PROCEDURES TO ENHANCE TRANSPARENCY AND IMPROVE COMPLIANCE WITH NOTIFICATION REQUIREMENTS UNDER WTO AGREEMENTS

COMMUNICATION FROM ARGENTINA; AUSTRALIA; CANADA; CHILE; COLOMBIA; COSTA RICA; THE EUROPEAN UNION; ICELAND; ISRAEL; JAPAN; REPUBLIC OF KOREA; LIECHTENSTEIN; MEXICO; NEW ZEALAND; NORTH MACEDONIA; NORWAY; PARAGUAY, THE PHILIPPINES; SINGAPORE; SWITZERLAND; THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU; UNITED KINGDOM; AND THE UNITED STATES; AND URUGUAY

Revision

The following communication, dated 11 November 2021–28 April 2022, is being circulated at the request of the Delegations of Argentina; Australia; Canada; Chile; Colombia; Costa Rica; the European Union; Iceland; Israel; Japan; Republic of Korea; Liechtenstein; Mexico; New Zealand; North Macedonia; Norway; Paraguay; the Philippines; Singapore; Switzerland; the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; United Kingdom; and the United States; and Uruguay.

Draft General Council Decision

Procedures to Enhance Transparency and Improve Compliance with 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;

Recalling the difficulties that some Members are facing to comply fully with the notification requirements due to capacity limitations, and the necessity to give appropriate consideration to such difficulties and provide appropriate technical assistance and capacity building to those Members to address them; and

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

Recalling the previous efforts of the Working Group on Notification Obligations and Procedures;
Decides as follows:
Scope of Decision

1. For the purpose of this decision "notification" shall mean the notification obligations in relation to each of the following WTO Agreements and Decisions:

   - Agreement on Agriculture;
   - Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping);
   - Agreement on Subsidies and Countervailing Measures;
   - Agreement on Safeguards;
   - Understanding on the Interpretation of Article XVII of the GATT 1994 (State Trading);
   - Agreement on Implementation of Article VII of the GATT 1994 (Customs Valuation);
   - Agreement on Import Licensing Procedures;
   - Agreement on Rules of Origin;
   - Agreement on Preshipment Inspection;
   - Decision on Notification Procedures for Quantitative Restrictions (G/L/59/Rev.1);
   - Agreement on Trade Related Investment Measures;
   - Agreement on the Application of Sanitary and Phytosanitary Measures;
   - Agreement on Technical Barriers to Trade; and
   - Agreement on Trade Facilitation, Section I.

Reaffirming existing commitments

2. The Members reaffirm existing notification obligations and recommit to submitting timely and complete notifications.

Engagement in WTO bodies to facilitate compliance

3. The General Council instructs the Working Group on Notification Obligations and Procedures (Working Group), which is open to participation by all Members, to:

   (a) meet initially within six months of this decision to develop recommendations on improving Member compliance with notification obligations;

   (b) consult with relevant committees and other working groups and bodies to identify both systemic and specific improvements, as appropriate, such as introducing simplified notification formats, updating reporting requirements, holding additional trainings and workshops at the committee level, and using new digital tools that can help Members improve compliance with notification obligations;

   (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 and submission of notifications to the Central Registry of Notifications;

   (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;

   (e) review G/L/223 and recommend revisions/enhancements to the report relating to the factual analysis of Members' notification compliance;

   (f) consult with the Secretariat on ways to enhance the WTO's internal record-keeping procedures as regards notifications, WTO Notification Portal, including with regard to how it may be used to improve notification compliance can be streamlined and improved.
(g) work with the relevant committees and the Secretariat to create a dedicated page on the
WTO website with resources, guidance, training videos, and other materials as relevant
to aid Members in completing notifications;

(h) work with the Secretariat to establish automatic reminder emails to Members via the
eRegistration system before a notification is due; and

(i) report to the Council for Trade in Goods (CTG) on its findings and recommendations within
two years of the adoption of this decision, and provide updates at each subsequent
meeting; and

(j) report to the CTG on its continuing work annually or as appropriate thereafter.

Trade policy reviews

4. The General Council instructs the Trade Policy Review Body to ensure that within one year of
this decision all trade policy reviews include a specific, standardized focus on the Member's
compliance with its notification obligations. The Secretariat shall include within country reports
specific information on notification compliance by the Member. For preparing notifications, Members
are encouraged to make use, as appropriate, of the information on Members' trade policies and
practices available under the Trade Policy Review Mechanism.

Technical assistance and capacity building

3. Any Member may request that the Secretariat assist it in identifying and completing a
notification. The Secretariat is instructed to provide such assistance in full consultation with that
Member. Members are encouraged to bring to the attention of the relevant Committees notifications
that another Member has not made.

5. Any Member encountering difficulty in fulfilling its notification obligations is encouraged to
make a written request to the Secretariat for the notification-related technical assistance or capacity
building needed in order to submit the relevant notification, and to share this request with the
Working Group and the relevant Committee in the interest of transparency.

7. The Secretariat should take into account the specific needs identified in requests for assistance
and support to provide more targeted training related to notifications.

Explanation for delay

5-8. A Member that fails to submit a notification within the applicable notification deadline
should be 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
time-frame for its notification; and any elements of a partial notification that a Member can produce
to limit any delay in transparency.

Technical assistance and capacity building

7. Any Member may request that the Secretariat assist it in compiling and completing a
notification. The Secretariat is instructed to provide such assistance in full consultation with that
Member.

A Member encountering difficulty in fulfilling its notification obligations shall not be subject to
measures under paragraph 10(a) until two years after the notification deadline has passed.

8. Three years after the notification deadline has passed provided it has:
(a) requested assistance and support for notification-related capacity building from the Secretariat, whether in the form of WTO trade-related technical assistance, ad hoc assistance for a particular notification, or capacity building; and

(b) submitted written information to the Secretariat, the Working Group, and the relevant Committee on the assistance and capacity building needed in order to submit the relevant notification.

9. A Least Developed Country Member encountering difficulty in fulfilling its notification obligations shall not be subject to any measures under paragraph 10 provided it has:

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

(b) submitted written information to the Secretariat, the Working Group, and the relevant Committee on the assistance and capacity building needed in order to submit the relevant notification.

Administrative measures

10. Beginning on January 1, [2025] [2026], a Member that fails to submit a notification within the applicable notification deadline shall be subject to the following measures:

(a) Phase 1 Measures shall apply to a Member one year after the expiry of the notification deadline.

A Member subject to Phase 1 Measures:

(i) shall be designated as a “WTO Member with notification delay”, and shall be identified as such in a standing item on the General Council agenda;

(ii) shall be called upon to speak in WTO formal meetings after all other WTO observers, except in the case of negotiations; and

6.9. shall have its overall notification compliance reported upon annually by the Secretariat in the Council for Trade in Goods as part of the reporting for G/L/223. The information collected therein shall be used by the Secretariat to provide more targeted training related to notifications.

(b) Phase 2 Measures shall apply to a Member that has been subject to Phase 1 Measures for one year, and has nevertheless not submitted the relevant notification(s). Upon request of a Member subject to Phase 1 Measures that continues to encounter difficulty in fulfilling its notification obligations, the Committee to which the notification must be submitted may decide whether the Member with notification delay shall be exempted from the application of Phase 2 Measures.

1. As regards notifications which are outstanding as of 1 January [2025] [2026], Members which have not submitted the relevant notification(s) shall be subject to administrative measures no sooner than 1 January [2026] [2027].

2. 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.
In addition to the Phase 1 Measures which shall continue to apply, a Member subject to Phase 2 Measures:

7.10. shall have its notification performance reported upon by the Secretariat annually at The General Council Meetings; may direct the Working Group to develop further recommendations.

(i) may pose questions during Trade Policy Reviews, but Members shall not be obliged to respond; and

(ii) shall not have its representatives be nominated to preside over WTO bodies.

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

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

11. The General Council may consider expanding the efforts of the Working Group to other WTO Agreements, Understandings, and Decisions.