



Group Tables Draft Decision on Transparency & Notification

A group of WTO Members, including Argentina, Costa Rica, the EU, Japan, and the U.S., circulated a proposal which calls for the General Council to adopt new “procedures to enhance transparency and strengthen notification requirements under WTO agreements.”

The issue has been at the heart of some of the current disputes among Members, particularly when it comes to Members’ agricultural domestic support commitments.

Members have on many occasions stated that timely and complete notifications were crucial to moving the negotiations forward. The necessity for improving the monitoring and transparency of countries’ trade policy through updated notifications of their commitments was also echoed by Trade Ministers at the informal ministerial meeting on the WTO reform held in Ottawa on October 24-25.

“Our officials will engage on concrete ideas put forward in this area,” the Ministers stressed in their final statement.

The rulemaking in this area should focus on creating incentives for WTO Members to fully comply with their notification obligations, the EU once wrote on the need to improve transparency and subsidy notifications. This area has been “one of the biggest shortcomings in the application of the current system,” the European Commission stressed in a concept paper aimed at modernizing the WTO.

One way to correct this could be “the creation of a general rebuttable presumption according to which if a subsidy is not notified or is counter-notified, it would be presumed to be a subsidy or even be presumed to be a subsidy causing serious prejudice,” the Commission added.

Early this year the U.S. circulated a counter-notification concerning India’s domestic support programmes saying

that it has been studying the programmes for some time before deciding to issue the counter-notification, as 130 questions remained unanswered by India since 2011.

The U.S. noted that as world’s second largest rice producer and third largest wheat producer, India’s rice and wheat policies have considerable impact on global market. Through its own research, the U.S. found that India has “substantially underreported” its Market Price Support for years 2010/11 and 2013/14 based on the flawed methodology, breaching WTO *de minimis* regulations.

India fought back against the charges, saying that U.S.’s counter-notification was “unnecessary” and only an “exercise of futility” based on incorrect assumption and flawed methodology.

The proposal circulated this week, which will be discussed at the next week’s Goods Council meeting, instructs the “Trade Policy Review (TPR) Body to ensure that beginning in 2019 all trade policy reviews include a specific, standardized focus on the Member’s compliance with its notification obligations” while encouraging other Members who wish to “provide a counter notification of another Member concerning notification obligations” to do so “at any time.”

If a given Member fails to provide a complete notification within one year of the agreed deadline, the draft General Council Decision details a series of penalties to be applied to the Member in question:

1. After one year, but less than two full years, from a notification deadline, delegates from the country would not be allowed “to preside over WTO bodies”; this Member’s TPR questions will not be answered; “a supplement of [x][5] percent on its normal assessed contribution to the WTO budget, to be effective in the following biennial budget

cycle; the Secretariat will report annually to the Council for Trade in Goods on the status of the Member's notifications; and the Member will be subject to specific reporting at the General Council meetings."

2. After two years, but less than three full years following a notification deadline, additional penalties will be applied on top of the above-mentioned measures: "Member will be designated as an Inactive Member"; its representatives will be last among Members to take the floor; and when they do so during the General Council meetings, they will be identified as "Inactive Member."

Specific flexibilities have been included for Members – particularly developing countries – requesting assistance and support for capacity building from the WTO Secretariat.

In an addendum circulated on November 9, the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu, co-sponsored the proposal.

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