

# The text of the TRIPS Agreement

## URUGUAY ROUND AGREEMENT

- **Marrakesh Declaration of 15 April 1994**
- Paris Convention for the Protection of Industrial Property
- Berne Convention for the Protection of Literary and Artistic Works
- Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations
- Washington Treaty on Intellectual Property in Respect of Integrated Circuits (not yet in force\*)

## **Marrakesh Declaration of 15 April 1994**

1. Ministers salute the historic achievement represented by the conclusion of the Round, which they believe will strengthen the world economy and lead to more trade, investment, employment and income growth throughout the world. In particular, they welcome:

- the stronger and clearer legal framework they have adopted for the conduct of international trade, including a more effective and reliable dispute settlement mechanism,
- the global reduction by 40 per cent of tariffs and wider market-opening agreements on goods, and the increased predictability and security represented by a major expansion in the scope of tariff commitments, and
- the establishment of a multilateral framework of disciplines for trade in services and for the protection of trade-related intellectual property rights, as well as the reinforced multilateral trade provisions in agriculture and in textiles and clothing.

2. Ministers affirm that the establishment of the World Trade Organization (WTO) ushers in a new era of global economic cooperation, reflecting the widespread

desire to operate in a fairer and more open multilateral trading system for the benefit and welfare of their peoples. Ministers express their determination to resist protectionist pressures of all kinds. They believe that the trade liberalization and strengthened rules achieved in the Uruguay Round will lead to a progressively more open world trading environment. Ministers undertake, with immediate effect and until the entry into force of the WTO, not to take any trade measures that would undermine or adversely affect the results of the Uruguay Round negotiations or their implementation.

3. Ministers confirm their resolution to strive for greater global coherence of policies in the fields of trade, money and finance, including cooperation between the WTO, the IMF and the World Bank for that purpose.
4. Ministers welcome the fact that participation in the Uruguay Round was considerably wider than in any previous multilateral trade negotiation and, in particular, that developing countries played a notably active rôle in it. This has marked a historic step towards a more balanced and integrated global trade partnership. Ministers note that during the period these negotiations were underway significant measures of economic reform and autonomous trade liberalization were implemented in many developing countries and formerly centrally planned economies.
5. Ministers recall that the results of the negotiations embody provisions conferring differential and more favourable treatment for developing economies, including special attention to the particular situation of least-developed countries. Ministers recognize the importance of the implementation of these provisions for the leastdeveloped countries and declare their intention to continue to assist and facilitate the expansion of their trade and investment opportunities. They agree to keep under regular review by the Ministerial Conference and the appropriate organs of the WTO the impact of the results of the Round on the least-developed countries as well as on the net food-importing developing countries, with a view

to fostering positive measures to enable them to achieve their development objectives. Ministers recognize the need for strengthening the capability of the GATT and the WTO to provide increased technical assistance in their areas of competence, and in particular to substantially expand its provision to the least-developed countries.

6. Ministers declare that their signature of the “Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations” and their adoption of associated Ministerial Decisions initiates the transition from the GATT to the WTO. They have in particular established a Preparatory Committee to lay the ground for the entry into force of the WTO Agreement and commit themselves to seek to complete all steps necessary to ratify the WTO Agreement so that it can enter into force by 1 January 1995 or as early as possible thereafter. Ministers have furthermore adopted a Decision on Trade and Environment.
7. Ministers express their sincere gratitude to His Majesty King Hassan II for his personal contribution to the success of this Ministerial Meeting, and to his Government and the people of Morocco for their warm hospitality and the excellent organization they have provided. The fact that this final Ministerial Meeting of the Uruguay Round has been held at Marrakesh is an additional manifestation of Morocco's commitment to an open world trading system and to its fullest integration to the global economy.
8. With the adoption and signature of the Final Act and the opening for acceptance of the WTO Agreement, Ministers declare the work of the Trade Negotiations Committee to be complete and the Uruguay Round formally concluded.

## **Final Act embodying the results of the Uruguay Round of Multilateral Trade Negotiations**

1. Having met in order to conclude the Uruguay Round of Multilateral Trade Negotiations, representatives of the governments and of the European Communities, members of the Trade Negotiations Committee, *agree* that the Agreement Establishing the World Trade Organization (referred to in this Final Act as the “WTO Agreement”), the Ministerial Declarations and Decisions, and the Understanding on Commitments in Financial Services, as annexed hereto, embody the results of their negotiations and form an integral part of this Final Act.
2. By signing the present Final Act, the representatives *agree*:
  - (a) to submit, as appropriate, the WTO Agreement for the consideration of their respective competent authorities with a view to seeking approval of the Agreement in accordance with their procedures; and
  - (b) to adopt the Ministerial Declarations and Decisions.
3. The representatives *agree* on the desirability of acceptance of the WTO Agreement by all participants in the Uruguay Round of Multilateral Trade Negotiations (hereinafter referred to as “participants”) with a view to its entry into force by 1 January 1995, or as early as possible thereafter. Not later than late 1994, Ministers will meet, in accordance with the final paragraph of the Punta del Este Ministerial Declaration, to decide on the international implementation of the results, including the timing of their entry into force.
4. The representatives *agree* that the WTO Agreement shall be open for acceptance as a whole, by signature or otherwise, by all participants pursuant to Article XIV thereof. The acceptance and entry into force of a Plurilateral Trade Agreement included in Annex 4 of the WTO Agreement shall be governed by the provisions of that Plurilateral Trade Agreement.

5. Before accepting the WTO Agreement, participants which are not contracting parties to the General Agreement on Tariffs and Trade must first have concluded negotiations for their accession to the General Agreement and become contracting parties thereto. For participants which are not contracting parties to the General Agreement as of the date of the Final Act, the Schedules are not definitive and shall be subsequently completed for the purpose of their accession to the General Agreement and acceptance of the WTO Agreement.
6. This Final Act and the texts annexed hereto shall be deposited with the Director-General to the CONTRACTING PARTIES to the General Agreement on Tariffs and Trade who shall promptly furnish to each participant a certified copy thereof.

Done at Marrakesh this fifteenth day of April one thousand nine hundred and ninety-four, in a single copy, in the English, French and Spanish languages, each text being authentic.

### **Marrakesh Agreement Establishing the World Trade Organization**

The *Parties* to this Agreement,

**Recognizing** that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development,

**Recognizing** further that there is need for positive efforts designed to ensure that developing countries, and especially the least developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development,

**Being desirous** of contributing to these objectives by entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international trade relations,

**Resolved**, therefore, to develop an integrated, more viable and durable multilateral trading system encompassing the General Agreement on Tariffs and Trade, the results of past trade liberalization efforts, and all of the results of the Uruguay Round of Multilateral Trade Negotiations,

**Determined** to preserve the basic principles and to further the objectives underlying this multilateral trading system,

Agree as follows:

## **Article I**

### **Establishment of the Organization**

The World Trade Organization (hereinafter referred to as “the WTO”) is hereby established.

## **Article II**

### **Scope of the WTO**

1. The WTO shall provide the common institutional framework for the conduct of trade relations among its Members in matters related to the agreements and associated legal instruments included in the Annexes to this Agreement.
2. The agreements and associated legal instruments included in Annexes 1, 2 and 3 (hereinafter referred to as “Multilateral Trade Agreements”) are integral parts of this Agreement, binding on all Members.
3. The agreements and associated legal instruments included in Annex 4 (hereinafter referred to as “Plurilateral Trade Agreements”) are also part of this Agreement for those Members that have accepted them, and are binding on those Members. The Plurilateral

Trade Agreements do not create either obligations or rights for Members that have not accepted them.

4. The General Agreement on Tariffs and Trade 1994 as specified in Annex 1A (hereinafter referred to as “GATT 1994”) is legally distinct from the General Agreement on Tariffs and Trade, dated 30 October 1947, annexed to the Final Act Adopted at the Conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment, as subsequently rectified, amended or modified (hereinafter referred to as “GATT 1947”).

### **Article III**

#### **Functions of the WTO**

1. The WTO shall facilitate the implementation, administration and operation, and further the objectives, of this Agreement and of the Multilateral Trade Agreements, and shall also provide the framework for the implementation, administration and operation of the Plurilateral Trade Agreements.

2. The WTO shall provide the forum for negotiations among its Members concerning their multilateral trade relations in matters dealt with under the agreements in the Annexes to this Agreement. The WTO may also provide a forum for further negotiations among its Members concerning their multilateral trade relations, and a framework for the implementation of the results of such negotiations, as may be decided by the Ministerial Conference.

3. The WTO shall administer the Understanding on Rules and Procedures Governing the Settlement of Disputes (hereinafter referred to as the “Dispute Settlement Understanding” or “DSU”) in Annex 2 to this Agreement.

4. The WTO shall administer the Trade Policy Review Mechanism (hereinafter referred to as the “TPRM”) provided for in Annex 3 to this Agreement.

5. With a view to achieving greater coherence in global economic policy-making, the WTO shall cooperate, as appropriate, with the International Monetary Fund and with the International Bank for Reconstruction and Development and its affiliated agencies.

#### **Article IV**

##### **Structure of the WTO**

1. There shall be a Ministerial Conference composed of representatives of all the Members, which shall meet at least once every two years. The Ministerial Conference shall carry out the functions of the WTO and take actions necessary to this effect. The Ministerial Conference shall have the authority to take decisions on all matters under any of the Multilateral Trade Agreements, if so requested by a Member, in accordance with the specific requirements for decision-making in this Agreement and in the relevant Multilateral Trade Agreement.

2. There shall be a General Council composed of representatives of all the Members, which shall meet as appropriate. In the intervals between meetings of the Ministerial Conference, its functions shall be conducted by the General Council. The General Council shall also carry out the functions assigned to it by this Agreement. The General Council shall establish its rules of procedure and approve the rules of procedure for the Committees provided for in paragraph 7.

3. The General Council shall convene as appropriate to discharge the responsibilities of the Dispute Settlement Body provided for in the Dispute Settlement Understanding. The Dispute Settlement Body may have its own chairman and shall establish such rules of procedure as it deems necessary for the fulfilment of those responsibilities.

4. The General Council shall convene as appropriate to discharge the responsibilities of the Trade Policy Review Body provided for in the TPRM. The Trade Policy Review Body may have its own chairman and shall establish such rules of procedure as it deems necessary for the fulfilment of those responsibilities.

5. There shall be a Council for Trade in Goods, a Council for Trade in Services and a Council for Trade-Related Aspects of Intellectual Property Rights (hereinafter referred to as the “Council for TRIPS”), which shall operate under the general guidance of the General Council. The Council for Trade in Goods shall oversee the functioning of the Multilateral Trade Agreements in Annex 1A. The Council for Trade in Services shall oversee the functioning of the General Agreement on Trade in Services (hereinafter referred to as “GATS”). The Council for TRIPS shall oversee the functioning of the Agreement on Trade-Related Aspects of Intellectual Property Rights (hereinafter referred to as the “Agreement on TRIPS”). These Councils shall carry out the functions assigned to them by their respective agreements and by the General Council. They shall establish their respective rules of procedure subject to the approval of the General Council. Membership in these Councils shall be open to representatives of all Members. These Councils shall meet as necessary to carry out their functions.

6. The Council for Trade in Goods, the Council for Trade in Services and the Council for TRIPS shall establish subsidiary bodies as required. These subsidiary bodies shall establish their respective rules of procedure subject to the approval of their respective Councils.

7. The Ministerial Conference shall establish a Committee on Trade and Development, a Committee on Balance-of-Payments Restrictions and a Committee on Budget, Finance and Administration, which shall carry out the functions assigned to them by this Agreement and by the Multilateral Trade Agreements, and any additional functions assigned to them by the General Council, and may establish such additional Committees with such functions as it may deem appropriate. As part of its functions, the Committee on Trade and Development shall periodically review the special provisions in the Multilateral Trade Agreements in favour of the least-developed country Members and report to the General Council for appropriate action. Membership in these Committees shall be open to representatives of all Members.

8. The bodies provided for under the Plurilateral Trade Agreements shall carry out the functions assigned to them under those Agreements and shall operate within the

institutional framework of the WTO. These bodies shall keep the General Council informed of their activities on a regular basis.

## **Article V**

### **Relations with Other Organizations**

1. The General Council shall make appropriate arrangements for effective cooperation with other intergovernmental organizations that have responsibilities related to those of the WTO.
2. The General Council may make appropriate arrangements for consultation and cooperation with non-governmental organizations concerned with matters related to those of the WTO.

## **Article VI**

### **The Secretariat**

1. There shall be a Secretariat of the WTO (hereinafter referred to as “the Secretariat”) headed by a Director-General.
2. The Ministerial Conference shall appoint the Director-General and adopt regulations setting out the powers, duties, conditions of service and term of office of the Director-General.
3. The Director-General shall appoint the members of the staff of the Secretariat and determine their duties and conditions of service in accordance with regulations adopted by the Ministerial Conference.
4. The responsibilities of the Director-General and of the staff of the Secretariat shall be exclusively international in character. In the discharge of their duties, the Director-General and the staff of the Secretariat shall not seek or accept instructions from any government or any other authority external to the WTO. They shall refrain from any action which might adversely reflect on their position as international officials. The Members of the WTO shall respect the international character of the responsibilities of

the Director-General and of the staff of the Secretariat and shall not seek to influence them in the discharge of their duties.

## **Article VII**

### **Budget and Contributions**

1. The Director-General shall present to the Committee on Budget, Finance and Administration the annual budget estimate and financial statement of the WTO. The Committee on Budget, Finance and Administration shall review the annual budget estimate and the financial statement presented by the Director-General and make recommendations thereon to the General Council. The annual budget estimate shall be subject to approval by the General Council.

2. The Committee on Budget, Finance and Administration shall propose to the General Council financial regulations which shall include provisions setting out:

- (a) the scale of contributions apportioning the expenses of the WTO among its Members; and
- (b) the measures to be taken in respect of Members in arrears.

The financial regulations shall be based, as far as practicable, on the regulations and practices of GATT 1947.

- 3. The General Council shall adopt the financial regulations and the annual budget estimate by a two-thirds majority comprising more than half of the Members of the WTO.
- 4. Each Member shall promptly contribute to the WTO its share in the expenses of the WTO in accordance with the financial regulations adopted by the General Council.

## **Article VIII**

### **Status of the WTO**

1. The WTO shall have legal personality, and shall be accorded by each of its Members such legal capacity as may be necessary for the exercise of its functions.
2. The WTO shall be accorded by each of its Members such privileges and immunities as are necessary for the exercise of its functions.
3. The officials of the WTO and the representatives of the Members shall similarly be accorded by each of its Members such privileges and immunities as are necessary for the independent exercise of their functions in connection with the WTO.
4. The privileges and immunities to be accorded by a Member to the WTO, its officials, and the representatives of its Members shall be similar to the privileges and immunities stipulated in the Convention on the Privileges and Immunities of the Specialized Agencies, approved by the General Assembly of the United Nations on 21 November 1947.
5. The WTO may conclude a headquarters agreement.

## **Article IX**

### **Decision-Making**

1. The WTO shall continue the practice of decision-making by consensus followed under GATT 1947(1). Except as otherwise provided, where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting. At meetings of the Ministerial Conference and the General Council, each Member of the WTO shall have one vote. Where the European Communities exercise their right to vote, they shall have a number of votes

equal to the number of their member States<sup>(2)</sup> which are Members of the WTO. Decisions of the Ministerial Conference and the General Council shall be taken by a majority of the votes cast, unless otherwise provided in this Agreement or in the relevant Multilateral Trade Agreement<sup>(3)</sup>.

2. The Ministerial Conference and the General Council shall have the exclusive authority to adopt interpretations of this Agreement and of the Multilateral Trade Agreements. In the case of an interpretation of a Multilateral Trade Agreement in Annex 1, they shall exercise their authority on the basis of a recommendation by the Council overseeing the functioning of that Agreement. The decision to adopt an interpretation shall be taken by a three-fourths majority of the Members. This paragraph shall not be used in a manner that would undermine the amendment provisions in Article X.
3. In exceptional circumstances, the Ministerial Conference may decide to waive an obligation imposed on a Member by this Agreement or any of the Multilateral Trade Agreements, provided that any such decision shall be taken by three fourths <sup>(4)</sup> of the Members unless otherwise provided for in this paragraph.
  - (a) A request for a waiver concerning this Agreement shall be submitted to the Ministerial Conference for consideration pursuant to the practice of decision-making by consensus. The Ministerial Conference shall establish a time-period, which shall not exceed 90 days, to consider the request. If consensus is not reached during the time-period, any decision to grant a waiver shall be taken by three fourths<sup>4</sup> of the Members.
  - (b) A request for a waiver concerning the Multilateral Trade Agreements in Annexes 1A or 1B or 1C and their annexes shall be submitted initially to the Council for Trade in Goods, the Council for Trade in Services or the Council for TRIPS, respectively, for consideration during a time-

period which shall not exceed 90 days. At the end of the time-period, the relevant Council shall submit a report to the Ministerial Conference.

4. A decision by the Ministerial Conference granting a waiver shall state the exceptional circumstances justifying the decision, the terms and conditions governing the application of the waiver, and the date on which the waiver shall terminate. Any waiver granted for a period of more than one year shall be reviewed by the Ministerial Conference not later than one year after it is granted, and thereafter annually until the waiver terminates. In each review, the Ministerial Conference shall examine whether the exceptional circumstances justifying the waiver still exist and whether the terms and conditions attached to the waiver have been met. The Ministerial Conference, on the basis of the annual review, may extend, modify or terminate the waiver.
5. Decisions under a Plurilateral Trade Agreement, including any decisions on interpretations and waivers, shall be governed by the provisions of that Agreement.

## **Article X**

### **Amendments**

1. Any Member of the WTO may initiate a proposal to amend the provisions of this Agreement or the Multilateral Trade Agreements in Annex 1 by submitting such proposal to the Ministerial Conference. The Councils listed in paragraph 5 of Article IV may also submit to the Ministerial Conference proposals to amend the provisions of the corresponding Multilateral Trade Agreements in Annex 1 the functioning of which they oversee. Unless the Ministerial Conference decides on a longer period, for a period of 90 days after the proposal has been tabled formally at the Ministerial Conference any decision by the Ministerial Conference to submit the proposed amendment to the Members for acceptance shall be taken by consensus. Unless the provisions of paragraphs 2, 5 or 6 apply, that decision shall specify whether the provisions

of paragraphs 3 or 4 shall apply. If consensus is reached, the Ministerial Conference shall forthwith submit the proposed amendment to the Members for acceptance. If consensus is not reached at a meeting of the Ministerial Conference within the established period, the Ministerial Conference shall decide by a two-thirds majority of the Members whether to submit the proposed amendment to the Members for acceptance. Except as provided in paragraphs 2, 5 and 6, the provisions of paragraph 3 shall apply to the proposed amendment, unless the Ministerial Conference decides by a three-fourths majority of the Members that the provisions of paragraph 4 shall apply.

2. Amendments to the provisions of this Article and to the provisions of the following Articles shall take effect only upon acceptance by all Members:

Article IX of this Agreement;

Articles I and II of GATT 1994;

Article II:1 of GATS;

Article 4 of the Agreement on TRIPS.

3. Amendments to provisions of this Agreement, or of the Multilateral Trade Agreements in Annexes 1A and 1C, other than those listed in paragraphs 2 and 6, of a nature that would alter the rights and obligations of the Members, shall take effect for the Members that have accepted them upon acceptance by two thirds of the Members and thereafter for each other Member upon acceptance by it. The Ministerial Conference may decide by a three-fourths majority of the Members that any amendment made effective under this paragraph is of such a nature that any Member which has not accepted it within a period specified by the Ministerial Conference in each case shall be free to withdraw from the WTO or to remain a Member with the consent of the Ministerial Conference.
4. Amendments to provisions of this Agreement or of the Multilateral Trade Agreements in Annexes 1A and 1C, other than those listed in paragraphs 2 and

6, of a nature that would not alter the rights and obligations of the Members, shall take effect for all Members upon acceptance by two thirds of the Members.

5. Except as provided in paragraph 2 above, amendments to Parts I, II and III of GATS and the respective annexes shall take effect for the Members that have accepted them upon acceptance by two thirds of the Members and thereafter for each Member upon acceptance by it. The Ministerial Conference may decide by a three-fourths majority of the Members that any amendment made effective under the preceding provision is of such a nature that any Member which has not accepted it within a period specified by the Ministerial Conference in each case shall be free to withdraw from the WTO or to remain a Member with the consent of the Ministerial Conference. Amendments to Parts IV, V and VI of GATS and the respective annexes shall take effect for all Members upon acceptance by two thirds of the Members.
6. Notwithstanding the other provisions of this Article, amendments to the Agreement on TRIPS meeting the requirements of paragraph 2 of Article 71 thereof may be adopted by the Ministerial Conference without further formal acceptance process.
7. Any Member accepting an amendment to this Agreement or to a Multilateral Trade Agreement in Annex 1 shall deposit an instrument of acceptance with the Director-General of the WTO within the period of acceptance specified by the Ministerial Conference.
8. Any Member of the WTO may initiate a proposal to amend the provisions of the Multilateral Trade Agreements in Annexes 2 and 3 by submitting such proposal to the Ministerial Conference. The decision to approve amendments to the Multilateral Trade Agreement in Annex 2 shall be made by consensus and these amendments shall take effect for all Members upon approval by the

Ministerial Conference. Decisions to approve amendments to the Multilateral Trade Agreement in Annex 3 shall take effect for all Members upon approval by the Ministerial Conference.

9. The Ministerial Conference, upon the request of the Members parties to a trade agreement, may decide exclusively by consensus to add that agreement to Annex 4. The Ministerial Conference, upon the request of the Members parties to a Plurilateral Trade Agreement, may decide to delete that Agreement from Annex 4.
10. Amendments to a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement.

## **Article XI**

### **Original Membership**

1. The contracting parties to GATT 1947 as of the date of entry into force of this Agreement, and the European Communities, which accept this Agreement and the Multilateral Trade Agreements and for which Schedules of Concessions and Commitments are annexed to GATT 1994 and for which Schedules of Specific Commitments are annexed to GATS shall become original Members of the WTO.
2. The least-developed countries recognized as such by the United Nations will only be required to undertake commitments and concessions to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities.

## **Article XII**

### **Accession**

1. Any State or separate customs territory possessing full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement and the Multilateral Trade Agreements may accede to this Agreement, on terms to be agreed between it and the WTO. Such accession shall apply to this Agreement and the Multilateral Trade Agreements annexed thereto.
2. Decisions on accession shall be taken by the Ministerial Conference. The Ministerial Conference shall approve the agreement on the terms of accession by a two-thirds majority of the Members of the WTO.
3. Accession to a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement.

## **Article XIII**

### **Non-Application of Multilateral Trade Agreements between Particular Members**

1. This Agreement and the Multilateral Trade Agreements in Annexes 1 and 2 shall not apply as between any Member and any other Member if either of the Members, at the time either becomes a Member, does not consent to such application.
2. Paragraph 1 may be invoked between original Members of the WTO which were contracting parties to GATT 1947 only where Article XXXV of that Agreement had been invoked earlier and was effective as between those contracting parties at the time of entry into force for them of this Agreement.
3. Paragraph 1 shall apply between a Member and another Member which has acceded under Article XII only if the Member not consenting to the application has so notified the Ministerial Conference before the approval of the agreement on the terms of accession by the Ministerial Conference.

4. The Ministerial Conference may review the operation of this Article in particular cases at the request of any Member and make appropriate recommendations.
5. Non-application of a Plurilateral Trade Agreement between parties to that Agreement shall be governed by the provisions of that Agreement.

#### **Article XIV**

##### **Acceptance, Entry into Force and Deposit**

1. This Agreement shall be open for acceptance, by signature or otherwise, by contracting parties to GATT 1947, and the European Communities, which are eligible to become original Members of the WTO in accordance with Article XI of this Agreement. Such acceptance shall apply to this Agreement and the Multilateral Trade Agreements annexed hereto. This Agreement and the Multilateral Trade Agreements annexed hereto shall enter into force on the date determined by Ministers in accordance with paragraph 3 of the Final Act Embodying the Results of the Uruguay Round of Multilateral Trade Negotiations and shall remain open for acceptance for a period of two years following that date unless the Ministers decide otherwise. An acceptance following the entry into force of this Agreement shall enter into force on the 30th day following the date of such acceptance.
2. A Member which accepts this Agreement after its entry into force shall implement those concessions and obligations in the Multilateral Trade Agreements that are to be implemented over a period of time starting with the entry into force of this Agreement as if it had accepted this Agreement on the date of its entry into force.
3. Until the entry into force of this Agreement, the text of this Agreement and the Multilateral Trade Agreements shall be deposited with the Director-General to the CONTRACTING PARTIES to GATT 1947. The Director-General shall

promptly furnish a certified true copy of this Agreement and the Multilateral Trade Agreements, and a notification of each acceptance thereof, to each government and the European Communities having accepted this Agreement. This Agreement and the Multilateral Trade Agreements, and any amendments thereto, shall, upon the entry into force of this Agreement, be deposited with the Director-General of the WTO.

4. The acceptance and entry into force of a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement. Such Agreements shall be deposited with the Director-General to the CONTRACTING PARTIES to GATT 1947. Upon the entry into force of this Agreement, such Agreements shall be deposited with the Director-General of the WTO.

## **Article XV**

### **Withdrawal**

1. Any Member may withdraw from this Agreement. Such withdrawal shall apply both to this Agreement and the Multilateral Trade Agreements and shall take effect upon the expiration of six months from the date on which written notice of withdrawal is received by the Director-General of the WTO.
2. Withdrawal from a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement.

## **Article XVI**

### **Miscellaneous Provisions**

1. Except as otherwise provided under this Agreement or the Multilateral Trade Agreements, the WTO shall be guided by the decisions, procedures and customary practices followed by the CONTRACTING PARTIES to GATT 1947 and the bodies established in the framework of GATT 1947.

2. To the extent practicable, the Secretariat of GATT 1947 shall become the Secretariat of the WTO, and the Director-General to the CONTRACTING PARTIES to GATT 1947, until such time as the Ministerial Conference has appointed a Director-General in accordance with paragraph 2 of Article VI of this Agreement, shall serve as Director-General of the WTO.
3. In the event of a conflict between a provision of this Agreement and a provision of any of the Multilateral Trade Agreements, the provision of this Agreement shall prevail to the extent of the conflict.
4. Each Member shall ensure the conformity of its laws, regulations and administrative procedures with its obligations as provided in the annexed Agreements.
5. No reservations may be made in respect of any provision of this Agreement. Reservations in respect of any of the provisions of the Multilateral Trade Agreements may only be made to the extent provided for in those Agreements. Reservations in respect of a provision of a Plurilateral Trade Agreement shall be governed by the provisions of that Agreement.
6. This Agreement shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

DONE at Marrakesh this fifteenth day of April one thousand nine hundred and ninety-four, in a single copy, in the English, French and Spanish languages, each text being authentic.

**Explanatory Notes:**

The terms “country” or “countries” as used in this Agreement and the Multilateral Trade Agreements are to be understood to include any separate customs territory Member of the WTO.

In the case of a separate customs territory Member of the WTO, where an expression in this Agreement and the Multilateral Trade Agreements is qualified by the term “national”, such expression shall be read as pertaining to that customs territory, unless otherwise specified.

## **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 Organization (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.

Other intellectual property conventions that the TRIPS Agreement refers to:  
The Paris Convention, Berne Convention, Rome Convention, and treaty on integrated circuits.

## **Paris Convention for the Protection of Industrial Property**

### **Treaty**

[Full text of the Paris Convention](#)

[In PDF](#)

### **Summary of the Paris Convention for the Protection of Industrial Property (1883)**

The Convention applies to industrial property in the widest sense, including patents, marks, industrial designs, utility models (a kind of “small patent” provided for by the laws of some countries), trade names (designations under which an industrial or commercial activity is carried on), geographical indications (indications of source and appellations of origin) and the repression of unfair competition.

The substantive provisions of the Convention fall into three main categories: national treatment, right of priority, common rules.

- (1) Under the provisions on national treatment, the Convention provides that, as regards the protection of industrial property, each contracting State must grant the same protection to nationals of the other contracting States as it grants to its own nationals. Nationals of non-contracting States are also entitled to national treatment under the Convention if they are domiciled or have a real and effective industrial or commercial establishment in a contracting State.
  
- (2) The Convention provides for the right of priority in the case of patents (and utility models, where they exist), marks and industrial designs. This right means that, on the basis of a regular first application filed in one of the contracting States, the applicant may, within a certain period of time (12 months for patents and utility models; 6 months for industrial designs and marks), apply for protection in any of the other contracting States; these later applications will then be regarded as if they had been filed on the same day as the first application. In other words, these later applications will have priority (hence the expression “right of priority”) over applications which may have been filed during the said period of time by other persons for the same invention, utility model, mark or industrial design. Moreover, these later applications, being based on the first application, will not be affected by any event that may have taken place in the interval, such as any publication of the invention or sale of articles bearing the mark or incorporating the industrial design. One of the great practical advantages of this provision is that, when an applicant desires protection in several countries, he is not required to present all his applications at the same time but has six or 12 months at his disposal to decide in which countries he wishes protection and to organize with due care the steps he must take to secure protection.

(3) The Convention lays down a few common rules which all the contracting States must follow. The more important are the following:

- (a) As to Patents: Patents granted in different contracting States for the same invention are independent of each other: the granting of a patent in one contracting State does not oblige the other contracting States to grant a patent; a patent cannot be refused, annulled or terminated in any contracting State on the ground that it has been refused or annulled or has terminated in any other contracting State.

The inventor has the right to be named as such in the patent.

The grant of a patent may not be refused, and a patent may not be invalidated, on the ground that the sale of the patented product, or of a product obtained by means of the patented process, is subject to restrictions or limitations resulting from the domestic law.

Each contracting State that takes legislative measures providing for the grant of compulsory licenses to prevent the abuses which might result from the exclusive rights conferred by a patent may do so only with certain limitations. Thus, a compulsory license (license not granted by the owner of the patent but by a public authority of the State concerned) based on failure to work the patented invention may only be granted pursuant to a request filed after three or four years of failure to work or insufficient working of the patented invention and it must be refused if the patentee gives legitimate reasons to justify his inaction. Furthermore, forfeiture of a patent may not be provided for, except in cases where the grant of a compulsory license would not have been sufficient to prevent the abuse. In the latter case, proceedings for forfeiture of a patent may be instituted, but only after the expiration of two years from the grant of the first compulsory license.

- (b) As to Marks: The Paris Convention does not regulate the conditions for the filing and registration of marks which are therefore determined in each contracting State by the domestic law. Consequently, no application for the registration of a mark filed by a national of a

contracting State may be refused, nor may a registration be invalidated, on the ground that filing, registration or renewal has not been effected in the country of origin. Once the registration of a mark is obtained in a contracting State, it is independent of its possible registration in any other country, including the country of origin; consequently, the lapse or annulment of the registration of a mark in one contracting State will not affect the validity of registration in other contracting States.

Where a mark has been duly registered in the country of origin, it must, on request, be accepted for filing and protected in its original form in the other contracting States. Nevertheless, registration may be refused in well-defined cases, such as when the mark would infringe acquired rights of third parties, when it is devoid of distinctive character, when it is contrary to morality or public order, or when it is of such a nature as to be liable to deceive the public.

If, in any contracting State, the use of a registered mark is compulsory, the registration cannot be canceled until after a reasonable period, and only if the owner cannot justify his inaction.

Each contracting State must refuse registration and prohibit the use of marks which constitute a reproduction, imitation or translation, liable to create confusion, of a mark considered by the competent authority of that State to be well known in that State as being already the mark of a person entitled to the benefits of the Convention and used for identical or similar goods.

Each contracting State must likewise refuse registration and prohibit the use of marks which consist of or contain without authorization, armorial bearings, State emblems and official signs and hallmarks of contracting states, provided they have been communicated through the International Bureau of WIPO. The same provisions apply to armorial bearings, flags, other emblems, abbreviations and names of certain intergovernmental organizations.

Collective marks must be granted protection.

- (c) As to Industrial Designs: Industrial designs must be protected in each contracting State, and protection may not be forfeited on the ground that the articles incorporating the design are not manufactured in that State.
- (d) As to Trade Names: Protection must be granted to trade names in each contracting State without the obligation of filing or registration.
- (e) (e) As to Indications of Source: Measures must be taken by each contracting State against direct or indirect use of a false indication of the source of the goods or the identity of the producer, manufacturer or trader.
- (f) As to Unfair Competition: Each contracting State must provide for effective protection against unfair competition.

The Paris Union, established by the Convention, has an Assembly and an Executive Committee. Every State member of the Union which has adhered to at least the administrative and final provisions of the Stockholm Act (1967) is a member of the Assembly. The members of the Executive Committee are elected from among the members of the Union, except for Switzerland, which is a member *ex officio*.

The establishment of the biennial program and budget of the WIPO Secretariat—as far as the Paris Union is concerned—is the task of its Assembly.

The Paris Convention, concluded in 1883, was revised at Brussels in 1900, at Washington in 1911, at The Hague in 1925, at London in 1934, at Lisbon in 1958 and at Stockholm in 1967, and it was amended in 1979.

The Convention is open to all States. Instruments of ratification or accession must be deposited with the Director General of WIPO.

Additional information: *WIPO Handbook on Intellectual Property* [\[PDF\]](#)

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# Berne Convention for the Protection of Literary and Artistic Works

## Treaty

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## Summary of the Berne Convention for the Protection of Literary and Artistic Works (1886)

The Convention rests on three basic principles and contains a series of provisions determining the minimum protection to be granted, as well as special provisions available to developing countries which want to make use of them.

(1) The three basic principles are the following:

(a) Works originating in one of the contracting States (that is, works the author of which is a national of such a State or works which were first published in such a State) must be given the same protection in each of the other contracting States as the latter grants to the works of its own nationals (principle of “national treatment”) [1].

(b) Such protection must not be conditional upon compliance with any formality (principle of “automatic” protection) [2].

(c) Such protection is independent of the existence of protection in the country of origin of the work (principle of the “independence” of protection). If, however, a contracting State provides for a longer term than the minimum prescribed by the Convention and the work ceases to be protected in the country of origin, protection may be denied once protection in the country of origin ceases [3].

(2) The minimum standards of protection relate to the works and rights to be protected, and the duration of the protection:

(a) As to works, the protection must include “every production in the literary, scientific and artistic domain, whatever may be the mode or form of its expression” (Article 2(1) of the Convention).

(b) Subject to certain permitted reservations, limitations or exceptions, the following are among the rights which must be recognized as exclusive rights of authorization:

- the right to translate,
- the right to make adaptations and arrangements of the work,
- the right to perform in public dramatic, dramatico-musical and musical works,
- the right to recite in public literary works,
- the right to communicate to the public the performance of such works,
- the right to broadcast (with the possibility of a contracting State to provide for a mere right to equitable remuneration instead of a right of authorization),
- the right to make reproductions in any manner or form (with the possibility of a contracting State to permit, in certain special cases, reproduction without authorization provided that the reproduction does not conflict with the normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author, and with the possibility of a contracting State to provide, in the case of sound recordings of musical works, for a right to equitable remuneration),

- the right to use the work as a basis for an audiovisual work, and the right to reproduce, distribute, perform in public or communicate to the public that audiovisual work [4].

The Convention also provides for “moral rights,” that is, the right to claim authorship of the work and the right to object to any mutilation or deformation or other modification of, or other derogatory action in relation to, the work which would be prejudicial to the author’s honor or reputation.

(c) As to the duration of protection, the general rule is that protection must be granted until the expiration of the 50th year after the author’s death. There are, however, exceptions to this general rule. In the case of anonymous or pseudonymous works, the term of protection expires 50 years after the work has been lawfully made available to the public, except if the pseudonym leaves no doubt as to the author’s identity or if the author discloses his identity during that period; in the latter case, the general rule applies. In the case of audiovisual (cinematographic) works, the minimum term of protection is 50 years after the making available of the work to the public (“release”) or—failing such an event—from the creation of the work. In the case of works of applied art and photographic works, the minimum term is 25 years from the creation of such a work [5].

(3) Countries regarded as developing countries in conformity with the established practice of the General Assembly of the United Nations may, for certain works and under certain conditions, depart from these minimum standards of protection with regard to the right of translation and the right of reproduction.

The Berne Union has an Assembly and an Executive Committee. Every country member of the Union which has adhered to at least the administrative and final provisions of the Stockholm Act is a member of the Assembly. The members of the Executive Committee are elected from among the members of the Union, except for Switzerland, which is a member *ex officio*.

The establishment of the biennial program and budget of the WIPO Secretariat—as far as the Berne Union is concerned—is the task of its Assembly.

The Berne Convention, concluded in 1886, was revised at Paris in 1896 and at Berlin in 1908, completed at Berne in 1914, revised at Rome in 1928, at Brussels in 1948, at Stockholm in 1967 and at Paris in 1971, and was amended in 1979.

The Convention is open to all States. Instruments of ratification or accession must be deposited with the Director General of WIPO [6] [7].

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**Footnotes:**

1. Under the Agreement on Trade-Related Aspects of Intellectual Property (TRIPS Agreement), the principles of national treatment, automatic protection and independence of protection also bind those World Trade Organization (WTO) Members which are not party to the Berne Convention. In addition, the TRIPS Agreement imposes an obligation of “most-favored-nation treatment,” under which advantages accorded by a WTO Member to the nationals of any other country must also be accorded to the nationals of all WTO Members. It is to be noted that the possibility of delayed application of the TRIPS Agreement does not apply to national treatment and most-favored-obligations.

2. Idem.

3. Idem.

4. Under the TRIPS Agreement, an exclusive right of rental must be recognized in respect of computer programs and, under certain conditions, audiovisual works.

5. Under the TRIPS Agreement, any term of protection which is calculated on a basis other than the life of a natural person, must be at least 50 years from the first authorized publication of the work, or—failing such an event—50 years from the making of the work. However, this rule does not apply to photographic works, or works of applied art.

6. It is to be noted that WTO Members, even if they are not party to the Berne Convention, must comply with the substantive law provisions of the Berne Convention, except that WTO Members not party to the Convention are not bound by the moral rights provisions of the Convention.

7. It is to be noted that least developed countries may until July 1, 2013, delay the application of most of the obligations provided for in the TRIPS Agreement (Article 65). Naturally, States party to the Berne Convention cannot delay the application of their obligations provided for in the Berne Convention.

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## **Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations**

### **Treaty**

[Full text of the Rome Convention](#)



## Summary of the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (1961)

The Convention secures protection in performances of performers, phonograms of producers of phonograms and broadcasts of broadcasting organizations.

(1) Performers (actors, singers, musicians, dancers and other persons who perform literary or artistic works) are protected against certain acts they have not consented to. Such acts are: the broadcasting and the communication to the public of their live performance; the fixation of their live performance; the reproduction of such a fixation if the original fixation was made without their consent or if the reproduction is made for purposes different from those for which they gave their consent.

(2) Producers of phonograms enjoy the right to authorize or prohibit the direct or indirect reproduction of their phonograms. Phonograms are defined in the Rome Convention as meaning any exclusively aural fixation of sounds of a performance or of other sounds. When a phonogram published for commercial purposes gives rise to secondary uses (such as broadcasting or communication to the public in any form), a single equitable remuneration must be paid by the user to the performers, or to the producers of phonograms, or to both; contracting States are free, however, not to apply this rule or to limit its application.

(3) Broadcasting organizations enjoy the right to authorize or prohibit certain acts, namely: the rebroadcasting of their broadcasts; the fixation of their broadcasts; the reproduction of such fixations; the communication to the public of their television broadcasts if such communication is made in places accessible to the public against payment of an entrance fee.

The Rome Convention allows exceptions in national laws to the above-mentioned rights as regards private use, use of short excerpts in connection with the reporting of current events, ephemeral fixation by a broadcasting organization by means of its own facilities and for its own broadcasts, use solely for the purpose of teaching or scientific research

and in any other cases—except for compulsory licenses that would be incompatible with the Berne Convention—where the national law provides exceptions to copyright in literary and artistic works. Furthermore, once a performer has consented to the incorporation of his performance in a visual or audiovisual fixation, the provisions on performers' rights have no further application.

Protection must last at least until the end of a period of 20 years computed from the end of the year in which:

- (a) the fixation was made, for phonograms and for performances incorporated therein;
- (b) the performance took place, for performances not incorporated in phonograms;
- (c) the broadcast took place, for broadcasts. (However, national laws ever more frequently provide for a 50-year term of protection, at least for phonograms and for performances.)

WIPO is responsible, jointly with the ILO and UNESCO, for the administration of the Rome Convention. These three organizations constitute the Secretariat of the Intergovernmental Committee set up under the Convention and consisting of the representatives of 12 Contracting States.

The Convention does not provide for the institution of a Union or a budget. It establishes an Intergovernmental Committee composed of Contracting States, that considers questions concerning the Convention [\*].

This Convention is open to States party to the Berne Convention for the Protection of Literary and Artistic Works (1886) or to the Universal Copyright Convention. Instruments of ratification or accession must be deposited with the Secretary-General of the United Nations. States may make reservations with regard to the application of certain provisions.

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\*The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) of the World Trade Organization (WTO) also contains provisions on the

protection of related rights. They are different, in several respects, from those contained in the Rome Convention and the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (1971).

- Additional information: *WIPO Handbook on Intellectual Property* [\[PDF\]](#)

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## Washington Treaty on Intellectual Property in Respect of Integrated Circuits (not yet in force\*)

### Treaty

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\* The Treaty has not yet entered into force, but the following States have ratified it or acceded to it:

- Bosnia and Herzegovina: Accession - March 8, 2007
- Egypt: Ratification - July 26, 1990
- Saint Lucia: Accession - December 18, 2000