



Treaty Series No. 48 (1996)

# Agreement

Establishing the World Trade Organisation

## Agreement on Trade-Related Investment Measures

Marrakesh, 15 April 1994

[The Agreement came into force on 1 January 1995]

*Presented to Parliament  
by the Secretary of State for Foreign and Commonwealth Affairs  
by Command of Her Majesty  
June 1996*

LONDON : HMSO

£2.50

## MULTILATERAL AGREEMENTS ON TRADE IN GOODS

### *General interpretative note to Annex 1A:*

In the event of conflict between a provision of the General Agreement on Tariffs and Trade 1994 and a provision of another agreement in Annex 1A to the Agreement Establishing the World Trade Organisation<sup>1</sup> (referred to in the agreements in Annex 1A as the "WTO Agreement"), the provision of the other agreement shall prevail to the extent of the conflict.

---

<sup>1</sup>Annex 1A to the Agreement Establishing the World Trade Organisation comprises the following agreements:

General Agreement on Tariffs and Trade 1994, (as defined in the Agreement) including the

- Understanding on the Interpretation of Article II: 1(b)  
of the General Agreement on Tariffs and Trade 1994
- Understanding on the Interpretation of Article XVII  
of the General Agreement on Tariffs and Trade 1994
- Understanding on Balance-of-Payments Provisions  
of the General Agreement on Tariffs and Trade 1994
- Understanding on the Interpretation of Article XXIV  
of the General Agreement on Tariffs and Trade 1994
- Understanding in Respect of Waivers of Obligations under  
the General Agreement on Tariffs and Trade 1994
- Understanding on the Interpretation of Article XXVIII  
of the General Agreement on Tariffs and Trade 1994
- Marrakesh Protocol to the General Agreement on Tariffs  
and Trade 1994.

- Agreement on Agriculture
- Agreement on the Application of Sanitary and Phytosanitary Measures
- Agreement on Textiles and Clothing
- Agreement on Technical Barriers to Trade
- Agreement on Trade-Related Investment Measures
- Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994
- Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994
- Agreement on Preshipment Inspection
- Agreement on Rules of Origin
- Agreement on Import Licensing Procedures
- Agreement on Subsidies and Countervailing Measure
- Agreement on Safeguards

## AGREEMENT ON TRADE-RELATED INVESTMENT MEASURES

*Members,*

*Considering* that Ministers agreed in the Punta del Este Declaration that “Following an examination of the operation of GATT Articles related to the trade restrictive and distorting effects of investment measures, negotiations should elaborate, as appropriate, further provisions that may be necessary to avoid such adverse effects on trade”;

*Desiring* to promote the expansion and progressive liberalisation of world trade and to facilitate investment across international frontiers so as to increase the economic growth of all trading partners, particularly developing country Members, while ensuring free competition;

*Taking into account* the particular trade, development and financial needs of developing country Members, particularly those of the least-developed country Members;

*Recognizing* that certain investment measures can cause trade-restrictive and distorting effects;

Hereby *agree* as follows:

### *Article 1*

#### *Coverage*

This Agreement applies to investment measures related to trade in goods only (referred to in this Agreement as “TRIMs”).

### *Article 2*

#### *National Treatment and Quantitative Restrictions*

1. Without prejudice to other rights and obligations under GATT 1994, no Member shall apply any TRIM that is inconsistent with the provisions of Article III or Article XI of GATT 1994.
2. An illustrative list of TRIMs that are inconsistent with the obligation of national treatment provided for in paragraph 4 of Article III of GATT 1994 and the obligation of general elimination of quantitative restrictions provided for in paragraph 1 of Article XI of GATT 1994 is contained in the Annex to this Agreement.

### *Article 3*

#### *Exceptions*

All exceptions under GATT 1994 shall apply, as appropriate, to the provisions of this Agreement.

## *Article 4*

### *Developing Country Members*

A developing country Member shall be free to deviate temporarily from the provisions of Article 2 to the extent and in such a manner as Article XVIII of GATT 1994, the Understanding on the Balance-of-Payments Provisions of GATT 1994, and the Declaration on Trade Measures Taken for Balance-of-Payments Purposes adopted on 28 November 1979 (BISD 26S/205-209) permit the Member to deviate from the provisions of Articles III and XI of GATT 1994.

## *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.<sup>1</sup>
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. The terms of such a TRIM shall be equivalent in their competitive effect to those applicable to the established enterprises, and it shall be terminated at the same time.

---

<sup>1</sup>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.

## *Article 6*

### *Transparency*

1. Members reaffirm, with respect to TRIMs, their commitment to obligations on transparency and notification in Article X of GATT 1994, in the undertaking on "Notification" contained in the Understanding Regarding Notification, Consultation, Dispute Settlement and Surveillance adopted on 28 November 1979 and in the Ministerial Decision on Notification Procedures adopted on 15 April 1994.
2. Each Member shall notify the Secretariat of the publications in which TRIMs may be found, including those applied by regional and local governments and authorities within their territories.
3. Each Member shall accord sympathetic consideration to requests for information, and afford adequate opportunity for consultation, on any matter arising from this Agreement raised by another Member. In conformity with Article X of GATT 1994 no Member is required to disclose information the disclosure of which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises, public or private.

## *Article 7*

### *Committee on Trade-Related Investment Measures*

1. A Committee on Trade-Related Investment Measures (referred to in this Agreement as the "Committee") is hereby established, and shall be open to all Members. The Committee shall elect its own Chairman and Vice Chairman, and shall meet not less than once a year and otherwise at the request of any Member.
2. The Committee shall carry out responsibilities assigned to it by the Council for Trade in Goods and shall afford Members the opportunity to consult on any matters relating to the operation and implementation of this Agreement.
3. The Committee shall monitor the operation and implementation of this Agreement and shall report thereon annually to the Council for Trade in Goods.

## *Article 8*

### *Consultation and Dispute Settlement*

The provisions of Articles XXII and XXIII of GATT 1994, as elaborated and applied by the Dispute Settlement Understanding, shall apply to consultations and the settlement of disputes under this Agreement.

*Article 9*

*Review by the Council for Trade in Goods*

Not later than five years after the date of entry into force of the WTO Agreement, the Council for Trade in Goods shall review the operation of this Agreement and, as appropriate, propose to the Ministerial Conference amendments to its text. In the course of this review, the Council for Trade in Goods shall consider whether the Agreement should be complemented with provisions on investment policy and competition policy.

## ANNEX

### *Illustrative List*

1. TRIMs that are inconsistent with the obligation of national treatment provided for in paragraph 4 of Article III of GATT 1994 include those which are mandatory or enforceable under domestic law or under administrative rulings, or compliance with which is necessary to obtain an advantage, and which require:

- (a) the purchase or use by an enterprise of products of domestic origin or from any domestic source, whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production; or
- (b) that an enterprise's purchases or use of imported products be limited to an amount related to the volume or value of local products that it exports.

2. TRIMs that are inconsistent with the obligation of general elimination of quantitative restrictions provided for in paragraph 1 of Article XI of GATT 1994 include those which are mandatory or enforceable under domestic law or under administrative rulings, or compliance with which is necessary to obtain an advantage, and which restrict:

- (a) the importation by an enterprise of products used in or related to its local production, generally or to an amount related to the volume or value of local production that it exports;
- (b) the importation by an enterprise of products used in or related to its local production by restricting its access to foreign exchange to an amount related to the foreign exchange inflows attributable to the enterprise; or
- (c) the exportation or sale for export by an enterprise of products, whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production.



Published by HMSO and available from:

**HMSO Publication Centre**

(Mail, fax and telephone orders only)  
PO Box 276, London, SW8 5DT  
Telephone orders 0171-873 9090  
General enquiries 0171-873 0011  
(queuing system in operation for both numbers)  
Fax orders 0171-873 8200

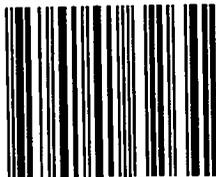
**HMSO Bookshops**

49 High Holborn, London, WC1V 6HB  
(counter service only)  
0171-873 0011 Fax 0171-831 1326  
68-69 Bull Street, Birmingham B4 6AD  
0121-236 9696 Fax 0121-236 9699  
33 Wine Street, Bristol, BS1 2BQ  
0117 9264306 Fax 0117 9294515  
9-21 Princess Street, Manchester, M60 8AS  
0161-834 7201 Fax 0161-833 0634  
16 Arthur Street, Belfast, BT1 4GD  
01232 238451 Fax 01232 235401  
71 Lothian Road, Edinburgh, EH3 9AZ  
0131-228 4181 Fax 0131-229 2734  
The HMSO Oriel Bookshop  
The Friary, Cardiff CF1 4AA  
01222 395548 Fax 01222 384347

**HMSO'S Accredited Agents**  
(see Yellow Pages)

*(and through good booksellers)*

ISBN 0-10-132642



9 780101 32642