

General Council

**REVIEW OF PROCEDURES FOR THE CIRCULATION
AND DERESTRICTION OF WTO DOCUMENTS**

Note by the Secretariat on Proposals made by delegations

This note reproduces the proposals made by delegations with regard to the review of the Decision on Procedures for the circulation and derestriction of WTO documents (WT/L/160/Rev.1).

1. General

(a) Mexico

Making it clear in the main text of the Council Decision that if they are to be derestricted, documents must be available in Spanish, French and English;

(b) United States and Canada

WTO documents initially issued as restricted documents, but subject to automatic derestriction after a determined time-period (e.g. minutes), should be clearly marked on the first page of the document with the anticipated date of derestriction. In the exceptional case where a document is to remain restricted beyond the period foreseen, the Secretariat should issue a notice to this effect.

2. Paragraph 7

(a) United States and Canada

As with the original 1996 Decision, the anticipated revised Decision should be reviewed again after two years.

3. Appendix

(a) Item (a)

(i) *United States and Canada*

1. Paragraph (a) of the Annex to the 1996 Decision should be modified to provide that Secretariat background notes, except for those which purport to portray the views of WTO Members, shall normally be circulated as unrestricted documents. Recognizing that there may be exceptional cases in which a WTO body, when requesting the Secretariat to prepare a background note, considers it essential that the note be initially considered on a restricted bases, provisions should be made for exceptional restriction of such notes, provided that a maximum time-period (e.g. 6 months) should be established for its automatic derestriction if there are no exceptional circumstances.

2. Recognizing that paragraph (g) of the Appendix to WT/L/160/Rev.1 already provides that documents submitted by Members for circulation should normally be issued as unrestricted documents, the General Council should decide to amend paragraph (a) of the Appendix to provide that this shall also be the normal practice in the case of documents from Members circulated in the "W" series. Of course, in both cases, we should preserve the possibility for the Member making the submission to make an exceptional request for restricting the submission, but for a period not, in principle, to exceed six months.

(b) Item (b)

(i) *Mexico*

Adding, in subparagraph (b) of the Appendix to the Council Decision, documents relating to the modification of schedules of commitments under Article XXI of the General Agreement of Trade in Services (GATS).

(c) Item (c)

(i) *United States and Canada*

Paragraph (c) of the Appendix to WT/L/160/Rev.1 should be modified so as to provide that minutes of meetings of all WTO bodies, including Summary Records of Sessions of the Ministerial Conference and Secretariat-produced notes of discussions should be considered for derestriction three months after their circulation in all three WTO languages.

(d) Item (h)¹

(i) *United States and Canada*

As soon as the "Findings and Conclusions" portion of a completed final panel report is prepared in all three official languages of the WTO, a final report shall be issued to the parties to the dispute and the "Findings and Conclusions" portion shall be circulated for information purposes as an unrestricted document. In addition, at the same time, pending its translation into the other two official languages of the WTO, the "Descriptive" portion of the final report, shall be made available as an unrestricted document in the original language of the panel report. This decision is without prejudice to the Dispute Settlement Understanding and the working practices concerning dispute settlement procedures agreed by the Dispute Settlement Body and contained in document WT/DSB/6.

¹ In the course of the review of the DSU a number of proposals which have a bearing on the subject of derestriction and circulation were made. They are reflected in the Compilation of comments submitted by Members prepared by the Secretariat (Job No. 6289). The relevant texts are reproduced on the following page.

Texts referred to in footnote 1 on Page 2

- a) EC: "As of today, when the panel and Appellate Body reports are issued to the WTO Membership, they are also made available to the general public. One possibility might be to make public at that stage not only the reports, but also the documents in the file before the panel or the Appellate Body (e.g. analysis and background notes prepared by the WTO Secretariat, submissions of participating parties which the parties had cleared for publication or non-confidential summaries, thereof, etc.). This suggestion might permit a significant shortening of the reports, by eliminating or substantially shortening the arguments section. In developing the precise modalities, the availability in all three official WTO languages of the documents necessary to fully understand individual cases should be ensured. (Paragraph 159 of the Compilation)".
 - b) Japan: "With a view to encouraging the parties to the dispute to provide a non-confidential summary of the information contained in their submissions (i.e., a public version of the submission) and to improving transparency of the dispute settlement process, a deadline of providing public versions requested by any Members should be set out in the DSU. In this regard, the timing of derestricting final panel reports should be also considered. (Paragraph 174 of the Compilation)".
 - c) Norway: "Early derestriction of the parties' submissions - or the non-confidential parts thereof, at the latest at the same time as the derestriction of the panel report itself, may promote a better understanding in the public of the dispute settlement system of the WTO. This may alleviate the need for extensive inclusion of the submissions in the panel reports themselves, which should be guided by the usually short summaries of arguments given in judgements of national courts. (Paragraph 166 of the Compilation)".
 - d) The Compilation of comments submitted by Members also contains in paragraph 170 and the footnote 22 thereto a cross-reference to the proposal by the US and Canada which appears in item 3(d) of this note.
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