PROCEDURES TO ENHANCE TRANSPARENCY AND STRENGTHEN
NOTIFICATION REQUIREMENTS UNDER WTO AGREEMENTS

COMMUNICATION FROM ARGENTINA, AUSTRALIA, CANADA, COSTA RICA, THE EUROPEAN UNION,
ISRAEL, JAPAN, NEW ZEALAND, THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU,
KINMEN AND MATSU, THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU,
AND THE UNITED STATES

Revision

The following communication, dated 27 June 2019/5 March 2020, is being circulated at the request
of the Delegations of Argentina, Australia, Canada, Costa Rica, the European Union, Israel, Japan,
New Zealand, the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu, and the United
States.

Draft General Council Decision

Procedures to Enhance Transparency and Strengthen Notification Requirements
Under WTO Agreements

Decision of X Date

The General Council,

Recognizing that transparency and notification requirements constitute fundamental
elements of many WTO agreements and a properly functioning WTO system, and thus of Members' obligations;

Acknowledging the chronic low level of compliance with existing notification requirements
under many WTO agreements; and

Desiring to strengthen and enhance transparency and improve the operation and
effectiveness of notification requirements;

Decides as follows:

General
Scope of Decision

1. To reaffirm existing notification obligations and recommit to providing required and timely
notifications—For the purpose of this decision "notification" shall mean the notification
obligations in relation to each of the following WTO Agreements and Understandings within the remit
of the Council for Trade in Goods, including for which there is regular annual reporting provided by
the Secretariat (G/L/223/Rev.26 and its revisions).
Reaffirming existing commitments

2. To instruct the Members reaffirm existing notification obligations and recommit to submitting timely notifications.

Engagement in WTO bodies to facilitate compliance

3. The General Council instructs the Working Group on Notification Obligations and Procedures (Working Group) to:

   (a) meet before [x date] to develop recommendations on improving Member compliance with their notification obligations under the Agreements and Understandings listed in paragraph 1. The Working Group will;

   (b) consult with appropriate committees, other working groups and bodies as appropriate, and consider both systemic and specific improvements that can help Members improve compliance with notification obligations. The Working Group will also;

   (c) consult with the WTO Secretariat as appropriate, including the WTO Institute for Training and Technical Cooperation (ITTC) to assess the contribution of WTO-trade-related technical assistance to improving notification compliance, as well as the Central Registry of Notifications. The Working Group will report to the Council for Trade in Goods on its findings before [x date], and provide updates at each subsequent meeting;

   3. To instruct the Working Group to (d) work with the Secretariat to update the Technical Cooperation Handbook on Notification Requirements for each of the agreements and understandings listed in paragraph 1 and present it to the Council for Trade in Goods for its [x date] meeting;

   4. To instruct(e) report to the Council for Trade in Goods on its findings and recommendations before [x date], and provide updates at each subsequent meeting.

4. The General Council instructs the Trade Policy Review Body to ensure that beginning in [20XX] all trade policy reviews include a specific, standardized focus on the Member’s compliance with its notification obligations under the Agreements and Understandings listed in paragraph 1.

5. The General Council instructs the Committee on Agriculture to review and update G/AG/2 within two years of this Decision, with a view to improving Members’ compliance with notification obligations.

6. The General Council encourages Members to bring to the attention of the relevant Committees any notifications that a Member considers have not been made.

Explanation for delay
7. A Member that fails to provide a required notification within the applicable notification deadline referenced in the relevant Agreement or Understanding listed in paragraph 1 is encouraged to submit to the relevant committee within six months after the relevant notification deadline and every six months thereafter an explanation for the delay, the anticipated timeframe for its notification, and any elements of a partial notification that a Member can produce to limit any delay in transparency.

6. If a Member fails to provide a required notification within the deadline referenced in the relevant Agreement or Understanding listed in paragraph 1, the Technical assistance and capacity building

8. A Member may request assistance from the Secretariat in compiling and completing a notification. The Secretariat is instructed to provide such assistance in researching the matter and, in full consultation with the relevant Member, and only with the approval of that Member, provide a notification on its behalf.

29. A developing country Member encountering difficulties to fulfill its notification obligations is encouraged:

(a) to request assistance and support for capacity building from the Secretariat, either in the form of WTO trade-related technical assistance or as ad hoc assistance for a particular notification; and

(b) to submit to the relevant committee and to the Working Group by six months after the deadline provided under the relevant Agreement or Understanding listed in paragraph 1 and every six months thereafter information on those notifications that it has not submitted due to a lack of capacity, including information on the assistance and support for capacity building that the Member requires in order to submit required notifications.

8. With respect to the 10. In accordance with paragraph 9, a developing country Member that has requested assistance in preparing a notification referred to as DS:1 in the Committee on Agriculture's Notification Requirements and Formats (G/AG/2), the deadline for the purposes of paragraphs 5 and 7(b) of this Decision, and which has submitted information on assistance and capacity building requirements to the Working Group and the relevant Committee, shall be subject to measures under paragraph 12(a) until two years following the notification deadline has passed.

11. Least Developed Country Members shall cease to operate once an update of G/AG/2 has been adopted. An update of G/AG/2 is encouraged within two years of this Decision.

9. To encourage Members, at any time, measures under paragraph 12 if they have:

(a) in accordance with paragraph 9, requested assistance; and

(b) submitted written information to bring to the attention of the Secretariat, the Working Group, and the relevant Committee information they consider has not been notified by another Member in accordance with the Agreements and Understandings listed, on the assistance and capacity building needed in paragraph 10 in order to submit the relevant notification.

10. Administrative measures

12. Beginning in 20XX, if a Member that has failed to submit a required notification:

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1 As regards outstanding one-time notifications or required updates containing the most current information, laid out in G/L/223 and its revisions, Phase 1 Measures shall apply beginning one year after the adoption of this Decision.
(a) except as provided in subparagraphs (b) and (c), by one year from the deadline provided under the relevant Agreement or Understanding listed in paragraph 12; by three years from the deadline required under the Committee on Agriculture's Notification Requirements and Formats (G/AG/2) with respect to the notification referred to as DS:1; or within the applicable notification deadline shall be subject to the following measures:

(c) by one year of this Decision being adopted with respect to an outstanding one-time notification, or required update, containing the most current information, the following administrative measures (a) Phase 1 Measures shall apply to that Member: a Member one year after the expiry of the notification deadline.

(i) the Member shall be subject to Phase 1 Measures:

(ii) the Secretariat shall report upon annually in the Council for Trade in Goods on the status of the Member’s notifications; and

(v) the Secretariat shall report upon annually in the General Council meetings.

(b) Phase 2 Measures shall apply to a Member that has failed to submit a notification with respect to ad hoc notifications for the Agreement on the Application of Sanitary and Phytosanitary Measures and Agreement on Technical Barriers to Trade such that administrative measures shall be applied pursuant to paragraph 10 of this decision. This decision shall not apply to ad hoc notifications under the TBT or SPS Agreements until the relevant guidelines have been adopted.

In addition to the measures in paragraph 10 Phase 1 Measures which shall continue to apply, a Member subject to Phase 2 Measures:

(i) the Member shall be subject to specific reporting at the General Council meetings.

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For the purposes of this Decision, the SPS Committee and TBT Committee, respectively, will develop guidelines on the conditions under which a Member shall be deemed to have failed to provide a required notification with respect to ad hoc notifications for the Agreement on the Application of Sanitary and Phytosanitary Measures and Agreement on Technical Barriers to Trade such that administrative measures shall be applied pursuant to paragraph 10 of this decision. This decision shall not apply to ad hoc notifications under the TBT or SPS Agreements until the relevant guidelines have been adopted.

This subparagraph and paragraph 8 shall cease to operate once an update of G/AG/2 has been adopted. An update of G/AG/2 is encouraged within two years of this Decision.

For the purposes of this Decision, the SPS Committee and TBT Committee, respectively, will develop guidelines on the conditions under which a Member shall be deemed to have failed to provide a required notification with respect to ad hoc notifications for the Agreement on the Application of Sanitary and Phytosanitary Measures and Agreement on Technical Barriers to Trade such that administrative measures shall be applied pursuant to paragraph 12 of this decision. This decision shall not apply to ad hoc notifications under the TBT or SPS Agreements until the relevant guidelines have been adopted.

As regards the notification DS:1, until a revision of G/AG/2 is agreed, Phase 1 measures shall apply three years after the expiry of the notification deadline.
(ii) may pose questions posed by the Member to another Member during a Trade Policy Review need - Reviews, but Members shall not be answer obliged to respond; and

(iii) the Member shall be assessed a charge by the Secretariat to its next annual contribution, and each annual contribution until the relevant notification is submitted. The charge shall be set at the rate of [x][2][3][5] per cent% of its normal assessed contribution to the WTO budget per outstanding notification.

13. Phase 1 and 2 Measures shall be immediately rescinded when the Member has submitted the relevant notification(s).

14. to be effective in the following biennial budget cycle, that may be used. The charges resulting from Phase 2 measures shall not exceed [Y]% of a Member’s normal assessed annual contribution. The charges collected under Phase 2 Measures should, as far as practicable, be utilised for the purpose of providing Members with technical assistance and capacity building to help Members better comply with notification obligations, including through the ITTC.

15. When measures are applied at Phases 1 and 2, the Director-General shall inform the relevant Minister representing that Member.

16. When the administrative measures identified in paragraphs 10 and 11 will be applied to any Member, the Director-General will notify the Ministers of those Members responsible for the WTO of the administrative measures being applied with respect to those Members.

17. Once any such Member comes into compliance with its notification requirements, the administrative measures will cease to apply.