

GENERAL COUNCIL

Annual Report (2009)

Addendum

The present Addendum to the Annual Report of 2009 sets out the actions taken by the General Council at its meeting in December 2009. The minutes of this meeting, which remain the record of the General Council's work, are contained in document WT/GC/M/124.¹

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¹ To be issued.

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1. Work under the Doha Work Programme

(a) Trade Negotiations Committee – Report (WT/GC/M/124)

1. Ministers at Doha established a Trade Negotiations Committee under the authority of the General Council to supervise the overall conduct of the negotiations (WT/MIN(01)/DEC/1). In accordance with the Principles and Practices endorsed by the Trade Negotiations Committee at its first meeting on 28 January and 1 February 2002 (TN/C/M/1), the TNC reports to each regular meeting of the General Council.

2. At the General Council meeting on 17 December 2009, the Director-General, as Chairman of the Trade Negotiations Committee, reported on the TNC's activities since his last report to the General Council.²

3. The representatives of Tanzania (on behalf of the LDCs); Bangladesh; Zambia; European Union; Egypt (on behalf of the African Group); Angola; Israel; Switzerland and India spoke.

4. The General Council took note of the Director General's report and of the statements.

(b) Work Programme on Small Economies – Report (WT/GC/M/124)

5. Ministers at Doha agreed to a work programme, under the auspices of the General Council, to examine issues relating to the trade of small economies, with a mandate to frame responses to the trade-related issues identified for the fuller integration of small, vulnerable economies into the multilateral trading system and not to create a sub-category of WTO Members (WT/MIN(01)/DEC/1, paragraph 35). At its meeting in February and March 2002, the General Council took note of a framework and procedures for the conduct of the Work Programme on Small Economies, under which this Work Programme would be a standing item on the General Council's agenda. The framework and procedures also provided that the Committee on Trade and Development would report regularly

² The Director-General's statement was subsequently circulated as Job(09)/186.

to the General Council on the progress of work in its Dedicated Sessions on this subject. Ministers at Hong Kong instructed the CTD, under the overall responsibility of the General Council, to continue the work in the Dedicated Session and to monitor progress of the small economies' proposals in the negotiating and other bodies, with the aim of providing responses to the trade-related issues of small economies as soon as possible but no later than 31 December 2006. In December 2006, on the basis of a report by the Chair of the CTD in Dedicated Session, the General Council took note that Members would be pursuing the substantive work under this work programme.

6. At the General Council meeting on 17 December 2009, the Chair of the Dedicated Session of the CTD, reporting on developments in this area since the November Council, said that at the Seventh Session of the Ministerial Conference Ministers and Heads of Delegation from SVEs had stressed the importance of the Work Programme and their desire for the Dedicated Session to continue its work in this regard.

7. The representative of Barbados (on behalf of the SVEs) spoke.

8. The General Council took note of the report by the Chairman of the Dedicated Session of the Committee on Trade and Development and of the statement.

(c) Work Programme on Special and Differential Treatment – Reports by the Chairman of the Special Session of the CTD and by Chairpersons of the WTO bodies to which special and differential treatment proposals have been referred (WT/CG/M/124)

9. Ministers at Hong Kong instructed the Committee on Trade and Development in Special Session to expeditiously complete the review of all the outstanding Agreement-specific proposals and report to the General Council, with clear recommendations for a decision, by December 2006. Regarding the Category II proposals that had been referred to other WTO bodies and negotiating groups, Ministers instructed these bodies to expeditiously complete the consideration of these proposals and report periodically to the General Council, with the objective of ensuring that clear recommendations for a decision were made not later than December 2006. They also instructed the Special Session to continue to coordinate its efforts with these bodies to ensure that this work was completed on time. Ministers further instructed the Special Session, within the parameters of the Doha mandate, to resume work on all other outstanding issues – including cross-cutting issues, the monitoring mechanism, and the incorporation of S&D treatment into the architecture of WTO rules – and to report on a regular basis to the General Council. In December 2006, the General Council took note that Members would be pursuing their consideration of the outstanding Agreement-specific proposals both in the Special Session and in the other WTO bodies to which such proposals had been referred.

10. At the General Council meeting on 17 December 2009, the Chairman of the Special Session of the CTD and Chairpersons of the WTO bodies to which special and differential treatment proposals had been referred reported on the status of work in their respective bodies since December 2008.

11. The General Council took note of the reports by the Chairpersons of the Special Sessions of the CTD, the Committee on Agriculture, the Council for Trade in Services and the DSB, of the Negotiating Group on Rules, and of the Committees on Agriculture, TRIMs, SPS Measures, and Safeguards.

(d) Initial review of the Transparency Mechanism for Regional Trade Agreements (WT/GC/M/124)

12. In December 2006, the General Council adopted a Decision establishing a Transparency Mechanism for RTAs to be implemented on a provisional basis in accordance with paragraph 47 of

the Doha Ministerial Declaration. The Decision was adopted on the basis of certain observations and understandings, including that notwithstanding the current stage of the DDA negotiations and the timing of their conclusion, Members intended to conduct an initial review of the Mechanism pursuant to paragraph 23 of the Decision within one year.

13. At the General Council meeting on 17 December 2009, the Chairman of the Negotiating Group on Rules reported that there was still no consensus on the best time to undertake the review of the Mechanism that was a necessary condition to making it permanent.

14. The representative of India spoke.

15. The General Council took note of the report by the Chairman of the Negotiating Group on Rules and of the statement.

2. China – Transitional review under Section 18.2 of the Protocol of Accession to the WTO Agreement (WT/GC/M/124)

16. At its meeting on 17 December 2009, the General Council conducted its eighth review of China's implementation of the WTO Agreement and the provisions of the Protocol of Accession. In so doing, the General Council considered a communication from China (WT/GC/123) which provided information required under Sections I and III of Annex 1A of the Protocol of Accession, as well as reports from subsidiary bodies on their respective reviews (G/L/910, S/C/33, IP/C/55, WT/BOP/R/95, G/TBT/27 and G/SPS/52).

17. The representatives of China; United States; Cuba; European Union; Japan and the Bolivarian Republic of Venezuela spoke.

18. The General Council took note of the statements and of the reports submitted by the subsidiary bodies on the conduct of their respective reviews, and agreed that the eighth review by the General Council of China's implementation of the WTO Agreement and the provisions of its Protocol of Accession had been concluded.

3. Non-recognition of rights under Article XXIV:6 and Article XXVIII of GATT 1994 – Communications from Honduras and Guatemala (WT/GC/M/124)

19. In December 2004, at the request of Honduras and Guatemala, the General Council considered the question of non-recognition of rights for the processes under Articles XXIV:6 and XXVIII of GATT 1994 in connection with the enlargement of the European Union from 15 to 25 members and its move to a tariff-only regime on bananas from 1 January 2006. This matter was subsequently considered by the General Council at each regular meeting since then without resolution.

20. At the General Council meeting on 17 December 2009, the representatives of Honduras and Guatemala requested that this item be temporarily suspended from the General Council's agenda.

21. The representatives of Honduras and Guatemala spoke.

22. The General Council took note of the statements.

4. Information on Geneva Agreement on Trade in Bananas – Communication from Brazil, Colombia, Costa Rica, Ecuador, European Union, Guatemala, Mexico, Nicaragua, Panama, Peru and the Bolivarian Republic of Venezuela (WT/GC/M/124)

23. At the General Council meeting on 17 December 2009, the European Union introduced the Geneva Agreement on Trade in Bananas (WT/L/784).

24. The representatives of the European Union; Costa Rica; Honduras; Guatemala; Peru; Panama; Ecuador; Mexico; Colombia; Mauritius (on behalf of the ACP Group); Dominica (also on behalf of St. Lucia, and St. Vincent and the Grenadines); Côte d'Ivoire; Cameroon; United States; China; India and Pakistan; and the Director-General spoke.

25. The General Council took note of the Geneva Agreement on Trade in Bananas circulated by the delegation of the European Union and others in document WT/L/784, and of the statements.

5. Review of the Exemption Provided under Paragraph 3 of GATT 1994 (WT/GC/M/124)

26. Paragraph 3(a) of the GATT 1994 provides an exemption from Part II of the GATT 1994 for measures under specific mandatory legislation – enacted by a Member before it became a contracting party to the GATT 1947 – which prohibits the use, sale or lease of foreign-built or foreign-reconstructed vessels in commercial applications between points in national waters or waters of an exclusive economic zone. On 20 December 1994, the United States invoked the provisions of paragraph 3(a) with respect to specific legislation that met the requirements of that paragraph. Paragraph 3(b) of the GATT 1994 calls for a review of this exemption five years after the date of entry into force of the WTO Agreement, and thereafter every two years for as long as the exemption is in force, in order to examine whether the conditions which created the need for the exemption still prevail. In February 2009, the General Council agreed that for the purposes of the conduct of the review in 2009, Members would proceed in a manner similar to that in 2007, when the last review under the two-yearly cycle had been taken up. It was further agreed that this matter would be on the agenda of subsequent General Council meetings in the course of 2009 as the Chairman deemed appropriate or at the request of any Member, and that it would consider this matter again at its last meeting of the year.

27. At the General Council meeting on 17 December 2009, the Chairman invited all interested delegations to speak for the record with regard to the review under the current cycle.

28. The representatives of the United States; Japan; Norway; Hong Kong, China; European Union; Korea and China spoke.

29. The General Council took note of the statements made in the course of the review in 2009, and that the subsequent review under the two-yearly cycle provided in paragraph 3(b) of GATT 1994 would normally be held in 2011.

6. Transparency for Preferential Trade Arrangements (WT/GC/M/124)

30. In December 2006, the General Council adopted a Decision on Transparency for Preferential Trade Arrangements (WT/L/672) inviting the Committee on Trade and Development to consider transparency for preferential trade arrangements under paragraph 2 of the Enabling Clause – other than RTAs – and to report back within six months for appropriate action by the General Council. Subsequently, in July and December 2007, and again in July 2008, on the basis of reports from the Chairman of the CTD, the General Council agreed to extend the deadline for the CTD to consider this matter and to report back for appropriate action by successive six-month periods, i.e. until July 2009.

In July 2009, the General Council agreed that the deadline for the CTD to consider this matter and to report back for appropriate action be extended to December 2009.

31. At the General Council meeting on 17 December 2009, the Chairman of the CTD reported on the Committee's consideration of this matter since his last report in July 2009.

32. The General Council took note of the report by the Chairman of the CTD and agreed that the deadline for the CTD to consider this matter and report back for appropriate action be extended to July 2010.

7. Committee on Budget, Finance and Administration – Report and recommendations (WT/GC/M/124)

33. At its meeting on 17 December 2009, the General Council considered a report by the Budget Committee on its meetings of November and December 2009 (WT/BFA/114 and Add.1), which was introduced by the Chairperson of the Committee.

34. The representatives of China; Ecuador; Pakistan; Bolivarian Republic of Venezuela; Cuba; Thailand; Nepal and the United States; and the Director-General spoke.

35. The General Council took note of the statements, approved the Budget Committee's specific recommendations in paragraphs 14, 15, 28, 30, 34 and 35 of its report, including the draft Resolutions referred to in paragraphs 14 and 15, adopted the draft Resolutions on the Expenditure of the WTO in 2010 and 2011 and the Ways and Means to Meet Such Expenditure in paragraphs 14 and 15 of the report, and adopted the report in document WT/BFA/114 and Add.1 as a whole.

8. TRIPS Council matters (GC/M/124)

(a) Review under Paragraph 8 of the Decision on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health – Report of the Council on TRIPS

and

(b) Proposal for a decision on an extension of the period for the acceptance by Members of the Protocol amending the TRIPS Agreement

36. In August 2003, the General Council adopted a Decision on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health. Paragraph 8 of that Decision provides that the TRIPS Council shall review annually the functioning of the system set out in the Decision with a view to ensuring its effective operation, and shall annually report on its operation to the General Council. In addition, in keeping with the August 2003 Decision, the General Council adopted, in December 2005, a Protocol Amending the TRIPS Agreement, which was submitted to Members for acceptance and which, in accordance with Article X:3 of the WTO Agreement, would enter into force upon acceptance by two thirds of the Members. The TRIPS Council at its meeting in October 2009 agreed to submit to the General Council a proposal for a decision on a second extension of the period for the acceptance by Members of this Protocol.

37. At the General Council meeting on 17 December 2009, the Chairperson of the TRIPS Council introduced the report of the TRIPS Council (IP/C/53) on its sixth annual review of the functioning of the system set out in the Decision on the Implementation of Paragraph 6 of the Doha Declaration on the TRIPS Agreement and Public Health, as well as a proposal for a decision on a second extension of the period for the acceptance by Members of the Protocol amending the TRIPS Agreement.

38. The representatives of Ecuador; India; Brazil; China and the Bolivarian Republic of Venezuela spoke.

39. The General Council took note of the report of the TRIPS Council (IP/C/53), adopted the draft decision extending the time period for acceptance by Members of the Protocol amending the TRIPS Agreement to 31 December 2011 (WT/L/785), and took note of the statements.

9. Waivers

(a) Introduction of Harmonized System 2002 Changes into WTO Schedules of Tariff Concessions – Draft decision (WT/GC/M/124)

40. At its meeting on 17 December 2009, the General Council considered a draft decision (G/C/W/624) providing for a waiver to suspend the application of the provisions of Article II of GATT 1994 to enable Members to implement domestically the recommended amendments to the Harmonized System nomenclature pending incorporation of such changes into their Schedules of Concessions. The Chairperson of the Council for Trade in Goods reported on the consideration of the draft decision by that Council.

41. The General Council took note of the report and, in accordance with the Decision-Making Procedures under Articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), adopted the draft decision (WT/L/786).

(b) Introduction of Harmonized System 2007 Changes into WTO Schedules of Tariff Concessions – Draft decision (WT/GC/M/124)

42. At its meeting on 17 December 2009, the General Council considered a draft decision (G/C/W/625/Rev.1) providing for a waiver to suspend the application of the provisions of Article II of GATT 1994 to enable Members to implement domestically the recommended amendments to the Harmonized System nomenclature pending incorporation of such changes into their Schedules of Concessions. The Chairperson of the Council for Trade in Goods reported on the consideration of the draft decision by that Council.

43. The General Council took note of the report and, in accordance with the Decision-Making Procedures under Articles IX and XII of the WTO Agreement agreed in November 1995 (WT/L/93), adopted the draft decision (WT/L/787³).

(c) Review of waivers pursuant to Article IX:4 of the WTO Agreement (WT/GC/M/124)

44. Under Article IX:4 of the WTO Agreement "[a]ny waiver granted for a period of more than one year shall be reviewed by the Ministerial Conference not later than one year after it is granted, and thereafter annually until the waiver terminates."

45. At its meeting on 17 December 2009, the General Council considered the following waivers for review under Article IX:4:

- (i) Kimberley Process Certification Scheme for rough diamonds, granted on 15 December 2006 until 31 December 2012
- (ii) Canada – CARIBCAN, granted on 15 December 2006, from 1 January 2007 until 31 December 2011

³ On 20 January 2010, Israel was included in the Annex to this waiver Decision (WT/L/787/Add.1).

- (iii) Cuba – Article XV:6 of GATT 1994, granted on 15 December 2006 until 31 December 2011

In so doing, the General Council considered reports on implementation of the respective waivers submitted by the Canada (WT/L/780) and Cuba (WT/L/781).

46. The General Council took note of the reports in WT/L/780 and 781.

10. The financial and economic crisis and the role of the WTO⁴ (WT/GC/M/124)

47. At the General Council meeting on 17 December 2009, the representatives of Argentina, Ecuador and India introduced their communication on the financial and economic crisis and the role of the WTO (WT/GC/W/617 and Add.1).

48. The representatives of Argentina; Ecuador; India; Turkey; China; United States; El Salvador; Bolivia; European Union; Japan; Brazil; Bolivarian Republic of Venezuela; Cuba; Switzerland; Korea; Paraguay and Mexico spoke.

49. The General Council took note of the statements.

11. Accession of developing countries – Statement by Gabon for the Informal Group of Developing Countries (WT/GC/M/124)

50. At the General Council meeting on 17 December 2009, the representative of Gabon, on behalf of the Informal Group of Developing Countries, drew attention to the Group's proposal on this issue (WT/GC/W/611) which was aimed at improving the existing institutional mechanisms so that acceding developing countries could make their views on the accession process known, and at enhancing transparency in the process through the submission of periodic reports to the General Council.

51. The representatives of Gabon (on behalf of the Informal Group of Developing Countries); Turkey; Tanzania (on behalf of the LDCs); Argentina; Bolivarian Republic of Venezuela; China; Japan; European Union; Egypt; United States; Saudi Arabia; Switzerland; Cuba; Korea; Brazil; India; Nepal; Mexico and Pakistan; and the Director-General spoke.

52. The General Council took note of the statements.

12. Administrative Measures for Members in Arrears (WT/GC/M/124)

53. At its meeting in May 2006, the General Council approved a recommendation from the Committee on Budget, Finance and Administration with regard to revised Administrative Measures for Members in Arrears (WT/BFA/86) under which, *inter alia*, at each meeting of the General Council the Chairman of the Budget Committee would provide information with regard to which Members were under Administrative Measures in Categories II through IV, and the General Council Chairman would request Members in Categories III and IV to inform him before the next Council meeting as to when the payment of arrears might be expected and report on Members' replies at each subsequent meeting.

54. At the General Council meeting on 17 December 2009, in pursuance of the revised Administrative Measures, the Chairperson of the Committee on Budget, Finance and Administration

⁴ This matter was considered at previous General Council meetings in 2009 under the title "The economic and financial crisis and its repercussions on trade".

provided information with regard to which Members were under Administrative Measures in Categories II through IV. Also in pursuance of the revised Administrative Measures, the Council Chairman requested Members in Categories III and IV to inform him before the next meeting of the Council as to when their payment of arrears might be expected. He informed the Council that since the November General Council meeting he had not received any replies from the Members concerned.

55. The General Council took note of the statements.

13. WTO Pension Plan – Election of an alternate to the Management Board (WT/GC/M/124)

56. Article 4 of the Regulations of the WTO Pension Plan (WT/L/282) provides *inter alia* for the election by the General Council of a Chairman, four members and four alternates to serve on the Management Board, each for a three-year term.

57. At the General Council meeting on 17 December 2009, the Chairman drew attention to a proposal circulated by him in document WT/GC/W/618 on the basis of which he proposed that the General Council agree to elect Mr NG (Hong Kong, China) to serve as an alternate on the Management Board of the WTO Pension Plan for the remainder of the Board's term, i.e. until May 2011.

58. The General Council took note of the statement and so agreed (WT/L/788).

14. Review of WTO activities (WT/GC/M/124)

59. At its meeting on 17 December 2009, the Chairman said that following the Council's consideration of the Annual Reports at its meeting in November 2009, a number of Committees had prepared addenda to cover work undertaken since their initial reports. These reports had been drawn up in pursuance of the Decision concerning procedures for an annual overview of WTO activities and for reporting under the WTO (WT/L/105).

60. The representatives of Ecuador; Dominica (on behalf of the SVEs) and Brazil; and the Chairman of the Committee on Trade and Development and the Director-General spoke.

61. The General Council took note of the statements, adopted the addendum to the report of the Committee on Trade and Development (WT/COMTD/70/Add.1), and took note of the Aid for Trade Work Programme (WT/COMTD/AFT/W/16), the report of the Committee on Budget, Finance and Administration (WT/BFA/113/Add.1) and the report of the Committee on Government Procurement (GPA/103/Add.1).

15. Appointment of officers to WTO bodies

(a) Announcement by the Chairman concerning the start of the selection process (WT/GC/M/124)

62. At the General Council meeting on 17 December 2009, the Chairman said that in accordance with the Guidelines for Appointment of Officers to WTO Bodies (WT/L/510), he would be starting the selection process for the appointment of chairpersons to the WTO bodies listed in Groups 1, 2, 4 and 5 in the Annex to the Guidelines. In accordance with paragraph 7.1(b) he would be assisted in this process by the serving Chair of the Dispute Settlement Body, Mr. Gero (Canada).

63. The General Council took note of the statement.

(b) Chairmanship of the TRIPS Special Session (WT/GC/M/124)

64. At the General Council meeting on 17 December 2009, the Chairman informed the Council that, following consultations on the matter, there was a consensus to appoint Mrs Tan (Singapore) as Chairperson of the Special Session of the Council for TRIPS on a pro tempore basis until the General Council took up the slate of names for Officers to WTO bodies at its meeting in February 2010.

65. The General Council took note of the statement.
