4 of the Standards of Conduct.