

WORLD TRADE ORGANIZATION

G/L/1003
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(12-5334)

REPORT (2012) 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 ("TRIMs Agreement"), which requires the Committee on Trade-Related Investment Measures (the "Committee") to report annually to the Council for Trade in Goods. The Report covers the period October 2011 – October 2012.

2. The Committee met formally on 4 May 2012 under the Chairpersonship of Mr. Patrick Van Gheel (Belgium) and on 1 October 2012 under the Chairpersonship of Mr. José Estanislau do Amaral (Brazil). The minutes of these meetings may be found in documents G/TRIMS/M/32 and G/TRIMS/M/33, respectively. Both meetings were 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 TRIMs Agreement, 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 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.¹

4. Annex 1 to this report lists all notifications of measures under Article 5.1. In the case of some Members, notifications have been submitted later than the 90-day period foreseen. At the October meeting of the Committee, the United States indicated that it was looking forward to the Russian Federation's notification under Article 5.1 of the Agreement pursuant to the Timeline for Submission of Notifications contained in Table 38 of the Report on the Working Party on the Accession of the Russian Federation².

¹ WT/L/64.

² WT/ACC/RUS/70.

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

6. Article 6.2 provides for notification of publications in which information on TRIMs can be found. Annex 3 lists the Members that have submitted such notifications. During the period covered by this report, notifications were made by Croatia, Honduras, the Russian Federation and Saudi Arabia, Kingdom of. As agreed by the Committee at its meeting on 20 May 2009, the Secretariat has circulated reminders every six months.³ These reminders contain guidance regarding the requirements of Article 6.2 and its related decision. The reminders also request all Members that had never notified such publications to do so without delay and that all Members that had previously notified to constantly update their notifications, if appropriate, without delay. The latest updated list of notifications has been circulated in document G/TRIMS/N/2/Rev.22.⁴ At the October meeting, the United States welcomed the notification submitted by the Russian Federation pursuant to Article 6.2 of the Agreement.

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 Special and Differential Treatment ("S&D") proposals which were referred to it by the Chairperson of the General Council.

8. The proposals were originally submitted by the African Group in document TN/CTD/W/3/Rev.2 and relate to Articles 4 and 5.3 of the TRIMs Agreement. In April 2007, Kenya on behalf of the African Group submitted a revised version of the proposals dealing more specifically with the concerns of the proponents.⁵ In June and October 2007, the Chairperson 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 these 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 since been received. In accordance with paragraph 37 of the Hong Kong Ministerial Declaration, the Chairperson of the TRIMs Committee submitted an oral report (18 December 2007)⁶ to the General Council on the work undertaken by the Committee with respect to the S&D proposals. At the Committee meetings on 23 October 2008, 16 October 2009⁷, 1 October 2010 and 3 October 2011, no delegation took the floor in this respect.

9. At the Committee meeting held on 1 October 2012, no delegation took the floor with respect to this issue. Like his predecessors, the Chairperson indicated that he had no further developments to report to the General Council and confirmed his willingness to continue informal consultations on this issue should Members so wish and report back to the Committee and the General Council at an appropriate time on any further developments.

³ Reminders for 2012 were circulated in documents G/TRIMS/W/92 and G/TRIMS/W/101.

⁴ Following the circulation of this document, the notification of the Russian Federation was received and circulated in document G/TRIMS/N/2/Rev.22/Add.1.

⁵ The latest revised version of the African Group's proposals was annexed to document G/TRIMS/M/31.

⁶ WT/GC/M/112, paragraph 142.

⁷ Following that meeting, the Chairperson made an oral report to the General Council at its meeting held on 17 December 2009. This report was reflected in document WT/GC/M/124, paragraph 52.

IV. COMMUNICATIONS BY MEMBERS AND RELATED DISCUSSIONS

10. At its meetings in 2012, three new issues were first raised at the May meeting, while three additional new issues were first taken up at the October meeting. At both meetings, the discussion also continued with respect to four other issues previously raised in the Committee.

11. With respect to the three new issues considered in May, the Committee discussed, at the request of the European Union ("EU"), Japan and the United States ("US"), the issue entitled "Argentina – Obligation to Compensate Imports-Exports and/or to Develop Local Facilities in Relation with Imports and Repatriation of Profits Abroad".⁸ The second issue taken up by the Committee was at the request of the EU and the US, and entitled "Brazil – Certain Local Content Provisions in the Telecommunications Sector".⁹ The third issue was considered at the request of the EU and the US and entitled "India – Certain Preferences to Domestically Manufactured Electronic Goods".¹⁰ The discussions pertaining to the second and third issues have continued at the October meeting at the request of Japan and the US with respect to the second issue¹¹ and at the request of the EU, Japan and the US with respect to the third issue.¹²

12. At the October meeting, three additional new issues were discussed. The first was at the request of Australia and the EU and entitled "Brazil – Tax Preferences to Domestically Manufactured Automotive Vehicles".¹³ The second was at the request of the US and entitled "China – Certain Investment Measures Pertaining to the Steel Sector"¹⁴, while the third was at the request of the EU and entitled "Ukraine – Certain Local Content Provisions in the Draft Law No. 10183 "On Amendments to the Law of Ukraine "On Electric Power Industry".¹⁵

13. In addition, the Committee continued at both meetings, at the request of the EU, Japan and the US, the discussion of the issue entitled "India – Mandatory Local Content Requirements in Project Guidelines For Phase 1 (Batch 1 And Batch 2) of the Jawaharlal Nehru National Solar Mission"¹⁶; the issue entitled "Indonesia – Certain Measures Addressing Local Content in Investment in the Telecommunications Sector", at the request of Japan (May meeting) and Japan and the US (October meeting)¹⁷; the issue entitled "Indonesia – Certain Local Content Provisions in the Energy Sector (Mining, Oil and Gas), at the request of Canada, the EU, Japan and the US (May meeting) and the EU, Japan and the US (October meeting)¹⁸; and the issue entitled "Nigeria – Certain Measures Taken in the "Act to Provide for the Development of Nigerian content in the Nigeria Oil and Gas Industry" of April 2010", at the request of the EU and the US.¹⁹

V. DATE OF THE NEXT MEETING

14. The next annual Committee meeting will be held on 4 October 2013.

⁸ Further details could be found in G/TRIMS/M/32.

⁹ G/TRIMS/W/93 and G/TRIMS/W/99.

¹⁰ G/TRIMS/W/94 and G/TRIMS/W/97.

¹¹ G/TRIMS/W/107.

¹² G/TRIMS/W/105.

¹³ G/TRIMS/W/110.

¹⁴ G/TRIMS/W/103.

¹⁵ G/TRIMS/W/109.

¹⁶ G/TRIMS/W/95, G/TRIMS/W/98 and G/TRIMS/W/106.

¹⁷ G/TRIMS/W/86, G/TRIMS/W/96 and G/TRIMS/W/104.

¹⁸ G/TRIMS/W/88, G/TRIMS/W/100 and G/TRIMS/W/108.

¹⁹ G/TRIMS/W/89.

VI. ELECTION OF OFFICERS

15. At its meeting of 4 May 2012, the Committee elected Mr José Estanislau do Amaral (Brazil) as its Chairperson for the period 2012-2013.

ANNEX 1

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

<u>Member</u>	<u>Document Symbol</u>	<u>Date of Communication</u>
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 ¹	G/TRIMS/N/1/BOL/1	24 June 1998
Chile ²	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 ³	G/TRIMS/N/1/COL/2	31 July 1995
Colombia	G/TRIMS/N/1/COL/2/Corr.1	30 September 1996
Costa Rica ⁴	G/TRIMS/N/1/CRI/1	30 March 1995
Cuba ⁵	G/TRIMS/N/1/CUB/1	18 July 1995
Cyprus ⁶	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
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 ⁷	G/TRIMS/N/1/MEX/1/Rev.1 ⁸	31 March 1995

¹ 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).

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

³ 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).

⁴ 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).

⁵ 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).

⁶ 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>
Nigeria ⁹	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 ¹⁰	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

⁷ 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).

⁸ In English only.

⁹ 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).

¹⁰ 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

<u>Member</u>	<u>Document Symbol</u>	<u>Date of Communication</u>
Bolivia	G/TRIMS/N/1/BOL/1/Add.1	4 March 1999
Costa Rica	G/TRIMS/N/1/CRI/1/Add.1 ¹	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/HTL/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

¹ 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 that have Submitted Notifications under Article 6.2 of
the Agreement on Trade-Related Investment Measures**

Albania	Kyrgyz Republic
Angola	Lesotho
Argentina	Liechtenstein
Armenia	Macao, China
Australia	Madagascar
Bahrain, Kingdom of	Malaysia
Bolivia, Plurinational State of	Maldives
Brazil	Mali
Brunei Darussalam	Mauritius
Burkina Faso	Mexico
Burundi	Moldova, Republic of
Cameroon	Mongolia
Canada	Namibia
Chad	New Zealand
Chile	Nicaragua
China	Nigeria
Colombia	Norway
Costa Rica	Oman
Croatia	Panama
Cuba	Paraguay
Dominica	Peru
Dominican Republic	Philippines
Ecuador	Qatar
El Salvador	Russian Federation
European Union (including the member States)	Saudi Arabia, Kingdom of
Fiji	Senegal
Gabon	Singapore
Georgia	South Africa
Ghana	Sri Lanka
Haiti	Suriname
Honduras	Switzerland
Hong Kong, China	Chinese Taipei
Iceland	Thailand
India	Trinidad and Tobago
Indonesia	Tunisia
Israel	Turkey
Jamaica	Uganda
Japan	Ukraine
Jordan	United Arab Emirates
Korea, Republic of	United States of America
Kuwait, the State of	Uruguay
	Venezuela, Bolivarian Republic of
	Zambia
	Zimbabwe