1 PARAGRAPH F OF THE TRADE POLICY REVIEW MECHANISM

1.1 Text of Paragraph F

F. *Appraisal of the Mechanism*

> The TPRB shall undertake an appraisal of the operation of the TPRM not more than five years after the entry into force of the Agreement Establishing the WTO. The results of the appraisal will be presented to the Ministerial Conference. It may subsequently undertake appraisals of the TPRM at intervals to be determined by it or as requested by the Ministerial Conference.

1.2 General

1. The Trade Policy Review Body (TPRB) has conducted six appraisals of the operation of the Trade Policy Review Mechanism (TPRM). Each appraisal has reaffirmed the relevance of the TPRM's mission and concluded that the TPRM has functioned effectively and that its objectives are generally being achieved. The appraisals have provided guidance on priorities for operation of the TPRM and some appraisals have resulted in changes to the TPRM or the TPRB's Rules of Procedure.

1.3 First, Second and Third Appraisals of the TPRM

2. The First Appraisal of the TPRM was undertaken in 1999[1], the Second in 2005[2], and the Third in 2008.[3] The Third Appraisal concluded that the "TPRB should undertake a further appraisal of the operation of the TPRM no more than three years after the conclusion of the present appraisal".[4]

1.4 Fourth Appraisal of the TPRM

3. The Fourth Appraisal of the operation of the TPRM began on 3 April 2011, and the Report was adopted by the TPRB at its meeting on 25 November 2011.[5] During the Fourth Appraisal Members made a number of suggestions, which were summarized in the Fifth Appraisal as follows:

> "2.1. In an effort to streamline the existing TPRM and make it more effective in achieving its objectives as an exercise in policy transparency, during the 2011 Appraisal Members made a number of suggestions. As regards the role of the Secretariat, Members expressed broad satisfaction with the quality of the Secretariat's reports and their impartiality. Nevertheless, they saw room for improvement in several respects, including consistency across all Members (especially those in the same cycle) in terms of comprehensiveness, accuracy and detailed analysis.

[1] WT/MIN(99)/2.
[2] WT/MIN(05)/1.
[3] WT/TPR/229.
[4] WT/TPR/229, Section VII.
[5] WT/MIN(11)/6.

2.2. Regarding the question-and-answer process during TPRB meetings, Members broadly agreed that the usefulness of meetings and discussion therein could be greatly improved by more timely receipt of written answers to questions submitted to the Member under review in advance of the meeting. However, Members could not reach a consensus on the alternative timelines that would allow this. Consequently, they decided to maintain the standard timelines for submission of written questions and answers, while allowing volunteers to apply the alternative timelines on a pilot basis that, it was agreed, would be reviewed in this fifth Appraisa.[1]

(footnote original) [1] The standard and alternative timelines are described in document WT/MIN(11)/6 of 29 November 2011.

2.3. With respect to the organization and structure of TPRB meetings, and with a view to encouraging a more interactive and fruitful discussion, Members agreed on some suggestions for the Chairperson and the Discussant, without limiting their freedom. These included that the Chairperson's Introductory Remarks should identify key themes for discussion, and that the Discussant, in coordination with the Chairperson, might review trade and trade-related policy changes of the Member under review since its previous TPR. Members also agreed that their statements during the first day of the meeting should not exceed seven minutes.

2.4. Members also considered it important to enhance, where required, the role of the TPRM in making available technical assistance to developing-country Members, and in particular to LDC Members (in accordance with Annex 3D). Members agreed that there could be further follow-up to reviews of those Members, at their request. This follow-up could involve a workshop/seminar to discuss and disseminate the results of the review, as well as to identify the trade-related technical assistance and capacity-building needs of the reviewed Member(s).

2.5. The TPRB suggested other changes to the operation of the TPRM relating to, among other things, the possibility of one-day TPRB meetings[2]; and the possibility of video-conferencing, web-linking or podcasting TPRB meetings in the three official languages at the request of the Member under review.[3]

(footnote original) [2] In the event of a request by a Member under review, the TPRB agreed that the Chairperson would

consult with Members on the possibility of holding a one-day meeting for that Member on a pilot basis.

(footnote original) [3] Members felt that this possibility should be offered to the Member under review as long as the Secretariat is able to provide this service within existing budget limitations.

2.6. Members also emphasized the importance of undertaking the first TPR of Members that have not yet been reviewed, in accordance with the six-year cycle.

2.7. During the fourth Appraisal, there was broad consensus for the continuation and strengthening of the current monitoring exercise on trade and trade-related measures (based on Section G of Annex 3) and related briefings by the Director-General in international forums such as the G-20. The Eighth Ministerial Conference took a decision in this regard.[4]

(footnote original) [4] WT/L/848 of 19 December 2011."[6]

[6] WT/MIN(13)/5, paras. 2.1-2.7

1.5 Fifth Appraisal of the TPRM

4. The Fifth Appraisal of the operation of the TPRM began on 2 July 2013, and the Report was adopted by the TPRB at its meeting on 28 October 2013.[7] During the Fifth Appraisal, Members concluded as follows:

> 4.1 Members recalled the importance of the Trade Policy Review Mechanism for the functioning of the multilateral trading system by achieving greater transparency in, and mutual understanding of, the trade policies and practices of Members. They acknowledged that the TPRM had proven all the more vital in recent years in the aftermath of the economic crisis and in the collective efforts to keep protectionism at bay. Therefore, Members stressed the need to ensure the proper operation of the TPRM, including through the full participation of all Members.
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> 4.2 Members underlined that the TPRM has generally performed its functions well. Members also considered that the various changes introduced to the TPRM following the fourth Appraisal (section 2 of this note) have worked satisfactorily, but that more time is needed to fully appreciate all aspects of these changes before agreeing to make them definitive. Similarly, Members stressed the need to keep this Appraisal light and simple in view of the forthcoming ninth Ministerial Conference.
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> 4.3 Consequently, Members agreed that the changes introduced following the fourth Appraisal will continue to apply on a provisional basis until the next (sixth) Appraisal. It is understood that, in the meantime, nothing prevents the TPRB deciding on more specific areas for further improving the functioning of the TPRM. In this regard, recalling some of the points raised in this Appraisal, Members expressed an interest in reflecting further on, *inter alia*, how the meetings can be made more interactive; how to facilitate the full participation of all Members, especially developing countries and LDCs, in the review meetings; whether the review meetings could be made more accessible to the public; what could be done to simplify the handling of large sets of questions and help identify which aspects are of the greatest systemic importance; whether there is a need to revise the time-frame for reviews; what other measures could be taken to reduce the costs involved in TPRs and the burden imposed on Members; and the potential formats for government reports.
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> 4.4 In that context, Members:
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> - recognised the need to continue to make the review meetings of the TPRB as interactive and fruitful as possible by, *inter alia*, focusing on the main trade and trade-related policy changes since the last review and areas of systemic importance, and keeping to a minimum, to the extent possible, diplomatic courtesy and extensive routine description of bilateral relations.
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> - invited the Secretariat to continue to explore ways to improve and streamline its reports in order to make them more effective in achieving the objectives of the TPRM and, at the same time, help reduce documentation and translation costs of the TPRB.
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> - requested the Secretariat to pay more attention in its TPR reports to reporting more comprehensively on trade and trade-related measures, covering both trade in goods and trade in services, that are applied behind the border by individual Members at central government level and, where they are relevant and feasible and where data are available at the central government level, matters at sub-central level, in areas such as regulatory measures, subsidies and state aid, state trading and government procurement.
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> - agreed to maintain until the next Appraisal the choice for the Member under review of the standard or alternative timeline for the submission of written questions and answers. In the meantime they agreed to share their experiences to date with the

[7] WT/MIN(13)/5, para. 1.3.

alternative timeline on the basis of the survey questionnaire circulated by the Secretariat.

- emphasized the importance of undertaking TPRs of those Members that have not yet been reviewed or have exceeded the time set out for their reviews (Annex IV of the TPRB 2013 Annual Report in document WT/TPR/321), and invited them to schedule and conduct their TPRs before the next Appraisal.

- requested the Secretariat to put in place an IT system for Members' consideration to facilitate the treatment electronically of the question-and-answer process by Members, and to simplify and expedite the process for the Member under review to group the questions according to themes.

- decided that, in view of the increased number of TPRs taking place each year, from 2014 the TPRB would appoint, under its Rules of Procedure, a Vice-Chairperson to assist the Chairperson in chairing formal TPR review meetings.

- welcomed the steps already taken to reduce TPRB documentation costs.

- underlined the value, especially for LDCs, of follow-up workshops, if the Member(s) under review so request(s), and invited the Secretariat to report on, and provide an assessment of, the experiences of such activities."[8]

1.6 Sixth Appraisal of the TPRM

5. The Sixth Appraisal of the TPRM began on 20 June 2016, and the Report was adopted by the TPRB at its meeting on 21 December 2016.[9]

6. In the course of the Sixth Appraisal, Members were informed by the Secretariat that:

> "[G]iven the increasing number of WTO Members, the current review cycles (2, 4 or 6 years) meant that some 24 reviews had to be completed each year. This was already stretching the resources of both Members and the Secretariat to the limit, and building up backlogs. The Secretariat anticipated that, once all the countries currently in the accession proceedings had become WTO Members, the number of TPRs required would increase to 30 per year, which would not be sustainable in the long run."[10]

7. As a result of the Sixth Appraisal, it was decided to change the current cycle of reviews, which has Members undergoing a trade policy review (TPR) every two, four or six years, depending on the size of their economy, to three, five or seven years, respectively.[11] On 26 July 2017, the General Council adopted a decision pursuant to Article X:8 of the Marrakesh Agreement Establishing the World Trade Organization (WTO Agreement) to amend the Paragraph C(ii) of the TPRM accordingly.[12] This new arrangement will be phased in starting from 2019.[13] This is the first amendment to the TPRM since it was established in 1989 under the General Agreement on Tariffs and Trade 1947 (GATT 1947) and made permanent under the WTO as part of the 1994 Uruguay Round agreements.[14] For further information on the amended frequency of reviews, see the document on Paragraph C of the TPRM (Practice).

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[8] WT/MIN(13)/5, paras. 4.1-4.4.
[9] WT/MIN(17)/9.
[10] WT/MIN(17)/9, para. 2.3.
[11] WT/MIN(17)/9, para. 2.4.
[12] The General Council's amendment decision is contained in document WT/L/1014. Its adoption was based on a proposal submitted to the General Council by the Trade Policy Review Body in document WT/TPR/399.
[13] In accordance with paragraph 2 of the General Council's Decision, "[t]he amendments set out in paragraph 1 of this Decision shall take effect for all WTO Members, in accordance with the provisions of paragraph 8 of Article X of the WTO Agreement, on 1 January 2019." (WT/L/1014, para. 2.)
[14] WT/TPR/407, para. 3.

8. Regarding preparation for TPR meetings, the TPRB discussed TPR reports, timeliness for submitting questions and answers, facilitation of the question-and-answer process, and the role of the Discussant. Members concluded as follows:

TPR reports

"(1) For Members reviewed on a 2-year cycle[5], the Secretariat Report may, as appropriate, focus on the implementation of issues highlighted in the last review, and on the actual changes on the ground due to new legislation entered into force or related to new issues arising from recent ministerial decisions of the WTO. For all Members, the scope of the Reports may, as appropriate, be limited to the extent possible to the changes in policies and focus on implementation of past recommendations. The above is on the understanding that the Reports are produced independently by the Secretariat on its own responsibility. The above is also without prejudice to the depth and breadth of the reports.

(footnote original) [5] Or those on a 3-year cycle when the new arrangement agreed at Conclusion (1) of Issue (1) comes into effect.

(2) The scope of the Secretariat Reports may include issues relevant to modern trade policies.

(3) For LDCs, the Secretariat Reports should integrate to the maximum extent the needs assessment and relevant Aid for Trade elements. Members are also encouraged to include in their Government Reports a new section on LDC issues, to briefly highlight issues in those reports which are considered to be of particular interest to LDC Members.

(4) On balance, Members prefer keeping Government Reports mandatory, as set out in Annex 3 to the Marrakesh Agreement Establishing the WTO."[15]

Timeliness for submitting questions and answers:

"(1) The [Alternative Timeline] will be revised to allow one more week for the Member under review to provide written answers to advance written questions submitted within the established deadline, as illustrated in the graph at Annex.

(2) Both the [Current Timeline] and the revised [Alternative Timeline] will remain as options for the submission of written questions and answers. The choice will be made by the Member under review, at the time of agreeing on the date of review."[16]

Facilitation of the question-and-answer process:

"(1) Given that, for the system to be fully functional and beneficial, it has to be implemented across the board as the only means of submitting questions and answers, the system has to be fully tested and necessary technical assistance and training be provided to Members before migration to this new platform. Members will be invited to take a formal decision to launch the system in due course.

(2) In the initial period of migration (duration to be decided by Members in due course), the existing arrangements for submitting questions and answers will co-exist with the new IT system, in order to ensure a smooth transition.

(3) Volunteering Members will continue to be involved in the fine-tuning and testing of the system during the validation stage.

[15] WT/MIN(17)/9, para. 2.10.
[16] WT/MIN(17)/9, para. 2.13.

(4) Members will continue to ensure full implementation of the rules for sending questions adopted at the fourth Appraisal, and will send questions numbered in one batch.

(5) Some Members are concerned about the large number of questions, and Members agree to continue exercising restraint in raising questions."[17]

Role of the Discussant:

"As there is already sufficient flexibility in the existing arrangement for appointing Discussant(s) and in the process of preparing for TPR meetings to allow the Discussant(s) to play an effective role, there is no need to change the status quo."[18]

9. Regarding the organization and structure of TPR meetings, the TPRB discussed meeting structure, speaking time and speaking order. Members concluded as follows:

Meeting structure:

"(1) As a one-day TPR meeting in the format originally envisaged in the fourth Appraisal is technically challenging and the benefits are not apparent, it will cease to be an option.

(2) The current 2-day structure of TPR meetings will be maintained.

(3) While retaining the existing elements of Day Two, Members may explore ways of adding value to Day Two by offering to include, on a voluntary basis, innovative elements to the programme for their reviews, such as a question-and-answer session where Members could pose questions relating to the trade policy of the Member under review, or a panel discussion on elements of that trade policy. In all cases, details of these elements, including the format and scope of questions to be considered and the make-up of any panel, will be determined by the Member under review and will be conducted in informal mode."[19]

Speaking time and speaking order

"(1) The 7-minute rule will be formally adopted for all interventions on both Day One and Day Two of TPR meetings, except for statements made by the Chairperson, the Member under review and the Discussant.

(2) The speaking order as agreed in the fourth and fifth Appraisals will be formally adopted without change.

(3) On the day before each TPR meeting, the Secretariat will post on the WTO Members' website a provisional list of speakers for Day One of that meeting, for Members' advance information."[20]

10. Regarding follow-up to TPR meetings, the TPRB discussed podcasting and minutes and follow-up activities. Members concluded as follows:

Podcasting and minutes

"Given that Members prefer written minutes, and that the existing podcasting system can no longer function, the service will be discontinued."[21]

11. In addition, the TPRB discussed trade-monitoring and concluded that:

[17] WT/MIN(17)/9, para. 2.17.
[18] WT/MIN(17)/9, para. 2.20.
[19] WT/MIN(17)/9, para. 2.24.
[20] WT/MIN(17)/9, para. 2.27.
[21] WT/MIN(17)/9, para. 2.30.

> "(1) The trade monitoring meetings will have a regular item on the agenda which gives an opportunity for Members to provide brief reports on significant changes in their trade policies between reviews, in the manner as envisaged in Section D of Annex 3 to the Marrakesh Agreement Establishing the WTO.
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> (2) To ensure consistency in the format and length of information provided by different Members, the Secretariat may provide Members with a standard format thereof, e.g. time of implementation, agency responsible, name and serial number of the legislation, brief description of its key points, etc. This format will also apply, to the maximum extent possible, to the information that the Secretariat collects from other non-official sources to be verified by Members."[22]

12. Lastly, Members decided that, "in view of the increased number of TPRs taking place each year, the TPRB would appoint, under its Rules of Procedure for Meetings of the TPRB, a Vice-Chairperson to assist the Chairperson in chairing formal TPR meetings."[23]

1.7 Upcoming Appraisal of the TPRM

13. With respect to the next Appraisal, the Sixth Appraisal states that:

> "The next Appraisal of the operation of the TPRM should take place at a time to be decided by the TPRB, but not later than within five years, and preferably not in the year of a WTO Ministerial Conference. It is understood that nothing precludes the TPRB from deciding on specific items for improvement before the next Appraisal. The next Appraisal should include an assessment of the implementation of the conclusions reached at this Appraisal, inter alia, in terms of the transparency of Members' trade policies."[24]

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Current as of: June 2020

[22] WT/MIN(17)/9, para. 2.35.
[23] WT/MIN(17)/9, para. 2.36. To implement this decision, the Rules of Procedure were subsequently revised as per WT/TPR/6/Rev.3 paragraphs 5 to 7.
[24] WT/MIN(17)/9, para. 4.1.