

# WORLD TRADE ORGANIZATION

G/L/860  
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(08-5246)

## REPORT (2008) OF THE COMMITTEE ON TRADE-RELATED INVESTMENT MEASURES

### I. GENERAL

1. This report is submitted pursuant to Article 7.3 of the Agreement on Trade-Related Investment Measures, which requires the Committee on Trade-Related Investment Measures to report annually to the Council for Trade in Goods. The Report covers the period November 2007 – October 2008.<sup>1</sup>

2. The Committee met on 23 October 2008 under the Chairmanship of Mr. Henry Liu (Chinese Taipei). The minutes of this meeting may be found in document G/TRIMS/M/27. The meeting was open to all Members, governments with observer status in the WTO and international intergovernmental organizations to which the Committee has accorded regular observer status (IMF, OECD, UN, UNCTAD and World Bank). Decisions on requests for observer status made by several other international organizations are pending.

### II. NOTIFICATIONS

3. Pursuant to Article 5.1 of the Agreement on Trade-Related Investment Measures, Members were required to notify any trade-related investment measure ("TRIM") inconsistent with the Agreement within 90 days after the entry into force of the WTO Agreement. Article 5.2 of the Agreement allows for transition periods for the elimination of measures notified under Article 5.1 and which were in existence at least 180 days preceding the entry into force of the WTO Agreement. Pursuant to a decision adopted by the General Council in April 1995, governments eligible to become original WTO Members that accepted the WTO Agreement after 1 January 1995 had a period of 90 days after the date of their acceptance of the WTO Agreement to make the notifications foreseen in Article 5.1, with the period for the elimination of TRIMs notified under Article 5.1 being governed by reference to the date of entry into force of the WTO Agreement itself.<sup>2</sup>

4. Annex 1 to this report contains a list of all notifications of measures under Article 5.1.<sup>3</sup> In the case of some Members, notifications have been submitted later than the 90-day period foreseen.

5. Some Members have notified to the Committee that they do not apply any TRIM inconsistent with the Agreement. Annex 2 to this report lists all Members which have made such notifications.

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<sup>1</sup> The annual report for 2007 is contained in document G/L/837 of 9 November 2007.

<sup>2</sup> WT/L/64.

<sup>3</sup> Notifications under Article 5.1 circulated in 1995 have been derestricted since 28 May 1996. Pursuant to the General Council's Decision of 14 May 2002 (WT/L/452), documents containing notifications under Articles 5.1, 5.5 and 6.2 are issued unrestricted.

6. Article 6.2 provides for notification to the Secretariat of publications in which information on TRIMs can be found. Annex 3 lists the Members which have submitted such notifications. During the period covered by this report, notifications were made by the Dominican Republic, Senegal, and Ukraine. The latest updated list of these notifications has been circulated in G/TRIMS/N/2/Rev.17.

### **III. SPECIAL AND DIFFERENTIAL TREATMENT PROPOSALS RELATED TO THE TRIMS AGREEMENT**

7. Pursuant to the Decision adopted by the General Council on 1 August 2004 (WT/L/579) and paragraph 37 of the Hong Kong Ministerial Declaration (WT/MIN(05)/DEC), the TRIMs Committee continued its consideration of the Category II S&D proposals which were referred to it by the Chairman of the General Council. The proposals were originally submitted by the African Group in document TN/CTD/W/3/Rev.2 and relate to Article 4 and Article 5.3 of the TRIMs Agreement. In April 2007, Kenya on behalf of the African Group submitted a revised version of the proposals, which deals more specifically with the concerns of the proponents.<sup>4</sup> In June and October 2007, the Chairman held informal discussions with interested delegations on the revised proposals. These were further discussed at the meeting of the Committee held on 1 November 2007 at which the representative of Kenya said that they were open to listen to any new ideas concerning its proposals, particularly with respect to the drafting, and that the African Group felt that it had gone as far as it could on this issue, unless there were other suggestions by other Members. No further revisions to the draft proposals have been received from the proponents since then.

8. At the meeting of 23 October 2008, the Chairman said that he would be willing to continue his informal consultations on this issue should Members so wish and would report back to the Committee and the General Council at an appropriate time on any further developments.

9. In accordance with paragraph 37 of the Hong Kong Ministerial Declaration, the Chairman of the TRIMs Committee submitted an oral report (18 December 2007)<sup>5</sup> to the General Council on the work undertaken by the Committee with respect to the S&D proposals.

### **IV. OUTSTANDING IMPLEMENTATION ISSUES RELATED TO THE TRIMS AGREEMENT**

10. Pursuant to paragraph 39 of the Hong Kong Ministerial Declaration and at the request of the Director-General to assist him in his consultations on the outstanding implementation issues under Paragraph 12(b) of the Doha Ministerial Declaration, on 2 March 2006, the Deputy Director-General, Ms. Valentine Rugwabiza, held informal consultations with a number of interested delegations to discuss the outstanding implementation issues relating to the TRIMs Agreement as contained in Tirets 37 through 40 of document JOB(01)/152/Rev.1, and in a related proposal submitted by Brazil and India under Tiret 40 (G/TRIMS/W/25) and supplemented by a communication circulated in document JOB(05)/149.

11. In her report to the Director General, Ms. Rugwabiza indicated that significant differences of view remained both on the substance of these issues and on the way to address them and that, in her view, rather than continue consultations at a technical level, political input was needed to explore the possibilities for allowing greater flexibility in Members' positions in respect of these issues. There have been no discussions on this issue since then.

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<sup>4</sup> The latest revised version of the African Group's proposals was annexed to document G/TRIMS/M/26, and is reproduced in Annex 4 to this report.

<sup>5</sup> WT/GC/M/112, paragraph 142.

**V. TRANSITIONAL REVIEW MECHANISM PURSUANT TO PARAGRAPH 18 OF THE PROTOCOL OF ACCESSION OF THE PEOPLE'S REPUBLIC OF CHINA<sup>6</sup>**

12. Pursuant to paragraph 18 of China's Protocol of Accession, the TRIMs Committee carried out the seventh annual review of China's implementation of its commitments under the TRIMs Agreement and related provisions of the Protocol of Accession. Written questions concerning China's Transitional Review were received from the European Communities (G/TRIMS/W/60). In a communication dated 8 October 2008, China submitted information concerning Annex 1A of its Protocol of Accession. This was circulated in document G/TRIMS/W/59. The review took place at the meeting of 23 October 2008. The Report of the Chairman of the Committee on China's seventh Transitional Review was submitted to the Council for Trade in Goods in document G/L/859. The discussions held by the Committee on this item are reflected in the relevant section of the minutes of the meeting (G/TRIMS/M/27).

**VI. ELECTION OF OFFICERS**

13. At its meeting of 23 October 2008, the Committee elected Mr. Henry Liu (Chinese Taipei) as its Chairman for the period 2008-2009.

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<sup>6</sup> WT/L/432.

## ANNEX 1

### Members which have Submitted Notifications under Article 5.1 of the Agreement on Trade-Related Investment Measures

<b><u>Member</u></b>	<b><u>Document Symbol</u></b>	<b><u>Date of Communication</u></b>
Argentina	G/TRIMS/N/1/ARG/1	30 March 1995
Argentina	G/TRIMS/N/1/ARG/1/Add.1	21 March 1997
Barbados	G/TRIMS/N/1/BRB/1	31 March 1995
Bolivia <sup>1</sup>	G/TRIMS/N/1/BOL/1	24 June 1998
Chile <sup>2</sup>	G/TRIMS/N/1/CHL/1	14 December 1995
Colombia	G/TRIMS/N/1/COL/1	31 March 1995
Colombia	G/TRIMS/N/1/COL/1/Add.1	4 June 1995
Colombia <sup>3</sup>	G/TRIMS/N/1/COL/2	31 July 1995
Colombia	G/TRIMS/N/1/COL/2/Corr.1	30 September 1996
Costa Rica <sup>4</sup>	G/TRIMS/N/1/CRI/1	30 March 1995
Cuba <sup>5</sup>	G/TRIMS/N/1/CUB/1	18 July 1995
Cyprus <sup>6</sup>	G/TRIMS/N/1/CYP/2	30 October 1995
Dominican Republic	G/TRIMS/N/1/DOM/1	26 April 1995
Ecuador	G/TRIMS/N/1/ECU/1	20 March 1996
Egypt	G/TRIMS/N/1/EGY/1	29 September 1995
India	G/TRIMS/N/1/IND/1	31 March 1995
India	G/TRIMS/N/1/IND/1/Add.1	22 December 1995
India	G/TRIMS/N/1/IND/1/Add.1/Corr.1	18 March 1996
India	G/TRIMS/N/1/IND/1/Add.2	11 April 1996
Indonesia	G/TRIMS/N/1>IDN/1	23 May 1995
Indonesia	G/TRIMS/N/1>IDN/1/Add.1	28 October 1996

<sup>1</sup> Bolivia subsequently submitted a notification indicating that it does not apply any trade-related investment measures that are not in conformity with the Agreement (G/TRIMS/N/1/BOL/1/Add.1).

<sup>2</sup> Chile subsequently submitted a notification indicating that it has eliminated measures notified under Article 5.1 (G/TRIMS/N/1/CHL/1/Add.1).

<sup>3</sup> Colombia subsequently submitted a notification indicating that it had issued Decree No. 1473 of 10 May 2004, whereby Decree No. 2439 of 1994 establishing import control mechanisms for certain agricultural products had been repealed (G/TRIMS/N/1/COL/3).

<sup>4</sup> Costa Rica subsequently submitted a notification indicating that it intended to eliminate measures notified under Article 5.1 in advance of the expiry of the transition period (G/TRIMS/N/1/CRI/1/Add.1).

<sup>5</sup> Cuba subsequently informed the Committee that the measures notified by Cuba under Article 5.1 are no longer in force (G/TRIMS/M/3, paragraph 5).

<sup>6</sup> This notification superseded Cyprus' previous one (G/TRIMS/N/1/CYP/1) of 29 June 1995; Cyprus subsequently submitted a notification indicating that it has eliminated measures notified under Article 5.1 (G/TRIMS/N/1/CYP/2/Add.1).

<u>Member</u>	<u>Document Symbol</u>	<u>Date of Communication</u>
Malaysia	G/TRIMS/N/1/MYS/1	31 March 1995
Malaysia	G/TRIMS/N/1/MYS/1/Rev.1	14 March 1996
Mexico	G/TRIMS/N/1/MEX/1	31 March 1995
Mexico <sup>7</sup>	G/TRIMS/N/1/MEX/1/Rev.1 <sup>8</sup>	31 March 1995
Nigeria <sup>9</sup>	G/TRIMS/N/1/NGA/1	17 July 1996
Pakistan	G/TRIMS/N/1/PAK/1	30 March 1995
Peru	G/TRIMS/N/1/PER/1	3 March 1995
Philippines	G/TRIMS/N/1/PHL/1	31 March 1995
Poland <sup>10</sup>	G/TRIMS/N/1/POL/1	28 September 1995
Romania	G/TRIMS/N/1/ROM/1	31 March 1995
South Africa	G/TRIMS/N/1/ZAF/1	19 April 1995
Thailand	G/TRIMS/N/1/THA/1	30 March 1995
Uganda	G/TRIMS/N/1/UGA/1	17 June 1997
Uruguay	G/TRIMS/N/1/URY/1	31 March 1995
Uruguay	G/TRIMS/N/1/URY/1/Add.1	30 August 1995
Venezuela	G/TRIMS/N/1/VEN/1	31 March 1995

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<sup>7</sup> Mexico subsequently submitted a notification indicating that all provisions under the Automotive Decree had ceased to be operative as of 1 January 2004 (G/C/42).

<sup>8</sup> In English only.

<sup>9</sup> Nigeria subsequently submitted a notification indicating that the Nigerian Enterprises Promotion Act of 1989 has been repealed and replaced with the Nigerian Investment Promotion Commission Decree 1995 (G/TRIMS/N/1/NGA/1/Add.1).

<sup>10</sup> Poland subsequently submitted a notification indicating that it has eliminated measures notified under Article 5.1 (G/TRIMS/N/1/POL/1/Add.1).

## ANNEX 2

### Notifications Indicating that No TRIMs Inconsistent with the Agreement on Trade-Related Investment Measures are Maintained

<b><u>Member</u></b>	<b><u>Document Symbol</u></b>	<b><u>Date of Communication</u></b>
Bolivia	G/TRIMS/N/1/BOL/1/Add.1	4 March 1999
Costa Rica	G/TRIMS/N/1/CRI/1/Add.1 <sup>1</sup>	16 September 1999
Cyprus	G/TRIMS/N/1/CYP/2/Add.1	26 May 2000
El Salvador	G/TRIMS/N/1/SLV/1	5 November 2003
Haiti	G/TRIMS/N/1/HTI/1	27 February 1998
Honduras	G/TRIMS/N/1/HND/1	7 July 1995
Israel	G/TRIMS/N/1/ISR/1	24 October 1996
Jamaica	G/TRIMS/N/1/JAM/1	9 June 1998
Jordan	G/TRIMS/N/1/JOR/1	22 May 2000
Maldives	G/TRIMS/N/1/MLV/1	30 September 1999
Mali	G/TRIMS/N/1/MLI/1	27 May 1997
Mauritius	G/TRIMS/N/1/MUS/1	27 March 1995
New Zealand	G/TRIMS/N/1/NZL/1	20 May 1999
Nicaragua	G/TRIMS/N/1/NIC/1	18 July 1996
Oman	G/TRIMS/N/1/OMN/1	20 December 2000
Saint Lucia	G/TRIMS/N/1/LCA/1	14 February 1996
Saudi Arabia	G/TRIMS/N/1/SAU/1	3 October 2006
Singapore	G/TRIMS/N/1/SGP/1	9 October 1996
Slovenia	G/TRIMS/N/1/SVN/1	27 March 1995
Sri Lanka	G/TRIMS/N/1/LKA/1	14 March 2000
Switzerland	G/TRIMS/N/1/CHE/1	8 August 1995
Chinese Taipei	G/TRIMS/N/1/TPKM/1	27 May 2002
Trinidad & Tobago	G/TRIMS/N/1/TTO/1	1 April 1996
Zambia	G/TRIMS/N/1/ZMB/1	13 April 1995

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<sup>1</sup> A Corrigendum to the English version was issued in G/TRIMS/N/1/CRI/1/Add.1/Corr.1, dated 26 October 1999.

### ANNEX 3

#### Members which have Submitted Notifications under Article 6.2 of the Agreement on Trade-Related Investment Measures

Albania	Latvia
Angola	Liechtenstein
Argentina	Lithuania
Armenia	Macao, China
Bahrain	Madagascar
Australia	Maldives
Brazil	Mali
Brunei Darussalam	Malta
Bolivia	Mauritius
Bulgaria	Mexico
Burundi	Moldova
Cameroon	Mongolia
Canada	Namibia
Chad	New Zealand
Chile	Nicaragua
China	Nigeria
Colombia	Norway
Costa Rica	Panama
Croatia	Paraguay
Cuba	Peru
Czech Republic	Philippines
Dominica	Poland
Dominican Republic	Qatar
Ecuador	Romania
El Salvador	Senegal
Estonia	Singapore
European Community (including the member States)	Slovak Republic
Fiji Islands, Rep. of the	Slovenia
Gabon	South Africa
Georgia	Sri Lanka
Ghana	Suriname
Haiti	Switzerland
Hong Kong, China	Chinese Taipei
Iceland	Thailand
India	Trinidad and Tobago
Indonesia	Tunisia
Israel	Uganda
Jamaica	Ukraine
Japan	United States
Jordan	Uruguay
Korea	Venezuela, Bolivarian Rep. of
Kuwait	Zambia
Kyrgyz Republic	Zimbabwe

## ANNEX 4

April 2007

### S&D CATEGORY II PROPOSALS ON THE TRIMS AGREEMENT

Revised proposal received from the delegation of Kenya on behalf of the African Group

#### Proposal related to Article 4 of the TRIMs Agreement

Members shall interpret and apply Article 4 of the TRIMs Agreement in accordance with the balance-of-payments provisions referred to in Article 4 of the TRIMs Agreement, and in a manner that fully supports measures taken by developing and least-developed country Members to safeguard their external financial position, balance-of-payments and sufficiency of reserves, taking full account of paragraph 1.1 of the Ministerial Decision on Implementation-Related Issues and Concerns.<sup>1</sup>

Members shall interpret and apply Article 4 of the TRIMs Agreement in accordance with the provisions of Article XVIII of GATT 1994 referred to in Article 4 of the TRIMs Agreement, and in a manner that fully supports measures taken by developing and least-developed country Members to promote the establishment of a particular industry, taking full account of paragraph 1.1 of the Ministerial Decision on Implementation-Related Issues and Concerns.<sup>2</sup>

- In considering requests to apply TRIMs under Article XVIII of the GATT 1994, Members shall take into account any difficulties encountered by least-developed and developing countries in meeting the notification and consultation requirements contained in Article XVIII, paragraphs 14 to 19, and the WTO Secretariat shall accord them such technical assistance and support as they may need in order to prepare their notifications and to carry out those consultations.
- In order to assist **least-developed and other low-income developing** countries whose dependence on primary production is particularly high and whose overall level of industrialisation is particularly low to accelerate their industrialisation process and to diversify the structure of their economies in line with the objective recognized in Article XXXVI:5 of the GATT 1994 and its Ad Note, the phrase "free to deviate temporarily from the provisions of Article 2" that is contained in Article 4 of the TRIMs Agreement shall be understood to refer, in the case of these countries, to a reasonable period of time sufficient to establish the particular industry in question on a competitive footing.

#### Proposal related to Article 5.3 of the TRIMs Agreement

**Further to the Hong Kong Ministerial Decision in favour of least-developed countries on Special and Differential Treatment relating to the Agreement on Trade-Related Investment Measures<sup>3</sup>, other low-income developing countries** that demonstrate difficulties in implementing the provisions of the TRIMs Agreement shall be provided with a new opportunity to notify TRIMs and to request transition periods to eliminate the measures.

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<sup>1</sup> Paragraph 1.1 of the Ministerial Decision on Implementation-Related Issues and Concerns, adopted on 14 November 2001, "reaffirms that Article XVIII of the GATT 1994 is a special and differential treatment provision for developing countries and that recourse to it should be less onerous than to Article XII of the GATT 1994".

<sup>2</sup> Ibid.

<sup>3</sup> WT/MIN(05)/DEC.

With regard to requests made in this area by **least-developed and other low-income developing country** Members under Article IX of the WTO Agreement, account shall be taken of their particular circumstances when setting the terms and conditions, including time-frames, under which transition periods are granted.

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