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Article 5

Notification and Transitional Arrangements

1. Members, within 90 days of the date of entry into force of the WTO Agreement, shall notify the Council for Trade in Goods of all TRIMs they are applying that are not in conformity with the provisions of this Agreement. Such TRIMs of general or specific application shall be notified, along with their principal features.¹

(footnote original) ¹ In the case of TRIMs applied under discretionary authority, each specific application shall be notified. Information that would prejudice the legitimate commercial interests of particular enterprises need not be disclosed.

2. Each Member shall eliminate all TRIMs which are notified under paragraph 1 within two years of the date of entry into force of the WTO Agreement in the case of a developed country Member, within five years in the case of a developing country Member, and within seven years in the case of a least-developed country Member.

3. On request, the Council for Trade in Goods may extend the transition period for the elimination of TRIMs notified under paragraph 1 for a developing country Member, including a least-developed country Member, which demonstrates particular difficulties in implementing the provisions of this Agreement. In considering such a request, the Council for Trade in Goods shall take into account the individual development, financial and trade needs of the Member in question.

4. During the transition period, a Member shall not modify the terms of any TRIM which it notifies under paragraph 1 from those prevailing at the date of entry into force of the WTO Agreement so as to increase the degree of inconsistency with the provisions of Article 2. TRIMs introduced less than 180 days before the date of entry into force of the WTO Agreement shall not benefit from the transitional arrangements provided in paragraph 2.

5. Notwithstanding the provisions of Article 2, a Member, in order not to disadvantage established enterprises which are subject to a TRIM notified under paragraph 1, may apply during the transition period the same TRIM to a new investment (i) where the products of such investment are like products to those of the established enterprises, and (ii) where necessary to avoid distorting the conditions of competition between the new investment and the established enterprises. Any TRIM so applied to a new investment shall be notified to the Council for Trade in Goods.

1. At its meeting of 20 February 1995, the Council for Trade in Goods decided to accept for notifications required under Article 5.1 of the Agreement on Trade-Related Investment Measures (TRIMs) only those TRIMs which are notified to the Council for Trade in Goods.

(TRIMs Agreement), which had been recommended by the Preparatory Committee for the World Trade Organization.¹

2. On 3 April 1995, the General Council adopted a decision on notifications under Article 5.1 by states and separate customs territories eligible to become original WTO Members that accepted the Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement) after its entry into force. The decision permits states and separate customs territories to submit these notifications within 90 days from the date of acceptance of the WTO Agreement, but does not change the phase-out periods in Article 5.2 or the requirements of Article 5.4, both of which run from the date of entry into force of the WTO Agreement.²

3. The list of all notifications of TRIMs under Article 5.1 is recorded in Annex 1 of the TRIMs Committee Annual Report.³ Some Members have notified that they do not apply any TRIM inconsistent with the Agreement.⁴

4. In view of certain flexibilities, the least-developed country Members (LDCs) have an additional notification process in the event that they make use of those flexibilities. In particular, LDCs were initially granted a transition period of seven years for the elimination of non-conforming TRIMs, which ended in 2002. With the adoption of the Hong Kong Ministerial Declaration in 2005 (Annex F)⁵, LDCs were granted a new transition period to maintain existing TRIMs for a period of seven years. They were also allowed to introduce new measures for a possible duration of five years. LDCs were given until the end of 2020 to phase out any measure inconsistent with the TRIMs Agreement. Annex F to the Hong Kong Decision requires LDCs to notify any measure that deviates from the obligations under the TRIMs Agreement. Annex F to the Hong Kong Ministerial Declaration provides:

"LDCs shall be allowed to maintain on a temporary basis existing measures that deviate from their obligations under the TRIMs Agreement. For this purpose, LDCs shall notify the Council for Trade in Goods (CTG) of such measures within two years, starting 30 days after the date of this declaration. LDCs will be allowed to maintain these existing measures until the end of a new transition period, lasting seven years. This transition period may be extended by the CTG under the existing procedures set out in the TRIMs Agreement, taking into account the individual financial, trade, and development needs of the Member in question.

LDCs shall also be allowed to introduce new measures that deviate from their obligations under the TRIM

Member of the original seven, Colombia, a waiver of its TRIMs obligations under Article 5.2 for one remaining TRIM in respect of beans, until 31 December 2003.¹⁸

11. On 19 December 2003, Pakistan made a request to the Council for Trade in Goods for a three-year extension of the transition period in which to eliminate its remaining inconsistent TRIMs.¹⁹ At its meeting of 10 March 2006, the Council for Trade in Goods took note of Pakistan's statement that it wished to formally withdraw its request.²⁰

12. A standard format has been adopted for notifications made pursuant to A-5 or A-5 (a)-a