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General Council

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## PROCEDURAL GUIDELINES FOR WTO COUNCILS AND COMMITTEES ADDRESSING TRADE CONCERNS

### DRAFT GENERAL COUNCIL DECISION

*Communication from Albania; Australia; European Union; Hong Kong, China; Iceland; Republic of Korea; Republic of Moldova; New Zealand; North Macedonia; Norway; Panama; Qatar; Singapore; Switzerland; the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Thailand; Turkey; and Ukraine*

#### *Revision\**

The following communication, dated 18 October 2019, is being circulated at the request of the delegations of Albania; Australia; European Union; Hong Kong, China; Iceland; Republic of Korea; Republic of Moldova; New Zealand; North Macedonia; Norway; Panama; Qatar; Singapore; Switzerland; the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu; Thailand; Turkey and Ukraine.

The General Council,

*Having regard to* Article IV:2 of the Marrakesh Agreement Establishing the World Trade Organization;

*Recognizing* that regular WTO council and committee meetings offer Members the possibility to discuss and resolve concerns with trade-related measures of other Members;

*Seeking* to encourage the effective resolution of such trade concerns among Members through dialogue;

*Desiring* to strengthen the ability of regular WTO councils and committees to facilitate the effective resolution of such concerns by equipping them with horizontal procedural guidelines, taking into account the specific rules set by individual councils and committees;

*Decides* as follows:

#### Meeting arrangements

1. All documents to be considered at a formal meeting of a WTO body, including convening notices which shall indicate the items proposed for the agenda, shall be made available to Members at least 15 calendar days before the meeting. This shall not apply to proposed and annotated agendas, which may be circulated closer to the meeting, and room documents, which may be circulated at any time. The Secretariat shall remind Members of the closing dates for proposing items for the agendas.

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\* This revision is to add Iceland and North Macedonia as co-sponsors to the submission.

2. Convening notices indicating the items proposed for the agenda shall indicate which trade concerns are raised for the first time and which have been previously raised as well as how many times. Convening notices shall be unrestricted<sup>1</sup> and made publicly available on the WTO website.
3. The minutes of a meeting of a WTO body shall normally be circulated within three weeks after the meeting and not later than 30 calendar days before the next regularly scheduled meeting of that body.<sup>2</sup>
4. At the end of the calendar year, the Secretariat shall circulate an indicative schedule of meetings for the coming year for each WTO body.
5. To the extent that the meeting arrangements set out in paragraphs 1 to 4 are in contradiction with rules set by individual councils and committees, the present decision shall prevail. This includes where committees apply *mutatis mutandis* the Rules of Procedure for Meetings of the General Council.

#### Consideration of trade concerns in WTO bodies

6. Members requesting the inclusion of a trade concern in the agenda of a formal meeting for the first time should inform the respondent Member(s) concerned and the Secretariat at least 20 calendar days prior to the meeting. They should provide the respondent Member(s) with a substantive description of the concern so as to enable them to prepare a substantive reply. Respondent Members shall endeavour to address the substance of the concerns raised at the first meeting where the concern is included in the agenda.
7. Members raising a trade concern are encouraged to submit written questions or concerns to the respondent Member(s). If a Member receives written questions on a trade concern, that Member should respond in writing within 30 calendar days of circulation of the written questions. Written questions and written replies on trade concerns shall be unrestricted, unless the Member raising or responding to the trade concern requests otherwise.
8. The Secretariat will establish and manage a database on trade concerns in which all WTO documents pertaining to trade concerns are recorded, including written questions and replies, relevant minutes of meetings and relevant notifications. The database will contain a search facility to make all documents related to a particular trade concern easily accessible.
9. If concerns over the same measure are raised in different WTO bodies, the Chairperson assisted by the Secretariat shall, when the agenda item is taken up, give an overview of the relevant discussions that took place in other WTO bodies. This overview shall include information on which bodies have addressed trade concerns over the same measure and how often as well as a factual summary of substance.
10. The Members raising and responding to a trade concern are encouraged to consult with each other between formal meetings. As far as practicable and appropriate, they should report about the outcome of their consultations at the next formal meeting if the trade concern is maintained on the agenda.
11. When a trade concern is repeatedly raised at a WTO body, Members taking the floor under the agenda item are encouraged, in order to make the best use of time and to the extent possible, to refer back to their previous statements which are on record.

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<sup>1</sup> Convening notices shall be deemed to be official WTO documents which are unrestricted pursuant to paragraph 2(b) of the Procedures for the Circulation and Derestriction of WTO Documents of 14 May 2002, as contained in WT/L/452.

<sup>2</sup> Paragraph 3 concerning the circulation of the minutes of a meeting of a WTO body shall replace the first sentence of footnote 3 of the Procedures for the Circulation and Derestriction of WTO Documents of 14 May 2002.

Informal resolution of trade concerns

12. If a trade concern has remained on the agenda for three or more consecutive meetings without resolution, the Member raising or responding to a trade concern may request the Chairperson to invite them to participate, on a voluntary basis, in an informal meeting with the objective of finding a way forward. The Secretariat shall participate, unless one of the Members raising or responding to a trade concern disagrees. The Member raising or responding to a trade concern and the Chairperson may request the Secretariat to provide technical input. The Chairperson may invite other interested Members to the informal meeting if the Members raising and responding to a trade concern so agree.
13. Members are encouraged to ensure the participation of capital-based experts at the informal meeting as necessary and may request the Secretariat to facilitate their participation, including by means such as videoconferencing. If the Members raising and responding to a trade concern agree, technical experts from organizations that have observer status in the body concerned may participate at the technical meeting and may provide technical input upon request.
14. The Chairperson shall orally report about the outcome of the informal meeting at the next formal meeting, unless the Member raising or responding to a trade concern disagree. The oral report shall include a factual summary of views expressed and any way forward agreed by the Members concerned.

Assistance and review

15. A developing country Member encountering difficulties to respond to a trade concern or to implement these Procedural Guidelines is encouraged to request assistance from the WTO Secretariat.
16. In the light of the experience gained from the operation of the Procedural Guidelines, the General Council will, at an appropriate time, review and if necessary modify them.

Scope and entry into force

17. The Procedural Guidelines shall apply to the bodies set up pursuant to, and referred to by, Article IV of the Marrakesh Agreement Establishing the World Trade Organization, with the exception of the Ministerial Conference and the General Council, including when it convenes and acts as the Dispute Settlement Body and the Trade Policy Review Body. They shall also apply to the Committee of Participants on the Expansion of Trade in Information Technology Products, which was established pursuant to the provisions of the Ministerial Declaration on Trade in Information Technology Products<sup>3</sup> and the Implementation of the Ministerial Declaration on Trade in Information Technology Products<sup>4</sup>.
18. The present decision shall enter into force three months after the date of its adoption.

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<sup>3</sup> WT/MIN(96)/16.

<sup>4</sup> G/L/160.