

WORLD TRADE ORGANIZATION

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STAFF REGULATIONS

PROPOSED WTO TEXT (REVISED DRAFT)

PURPOSE AND SCOPE

Pursuant to Article VI of the Marrakesh Agreement Establishing the World Trade Organization (the WTO Agreement), the *Staff Regulations* adopted by the Ministerial Conference of the World Trade Organization (WTO) embody the fundamental conditions of employment in the WTO and the rights, duties and obligations of the WTO and of its staff members. The paramount objective in the determination of conditions of service shall be to secure staff of the highest standards of competence, integrity and efficiency and to meet the requirements of the WTO taking into account the needs and aspirations of the staff. The *Staff Regulations* set forth principles for the guidance of the Director-General in the staffing and administration of the Secretariat. The Director-General shall establish and administer *Staff Rules* consistent with these principles and shall submit these Rules to the General Council for approval at the time of the establishment of the WTO secretariat. The *Staff Rules* govern the conditions of service and the personnel practices of the WTO and provide the means for implementing the provisions of the *Staff Regulations*. The Director-General may issue *Staff Administrative Memoranda* in elaboration of the *Staff Rules*.

The *Staff Regulations*, *Staff Rules* and *Staff Administrative Memoranda* apply to all staff members of the WTO holding contracts of six months' duration or more. Staff holding contracts of less than six months duration shall be subject to separate conditions of employment which shall be established by the Director-General and based, as appropriate, on the present *Staff Regulations* and *Staff Rules*, and *Staff Administrative Memoranda*.

DUTIES, OBLIGATIONS AND PRIVILEGES:

- THE WTO AND ITS MEMBERS -

Regulation 1.1: The WTO shall at all times act with fairness and impartiality, and in full respect of these *Staff Regulations* and the applicable jurisprudence of the Administrative Tribunal of the International Labour Organization in its relations with staff members. It shall not discriminate between individuals or groups within the staff on the basis of gender, nationality, race or religious belief. Furthermore, its practices shall clearly reflect those principles of equal opportunity and non-discrimination. The WTO management shall establish close surveillance to prevent unwanted flaws in those practices.

Regulation 1.2: The WTO shall make all reasonable efforts to provide appropriate protection and safety for staff members in the performance of their duties and shall in particular ensure their immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity.

Regulation 1.3: The WTO shall establish and maintain appropriate safeguards to respect the personal privacy of staff members and protect the confidentiality of personal information about them.

- STAFF MEMBERS -

Regulation 1.4: Staff members shall discharge their duties solely with the interest and objectives of the WTO in view and, in so doing, shall be subject to the authority of, and responsible to, the Director-General. Pursuant to Article VI:4 of the WTO Agreement, staff members shall neither seek nor accept any instruction relating to the performance of their duties from any government or other entity or person external to the WTO, and shall at all times respect the international character of their positions and maintain their independence.

Regulation 1.5: Staff members shall conduct themselves at all times in an appropriate manner and shall avoid any activity which may adversely reflect on their status as international civil servants, or on the integrity, independence and impartiality which are required by that status.

Regulation 1.6: Staff members shall enjoy, in the interest of the WTO, the privileges, immunities, and facilities referred to in Article VIII of the WTO Agreement and set out in the Headquarters Agreement. Such privileges, immunities, and facilities shall not excuse staff members from the performance of their private obligations or from the due observance of the law. As provided for in the Headquarters Agreement, the Director-General may decide whether, in the interest of the WTO, an immunity shall be waived.

Regulation 1.7: Staff members shall exercise the utmost discretion in regard to all matters of official business. They shall not communicate to any person any information known to them by reason of their official position which has not been made public, except where so authorized by the Director-General. They shall not at any time use such information to private advantage. These obligations do not cease upon separation from the WTO.

Regulation 1.8: A staff member shall disclose information concerning an interest prior to appointment in any matter within the purview of the Organization which may affect the appropriateness of assigning certain functions to that staff member, inter alia with respect to dispute settlement.

Regulation 1.9: Staff members shall not accept any honour, decoration, favour, gift or remuneration from any government, except for war service. They shall not accept any honour, decoration, favour, gift or remuneration from any other source external to the WTO, unless authorized to do so by the Director-General.

Regulation 1.10: Staff members may exercise the right to vote but shall not engage in any political or other activity or occupation or hold any office which is inconsistent with, or might reflect adversely upon, the independence and impartiality required by their status as international civil servants.

Regulation 1.11: All rights in any work done by staff members either as part of their official duties or in relation to the WTO shall be the property of the WTO unless such rights are explicitly relinquished.

Regulation 1.12: Staff members, on taking up their duties, shall make and sign the following declaration:

"I solemnly undertake to exercise in all loyalty, discretion and conscience the functions entrusted to me as an international civil servant of the World Trade Organization, to discharge these functions and regulate my conduct with the interests of the WTO only in view, and not to seek or accept instructions in regard to the performance of my duties from any government or other authority external to the organization, or to accept remuneration therefrom with respect to my service with the WTO either prior to, during or after such service."

STAFF ASSOCIATION, REPRESENTATION AND CONSULTATION WITH MANAGEMENT

Regulation 2.1: The staff shall enjoy freedom of association. The interests of the staff shall be represented before the Director-General by a Staff Council, elected by the staff.

Regulation 2.2: The Staff Council shall be composed in such a way as to afford equitable representation to all staff, by means of elections to be held under rules drawn up by the staff associations and approved by the Director-General.

Regulation 2.3: The Director-General shall set up appropriate mechanisms for the establishment of the joint bodies provided for under these Regulations in order to ensure equal representation thereon of the management and the staff.

Regulation 2.4: The Director-General shall establish and maintain regular contact and communication with the Staff Council in order to ensure the effective participation of the staff in identifying, examining and resolving issues relating to staff welfare, including the establishment of and changes in personnel policies, conditions of work and general conditions of life, as well as the establishment or amendment of *Staff Regulations*, *Staff Rules* and *Staff Administrative Memoranda*.

Regulation 2.5: A Joint Advisory Committee shall be established to advise the Director-General on the matters referred to in *Staff Regulation 2.4*.

RECRUITMENT POLICY

Regulation 3.1: The recruitment policy of the WTO shall be to seek to attract and retain staff members offering the highest standards of efficiency, competence and integrity. It shall be based on the principle of equal opportunity for all, regardless of gender, nationality, race or religion, with the objective of ensuring the broadest possible diversification of the secretariat.

Regulation 3.2: Pursuant to Article VI:3 of the WTO Agreement, the Director-General shall appoint the staff members of the WTO and shall determine their duties and conditions of service in accordance with the *Staff Regulations* and *Staff Rules*. The Director-General may assign staff members to any of the activities of the WTO which are compatible with their qualifications.

Regulation 3.3: Recruitment shall be on a competitive basis, except where not practicable, and without distinction as to gender, nationality, race, or religion.

Regulation 3.4: Without prejudice to external recruitment, the fullest regard shall be given, in filling vacancies, to the qualifications and experience of serving staff members.

Regulation 3.5: The Director-General shall establish medical standards which staff members shall be required to meet before appointment.

CONTRACT POLICY

Regulation 4.1: The basic objective of the contract policy of the WTO shall be to offer staff the prospect of employment consistent with the requirements of the Organization and taking into consideration the needs and aspirations of the staff. Staff may be offered fixed-term or regular contracts. Continued employment in the Organization is subject to continuous satisfactory performance, as documented in the annual performance evaluation.

Regulation 4.2: A fixed-term contract is for a fixed duration. All initial contracts shall be for a fixed term. Such contracts may be extended one or more times. The total length of service under fixed-term contracts shall not exceed five years.

Regulation 4.3: For functions of limited duration, the total length of service may not exceed five years; this will be specified in the contract of employment.

Regulation 4.4: A regular contract carries no expiration date. A staff member not carrying out functions referred to in Regulation 4.3 above shall become eligible for consideration for a regular contract after completing five years of service under fixed-term conditions.

Regulation 4.5: As provided for under Regulation 9.2, the Director-General may terminate a contract in cases where the duties and obligations of a WTO staff member are no longer fulfilled, or where performance proves to be unsatisfactory, as documented in the annual evaluation reports.

PERFORMANCE EVALUATION

Regulation 5.1: The performance of a staff member shall be subject to annual evaluation. The evaluation shall be the occasion for a dialogue between the management and the staff, in order to improve continuously the performance of individuals and the efficiency of the organization through the establishment of objectives for the next reporting period.

Regulation 5.2: The Director-General shall establish procedures for the evaluation of staff members' performance, including the appropriate form to be used for the purpose. Evaluation shall be by reference to the tasks assigned to the staff member, to the professional conduct of the staff member and to the fulfilment of the objectives established annually for the preceding year.

Regulation 5.3: The staff member shall have the right to see and comment on the evaluation, which, along with any such comments, shall form part of the staff member's permanent record.

SALARIES, BENEFITS AND POST CLASSIFICATION

Regulation 6.1: The compensation policy of the WTO shall be to secure, within its budget, staff of the highest standards of efficiency, competence and integrity and shall be consistent with the principle of equal pay for work of equal value.

Regulation 6.2: [The WTO shall establish a salary scale which shall be periodically reviewed for competitiveness and adjusted annually to the cost of living and other factors, as appropriate.]

Regulation 6.3: [determination of salaries, to be completed]

Regulation 6.4: The WTO shall institute and maintain programmes to classify posts according to their purpose, function, and level of responsibility so as to provide a sound and equitable basis for the remuneration of staff members.

Regulation 6.5: [The WTO shall institute and maintain programmes to reward staff members according to their performance as documented in the annual evaluation reports.]

Regulation 6.6: Staff members shall be entitled to a dependency allowance in respect of a spouse, child or secondary dependant.

Regulation 6.7: The Director-General shall establish a normal working week.

Regulation 6.8: Staff members shall be entitled to annual leave.

Regulation 6.9: The WTO shall establish and maintain benefit packages for internationally recruited staff members serving outside the country of their recognized home, including the periodic travel¹ of such staff members and their families to their home country and financial assistance with the education of their children, and determine the eligibility for such benefits.

Regulation 6.10: Special leave may be granted by the Director-General in exceptional cases.

CAREER DEVELOPMENT

Regulation 7.1: The WTO shall establish policies designed to provide career development opportunities to all staff regardless of gender, nationality, race or religion whilst at the same time ensuring the most effective allocation of human resources. These policies shall include training, reassignment, promotion, and secondment and loan to other international organizations. The policies shall take account of the size and nature of the organization and, as appropriate, of the contract policy.

SOCIAL SECURITY

Regulation 8.1: [A WTO Pension Plan shall be established by the Ministerial Conference of the WTO to provide disability, retirement, death and related benefits for the staff members of the WTO and their survivors.]

Regulation 8.2: The Director-General shall establish a scheme providing for the coverage of medical expenses incurred by staff members and their families as a result of sickness or accident and reasonable compensation in the event of [unemployment and] service-incurred illness, accident or death. Coverage shall also be provided for sick leave and maternity or adoption leave.

SEPARATION FROM SERVICE

Regulation 9.1: Separation from service may occur as a result of:

- (a) resignation, with due notice;
- (b) expiration of a contract in accordance with its terms;
- (c) termination of a contract by the Director-General;
- (d) retirement;
- (e) summary dismissal for serious misconduct, including unethical conduct;
- (f) abandonment of post;
- (g) death.

¹See *Staff Regulation* 10.1

Regulation 9.2: The following cases shall constitute grounds for termination of contract:

- (a) reduction of the staff, or if the necessities of the service require abolition of the post occupied by the staff member concerned and redeployment is not possible;
- (b) if the staff member is incapacitated for further service for reasons of health;
- (c) if the performance of the staff member concerned proves to be unsatisfactory, as documented in the annual evaluation reports;
- (d) if the conduct of the staff member does not meet the highest standards of integrity required by these regulations;
- (e) if facts anterior to the appointment of the staff member come to light which, had they been known, would have precluded appointment;
- (f) if the staff member fails to disclose to the Director-General ethics-related information;
- (g) if such action would be in the interest of good administration of the WTO, on terms mutually agreed with the staff member.

Regulation 9.3: In cases provided for under *Staff Regulation 9.1(b)*, a staff member shall be given notice. The expiration of a fixed-term contract in accordance with its terms shall not give rise to the payment of an indemnity.

Regulation 9.4: A staff member whose contract is terminated under *Staff Regulation 9.1(c)* shall be given notice or, exceptionally, payment in lieu of notice.

Regulation 9.5: Termination under *Staff Regulation 9.2(a)*, (b) or (g) shall give rise to an indemnity which may be increased by up to 50 per cent in case of termination under *Staff Regulation 9.2(g)* above.

Regulation 9.6: An end-of-service relocation grant shall be payable to internationally-recruited staff members upon separation from service where evidence is provided that the staff member has permanently relocated to a country other than the country of the duty station.

Regulation 9.7: Staff members shall normally not be retained in service beyond the age of sixty-two years.

Regulation 9.8: Subject to conditions and definitions prescribed by the Director-General, the WTO shall pay travel expenses and removal costs² upon separation from service, except that no such payments shall be made in cases of abandonment of post.

Regulation 9.9: Without prejudice to the provisions of *Staff Regulations 12.2 to 12.5*, no termination under *Staff Regulation 9.2(a)*, (b), (c) or (f) shall take place until the matter has been considered and reported on by a joint advisory body.

²See *Staff Regulations 10.1 and 10.2*.

TRAVEL AND REMOVAL EXPENSES

Regulation 10.1: Subject to conditions and definitions laid down in the *Staff Rules*, the WTO shall pay the travel expenses of staff members, their spouses and dependent children.

Regulation 10.2: Subject to conditions and definitions laid down in the *Staff Rules*, the WTO shall pay removal costs for staff members.

DISCIPLINARY MEASURES

Regulation 11.1: The Director-General may apply disciplinary measures to a staff member whose conduct is unsatisfactory.

Regulation 11.2: Disciplinary measures shall consist of one or more of the following: written censure, loss of one or more salary increments, deferment of a salary increment for a specified period, suspension without pay, demotion, separation from service with or without notice or compensation in lieu thereof, or summary dismissal for serious misconduct.

Regulation 11.3: The Director-General shall seek the advice of a joint advisory body when proposing disciplinary action, with the exception of written censure and summary dismissal for serious misconduct.

Regulation 11.4: With the exception of summary dismissal for serious misconduct, a staff member shall be notified in writing of the grounds for the disciplinary measure proposed under *Staff Regulation 11.1* and shall be afforded the opportunity to make observations on the proposal.

Regulation 11.5: A disciplinary measure is an administrative decision notified to the staff in writing and open to appeal by the staff member.

GRIEVANCES AND APPEALS

Regulation 12.1: The WTO shall provide for a conciliation procedure in order to endeavour to resolve grievances submitted by staff relating to their conditions of employment.

Regulation 12.2: In disputes relating to their conditions of employment, staff members have the right to due process, as set out in the *Staff Rules*.

Regulation 12.3: Administrative decisions are open to appeal to the Director-General by a staff member on the grounds of non-observance, in substance or in form, of the terms of the contract, including all pertinent *Staff Regulations* and *Staff Rules*.

Regulation 12.4: The Director-General shall establish a Joint Appeals Board to provide advice in the event of an appeal by a staff member.

Regulation 12.5: The Administrative Tribunal of the International Labour Organization shall, under the conditions prescribed in its statute, hear and pass judgement upon a complaint from a staff member alleging non-observance, in substance or in form, of the terms of the contract, and non-observance of the pertinent provisions of the *Staff Regulations* and *Staff Rules*.

AMENDMENTS

Regulation 13.1: The *Staff Regulations* may be amended by the General Council. Such amendments shall be without prejudice to staff members' rights acquired under the WTO Staff Regulations.

Regulation 13.2: The *Staff Rules* may be amended by the Director-General in accordance with the *Staff Regulations* and without prejudice to the acquired rights of staff members under those *Regulations*. The General Council shall be informed of amendments to the Staff Rules. Amendments carrying financial implications or creating new rights for the staff shall be approved by the General Council before their entry into force, except where they are the result of approved automatic mechanisms.

TRANSITIONAL PROVISIONS

Regulation 14.1: [In the case of ICITO/GATT staff members who accept employment in the WTO pursuant to the decision of the General Council concerning the transition from ICITO/GATT to the WTO, the provisions of the *Staff Regulations* shall be applicable without prejudice to rights acquired by those staff members under Rules and Regulations applicable to them as staff members of ICITO/GATT.] Prior service under an ICITO/GATT contract will be counted for all purposes as service under a WTO contract.