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**General Council
Council for Trade in Goods**

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**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, UNITED KINGDOM, AND THE UNITED STATES

Revision

The following communication, dated 23 November 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, United Kingdom, 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:

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 Understandings:

- 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 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;
- (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;
- (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;
- (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;
- (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.

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 submit a notification within the applicable notification deadline should 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

8. A Member may request assistance from the Secretariat in compiling and completing a notification. The Secretariat is instructed to provide such assistance in full consultation with that Member.

9. A developing country Member encountering difficulties to fulfil 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.

10. In accordance with paragraph 9, a developing country Member that has requested assistance in preparing a notification, and which has submitted information on assistance and capacity building requirements to the Working Group and the relevant Committee, shall not be subject to measures under paragraph 12(a) until two years after the notification deadline has passed.

11. Least Developed Country Members shall not be subject to any measures under paragraph 12 if they have:

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

12. Beginning in 20XX¹, a Member that has failed to submit a notification within the applicable notification deadline² shall be subject to the following measures:

- (a) Phase 1 Measures shall apply to a Member one year³ 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";
- (ii) Shall be called upon to speak in WTO formal meetings after all other WTO Members have taken the floor, but before any observers;
- (iii) Shall be identified as a "Member with notification delay" when offered the floor in the General Council;
- (iv) Shall have its overall notification compliance reported upon annually by the Secretariat in the Council for Trade in Goods; and
- (v) Shall not have its representatives be nominated to preside over WTO bodies.

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.

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 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.

³ 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.

- (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).

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

- (i) shall have its notification performance reported upon by the Secretariat annually at General Council Meetings;
- (ii) may pose questions during Trade Policy Reviews, but Members shall not be obliged to respond; and
- (iii) shall be assessed a charge 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]% 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. 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 technical assistance and capacity building to help Members better comply with notification obligations.

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