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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,
JAPAN, NEW ZEALAND, THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN
AND MATSU, AND THE UNITED STATES

Revision

The following communication, dated 29 March 2019, is being circulated at the request of the Delegations of Argentina, Australia, Canada, Costa Rica, the European Union, 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:

General

1. To reaffirm existing notification obligations and recommit to providing required and timely notifications under the following WTO Agreements and Understandings within the remit of the Council for Trade in Goods, for which there is regular annual reporting provided by the Secretariat (G/L/223/Rev.26 and its revisions):

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
 Agreement on Trade Facilitation, Section I

2. To instruct the Working Group on Notification Obligations and Procedures (Working Group) to meet before [x date] to develop recommendations on improving Member compliance with notification obligations under the Agreements and Understandings listed in paragraph 1. The Working Group will 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 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 work with the Secretariat to update the Technical Cooperation Handbook on Notifications (WT/TC/NOTIF/INF/3) and present it to the Council for Trade in Goods for its [x date] meeting.
4. To instruct 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. To encourage Members, at any time, to provide a counter notification of another Member concerning notification obligations under the Agreements and Understandings listed in paragraph 1.
6. That beginning in [x date] a Member that fails to provide a required notification by the deadline provided under an Agreement or Understanding listed in paragraph 1¹, or has failed to provide any prior required notification under an Agreement or Understanding listed in paragraph 1, will be subject to the administrative measures under paragraph 11.
7. Notwithstanding paragraph 6, with respect to the 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 8, 10(b), and 11 of this Decision shall be two years following the notification deadline required under G/AG/2. This paragraph 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.
8. A Member that fails to provide a required notification within the deadline referenced in paragraph 6 or the deadline set out in paragraph 7 is encouraged to submit to the relevant committee by six months after the relevant 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.
9. If a Member fails to provide a required notification within the deadline referenced in paragraph 6 or the deadline set out in paragraph 7, the Member may request the Secretariat provide 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.

¹ 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 11 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.

10. 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 referenced in paragraph 6 or the deadline set out in paragraph 7 and every six months thereafter information on those notifications under the Agreements and Understandings listed in paragraph 1 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.

11. For an Agreement or Understanding listed in paragraph 1, if a Member fails to provide a required notification within one year of the deadline referenced in paragraph 6 or the deadline set out in paragraph 7, and that Member has not requested assistance from the Secretariat identified in paragraph 10, the following administrative measures shall apply to that Member:

- (a) After one year from the deadline referenced in paragraph 6 or the deadline set out in paragraph 7, the following administrative measures shall be applied to the Member:
 - (i) representatives of the Member cannot be nominated to preside over WTO bodies;
 - (ii) questions posed by the Member to another Member during a Trade Policy Review need not be answered;
 - (iii) the Member shall be assessed a charge by the Secretariat at the rate of [x][5] percent of its normal assessed contribution to the WTO budget, to be effective in the following biennial budget cycle, that may be used for the purpose of providing Members with technical assistance to fulfil notification obligations, including through the ITTC;
 - (iv) the Secretariat shall report annually to the Council for Trade in Goods on the status of the Member's notifications; and
 - (v) the Member shall be subject to specific reporting at the General Council meetings.
- (b) A year after the administrative measures in subparagraph (a) are applied, the following administrative measures shall also be applied to the Member, in addition to the measures in subparagraph (a):
 - (i) the Member shall be designated as a Member with notification delay;
 - (ii) representatives of the Member will be called upon in WTO formal meetings after all other Members have taken the floor, and before any observers; and
 - (iii) when the Member with notification delay takes the floor in the General Council it will be identified as such.
- (c) The commencement of the administrative measures identified in paragraph 11(a) and 11(b) shall be deferred a year, respectively, for a developing country Member that has submitted information on the assistance and support for capacity building that the Member requires, as set out in paragraph 10, if the Member still fails to provide the required notification.

12. When the administrative measures identified in paragraph 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. Once any such Member comes into compliance with its notification requirements, the administrative measures will cease to apply.
