澳門特別行政區

行 政 長 官 辦 公 室

第 11/2016 號行政長官公告

澳門特別行政區是世界貿易組織（下稱“世貿組織”）的正式成員；

世貿組織於二零一三年十二月在日內瓦召開的第九屆部長級會議上通過了《貿易便利化協定》；

世貿組織總理事會於二零一四年十一月二十七日通過了《修正〈馬拉喀什建立世界貿易組織協定〉議定書》（下稱“議定書”），將《貿易便利化協定》作為附件納入《馬拉喀什建立世界貿易組織協定》；

根據《馬拉喀什建立世界貿易組織協定》第十條第三款的規定，議定書經三分之二多數成員接受後，即對接受這些修正的成員生效，故議定書目前尚未生效；

行政長官根據第3/1999號法律《法規的公佈與格式》第六條第一款的規定，命令公佈包含《貿易便利化協定》的議定書的英文正式文本及中文譯本。

二零一六年二月二十九日發佈。

行政長官　崔世安

REGIÃO ADMINISTRATIVA ESPECIAL DE MACAU

GABINETE DO CHEFE DO EXECUTIVO

Aviso do Chefe do Executivo n.º 11/2016

Considerando que a Região Administrativa Especial de Macau é membro de pleno direito da Organização Mundial do Comércio, adiante designada por OMC;

Considerando igualmente que a OMC adoptou, em Dezembro de 2013, na sua 9.ª Conferência Ministerial realizada em Genebra, o Acordo de Facilitação do Comércio;

Mais considerando que o Conselho Geral da OMC aprovou, em 27 de Novembro de 2014, o Protocolo que Emenda o Acordo de Marraquexe que institui a Organização Mundial do Comércio, adiante designado por Protocolo, e que inclui em anexo do Acordo de Marraquexe que institui a Organização Mundial do Comércio, o Acordo de Facilitação do Comércio;

Considerando ainda que, nos termos do n.º 3 do artigo X do Acordo de Marraquexe que institui a Organização Mundial do Comércio, o Protocolo produzirá efeitos, no que respeita aos membros que o tenham aceitado, a partir do momento em que tenha sido aceite por dois terços dos membros, pelo que o mesmo ainda não entrou em vigor;

O Chefe do Executivo manda publicar, nos termos do n.º 1 do artigo 6.º da Lei n.º 3/1999 (Publicação e formulário dos diplomas), o Protocolo que contém o Acordo de Facilitação do Comércio, no seu texto autêntico em língua inglesa acompanhado da respectiva tradução em língua chinesa.

Promulgado em 29 de Fevereiro de 2016.

O Chefe do Executivo, *Chui Sai On*.

PROTOCOL AMENDING THE MARRAKESH AGREEMENT ESTABLISHING THE WORLD TRADE ORGANIZATION

DECISION OF 27 NOVEMBER 2014

The General Council;

Having regard to paragraph 1 of Article X of the Marrakesh Agreement Establishing the World Trade Organization ("the WTO Agreement");

Conducting the functions of the Ministerial Conference in the interval between meetings pursuant to paragraph 2 of Article IV of the WTO Agreement;

Recalling the General Council Decision to commence negotiations on the basis of the modalities set out in Annex D to that decision, adopted on 1 August 2004, as well as the Ministerial Decision of 7 December 2013 to draw up a Protocol of Amendment to insert the Agreement on Trade Facilitation into Annex 1A of the WTO Agreement (the "Protocol");

Recalling paragraph 47 of the Doha Ministerial Declaration of 20 November 2001;

Recalling paragraphs 2 and 3 of the Doha Ministerial Declaration, Annex D of the General Council Decision of August 2004 and Article 13.2 of the Agreement on Trade Facilitation on the importance of the provision of assistance and support for capacity building to help developing and least-developed countries to implement the provisions of the Agreement on Trade Facilitation;

Welcoming the Director General's announcement setting up, within the existing WTO structures, a Trade Facilitation Agreement Facility to manage support that Members volunteer to provide to the WTO in furtherance of supplementary assistance to implement the provisions of the Trade Facilitation Agreement and to facilitate coherence of assistance with the Annex D plus agencies;

Having considered the Agreement submitted by the Preparatory Committee on Trade Facilitation (WT/L/931);

Noting the consensus to submit this proposed amendment to the Members for acceptance;

Decides as follows:

1. The Protocol amending the WTO Agreement attached to this Decision is hereby adopted and submitted to the Members for acceptance.

2. The Protocol shall hereby be open for acceptance by Members.

3. The Protocol shall enter into force in accordance with the provisions of paragraph 3 of Article X of the WTO Agreement.

PROTOCOL AMENDING THE MARRAKESH AGREEMENT ESTABLISHING THE WORLD TRADE ORGANIZATION

Members of the World Trade Organization;

Referring to the Agreement on Trade Facilitation;

Having regard to the Decision of the General Council in document WT/L/940, adopted pursuant to paragraph 1 of Article X of the Marrakesh Agreement Establishing the World Trade Organization ("the WTO Agreement");

Hereby agree as follows:

1. Annex 1A to the WTO Agreement shall, upon entry into force of this Protocol pursuant to paragraph 4, be amended by the insertion of the Agreement on Trade Facilitation, as set out in the Annex to this Protocol, to be placed after the Agreement on Safeguards.

2. Reservations may not be entered in respect of any of the provisions of this Protocol without the consent of the other Members.

3. This Protocol is hereby open for acceptance by Members.

4. This Protocol shall enter into force in accordance with paragraph 3 of Article X of the WTO Agreement.[1]

5. This Protocol shall be deposited with the Director-General of the World Trade Organization who shall promptly furnish to each Member a certified copy thereof and a notification of each acceptance thereof pursuant to paragraph 3.

6. This Protocol shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

Done at Geneva this twenty-seventh day of November two thousand and fourteen, in a single copy in the English, French and Spanish languages, each text being authentic.

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[1] For the purposes of calculation of acceptances under Article X.3 of the WTO Agreement, an instrument of acceptance by the European Union for itself and in respect of its Member States shall be counted as acceptance by a number of Members equal to the number of Member States of the European Union which are Members to the WTO.

ANNEX TO THE PROTOCOL AMENDING THE MARRAKESH AGREEMENT ESTABLISHING THE WORLD TRADE ORGANIZATION

AGREEMENT ON TRADE FACILITATION

Preamble

Members,

Having regard to the negotiations launched under the Doha Ministerial Declaration;

Recalling and reaffirming the mandate and principles contained in paragraph 27 of the Doha Ministerial Declaration (WT/MIN(01)/DEC/1) and in Annex D of the Decision of the Doha Work Programme adopted by the General Council on 1 August 2004 (WT/L/579), as well as in paragraph 33 of and Annex E to the Hong Kong Ministerial Declaration (WT/MIN(05)/DEC);

Desiring to clarify and improve relevant aspects of Articles V, VIII and X of the GATT 1994 with a view to further expediting the movement, release and clearance of goods, including goods in transit;

Recognizing the particular needs of developing and especially least-developed country Members and desiring to enhance assistance and support for capacity building in this area;

Recognizing the need for effective cooperation among Members on trade facilitation and customs compliance issues;

Hereby *agree* as follows:

SECTION I

ARTICLE 1: PUBLICATION AND AVAILABILITY OF INFORMATION

1 Publication

1.1 Each Member shall promptly publish the following information in a non-discriminatory and easily accessible manner in order to enable governments, traders, and other interested parties to become acquainted with them:

(a) procedures for importation, exportation, and transit (including port, airport, and other entry-point procedures), and required forms and documents;

(b) applied rates of duties and taxes of any kind imposed on or in connection with importation or exportation;

(c) fees and charges imposed by or for governmental agencies on or in connection with importation, exportation or transit;

(d) rules for the classification or valuation of products for customs purposes;

(e) laws, regulations, and administrative rulings of general application relating to rules of origin;

(f) import, export or transit restrictions or prohibitions;

(g) penalty provisions for breaches of import, export, or transit formalities;

(h) procedures for appeal or review;

(i) agreements or parts thereof with any country or countries relating to importation, exportation, or transit; and

(j) procedures relating to the administration of tariff quotas.

1.2 Nothing in these provisions shall be construed as requiring the publication or provision of information other than in the language of the Member except as stated in paragraph 2.2.

2 Information Available Through Internet

2.1 Each Member shall make available, and update to the extent possible and as appropriate, the following through the internet:

(a) a description[1] of its procedures for importation, exportation, and transit, including procedures for appeal or review, that informs governments, traders, and other interested parties of the practical steps needed for importation, exportation, and transit;

(b) the forms and documents required for importation into, exportation from, or transit through the territory of that Member;

(c) contact information on its enquiry point(s).

2.2 Whenever practicable, the description referred to in subparagraph 2.1(a) shall also be made available in one of the official languages of the WTO.

2.3 Members are encouraged to make available further trade-related information through the internet, including relevant trade-related legislation and other items referred to in paragraph 1.1.

3 Enquiry Points

3.1 Each Member shall, within its available resources, establish or maintain one or more enquiry points to answer reasonable enquiries of governments, traders, and other interested parties on matters covered by paragraph 1.1 and to provide the required forms and documents referred to in subparagraph 1.1(a).

3.2 Members of a customs union or involved in regional integration may establish or maintain common enquiry points at the regional level to satisfy the requirement of paragraph 3.1 for common procedures.

3.3 Members are encouraged not to require the payment of a fee for answering enquiries and providing required forms and documents. If any, Members shall limit the amount of their fees and charges to the approximate cost of services rendered.

3.4 The enquiry points shall answer enquiries and provide the forms and documents within a reasonable time period set by each Member, which may vary depending on the nature or complexity of the request.

4 Notification

Each Member shall notify the Committee on Trade Facilitation established under paragraph 1.1 of Article 23 (referred to in this Agreement as the "Committee") of:

(a) the official place(s) where the items in subparagraphs 1.1(a) to (j) have been published;

(b) the Uniform Resource Locators of website(s) referred to in paragraph 2.1; and

(c) the contact information of the enquiry points referred to in paragraph 3.1.

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[1] Each Member has the discretion to state on its website the legal limitations of this description.

ARTICLE 2: OPPORTUNITY TO COMMENT, INFORMATION BEFORE ENTRY INTO FORCE, AND CONSULTATIONS

1 Opportunity to Comment and Information before Entry into Force

1.1 Each Member shall, to the extent practicable and in a manner consistent with its domestic law and legal system, provide opportunities and an appropriate time period to traders and other interested parties to comment on the proposed introduction or amendment of laws and regulations of general application related to the movement, release, and clearance of goods, including goods in transit.

1.2 Each Member shall, to the extent practicable and in a manner consistent with its domestic law and legal system, ensure that new or amended laws and regulations of general application related to the movement, release, and clearance of goods, including goods in transit, are published or information on them made otherwise publicly available, as early as possible before their entry into force, in order to enable traders and other interested parties to become acquainted with them.

1.3 Changes to duty rates or tariff rates, measures that have a relieving effect, measures the effectiveness of which would be undermined as a result of compliance with paragraphs 1.1 or 1.2, measures applied in urgent circumstances, or minor changes to domestic law and legal system are each excluded from paragraphs 1.1 and 1.2.

2 Consultations

Each Member shall, as appropriate, provide for regular consultations between its border agencies and traders or other stakeholders located within its territory.

ARTICLE 3: ADVANCE RULINGS

1. Each Member shall issue an advance ruling in a reasonable, time-bound manner to the applicant that has submitted a written request containing all necessary information. If a Member declines to issue an advance ruling, it shall promptly notify the applicant in writing, setting out the relevant facts and the basis for its decision.

2. A Member may decline to issue an advance ruling to the applicant where the question raised in the application:

(a) is already pending in the applicant's case before any governmental agency, appellate tribunal, or court; or

(b) has already been decided by any appellate tribunal or court.

3. The advance ruling shall be valid for a reasonable period of time after its issuance unless the law, facts, or circumstances supporting that ruling have changed.

4. Where the Member revokes, modifies, or invalidates the advance ruling, it shall provide written notice to the applicant setting out the relevant facts and the basis for its decision. Where a Member revokes, modifies, or invalidates advance rulings with retroactive effect, it may only do so where the ruling was based on incomplete, incorrect, false, or misleading information.

5. An advance ruling issued by a Member shall be binding on that Member in respect of the applicant that sought it. The Member may provide that the advance ruling is binding on the applicant.

6. Each Member shall publish, at a minimum:

(a) the requirements for the application for an advance ruling, including the information to be provided and the format;

(b) the time period by which it will issue an advance ruling; and

(c) the length of time for which the advance ruling is valid.

7. Each Member shall provide, upon written request of an applicant, a review of the advance ruling or the decision to revoke, modify, or invalidate the advance ruling.[2]

8. Each Member shall endeavour to make publicly available any information on advance rulings which it considers to be of significant interest to other interested parties, taking into account the need to protect commercially confidential information.

9. Definitions and scope:

(a) An advance ruling is a written decision provided by a Member to the applicant prior to the importation of a good covered by the application that sets forth the treatment that the Member shall provide to the good at the time of importation with regard to:

(i) the good's tariff classification; and

(ii) the origin of the good.[3]

(b) In addition to the advance rulings defined in subparagraph (a), Members are encouraged to provide advance rulings on:

(i) the appropriate method or criteria, and the application thereof, to be used for determining the customs value under a particular set of facts;

(ii) the applicability of the Member's requirements for relief or exemption from customs duties;

(iii) the application of the Member's requirements for quotas, including tariff quotas; and

(iv) any additional matters for which a Member considers it appropriate to issue an advance ruling.

(c) An applicant is an exporter, importer or any person with a justifiable cause or a representative thereof.

(d) A Member may require that the applicant have legal representation or registration in its territory. To the extent possible, such requirements shall not restrict the categories of persons eligible to apply for advance rulings, with particular consideration for the specific needs of small and medium-sized enterprises. These requirements shall be clear and transparent and not constitute a means of arbitrary or unjustifiable discrimination.

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[2] Under this paragraph: (a) a review may, either before or after the ruling has been acted upon, be provided by the official, office, or authority that issued the ruling, a higher or independent administrative authority, or a judicial authority; and (b) a Member is not required to provide the applicant with recourse to paragraph 1 of Article 4.

[3] It is understood that an advance ruling on the origin of a good may be an assessment of origin for the purposes of the Agreement on Rules of Origin where the ruling meets the requirements of this Agreement and the Agreement on Rules of Origin. Likewise, an assessment of origin under the Agreement on Rules of Origin may be an advance ruling on the origin of a good for the purposes of this Agreement where the ruling meets the requirements of both agreements. Members are not required to establish separate arrangements under this provision in addition to those established pursuant to the Agreement on Rules of Origin in relation to the assessment of origin provided that the requirements of this Article are fulfilled.

ARTICLE 4: PROCEDURES FOR APPEAL OR REVIEW

1. Each Member shall provide that any person to whom customs issues an administrative decision[4] has the right, within its territory, to:

(a) an administrative appeal to or review by an administrative authority higher than or independent of the official or office that issued the decision;

and/or

(b) a judicial appeal or review of the decision.

2. The legislation of a Member may require that an administrative appeal or review be initiated prior to a judicial appeal or review.

3. Each Member shall ensure that its procedures for appeal or review are carried out in a non-discriminatory manner.

4. Each Member shall ensure that, in a case where the decision on appeal or review under subparagraph 1(a) is not given either:

(a) within set periods as specified in its laws or regulations; or

(b) without undue delay

the petitioner has the right to either further appeal to or further review by the administrative authority or the judicial authority or any other recourse to the judicial authority.[5]

5. Each Member shall ensure that the person referred to in paragraph 1 is provided with the reasons for the administrative decision so as to enable such a person to have recourse to procedures for appeal or review where necessary.

6. Each Member is encouraged to make the provisions of this Article applicable to an administrative decision issued by a relevant border agency other than customs.

ARTICLE 5: OTHER MEASURES TO ENHANCE IMPARTIALITY, NON-DISCRIMINATION AND TRANSPARENCY

1 Notifications for enhanced controls or inspections

Where a Member adopts or maintains a system of issuing notifications or guidance to its concerned authorities for enhancing the level of controls or inspections at the border in respect of foods, beverages, or feedstuffs covered under the notification or guidance for protecting human, animal, or plant life or health within its territory, the following disciplines shall apply to the manner of their issuance, termination, or suspension:

(a) the Member may, as appropriate, issue the notification or guidance based on risk;

(b) the Member may issue the notification or guidance so that it applies uniformly only to those points of entry where the sanitary and phytosanitary conditions on which the notification or guidance are based apply;

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[4] An administrative decision in this Article means a decision with a legal effect that affects the rights and obligations of a specific person in an individual case. It shall be understood that an administrative decision in this Article covers an administrative action within the meaning of Article X of the GATT 1994 or failure to take an administrative action or decision as provided for in a Member's domestic law and legal system. For addressing such failure, Members may maintain an alternative administrative mechanism or judicial recourse to direct the customs authority to promptly issue an administrative decision in place of the right to appeal or review under subparagraph 1(a).

[5] Nothing in this paragraph shall prevent a Member from recognizing administrative silence on appeal or review as a decision in favor of the petitioner in accordance with its laws and regulations.

(c) the Member shall promptly terminate or suspend the notification or guidance when circumstances giving rise to it no longer exist, or if changed circumstances can be addressed in a less trade-restrictive manner; and

(d) when the Member decides to terminate or suspend the notification or guidance, it shall, as appropriate, promptly publish the announcement of its termination or suspension in a non-discriminatory and easily accessible manner, or inform the exporting Member or the importer.

2 Detention

A Member shall promptly inform the carrier or importer in case of detention of goods declared for importation, for inspection by customs or any other competent authority.

3 Test Procedures

3.1 A Member may, upon request, grant an opportunity for a second test in case the first test result of a sample taken upon arrival of goods declared for importation shows an adverse finding.

3.2 A Member shall either publish, in a non-discriminatory and easily accessible manner, the name and address of any laboratory where the test can be carried out or provide this information to the importer when it is granted the opportunity provided under paragraph 3.1.

3.3 A Member shall consider the result of the second test, if any, conducted under paragraph 3.1, for the release and clearance of goods and, if appropriate, may accept the results of such test.

ARTICLE 6: DISCIPLINES ON FEES AND CHARGES IMPOSED ON OR IN CONNECTION WITH IMPORTATION AND EXPORTATION AND PENALTIES

1 General Disciplines on Fees and Charges Imposed on or in Connection with Importation and Exportation

1.1 The provisions of paragraph 1 shall apply to all fees and charges other than import and export duties and other than taxes within the purview of Article III of GATT 1994 imposed by Members on or in connection with the importation or exportation of goods.

1.2 Information on fees and charges shall be published in accordance with Article 1. This information shall include the fees and charges that will be applied, the reason for such fees and charges, the responsible authority and when and how payment is to be made.

1.3 An adequate time period shall be accorded between the publication of new or amended fees and charges and their entry into force, except in urgent circumstances. Such fees and charges shall not be applied until information on them has been published.

1.4 Each Member shall periodically review its fees and charges with a view to reducing their number and diversity, where practicable.

2 Specific disciplines on Fees and Charges for Customs Processing Imposed on or in Connection with Importation and Exportation

Fees and charges for customs processing:

(i) shall be limited in amount to the approximate cost of the services rendered on or in connection with the specific import or export operation in question; and

(ii) are not required to be linked to a specific import or export operation provided they are levied for services that are closely connected to the customs processing of goods.

3 Penalty Disciplines

3.1 For the purpose of paragraph 3, the term "penalties" shall mean those imposed by a Member's customs administration for a breach of the Member's customs laws, regulations, or procedural requirements.

3.2 Each Member shall ensure that penalties for a breach of a customs law, regulation, or procedural requirement are imposed only on the person(s) responsible for the breach under its laws.

3.3 The penalty imposed shall depend on the facts and circumstances of the case and shall be commensurate with the degree and severity of the breach.

3.4 Each Member shall ensure that it maintains measures to avoid:

(a) conflicts of interest in the assessment and collection of penalties and duties; and

(b) creating an incentive for the assessment or collection of a penalty that is inconsistent with paragraph 3.3.

3.5 Each Member shall ensure that when a penalty is imposed for a breach of customs laws, regulations, or procedural requirements, an explanation in writing is provided to the person(s) upon whom the penalty is imposed specifying the nature of the breach and the applicable law, regulation or procedure under which the amount or range of penalty for the breach has been prescribed.

3.6 When a person voluntarily discloses to a Member's customs administration the circumstances of a breach of a customs law, regulation, or procedural requirement prior to the discovery of the breach by the customs administration, the Member is encouraged to, where appropriate, consider this fact as a potential mitigating factor when establishing a penalty for that person.

3.7 The provisions of this paragraph shall apply to the penalties on traffic in transit referred to in paragraph 3.1.

ARTICLE 7: RELEASE AND CLEARANCE OF GOODS

1 Pre-arrival Processing

1.1 Each Member shall adopt or maintain procedures allowing for the submission of import documentation and other required information, including manifests, in order to begin processing prior to the arrival of goods with a view to expediting the release of goods upon arrival.

1.2 Each Member shall, as appropriate, provide for advance lodging of documents in electronic format for pre-arrival processing of such documents.

2 Electronic Payment

Each Member shall, to the extent practicable, adopt or maintain procedures allowing the option of electronic payment for duties, taxes, fees, and charges collected by customs incurred upon importation and exportation.

3 Separation of Release from Final Determination of Customs Duties, Taxes, Fees and Charges

3.1 Each Member shall adopt or maintain procedures allowing the release of goods prior to the final determination of customs duties, taxes, fees, and charges, if such a determination is not done prior to, or upon arrival, or as rapidly as possible after arrival and provided that all other regulatory requirements have been met.

3.2 As a condition for such release, a Member may require:

(a) payment of customs duties, taxes, fees, and charges determined prior to or upon arrival of goods and a guarantee for any amount not yet determined in the form of a surety, a deposit, or another appropriate instrument provided for in its laws and regulations; or

(b) a guarantee in the form of a surety, a deposit, or another appropriate instrument provided for in its laws and regulations.

3.3 Such guarantee shall not be greater than the amount the Member requires to ensure payment of customs duties, taxes, fees, and charges ultimately due for the goods covered by the guarantee.

3.4 In cases where an offence requiring imposition of monetary penalties or fines has been detected, a guarantee may be required for the penalties and fines that may be imposed.

3.5 The guarantee as set out in paragraphs 3.2 and 3.4 shall be discharged when it is no longer required.

3.6 Nothing in these provisions shall affect the right of a Member to examine, detain, seize or confiscate or deal with the goods in any manner not otherwise inconsistent with the Member's WTO rights and obligations.

4 Risk Management

4.1 Each Member shall, to the extent possible, adopt or maintain a risk management system for customs control.

4.2 Each Member shall design and apply risk management in a manner as to avoid arbitrary or unjustifiable discrimination, or a disguised restriction on international trade.

4.3 Each Member shall concentrate customs control and, to the extent possible other relevant border controls, on high-risk consignments and expedite the release of low-risk consignments. A Member also may select, on a random basis, consignments for such controls as part of its risk management.

4.4 Each Member shall base risk management on an assessment of risk through appropriate selectivity criteria. Such selectivity criteria may include, *inter alia,* the Harmonized System code, nature and description of the goods, country of origin, country from which the goods were shipped, value of the goods, compliance record of traders, and type of means of transport.

5 Post-clearance Audit

5.1 With a view to expediting the release of goods, each Member shall adopt or maintain post-clearance audit to ensure compliance with customs and other related laws and regulations.

5.2 Each Member shall select a person or a consignment for post-clearance audit in a risk-based manner, which may include appropriate selectivity criteria. Each Member shall conduct post-clearance audits in a transparent manner. Where the person is involved in the audit process and conclusive results have been achieved the Member shall, without delay, notify the person whose record is audited of the results, the person's rights and obligations, and the reasons for the results.

5.3 The information obtained in post-clearance audit may be used in further administrative or judicial proceedings.

5.4 Members shall, wherever practicable, use the result of post-clearance audit in applying risk management.

6 Establishment and Publication of Average Release Times

6.1 Members are encouraged to measure and publish their average release time of goods periodically and in a consistent manner, using tools such as, *inter alia*, the Time Release Study of the World Customs Organization (referred to in this Agreement as the "WCO").[6]

6.2 Members are encouraged to share with the Committee their experiences in measuring average release times, including methodologies used, bottlenecks identified, and any resulting effects on efficiency.

7 Trade Facilitation Measures for Authorized Operators

7.1 Each Member shall provide additional trade facilitation measures related to import, export, or transit formalities and procedures, pursuant to paragraph 7.3, to operators who meet specified criteria, hereinafter called authorized operators. Alternatively, a Member may offer such trade facilitation measures through customs procedures generally available to all operators and is not required to establish a separate scheme.

7.2 The specified criteria to qualify as an authorized operator shall be related to compliance, or the risk of non-compliance, with requirements specified in a Member's laws, regulations or procedures.

(a) Such criteria, which shall be published, may include:

(i) an appropriate record of compliance with customs and other related laws and regulations;

(ii) a system of managing records to allow for necessary internal controls;

(iii) financial solvency, including, where appropriate, provision of a sufficient security or guarantee; and

(iv) supply chain security.

(b) Such criteria shall not:

(i) be designed or applied so as to afford or create arbitrary or unjustifiable discrimination between operators where the same conditions prevail; and

(ii) to the extent possible, restrict the participation of small and medium-sized enterprises.

7.3 The trade facilitation measures provided pursuant to paragraph 7.1 shall include at least three of the following measures:[7]

(a) low documentary and data requirements, as appropriate;

(b) low rate of physical inspections and examinations, as appropriate;

(c) rapid release time, as appropriate;

(d) deferred payment of duties, taxes, fees, and charges;

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[6] Each Member may determine the scope and methodology of such average release time measurement in accordance with its needs and capacity.

[7] A measure listed in subparagraphs 7.3 (a) to (g) will be deemed to be provided to authorized operators if it is generally available to all operators.

(e) use of comprehensive guarantees or reduced guarantees;

(f) a single customs declaration for all imports or exports in a given period; and

(g) clearance of goods at the premises of the authorized operator or another place authorized by customs.

7.4 Members are encouraged to develop authorized operator schemes on the basis of international standards, where such standards exist, except when such standards would be an inappropriate or ineffective means for the fulfilment of the legitimate objectives pursued.

7.5 In order to enhance the trade facilitation measures provided to operators, Members shall afford to other Members the possibility of negotiating mutual recognition of authorized operator schemes.

7.6 Members shall exchange relevant information within the Committee about authorized operator schemes in force.

8 Expedited Shipments

8.1 Each Member shall adopt or maintain procedures allowing for the expedited release of at least those goods entered through air cargo facilities to persons who apply for such treatment, while maintaining customs control.[8] If a Member employs criteria[9] limiting who may apply, the Member may, in published criteria, require that the applicant shall, as conditions for qualifying for the application of the treatment described in paragraph 8.2 to its expedited shipments:

(a) provide adequate infrastructure and payment of customs expenses related to processing of expedited shipments in cases where the applicant fulfils the Member's requirements for such processing to be performed at a dedicated facility;

(b) submit in advance of the arrival of an expedited shipment the information necessary for the release;

(c) be assessed fees limited in amount to the approximate cost of services rendered in providing the treatment described in paragraph 8.2;

(d) maintain a high degree of control over expedited shipments through the use of internal security, logistics, and tracking technology from pick-up to delivery;

(e) provide expedited shipment from pick-up to delivery;

(f) assume liability for payment of all customs duties, taxes, fees, and charges to the customs authority for the goods;

(g) have a good record of compliance with customs and other related laws and regulations;

(h) comply with other conditions directly related to the effective enforcement of the Member's laws, regulations, and procedural requirements, that specifically relate to providing the treatment described in paragraph 8.2.

8.2 Subject to paragraphs 8.1 and 8.3, Members shall:

(a) minimize the documentation required for the release of expedited shipments in accordance with paragraph 1 of Article 10 and, to the extent possible, provide for release based on a single submission of information on certain shipments;

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[8] In cases where a Member has an existing procedure that provides the treatment in paragraph 8.2, this provision does not require that Member to introduce separate expedited release procedures.

[9] Such application criteria, if any, shall be in addition to the Member's requirements for operating with respect to all goods or shipments entered through air cargo facilities.

(b) provide for expedited shipments to be released under normal circumstances as rapidly as possible after arrival, provided the information required for release has been submitted;

(c) endeavour to apply the treatment in subparagraphs (a) and (b) to shipments of any weight or value recognizing that a Member is permitted to require additional entry procedures, including declarations and supporting documentation and payment of duties and taxes, and to limit such treatment based on the type of good, provided the treatment is not limited to low value goods such as documents; and

(d) provide, to the extent possible, for a *de minimis* shipment value or dutiable amount for which customs duties and taxes will not be collected, aside from certain prescribed goods. Internal taxes, such as value added taxes and excise taxes, applied to imports consistently with Article III of the GATT 1994 are not subject to this provision.

8.3 Nothing in paragraphs 8.1 and 8.2 shall affect the right of a Member to examine, detain, seize, confiscate or refuse entry of goods, or to carry out post-clearance audits, including in connection with the use of risk management systems. Further, nothing in paragraphs 8.1 and 8.2 shall prevent a Member from requiring, as a condition for release, the submission of additional information and the fulfilment of non-automatic licensing requirements.

9 Perishable Goods[10]

9.1 With a view to preventing avoidable loss or deterioration of perishable goods, and provided that all regulatory requirements have been met, each Member shall provide for the release of perishable goods:

(a) under normal circumstances within the shortest possible time; and

(b) in exceptional circumstances where it would be appropriate to do so, outside the business hours of customs and other relevant authorities.

9.2 Each Member shall give appropriate priority to perishable goods when scheduling any examinations that may be required.

9.3 Each Member shall either arrange or allow an importer to arrange for the proper storage of perishable goods pending their release. The Member may require that any storage facilities arranged by the importer have been approved or designated by its relevant authorities. The movement of the goods to those storage facilities, including authorizations for the operator moving the goods, may be subject to the approval, where required, of the relevant authorities. The Member shall, where practicable and consistent with domestic legislation, upon the request of the importer, provide for any procedures necessary for release to take place at those storage facilities.

9.4 In cases of significant delay in the release of perishable goods, and upon written request, the importing Member shall, to the extent practicable, provide a communication on the reasons for the delay.

ARTICLE 8: BORDER AGENCY COOPERATION

1. Each Member shall ensure that its authorities and agencies responsible for border controls and procedures dealing with the importation, exportation, and transit of goods cooperate with one another and coordinate their activities in order to facilitate trade.

2. Each Member shall, to the extent possible and practicable, cooperate on mutually agreed terms with other Members with whom it shares a common border with a view to coordinating procedures at border crossings to facilitate cross-border trade. Such cooperation and coordination may include:

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[10] For the purposes of this provision, perishable goods are goods that rapidly decay due to their natural characteristics, in particular in the absence of appropriate storage conditions.

(a) alignment of working days and hours;

(b) alignment of procedures and formalities;

(c) development and sharing of common facilities;

(d) joint controls;

(e) establishment of one stop border post control.

ARTICLE 9: MOVEMENT OF GOODS INTENDED FOR IMPORT UNDER CUSTOMS CONTROL

Each Member shall, to the extent practicable, and provided all regulatory requirements are met, allow goods intended for import to be moved within its territory under customs control from a customs office of entry to another customs office in its territory from where the goods would be released or cleared.

ARTICLE 10: FORMALITIES CONNECTED WITH IMPORTATION, EXPORTATION AND TRANSIT

1 Formalities and Documentation Requirements

1.1 With a view to minimizing the incidence and complexity of import, export, and transit formalities and to decreasing and simplifying import, export, and transit documentation requirements and taking into account the legitimate policy objectives and other factors such as changed circumstances, relevant new information, business practices, availability of techniques and technology, international best practices, and inputs from interested parties, each Member shall review such formalities and documentation requirements and, based on the results of the review, ensure, as appropriate, that such formalities and documentation requirements are:

(a) adopted and/or applied with a view to a rapid release and clearance of goods, particularly perishable goods;

(b) adopted and/or applied in a manner that aims at reducing the time and cost of compliance for traders and operators;

(c) the least trade restrictive measure chosen where two or more alternative measures are reasonably available for fulfilling the policy objective or objectives in question; and

(d) not maintained, including parts thereof, if no longer required.

1.2 The Committee shall develop procedures for the sharing by Members of relevant information and best practices, as appropriate.

2 Acceptance of Copies

2.1 Each Member shall, where appropriate, endeavour to accept paper or electronic copies of supporting documents required for import, export, or transit formalities.

2.2 Where a government agency of a Member already holds the original of such a document, any other agency of that Member shall accept a paper or electronic copy, where applicable, from the agency holding the original in lieu of the original document.

2.3 A Member shall not require an original or copy of export declarations submitted to the customs authorities of the exporting Member as a requirement for importation.[11]

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[11] Nothing in this paragraph precludes a Member from requiring documents such as certificates, permits or licenses as a requirement for the importation of controlled or regulated goods.

3 Use of International Standards

3.1 Members are encouraged to use relevant international standards or parts thereof as a basis for their import, export, or transit formalities and procedures, except as otherwise provided for in this Agreement.

3.2 Members are encouraged to take part, within the limits of their resources, in the preparation and periodic review of relevant international standards by appropriate international organizations.

3.3 The Committee shall develop procedures for the sharing by Members of relevant information, and best practices, on the implementation of international standards, as appropriate.

The Committee may also invite relevant international organizations to discuss their work on international standards. As appropriate, the Committee may identify specific standards that are of particular value to Members.

4 Single Window

4.1 Members shall endeavour to establish or maintain a single window, enabling traders to submit documentation and/or data requirements for importation, exportation, or transit of goods through a single entry point to the participating authorities or agencies. After the examination by the participating authorities or agencies of the documentation and/or data, the results shall be notified to the applicants through the single window in a timely manner.

4.2 In cases where documentation and/or data requirements have already been received through the single window, the same documentation and/or data requirements shall not be requested by participating authorities or agencies except in urgent circumstances and other limited exceptions which are made public.

4.3 Members shall notify the Committee of the details of operation of the single window.

4.4 Members shall, to the extent possible and practicable, use information technology to support the single window.

5 Preshipment Inspection

5.1 Members shall not require the use of preshipment inspections in relation to tariff classification and customs valuation.

5.2 Without prejudice to the rights of Members to use other types of preshipment inspection not covered by paragraph 5.1, Members are encouraged not to introduce or apply new requirements regarding their use.[12]

6 Use of Customs Brokers

6.1 Without prejudice to the important policy concerns of some Members that currently maintain a special role for customs brokers, from the entry into force of this Agreement Members shall not introduce the mandatory use of customs brokers.

6.2 Each Member shall notify the Committee and publish its measures on the use of customs brokers. Any subsequent modifications thereof shall be notified and published promptly.

6.3 With regard to the licensing of customs brokers, Members shall apply rules that are transparent and objective.

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[12] This paragraph refers to preshipment inspections covered by the Agreement on Preshipment Inspection, and does not preclude preshipment inspections for sanitary and phytosanitary purposes.

7 Common Border Procedures and Uniform Documentation Requirements

7.1 Each Member shall, subject to paragraph 7.2, apply common customs procedures and uniform documentation requirements for release and clearance of goods throughout its territory.

7.2 Nothing in this Article shall prevent a Member from:

(a) differentiating its procedures and documentation requirements based on the nature and type of goods, or their means of transport;

(b) differentiating its procedures and documentation requirements for goods based on risk management;

(c) differentiating its procedures and documentation requirements to provide total or partial exemption from import duties or taxes;

(d) applying electronic filing or processing; or

(e) differentiating its procedures and documentation requirements in a manner consistent with the Agreement on the Application of Sanitary and Phytosanitary Measures.

8 Rejected Goods

8.1 Where goods presented for import are rejected by the competent authority of a Member on account of their failure to meet prescribed sanitary or phytosanitary regulations or technical regulations, the Member shall, subject to and consistent with its laws and regulations, allow the importer to re-consign or to return the rejected goods to the exporter or another person designated by the exporter.

8.2 When such an option under paragraph 8.1 is given and the importer fails to exercise it within a reasonable period of time, the competent authority may take a different course of action to deal with such non-compliant goods.

9 Temporary Admission of Goods and Inward and Outward Processing

9.1 Temporary Admission of Goods

Each Member shall allow, as provided for in its laws and regulations, goods to be brought into its customs territory conditionally relieved, totally or partially, from payment of import duties and taxes if such goods are brought into its customs territory for a specific purpose, are intended for re-exportation within a specific period, and have not undergone any change except normal depreciation and wastage due to the use made of them.

9.2 Inward and Outward Processing

(a) Each Member shall allow, as provided for in its laws and regulations, inward and outward processing of goods. Goods allowed for outward processing may be re-imported with total or partial exemption from import duties and taxes in accordance with the Member's laws and regulations.

(b) For the purposes of this Article, the term "inward processing" means the customs procedure under which certain goods can be brought into a Member's customs territory conditionally relieved, totally or partially, from payment of import duties and taxes, or eligible for duty drawback, on the basis that such goods are intended for manufacturing, processing, or repair and subsequent exportation.

(c) For the purposes of this Article, the term "outward processing" means the customs procedure under which goods which are in free circulation in a Member's customs territory may be temporarily exported for manufacturing, processing, or repair abroad and then re-imported.

ARTICLE 11: FREEDOM OF TRANSIT

1. Any regulations or formalities in connection with traffic in transit imposed by a Member shall not be:

(a) maintained if the circumstances or objectives giving rise to their adoption no longer exist or if the changed circumstances or objectives can be addressed in a reasonably available less trade-restrictive manner;

(b) applied in a manner that would constitute a disguised restriction on traffic in transit.

2. Traffic in transit shall not be conditioned upon collection of any fees or charges imposed in respect of transit, except the charges for transportation or those commensurate with administrative expenses entailed by transit or with the cost of services rendered.

3. Members shall not seek, take, or maintain any voluntary restraints or any other similar measures on traffic in transit. This is without prejudice to existing and future national regulations, bilateral or multilateral arrangements related to regulating transport, consistent with WTO rules.

4. Each Member shall accord to products which will be in transit through the territory of any other Member treatment no less favourable than that which would be accorded to such products if they were being transported from their place of origin to their destination without going through the territory of such other Member.

5. Members are encouraged to make available, where practicable, physically separate infrastructure (such as lanes, berths and similar) for traffic in transit.

6. Formalities, documentation requirements, and customs controls in connection with traffic in transit shall not be more burdensome than necessary to:

(a) identify the goods; and

(b) ensure fulfilment of transit requirements.

7. Once goods have been put under a transit procedure and have been authorized to proceed from the point of origination in a Member's territory, they will not be subject to any customs charges nor unnecessary delays or restrictions until they conclude their transit at the point of destination within the Member's territory.

8. Members shall not apply technical regulations and conformity assessment procedures within the meaning of the Agreement on Technical Barriers to Trade to goods in transit.

9. Members shall allow and provide for advance filing and processing of transit documentation and data prior to the arrival of goods.

10. Once traffic in transit has reached the customs office where it exits the territory of a Member, that office shall promptly terminate the transit operation if transit requirements have been met.

11. Where a Member requires a guarantee in the form of a surety, deposit or other appropriate monetary or non-monetary[13] instrument for traffic in transit, such guarantee shall be limited to ensuring that requirements arising from such traffic in transit are fulfilled.

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[13] Nothing in this provision shall preclude a Member from maintaining existing procedures whereby the means of transport can be used as a guarantee for traffic in transit.

12. Once the Member has determined that its transit requirements have been satisfied, the guarantee shall be discharged without delay.

13. Each Member shall, in a manner consistent with its laws and regulations, allow comprehensive guarantees which include multiple transactions for same operators or renewal of guarantees without discharge for subsequent consignments.

14. Each Member shall make publicly available the relevant information it uses to set the guarantee, including single transaction and, where applicable, multiple transaction guarantee.

15. Each Member may require the use of customs convoys or customs escorts for traffic in transit only in circumstances presenting high risks or when compliance with customs laws and regulations cannot be ensured through the use of guarantees. General rules applicable to customs convoys or customs escorts shall be published in accordance with Article 1.

16. Members shall endeavour to cooperate and coordinate with one another with a view to enhancing freedom of transit. Such cooperation and coordination may include, but is not limited to, an understanding on:

(a) charges;

(b) formalities and legal requirements; and

(c) the practical operation of transit regimes.

17. Each Member shall endeavour to appoint a national transit coordinator to which all enquiries and proposals by other Members relating to the good functioning of transit operations can be addressed.

ARTICLE 12: CUSTOMS COOPERATION

1 Measures Promoting Compliance and Cooperation

1.1 Members agree on the importance of ensuring that traders are aware of their compliance obligations, encouraging voluntary compliance to allow importers to self-correct without penalty in appropriate circumstances, and applying compliance measures to initiate stronger measures for non-compliant traders.[14]

1.2 Members are encouraged to share information on best practices in managing customs compliance, including through the Committee. Members are encouraged to cooperate in technical guidance or assistance and support for capacity building for the purposes of administering compliance measures and enhancing their effectiveness.

2 Exchange of Information

2.1 Upon request and subject to the provisions of this Article, Members shall exchange the information set out in subparagraphs 6.1(b) and/or (c) for the purpose of verifying an import or export declaration in identified cases where there are reasonable grounds to doubt the truth or accuracy of the declaration.

2.2 Each Member shall notify the Committee of the details of its contact point for the exchange of this information.

3 Verification

A Member shall make a request for information only after it has conducted appropriate verification procedures of an import or export declaration and after it has inspected the available relevant documentation.

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[14] Such activity has the overall objective of lowering the frequency of non-compliance, and consequently reducing the need for exchange of information in pursuit of enforcement.

4 Request

4.1 The requesting Member shall provide the requested Member with a written request, through paper or electronic means in a mutually agreed official language of the WTO or other mutually agreed language, including:

(a) the matter at issue including, where appropriate and available, the number identifying the export declaration corresponding to the import declaration in question;

(b) the purpose for which the requesting Member is seeking the information or documents, along with the names and contact details of the persons to whom the request relates, if known;

(c) where required by the requested Member, confirmation[15] of the verification where appropriate;

(d) the specific information or documents requested;

(e) the identity of the originating office making the request;

(f) reference to provisions of the requesting Member's domestic law and legal system that govern the collection, protection, use, disclosure, retention, and disposal of confidential information and personal data.

4.2 If the requesting Member is not in a position to comply with any of the subparagraphs of paragraph 4.1, it shall specify this in the request.

5 Protection and Confidentiality

5.1 The requesting Member shall, subject to paragraph 5.2:

(a) hold all information or documents provided by the requested Member strictly in confidence and grant at least the same level of such protection and confidentiality as that provided under the domestic law and legal system of the requested Member as described by it under subparagraphs 6.1(b) or (c);

(b) provide information or documents only to the customs authorities dealing with the matter at issue and use the information or documents solely for the purpose stated in the request unless the requested Member agrees otherwise in writing;

(c) not disclose the information or documents without the specific written permission of the requested Member;

(d) not use any unverified information or documents from the requested Member as the deciding factor towards alleviating the doubt in any given circumstance;

(e) respect any case-specific conditions set out by the requested Member regarding retention and disposal of confidential information or documents and personal data; and

(f) upon request, inform the requested Member of any decisions and actions taken on the matter as a result of the information or documents provided.

5.2 A requesting Member may be unable under its domestic law and legal system to comply with any of the subparagraphs of paragraph 5.1. If so, the requesting Member shall specify this in the request.

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[15] This may include pertinent information on the verification conducted under paragraph 3. Such information shall be subject to the level of protection and confidentiality specified by the Member conducting the verification.

5.3 The requested Member shall treat any request and verification information received under paragraph 4 with at least the same level of protection and confidentiality accorded by the requested Member to its own similar information.

6 Provision of Information

6.1 Subject to the provisions of this Article, the requested Member shall promptly:

(a) respond in writing, through paper or electronic means;

(b) provide the specific information as set out in the import or export declaration, or the declaration, to the extent it is available, along with a description of the level of protection and confidentiality required of the requesting Member;

(c) if requested, provide the specific information as set out in the following documents, or the documents, submitted in support of the import or export declaration, to the extent it is available: commercial invoice, packing list, certificate of origin and bill of lading, in the form in which these were filed, whether paper or electronic, along with a description of the level of protection and confidentiality required of the requesting Member;

(d) confirm that the documents provided are true copies;

(e) provide the information or otherwise respond to the request, to the extent possible, within 90 days from the date of the request.

6.2 The requested Member may require, under its domestic law and legal system, an assurance prior to the provision of information that the specific information will not be used as evidence in criminal investigations, judicial proceedings, or in non-customs proceedings without the specific written permission of the requested Member. If the requesting Member is not in a position to comply with this requirement, it should specify this to the requested Member.

7 Postponement or Refusal of a Request

7.1 A requested Member may postpone or refuse part or all of a request to provide information, and shall inform the requesting Member of the reasons for doing so, where:

(a) it would be contrary to the public interest as reflected in the domestic law and legal system of the requested Member;

(b) its domestic law and legal system prevents the release of the information. In such a case it shall provide the requesting Member with a copy of the relevant, specific reference;

(c) the provision of the information would impede law enforcement or otherwise interfere with an on-going administrative or judicial investigation, prosecution or proceeding;

(d) the consent of the importer or exporter is required by its domestic law and legal system that govern the collection, protection, use, disclosure, retention, and disposal of confidential information or personal data and that consent is not given; or

(e) the request for information is received after the expiration of the legal requirement of the requested Member for the retention of documents.

7.2 In the circumstances of paragraphs 4.2, 5.2, or 6.2, execution of such a request shall be at the discretion of the requested Member.

8 Reciprocity

If the requesting Member is of the opinion that it would be unable to comply with a similar request if it was made by the requested Member, or if it has not yet implemented this Article, it shall state that fact in its request. Execution of such a request shall be at the discretion of the requested Member.

9 Administrative Burden

9.1 The requesting Member shall take into account the associated resource and cost implications for the requested Member in responding to requests for information. The requesting Member shall consider the proportionality between its fiscal interest in pursuing its request and the efforts to be made by the requested Member in providing the information.

9.2 If a requested Member receives an unmanageable number of requests for information or a request for information of unmanageable scope from one or more requesting Member(s) and is unable to meet such requests within a reasonable time, it may request one or more of the requesting Member(s) to prioritize with a view to agreeing on a practical limit within its resource constraints. In the absence of a mutually-agreed approach, the execution of such requests shall be at the discretion of the requested Member based on the results of its own prioritization.

10 Limitations

A requested Member shall not be required to:

(a) modify the format of its import or export declarations or procedures;

(b) call for documents other than those submitted with the import or export declaration as specified in subparagraph 6.1(c);

(c) initiate enquiries to obtain the information;

(d) modify the period of retention of such information;

(e) introduce paper documentation where electronic format has already been introduced;

(f) translate the information;

(g) verify the accuracy of the information; or

(h) provide information that would prejudice the legitimate commercial interests of particular enterprises, public or private.

11 Unauthorized Use or Disclosure

11.1 In the event of any breach of the conditions of use or disclosure of information exchanged under this Article, the requesting Member that received the information shall promptly communicate the details of such unauthorized use or disclosure to the requested Member that provided the information and:

(a) take necessary measures to remedy the breach;

(b) take necessary measures to prevent any future breach; and

(c) notify the requested Member of the measures taken under subparagraphs (a) and (b).

11.2 The requested Member may suspend its obligations to the requesting Member under this Article until the measures set out in paragraph 11.1 have been taken.

12 Bilateral and Regional Agreements

12.1 Nothing in this Article shall prevent a Member from entering into or maintaining a bilateral, plurilateral, or regional agreement for sharing or exchange of customs information and data, including on a secure and rapid basis such as on an automatic basis or in advance of the arrival of the consignment.

12.2 Nothing in this Article shall be construed as altering or affecting a Member's rights or obligations under such bilateral, plurilateral, or regional agreements, or as governing the exchange of customs information and data under such other agreements.

SECTION II

SPECIAL AND DIFFERENTIAL TREATMENT PROVISIONS FOR DEVELOPING COUNTRY MEMBERS AND LEAST-DEVELOPED COUNTRY MEMBERS

ARTICLE 13: GENERAL PRINCIPLES

1. The provisions contained in Articles 1 to 12 of this Agreement shall be implemented by developing and least-developed country Members in accordance with this Section, which is based on the modalities agreed in Annex D of the July 2004 Framework Agreement (WT/L/579) and in paragraph 33 of and Annex E to the Hong Kong Ministerial Declaration (WT/MIN(05)/DEC).

2. Assistance and support for capacity building[16] should be provided to help developing and least-developed country Members implement the provisions of this Agreement, in accordance with their nature and scope. The extent and the timing of implementation of the provisions of this Agreement shall be related to the implementation capacities of developing and least-developed country Members. Where a developing or least-developed country Member continues to lack the necessary capacity, implementation of the provision(s) concerned will not be required until implementation capacity has been acquired.

3. Least-developed country Members will only be required to undertake commitments to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities.

4. These principles shall be applied through the provisions set out in Section II.

ARTICLE 14: CATEGORIES OF PROVISIONS

1. There are three categories of provisions:

   (a) Category A contains provisions that a developing country Member or a least-developed country Member designates for implementation upon entry into force of this Agreement, or in the case of a least-developed country Member within one year after entry into force, as provided in Article 15.

   (b) Category B contains provisions that a developing country Member or a least-developed country Member designates for implementation on a date after a transitional period of time following the entry into force of this Agreement, as provided in Article 16.

   (c) Category C contains provisions that a developing country Member or a least-developed country Member designates for implementation on a date after a transitional period of time following the entry into force of this Agreement and requiring the acquisition of implementation capacity through the provision of assistance and support for capacity building, as provided for in Article 16.

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[16] For the purposes of this Agreement, "assistance and support for capacity building" may take the form of technical, financial, or any other mutually agreed form of assistance provided.

2. Each developing country and least-developed country Member shall self-designate, on an individual basis, the provisions it is including under each of the Categories A, B and C.

ARTICLE 15: NOTIFICATION AND IMPLEMENTATION OF CATEGORY A

1. Upon entry into force of this Agreement, each developing country Member shall implement its Category A commitments. Those commitments designated under Category A will thereby be made an integral part of this Agreement.

2. A least-developed country Member may notify the Committee of the provisions it has designated in Category A for up to one year after entry into force of this Agreement. Each least-developed country Member's commitments designated under Category A will thereby be made an integral part of this Agreement.

ARTICLE 16: NOTIFICATION OF DEFINITIVE DATES FOR IMPLEMENTATION OF CATEGORY B AND CATEGORY C

1. With respect to the provisions that a developing country Member has not designated in Category A, the Member may delay implementation in accordance with the process set out in this Article.

Developing Country Member Category B

(a) Upon entry into force of this Agreement, each developing country Member shall notify the Committee of the provisions that it has designated in Category B and their corresponding indicative dates for implementation.[17]

(b) No later than one year after entry into force of this Agreement, each developing country Member shall notify the Committee of its definitive dates for implementation of the provisions it has designated in Category B. If a developing country Member, before this deadline, believes it requires additional time to notify its definitive dates, the Member may request that the Committee extend the period sufficient to notify its dates.

Developing Country Member Category C

(c) Upon entry into force of this Agreement, each developing country Member shall notify the Committee of the provisions that it has designated in Category C and their corresponding indicative dates for implementation. For transparency purposes, notifications submitted shall include information on the assistance and support for capacity building that the Member requires in order to implement.[18]

(d) Within one year after entry into force of this Agreement, developing country Members and relevant donor Members, taking into account any existing arrangements already in place, notifications pursuant to paragraph 1 of Article 22 and information submitted pursuant to subparagraph (c) above, shall provide information to the Committee on the arrangements maintained or entered into that are necessary to provide assistance and support for capacity building to enable implementation of Category C.[19] The participating developing country Member shall promptly inform the Committee of such arrangements. The Committee shall also invite non-Member donors to provide information on existing or concluded arrangements.

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[17] Notifications submitted may also include such further information as the notifying Member deems appropriate. Members are encouraged to provide information on the domestic agency or entity responsible for implementation.

[18] Members may also include information on national trade facilitation implementation plans or projects, the domestic agency or entity responsible for implementation, and the donors with which the Member may have an arrangement in place to provide assistance.

[19] Such arrangements will be on mutually agreed terms, either bilaterally or through appropriate international organizations, consistent with paragraph 3 of Article 21.

(e) Within 18 months from the date of the provision of the information stipulated in subparagraph (d), donor Members and respective developing country Members shall inform the Committee of the progress in the provision of assistance and support for capacity building. Each developing country Member shall, at the same time, notify its list of definitive dates for implementation.

2. With respect to those provisions that a least-developed country Member has not designated under Category A, least-developed country Members may delay implementation in accordance with the process set forth in this Article.

Least-Developed Country Member Category B

(a) No later than one year after entry into force of this Agreement, a least-developed country Member shall notify the Committee of its Category B provisions and may notify their corresponding indicative dates for implementation of these provisions, taking into account maximum flexibilities for least-developed country Members.

(b) No later than two years after the notification date stipulated under subparagraph (a) above, each least-developed country Member shall notify the Committee to confirm designations of provisions and notify its dates for implementation. If a least-developed country Member, before this deadline, believes it requires additional time to notify its definitive dates, the Member may request that the Committee extend the period sufficiently to notify its dates.

Least-Developed Country Member Category C

(c) For transparency purposes and to facilitate arrangements with donors, one year after entry into force of this Agreement, each least-developed country Member shall notify the Committee of the provisions it has designated in Category C, taking into account maximum flexibilities for least-developed country Members.

(d) One year after the date stipulated in subparagraph (c) above, least-developed country Members shall notify information on assistance and support for capacity building that the Member requires in order to implement.[20]

(e) No later than two years after the notification under subparagraph (d) above, least-developed country Members and relevant donor Members, taking into account information submitted pursuant to subparagraph (d) above, shall provide information to the Committee on the arrangements maintained or entered into that are necessary to provide assistance and support for capacity building to enable implementation of Category C.[21] The participating least-developed country Member shall promptly inform the Committee of such arrangements. The least-developed country Member shall, at the same time, notify indicative dates for implementation of corresponding Category C commitments covered by the assistance and support arrangements. The Committee shall also invite non-Member donors to provide information on existing and concluded arrangements.

(f) No later than 18 months from the date of the provision of the information stipulated in subparagraph (e), relevant donor Members and respective least-developed country Members shall inform the Committee of the progress in the provision of assistance and support for capacity building. Each least-developed country Member shall, at the same time, notify the Committee of its list of definitive dates for implementation.

3. Developing country Members and least-developed country Members experiencing difficulties in submitting definitive dates for implementation within the deadlines set out in paragraphs 1 and 2 because of the lack of donor support or lack of progress in the provision of assistance and

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[20] Members may also include information on national trade facilitation implementation plans or projects, the domestic agency or entity responsible for implementation, and the donors with which the Member may have an arrangement in place to provide assistance.

[21] Such arrangements will be on mutually agreed terms, either bilaterally or through appropriate international organizations, consistent with paragraph 3 of Article 21.

support for capacity building should notify the Committee as early as possible prior to the expiration of those deadlines. Members agree to cooperate to assist in addressing such difficulties, taking into account the particular circumstances and special problems facing the Member concerned. The Committee shall, as appropriate, take action to address the difficulties including, where necessary, by extending the deadlines for the Member concerned to notify its definitive dates.

4. Three months before the deadline stipulated in subparagraphs 1(b) or (e), or in the case of a least-developed country Member, subparagraphs 2(b) or (f), the Secretariat shall remind a Member if that Member has not notified a definitive date for implementation of provisions that it has designated in Category B or C. If the Member does not invoke paragraph 3, or in the case of a developing country Member subparagraph 1(b), or in the case of a least-developed country Member subparagraph 2(b), to extend the deadline and still does not notify a definitive date for implementation, the Member shall implement the provisions within one year after the deadline stipulated in subparagraphs 1(b) or (e), or in the case of a least-developed country Member, subparagraphs 2(b) or (f), or extended by paragraph 3.

5. No later than 60 days after the dates for notification of definitive dates for implementation of Category B and Category C provisions in accordance with paragraphs 1, 2, or 3, the Committee shall take note of the annexes containing each Member's definitive dates for implementation of Category B and Category C provisions, including any dates set under paragraph 4, thereby making these annexes an integral part of this Agreement.

ARTICLE 17: EARLY WARNING MECHANISM: EXTENSION OF IMPLEMENTATION DATES FOR PROVISIONS IN CATEGORIES B AND C

1.

(a) A developing country Member or least-developed country Member that considers itself to be experiencing difficulty in implementing a provision that it has designated in Category B or Category C by the definitive date established under subparagraphs 1(b) or (e) of Article 16, or in the case of a least-developed country Member subparagraphs 2(b) or (f) of Article 16, should notify the Committee. Developing country Members shall notify the Committee no later than 120 days before the expiration of the implementation date. Least-developed country Members shall notify the Committee no later than 90 days before such date.

(b) The notification to the Committee shall indicate the new date by which the developing country Member or least-developed country Member expects to be able to implement the provision concerned. The notification shall also indicate the reasons for the expected delay in implementation. Such reasons may include the need for assistance and support for capacity building not earlier anticipated or additional assistance and support to help build capacity.

2. Where a developing country Member's request for additional time for implementation does not exceed 18 months or a least-developed country Member's request for additional time does not exceed 3 years, the requesting Member is entitled to such additional time without any further action by the Committee.

3. Where a developing country or least-developed country Member considers that it requires a first extension longer than that provided for in paragraph 2 or a second or any subsequent extension, it shall submit to the Committee a request for an extension containing the information described in subparagraph 1(b) no later than 120 days in respect of a developing country Member and 90 days in respect of a least-developed country Member before the expiration of the original definitive implementation date or that date as subsequently extended.

4. The Committee shall give sympathetic consideration to granting requests for extension taking into account the specific circumstances of the Member submitting the request. These circumstances may include difficulties and delays in obtaining assistance and support for capacity building.

ARTICLE 18: IMPLEMENTATION OF CATEGORY B AND CATEGORY C

1. In accordance with paragraph 2 of Article 13, if a developing country Member or a least-developed country Member, having fulfilled the procedures set forth in paragraphs 1 or 2 of Article 16 and in Article 17, and where an extension requested has not been granted or where the developing country Member or least-developed country Member otherwise experiences unforeseen circumstances that prevent an extension being granted under Article 17, self-assesses that its capacity to implement a provision under Category C continues to be lacking, that Member shall notify the Committee of its inability to implement the relevant provision.

2. The Committee shall establish an Expert Group immediately, and in any case no later than 60 days after the Committee receives the notification from the relevant developing country Member or least-developed country Member. The Expert Group will examine the issue and make a recommendation to the Committee within 120 days of its composition.

3. The Expert Group shall be composed of five independent persons that are highly qualified in the fields of trade facilitation and assistance and support for capacity building. The composition of the Expert Group shall ensure balance between nationals from developing and developed country Members. Where a least-developed country Member is involved, the Expert Group shall include at least one national from a least-developed country Member. If the Committee cannot agree on the composition of the Expert Group within 20 days of its establishment, the Director-General, in consultation with the chair of the Committee, shall determine the composition of the Expert Group in accordance with the terms of this paragraph.

4. The Expert Group shall consider the Member's self-assessment of lack of capacity and shall make a recommendation to the Committee. When considering the Expert Group's recommendation concerning a least-developed country Member, the Committee shall, as appropriate, take action that will facilitate the acquisition of sustainable implementation capacity.

5. The Member shall not be subject to proceedings under the Dispute Settlement Understanding on this issue from the time the developing country Member notifies the Committee of its inability to implement the relevant provision until the first meeting of the Committee after it receives the recommendation of the Expert Group. At that meeting, the Committee shall consider the recommendation of the Expert Group. For a least-developed country Member, the proceedings under the Dispute Settlement Understanding shall not apply to the respective provision from the date of notification to the Committee of its inability to implement the provision until the Committee makes a decision on the issue, or within 24 months after the date of the first Committee meeting set out above, whichever is earlier.

6. Where a least-developed country Member loses its ability to implement a Category C commitment, it may inform the Committee and follow the procedures set out in this Article.

ARTICLE 19: SHIFTING BETWEEN CATEGORIES B AND C

1. Developing country Members and least-developed country Members who have notified provisions under Categories B and C may shift provisions between such categories through the submission of a notification to the Committee. Where a Member proposes to shift a provision from Category B to Category C, the Member shall provide information on the assistance and support required to build capacity.

2. In the event that additional time is required to implement a provision shifted from Category B to Category C, the Member may:

(a) use the provisions of Article 17, including the opportunity for an automatic extension; or

(b) request an examination by the Committee of the Member's request for extra time to implement the provision and, if necessary, for assistance and support for capacity building, including the possibility of a review and recommendation by the Expert Group under Article 18; or

(c) in the case of a least-developed country Member, any new implementation date of more than four years after the original date notified under Category B shall require approval by the Committee. In addition, a least-developed country Member shall continue to have recourse to Article 17. It is understood that assistance and support for capacity building is required for a least-developed country Member so shifting.

ARTICLE 20: GRACE PERIOD FOR THE APPLICATION OF THE UNDERSTANDING ON RULES AND PROCEDURES GOVERNING THE SETTLEMENT OF DISPUTES

1. For a period of two years after entry into force of this Agreement, the provisions of Articles XXII and XXIII of GATT 1994 as elaborated and applied by the Understanding on Rules and Procedures Governing the Settlement of Disputes shall not apply to the settlement of disputes against a developing country Member concerning any provision that the Member has designated in Category A.

2. For a period of six years after entry into force of this Agreement, the provisions of Articles XXII and XXIII of GATT 1994 as elaborated and applied by the Understanding on Rules and Procedures Governing the Settlement of Disputes shall not apply to the settlement of disputes against a least-developed country Member concerning any provision that the Member has designated in Category A.

3. For a period of eight years after implementation of a provision under Category B or C by a least-developed country Member, the provisions of Articles XXII and XXIII of GATT 1994 as elaborated and applied by the Understanding on Rules and Procedures Governing the Settlement of Disputes shall not apply to the settlement of disputes against that least-developed country Member concerning that provision.

4. Notwithstanding the grace period for the application of the Understanding on Rules and Procedures Governing the Settlement of Disputes, before making a request for consultations pursuant to Articles XXII or XXIII of GATT 1994, and at all stages of dispute settlement procedures with regard to a measure of a least-developed country Member, a Member shall give particular consideration to the special situation of least-developed country Members. In this regard, Members shall exercise due restraint in raising matters under the Understanding on Rules and Procedures Governing the Settlement of Disputes involving least-developed country Members.

5. Each Member shall, upon request, during the grace period allowed under this Article, provide adequate opportunity to other Members for discussion with respect to any issue relating to the implementation of this Agreement.

ARTICLE 21: PROVISION OF ASSISTANCE AND SUPPORT FOR CAPACITY BUILDING

1. Donor Members agree to facilitate the provision of assistance and support for capacity building to developing country and least-developed country Members on mutually agreed terms either bilaterally or through the appropriate international organizations. The objective is to assist developing country and least-developed country Members to implement the provisions of Section I of this Agreement.

2. Given the special needs of least-developed country Members, targeted assistance and support should be provided to the least-developed country Members so as to help them build sustainable capacity to implement their commitments. Through the relevant development cooperation mechanisms and consistent with the principles of technical assistance and support for capacity building as referred to in paragraph 3, development partners shall endeavour to provide assistance and support for capacity building in this area in a way that does not compromise existing development priorities.

3. Members shall endeavour to apply the following principles for providing assistance and support for capacity building with regard to the implementation of this Agreement:

(a) take account of the overall developmental framework of recipient countries and regions and, where relevant and appropriate, ongoing reform and technical assistance programs;

(b) include, where relevant and appropriate, activities to address regional and sub-regional challenges and promote regional and sub-regional integration;

(c) ensure that ongoing trade facilitation reform activities of the private sector are factored into assistance activities;

(d) promote coordination between and among Members and other relevant institutions, including regional economic communities, to ensure maximum effectiveness of and results from this assistance. To this end:

(i) coordination, primarily in the country or region where the assistance is to be provided, between partner Members and donors and among bilateral and multilateral donors should aim to avoid overlap and duplication in assistance programs and inconsistencies in reform activities through close coordination of technical assistance and capacity building interventions;

(ii) for least-developed country Members, the Enhanced Integrated Framework for trade-related assistance for the least-developed countries should be a part of this coordination process; and

(iii) Members should also promote internal coordination between their trade and development officials, both in capitals and in Geneva, in the implementation of this Agreement and technical assistance.

(e) encourage use of existing in-country and regional coordination structures such as roundtables and consultative groups to coordinate and monitor implementation activities; and

(f) encourage developing country Members to provide capacity building to other developing and least-developed country Members and consider supporting such activities, where possible.

4. The Committee shall hold at least one dedicated session per year to:

(a) discuss any problems regarding implementation of provisions or sub-parts of provisions of this Agreement;

(b) review progress in the provision of assistance and support for capacity building to support the implementation of the Agreement, including any developing or least-developed country Members not receiving adequate assistance and support for capacity building;

(c) share experiences and information on ongoing assistance and support for capacity building and implementation programs, including challenges and successes;

(d) review donor notifications as set forth in Article 22; and

(e) review the operation of paragraph 2.

ARTICLE 22: INFORMATION ON ASSISTANCE AND SUPPORT FOR CAPACITY BUILDING TO BE SUBMITTED TO THE COMMITTEE

1. To provide transparency to developing country Members and least-developed country Members on the provision of assistance and support for capacity building for implementation of Section I, each donor Member assisting developing country Members and least-developed country Members with the implementation of this Agreement shall submit to the Committee, at entry into force of this Agreement and annually thereafter, the following information on its assistance and

support for capacity building that was disbursed in the preceding 12 months and, where available, that is committed in the next 12 months[22]:

(a) a description of the assistance and support for capacity building;

(b) the status and amount committed/disbursed;

(c) procedures for disbursement of the assistance and support;

(d) the beneficiary Member or, where necessary, the region; and

(e) the implementing agency in the Member providing assistance and support.

The information shall be provided in the format specified in Annex 1. In the case of Organisation for Economic Co-operation and Development (referred to in this Agreement as the "OECD") Members, the information submitted can be based on relevant information from the OECD Creditor Reporting System. Developing country Members declaring themselves in a position to provide assistance and support for capacity building are encouraged to provide the information above.

2. Donor Members assisting developing country Members and least-developed country Members shall submit to the Committee:

(a) contact points of their agencies responsible for providing assistance and support for capacity building related to the implementation of Section I of this Agreement including, where practicable, information on such contact points within the country or region where the assistance and support is to be provided; and

(b) information on the process and mechanisms for requesting assistance and support for capacity building.

Developing country Members declaring themselves in a position to provide assistance and support are encouraged to provide the information above.

3. Developing country Members and least-developed country Members intending to avail themselves of trade facilitation-related assistance and support for capacity building shall submit to the Committee information on contact point(s) of the office(s) responsible for coordinating and prioritizing such assistance and support.

4. Members may provide the information referred to in paragraphs 2 and 3 through internet references and shall update the information as necessary. The Secretariat shall make all such information publicly available.

5. The Committee shall invite relevant international and regional organizations (such as the International Monetary Fund, the OECD, the United Nations Conference on Trade and Development, the WCO, United Nations Regional Commissions, the World Bank, or their subsidiary bodies, and regional development banks) and other agencies of cooperation to provide information referred to in paragraphs 1, 2, and 4.

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[22] The information provided will reflect the demand driven nature of the provision of assistance and support for capacity building.

SECTION III

INSTITUTIONAL ARRANGEMENTS AND FINAL PROVISIONS

ARTICLE 23: INSTITUTIONAL ARRANGEMENTS

1 Committee on Trade Facilitation

1.1 A Committee on Trade Facilitation is hereby established.

1.2 The Committee shall be open for participation by all Members and shall elect its own Chairperson. The Committee shall meet as needed and envisaged by the relevant provisions of this Agreement, but no less than once a year, for the purpose of affording Members the opportunity to consult on any matters related to the operation of this Agreement or the furtherance of its objectives. The Committee shall carry out such responsibilities as assigned to it under this Agreement or by the Members. The Committee shall establish its own rules of procedure.

1.3 The Committee may establish such subsidiary bodies as may be required. All such bodies shall report to the Committee.

1.4 The Committee shall develop procedures for the sharing by Members of relevant information and best practices as appropriate.

1.5 The Committee shall maintain close contact with other international organizations in the field of trade facilitation, such as the WCO, with the objective of securing the best available advice for the implementation and administration of this Agreement and in order to ensure that unnecessary duplication of effort is avoided. To this end, the Committee may invite representatives of such organizations or their subsidiary bodies to:

(a) attend meetings of the Committee; and

(b) discuss specific matters related to the implementation of this Agreement.

1.6 The Committee shall review the operation and implementation of this Agreement four years from its entry into force, and periodically thereafter.

1.7 Members are encouraged to raise before the Committee questions relating to issues on the implementation and application of this Agreement.

1.8 The Committee shall encourage and facilitate ad hoc discussions among Members on specific issues under this Agreement with a view to reaching a mutually satisfactory solution promptly.

2 National Committee on Trade Facilitation

Each Member shall establish and/or maintain a national committee on trade facilitation or designate an existing mechanism to facilitate both domestic coordination and implementation of the provisions of this Agreement.

ARTICLE 24: FINAL PROVISIONS

1. For the purpose of this Agreement, the term "Member" is deemed to include the competent authority of that Member.

2. All provisions of this Agreement are binding on all Members.

3. Members shall implement this Agreement from the date of its entry into force. Developing country Members and least-developed country Members that choose to use the provisions of Section II shall implement this Agreement in accordance with Section II.

4. A Member which accepts this Agreement after its entry into force shall implement its Category B and C commitments counting the relevant periods from the date this Agreement enters into force.

5. Members of a customs union or a regional economic arrangement may adopt regional approaches to assist in the implementation of their obligations under this Agreement including through the establishment and use of regional bodies.

6. Notwithstanding the general interpretative note to Annex 1A to the Marrakesh Agreement Establishing the World Trade Organization, nothing in this Agreement shall be construed as diminishing the obligations of Members under the GATT 1994. In addition, nothing in this Agreement shall be construed as diminishing the rights and obligations of Members under the Agreement on Technical Barriers to Trade and the Agreement on the Application of Sanitary and Phytosanitary Measures.

7. All exceptions and exemptions[23] under the GATT 1994 shall apply to the provisions of this Agreement. Waivers applicable to the GATT 1994 or any part thereof, granted according to Article IX:3 and Article IX:4 of the Marrakesh Agreement Establishing the World Trade Organization and any amendments thereto as of the date of entry into force of this Agreement, shall apply to the provisions of this Agreement.

8. The provisions of Articles XXII and XXIII of GATT 1994 as elaborated and applied by the Dispute Settlement Understanding shall apply to consultations and the settlement of disputes under this Agreement, except as otherwise specifically provided for in this Agreement.

9. Reservations may not be entered in respect of any of the provisions of this Agreement without the consent of the other Members.

10. The Category A commitments of developing country Members and least-developed country Members annexed to this Agreement in accordance with paragraphs 1 and 2 of Article 15 shall constitute an integral part of this Agreement.

11. The Category B and C commitments of developing country Members and least-developed country Members taken note of by the Committee and annexed to this Agreement pursuant to paragraph 5 of Article 16 shall constitute an integral part of this Agreement.

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[23] This includes Articles V:7 and X:1 of the GATT 1994 and the Ad note to Article VIII of the GATT 1994.

ANNEX 1: FORMAT FOR NOTIFICATION UNDER PARAGRAPH 1 OF ARTICLE 22

Donor Member:
Period covered by the notification:

	Description of the technical and financial assistance and capacity building resources	Status and amount committed/disbursed	Beneficiary country/ Region (where necessary)	The implementing agency in the Member providing assistance	Procedures for disbursement of the assistance

修正《馬拉喀什建立世界貿易組織協定》議定書

2014 年 11 月 27 日決定

總理事會；

注意到《馬拉喀什建立世界貿易組織協定》(《WTO 協定》) 第 10 條第 1 款；

根據《WTO 協定》第 4 條第 2 款，在部長級會議休會期間行使部長級會議職能；

憶及 2004 年 8 月 1 日通過的關於根據附件 D 所列談判模式啟動談判的總理事會決定及 2013 年 12 月 7 日通過的關於起草將《貿易便利化協定》納入《WTO 協定》附件 1A 的修正議定書(下稱《議定書》)的部長決定；

憶及 2001 年 11 月 20 日多哈部長宣言第 47 段；

憶及多哈部長宣言第 2 段和第 3 段、2004 年 8 月總理事會決定附件 D 以及《貿易便利化協定》第 13.2 款關於提供能力建設和支持以幫助發展中和最不發達國家實施《貿易便利化協定》條款的重要性；

歡迎總幹事關於在現有 WTO 機構內設立《貿易便利化協定》基金的聲明，以用於管理各成員為增加在實施《貿易便利化協定》條款方面的補充援助而自願向 WTO 提供的支持以及在援助方面與附件 D 所列機構保持一致；

慮及貿易便利化籌備委員會提交的《貿易便利化協定》（WT/L/931）；

注意到各方一致同意將擬議修正提交各成員供接受；

決定如下：

1. 特此通過本決定所附《修正〈WTO 協定〉議定書》並提交各成員供接受。

2. 《議定書》特此開放供各成員接受。

3. 《議定書》應根據《WTO 協定》第 10 條第 3 款生效。

修正《馬拉喀什建立世界貿易組織協定》議定書

世界貿易組織各成員；

慮及《貿易便利化協定》；

注意到 WT/L/940 號文件所載總理事會決定已根據《馬拉喀什建立世界貿易組織協定》(《WTO 協定》) 第 10 條第 1 款獲得通過；

特此協議如下：

1. 自本議定書根據第 4 款生效時起，《WTO 協定》附件 1A 應予以修正，其中納入本議定書附件所列《貿易便利化協定》，位列《保障措施協定》之後。

2. 未經其他成員同意，不得對本議定書任何條款提出保留。

3. 本議定書特此開放供各成員接受。

4. 本議定書應依照《WTO 協定》第 10 條第 3 款生效。[1]

5. 本議定書應交存世界貿易組織總幹事，總幹事應及時向每一成員提供一份經核證無誤的副本，以及每一根據第 3 段作出接受的通報。

6. 本議定書應依照《聯合國憲章》第 102 條予以登記。

2014 年 11 月 27 日訂於日內瓦，正本一份用英文、法文和西班牙文寫成，三種文本具有同等效力。

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[1] 為計算《WTO 協定》第 10 條第 3 款項下的接受情況，歐洲聯盟代表其自身及其成員國提交的接受書應計為與歐洲聯盟中屬 WTO 成員的成員國數量相同的成員接受協定。

修正《馬拉喀什建立世界貿易組織協定》議定書的附件

貿易便利化協定

序言

各成員，

慮及根據《多哈部長宣言》啟動的談判；

憶及並重申《多哈部長宣言》（WT/MIN（01）/DEC/1）第 27 段、總理事會於 2004 年 8 月 1 日通過的《關於多哈工作計劃的決定》（WT/L/579）附件 D 以及《香港部長宣言》（WT/MIN（05）/DEC）第 33 段和附件 E 所含授權和原則；

期望澄清和改善 GATT 1994 第 5、8 和 10 條的相關方面，以期進一步加快貨物、包括過境貨物的流動、放行和結關；

認識到發展中特別是最不發達國家成員的特殊需要及期望增強在此領域能力建設方面的援助和支持；

認識到成員間需要在貿易便利和海關守法問題上的有效合作；

特此協議如下：

第一部分

第 1 條：信息的公佈與可獲性

1 公佈

1.1 每一成員應以非歧視和易獲取的方式迅速公佈下列信息，以便政府、貿易商和其他利益相關方能夠知曉：

（a） 進口、出口和過境程序（包括港口、機場和其他入境點的程序）及需要的表格和單證；

（b） 對進口或出口徵收的或與進口或出口相關的任何種類的關稅和國內稅適用稅率；

（c） 政府部門或代表政府部門對進口、出口或過境徵收的或與之相關的規費和費用；

（d） 用於海關目的的商品歸類或估價規定；

（e） 與原產地規則相關的普遍適用的法律、法規及行政裁決；

（f） 進口、出口或過境的限制或禁止；

（g） 針對違反進口、出口或過境程序行為的懲罰規定；

（h） 申訴程序；

（i） 與任何一國或多國締結的與進口、出口或過境有關的協定或協定部分內容；及

（j） 與關稅配額管理有關的程序。

1.2 上述條款均不得解釋為要求成員以本國語文之外的語文公佈或提供信息，但第 2.2 款中的規定除外。

2 **通過互聯網提供的信息**

2.1 每一成員應通過互聯網提供並在可行的限度內酌情更新下列信息：

（a） 關於其進口、出口和過境程序的說明[1]，包括申訴或審查程序，從而使政府、貿易商和其他利益相關方獲悉進口、出口和過境所需的實際步驟；

（b） 對該成員進口、自該成員出口和經該成員過境所需的表格和單證；

（c） 諮詢點的聯絡信息。

2.2 在可行的情況下，第 2.1（a）項所指的說明還應以 WTO 正式語文之一提供。

2.3 鼓勵各成員通過互聯網提供更多與貿易有關的信息，包括與貿易有關的立法以及第 1.1 款所指的其他項目。

3 **諮詢點**

3.1 每一成員應在其可獲資源內，建立或設立一個或多個諮詢點，以回答政府、貿易商和其他利益相關方就第 1.1 款所涵蓋事項提出的合理諮詢，並提供第 1.1（a）項中所指需要的表格和單證。

3.2 一關稅同盟的成員或參與區域一體化的成員可在區域一級建立或設立共同諮詢點，以針對共同程序滿足第 3.1 款的要求。

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[1] 每一成員可決定在其網站上發佈關於這一說明的法律限制。

3.3 鼓勵各成員不對答覆諮詢和提供所需表格和單證收取費用。如收費，成員應將其規費和費用限制在所提供服務的近似成本以內。

3.4 諮詢點應在每一成員設定的合理時間範圍內答覆諮詢和提供表格和單證，該時限可因請求的性質或複雜程度而不同。

4 通知

每一成員應向根據第 23 條第 1.1 款設立的貿易便利化委員會（本協定中稱委員會）通知下列事項：

（a） 公佈第 1.1（a）至（j）項中各項目的官方地點；

（b） 第 2.1 款所指的網站鏈接地址；及

（c） 第 3.1 款所指的諮詢點聯絡信息。

第 2 條：評論機會、生效前信息及磋商

1 評論機會和生效前信息

1.1 每一成員應在可行的範圍內並以與其國內法律和法律體系相一致的方式，向貿易商及其他利益相關方提供機會和適當時限，就與貨物、包括過境貨物的流動、放行和結關相關的擬議或修正的普遍適用的法律法規進行評論。

1.2 每一成員應在可行的範圍內並以與其國內法律和法律體系相一致的方式，保證與貨物，包括過境貨物的流動、放行和結關相關的新立或修正的普遍適用的法律法規在生效前儘早公佈或使相關信息可公開獲得，以便貿易商和其他利益相關方能夠知曉。

1.3 關稅稅率的變更、具有免除效力的措施、如遵守第 1.1 和 1.2 款則會影響其效力的措施、在緊急情況下適用的措施或國內法律和法律體系的微小變更均不在第 1.1 和 1.2 款適用範圍內。

2 磋商

每一成員應酌情規定邊境機構與其領土內的貿易商或其他利害關係方之間進行定期磋商。

第 3 條：預裁定

1. 每一成員應以合理的方式並在規定時限內向已提交包括所有必要信息的書面請求的申請人作出預裁定。如一成員拒絕作出預裁定，則應立即書面通知申請人，列出相關事實和作出決定的依據。

2. 如申請中所提出的問題出現下列情形，則一成員可拒絕對一申請人作出預裁定：

（a） 所提問題已包含在申請人提請任何政府部門、上訴法庭或法院審理的案件中；或

（b） 所提問題已由任何上訴法庭或法院作出裁決。

3. 預裁定在作出後應在一合理時間內有效，除非支持該預裁定的法律、事實或情形已變化。

4. 如一成員撤銷、修改或廢止該預裁定，應書面通知申請人，列出相關事實和作出決定的依據。對於具有追溯效力的預裁定，該成員僅可在該預裁定依據不完整、不正確、錯誤或誤導性信息作出的情況下撤銷、修改或廢止該預裁定。

5. 對於尋求作出該裁定的申請人而言，一成員所作預裁定對該成員具有約束力。該成員可規定預裁定對申請人具有約束力。

6. 每一成員應至少公佈：

（a） 申請預裁定的要求，包括應提供的信息和格式；

（b） 作出預裁定的時限；及

（c） 預裁定的有效期。

7. 應申請人書面請求，每一成員應提供對預裁定或對撤銷、修改或廢止預裁定的複審[2]。

8. 每一成員應努力公佈其認為對其他利益相關方具有實質利益的預裁定的任何信息，同時考慮保護商業機密信息的需要。

9. 定義和範圍：

（a） 預裁定指一成員在申請所涵蓋的貨物進口之前向申請人提供的書面決定，其中規定該成員在貨物進口時有關下列事項的待遇：

（i） 貨物的稅則歸類；及

（ii） 貨物的原產地；[3]

（b） 除第（a）項中所定義的預裁定外，鼓勵各成員提供關於下列事項的預裁定：

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[2] 此款項下：（a）複審可在裁定執行前或執行後由作出裁定的官員、機構或主管機關進行或由上一級或獨立的行政機關進行或由司法機關進行；及（b）一成員無需向申請人提供對本協定第 4 條第 1 款的追索權。

[3] 各方理解，如對貨物原產地的預裁定符合本協定和《原產地規則協定》的要求，則該預裁定可作為《原產地規則協定》意義內的對原產地的判定。同樣，如預裁定滿足兩協定的要求，根據《原產地規則協定》作出的原產地的判定可作為本協定意義內的對原產地的預裁定。在滿足本條要求的情況下，各成員無需針對原產地判定在已根據《原產地規則協定》所做安排之外根據本條規定另行作出安排。

（i） 根據特定事實用於確定完稅價格的適當方法或標準及其適用；

（ii） 成員對申請海關關稅減免要求的適用性；

（iii） 成員關於配額要求的適用情況，包括關稅配額；及

（iv） 成員認為適合作出預裁定的任何其他事項。

（c） 申請人指出口商、進口商或任何具有合理理由的人員或其代表。

（d） 一成員可要求申請人在其領土內擁有法人代表或進行註冊。在可行的限度內，此類要求不得限制有權申請預裁定的人員類別，並應特別考慮中小企業具體需要。這些要求應明確、透明且不構成任意的或不合理的歧視。

第 4 條：上訴或審查程序

1. 每一成員應規定海關作出的行政決定[4]所針對的任何人在該成員領土內有權：

（a） 向級別高於或獨立於作出行政決定的官員或機構提出行政申訴或複查或由此類官員或機構進行行政申訴或複查；及/或

（b） 對該決定進行司法上訴或審查。

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[4] 本條中的行政決定指影響一案件中特定人員權利和義務的具有法律效力的決定。各方理解，本條中的行政決定涵蓋 GATT 1994 第 10 條範圍內的行政行為或一成員國內法律和法律制度中所規定的行政行為或決定未予履行的情形。為處理此類未予履行的情形，各成員可設立替代性行政機制或司法權，指示海關迅速作出行政決定以代替第 1（a）項下的上訴權或審查權。

2 一成員的立法可要求在司法上訴或審查前開始進行行政申訴或複查。

3 每一成員應保證其上訴或審查程序以非歧視的方式進行。

4 每一成員應保證，如根據第 1（a）項作出的上訴或審查決定：

（a） 未在其法律或法規所規定的期限內作出；或

（b） 未能避免不適當拖延，

則申訴人有權向行政機關或司法機關進一步上訴或由此類機關進一步審查或向司法機關尋求任何其他救濟。[5]

5 每一成員應保證向第 1 款所指人員提供作出行政決定的理由，以便使其能夠在必要時提出上訴或審查。

6 應鼓勵每一成員將本條規定適用於海關以外的相關邊境機構所作出的行政決定。

第 5 條：增強公正性、非歧視性及透明度的其他措施

1 增強監管或檢查的通知

如一成員採用或設立對其有關主管機關發佈通知或指南的系統，旨在增強對通知或指南所涵蓋食品、飲料或飼料的邊境監管或檢查水平以保護其領土內的人類、動物或植物的生命或健康，則通知或指南的發佈、終止或中止的方式應適用以下紀律：

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[5] 本款中任何內容不得妨礙一成員依照其法律法規認為對上訴或審查保持行政沉默屬贊同申請人的決定。

（a） 該成員可酌情根據風險評估發佈通知或指南；

（b） 該成員可發佈通知或指南，從而使通知或指南僅統一適用於據以作出通知或指南的衛生和植物衛生條件適用的入境地點；

（c） 如據以作出通知或指南的情形不復存在或變化後的情形可以具有較低貿易限制作用的方式處理，則該成員應迅速終止或中止該通知或指南；

（d） 如該成員決定終止或中止通知或指南，則應酌情以非歧視和易獲取的方式迅速公佈終止或中止聲明，或通知出口成員或進口商。

2 扣留

如申報進口貨物因海關或任何其他主管機關檢查而予以扣留，則該成員應迅速通知承運商或進口商。

3 檢驗程序

3.1 在對取自申報進口貨物的樣品的首次檢驗為不利結果的情況下，一成員應請求可給予第二次檢驗的機會。

3.2 一成員應以非歧視和易獲取的方式公佈可以進行檢驗的實驗室的名稱和地址，或在其提供第 3.1 款所規定機會的情況下，向進口商提供這一信息。

3.3 一成員在貨物放行和結關時應考慮根據第 3.1 款進行的第二次檢驗的結果（如有），如可行，可接受此次檢驗的結果。

第 6 條：關於對進出口徵收或與進出口和處罰相關的規費和費用的紀律

1 對進出口徵收或與進出口相關的規費和費用的一般紀律

1.1 第 1 款的規定應適用於除進出口關稅和 GATT 1994 第 3 條範圍內的國內稅外的、各成員對進出口徵收或與進出口相關的所有規費和費用。

1.2 有關規費和費用的信息應依照第 1 條予以公佈。該信息應包括將適用的規費和費用、徵收此類規費和費用的原因、主管機關以及支付時間和方式。

1.3 新增或修訂的規費和費用的公佈與生效之間應給予足夠的時間，但緊急情況除外。此類規費和費用在有關信息公佈前不得適用。

1.4 每一成員應定期審查其規費和費用，以期在可行的範圍內減少數量和種類。

2 對進出口徵收或與進出口相關的海關業務辦理規費和費用的特定紀律

海關業務辦理規費和費用：

（i） 應限定在對所涉特定進口或出口操作提供服務或與之相關服務的近似成本內；且

（ii） 如規費和費用針對與辦理貨物海關業務密切相關的服務而收取，則無需與特定進口或出口作業相關聯。

3 處罰紀律

3.1 就第 3 款而言，“處罰”應指一成員的海關針對違反其海關法律、法規或程序性要求而作出的處罰。

3.2 每一成員應保證對違反海關法律、法規或程序性要求行為的處罰僅針對其法律所規定的違法行為責任人實施。

3.3 處罰應根據案件的事實和情節實施，並應與違反程度和嚴重性相符。

3.4 每一成員應保證採取措施以避免：

（a） 在處罰和關稅的認定和收取方面發生利益衝突；及

（b） 形成對認定或收取與第 3.3 款不符的處罰的一種激勵。

3.5 每一成員應保證對違反海關法律、法規或程序性要求進行處罰時，應向被處罰人提供書面說明，列明違法性質和據以規定處罰金額或幅度所適用的法律、法規或程序。

3.6 如一當事人在一成員海關發現其違法行為前自願向海關披露其違反海關法律、法規或程序性要求的行為，則鼓勵該成員在確定對其的處罰時，適當考慮將此事實作為可能的減輕因素。

3.7 本款規定應適用於對第 3.1 款所指的對過境運輸的處罰。

第 7 條：貨物放行與結關

1 抵達前業務辦理

1.1 每一成員都應採用或設立程序，允許提交包括艙單在內的進口單證和其他必要信息，以便在貨物抵達前開始辦理業務，以期在貨物抵達後加快放行。

1.2 每一成員應酌情規定以電子格式提交單證，以便在貨物抵達前處理此類單證。

2 電子支付

每一成員應在可行的限度內，採用或設立程序，允許選擇以電子方式支付海關對進口和出口收取的關稅、國內稅、規費及費用。

3 將貨物放行與關稅、國內稅、規費及費用的最終確定相分離

3.1 每一成員應採用或設立程序，規定如關稅、國內稅、規費及費用的最終確定不在貨物抵達前或抵達時作出或不能在貨物抵達後儘可能快地作出，則可在最終確定作出前放行貨物，條件是所有其他管理要求均符合。

3.2 作為此種放行的條件，一成員可要求：

（a） 支付在貨物抵達前或抵達時確定的關稅、國內稅、規費及費用，對尚未確定的任何數額以保證金、押金等形式或其法律法規規定的另一適當形式提供擔保；或

（b） 以保證金、押金等形式或其法律法規規定的另一種形式提供擔保。

3.3 此類擔保不得高於該成員所要求的擔保所涵蓋貨物最終應支付的關稅、國內稅、規費及費用的金額。

3.4 如已發現應予以貨幣處罰或處以罰金的違法行為，則可要求對可能實施處罰和罰金提供擔保。

3.5 第 3.2 和 3.4 款所列擔保應在不再需要時予以退還。

3.6 本條規定不得影響一成員對貨物進行檢查、扣留、扣押或沒收或以任何與其 WTO 權利和義務不相衝突的方式處理貨物的權利。

4 風險管理

4.1 每一成員應儘可能採用或設立為海關監管目的的風險管理制度。

4.2 每一成員設計和運用風險管理時應以避免任意或不合理的歧視或形成對國際貿易變相限制的方式進行。

4.3 每一成員應將海關監管及在可能的限度內將其他相關邊境監管集中在高風險貨物上，對低風險貨物加快放行。作為其風險管理的一部分，一成員還可隨機選擇貨物進行此類監管。

4.4 每一成員應將通過選擇性標準進行的風險評估作為風險管理的依據。此類選擇性標準可特別包括協調制度編碼、貨物性質與描述、原產國、貨物裝運國、貨值、貿易商守法記錄以及運輸工具類型。

5 後續稽查

5.1 為加快貨物放行，每一成員應採用或設立後續稽查以保證海關及其他相關法律法規得以遵守。

5.2 每一成員應以風險為基礎選擇一當事人或貨物進行後續稽查，可包括適當的選擇標準。每一成員應以透明的方式進行後續稽查。如該當事人參與稽查且已得出結果，則該成員應立即將稽查結論、當事人的權利和義務以及作出結論的理由告知被稽查人。

5.3 在後續稽查中獲得的信息可用於進一步的行政或司法程序。

5.4 各成員在可行的情況下，應在實施風險管理時使用後續稽查結論。

6 確定和公佈平均放行時間

6.1 鼓勵各成員定期並以一致的方式測算和公佈其貨物平均放行時間，使用特別包括世界海關組織（本協定中稱 WCO）《世界海關組織放行時間研究》等工具。[6]

6.2 鼓勵各成員與委員會分享其在測算平均放行時間方面的經驗，包括所使用的方法、發現的瓶頸問題及對效率產生的任何影響。

7 對經認證的經營者的貿易便利化措施

7.1 每一成員應根據第 7.3 款給予滿足特定標準的經營者，下稱經認證的經營者，提供與進口、出口或過境手續相關的額外的貿易便利化措施。或者，一成員可通過所有經營者均可獲得的海關程序提供此類貿易便利化措施，而無需制定單獨計劃。

7.2 成為經認證的經營者的特定標準應與遵守一成員的法律、法規或程序所列要求或未遵守的風險相關。

（a） 此類標準應予以公佈，可包括：

（i） 遵守海關和其他相關法律、法規的適當記錄；

（ii） 允許進行必要內部控制的記錄管理系統；

（iii） 財務償付能力，在適當時，包括提供足夠的擔保/保證；及

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[6] 每一成員可依照其需要和能力確定此種平均放行時間測算的範圍和方法。

（iv） 供應鏈安全。

（b） 此類標準不得：

（i） 設計或實施從而在適用相同條件的經營者之間給予或造成任意或不合理的歧視；且

（ii） 在可能的限度內，限制中小企業的參與。

7.3 根據第 7.1 款提供的貿易便利化措施應至少包括以下措施中的 3 條措施：[7]

（a） 酌情降低單證和數據要求；

（b） 酌情降低實際檢查和審查比例；

（c） 酌情加快放行時間；

（d） 延遲支付關稅、國內稅、規費和費用；

（e） 使用總擔保或減少擔保；

（f） 在特定時間內對所有進口或出口進行一次性海關申報；及

（g） 在經認證的經營者的場所或經海關批准的另外地點辦理貨物結關。

7.4 鼓勵各成員根據國際標準制定經認證的經營者計劃，如存在此類標準，除非此類標準對實現所追求的合法目標不適當或無效果。

7.5 為加強向經營者提供的貿易便利化措施，各成員應向其他成員提供通過談判互認經認證的經營者計劃的可能性。

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[7] 第 7.3（a）至（g）項所列措施如可使所有經營者普遍獲得，則將被視為已向經認證的經營者提供。

7.6 各成員應在委員會範圍內就有效的經認證的經營者計劃交流相關信息。

8 快運貨物

8.1 每一成員應採用或設立程序，在維持海關監管的同時，應申請人申請，至少允許快速放行通過航空貨運設施入境的貨物。[8]如一成員採用限制申請人的標準[9]，則該成員可在公佈的標準中要求申請人作為其快運貨物申請獲得第 8.2 款所述待遇的條件，應：

（a） 提供與處理快運貨物相關的充足基礎設施並支付海關費用，如申請人滿足該成員關於此類處理在一特定設施中進行的要求；

（b） 在快運貨物抵達前，提交放行所需的信息；

（c） 所確定的費用限於為提供第 8.2 款所述待遇所提供服務的近似成本內；

（d） 通過使用內部安保、物流和自提取到送達的追蹤技術，對快運貨物保持高度控制；

（e） 提供自提取到送達的快速運輸；

（f） 承擔向海關支付貨物全部關稅、國內稅、規費及費用的責任；

（g） 在遵守海關和其他有關法律法規方面擁有良好記錄；

（h） 遵守與有效執行成員法律法規和程序性要求直接相關的，特別與第 8.2 款中所述待遇相關的其他條件。

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[8] 如一成員已設立提供第 8.2 款中待遇的程序，則本規定不再要求成員再採用單獨的快速放行程序。

[9] 此類申請標準，如存在，應增至該成員關於所有通過航空運輸設施入境貨物的要求中。

8.2 在符合第 8.1 和 8.3 款的前提下，各成員應：

（a） 最大限度減少依照第 10 條第 1 款放行快運貨物所需的單證，並在可能的情況下，規定對某些貨物根據一次性提交的信息予以放行；

（b） 規定在正常情況下當快運貨物抵達後儘快放行，但條件是放行所需信息已提交；

（c） 努力將（a）和（b）項中所述的待遇適用於任何重量或價值的貨物，同時認可允許一成員要求額外入境程序，包括申報、證明單證及支付關稅和國內稅，並根據貨物種類限制此種待遇，但條件是此種待遇不僅限於如文件等低值貨物；及

（d） 在可能的情況下，除某些特定貨物外，規定免於徵收關稅和國內稅的微量貨值或應納稅額。與以 GATT 1994 第 3 條一致的方式適用於進口的國內稅，如增值稅和消費稅等，不受本條約束。

8.3 第 8.1 和 8.2 款不得影響一成員對貨物進行查驗、扣留、扣押、沒收或拒絕入境或實施後續稽查的權利，包括使用風險管理系統相關的權利。此外，第 8.1 和 8.2 款不得妨礙一成員作為放行的條件，要求提交額外信息和滿足非自動進口許可程序要求的權利。

9 易腐貨物[10]

9.1 為防止易腐貨物可避免的損失或變質，在滿足所有法規要求的前提下，每一成員應規定易腐貨物：

（a） 在通常情況下在可能的最短時間內予以放行；及

[10] 就本款而言，易腐貨物指由於其自然特點，特別是在缺乏適當的儲藏條件下迅速變質的貨物。

（b） 在適當的例外情況下，在海關和其他相關主管機關工作時間之外予以放行。

9.2 每一成員在安排任何可能要求的查驗時，應適當優先考慮易腐貨物。

9.3 每一成員安排或允許一進口商安排在易腐貨物放行前予以正確儲藏。該成員可要求進口商安排的任何儲存設施均已經相關主管機關批准或指定。貨物運至該儲藏設施，包括經認證的經營者運輸該貨物，可能需獲得相關主管機關的批准。應進口商請求，在可行並符合國內法律的情況下，該成員應規定在此類儲藏設施中予以放行的任何必要程序。

9.4 如易腐貨物的放行受到嚴重延遲，應書面請求，進口成員應儘可能提供關於延遲原因的信函。

第 8 條：邊境機構合作

1. 每一成員應保證其負責邊境管制和貨物進口、出口及過境程序的主管機關和機構相互合作並協調行動，以便利貿易。

2. 每一成員應在可能和可行的範圍內，與擁有共同邊界的其他成員根據共同議定的條款進行合作，以期協調跨境程序，從而便利跨境貿易。此類合作和協調可包括：

（a） 工作日和工作時間的協調；

（b） 程序和手續的協調；

（c） 共用設施的建設與共享；

（d） 聯合監管；

（e） 一站式邊境監管站的設立。

第 9 條：受海關監管的進口貨物的移動

每一成員應在可行的範圍內，並在所有管理要求得到滿足的前提下，允許進口貨物在其領土內在海關的監管下進行移動，從入境地海關移至予以放行或結關的其領土內另一海關。

第 10 條：與進口、出口和過境相關的手續

1 手續和單證要求

1.1 為使進口、出口和過境手續的發生率和複雜度降到最低，並減少和簡化進口、出口和過境的單證要求，同時考慮到合法政策目標及情形變化、相關新信息和商業慣例、方法和技術的可獲性、國際最佳實踐及利益相關方的意見，每一成員應審議此類手續和單證要求，並根據審議結果，酌情保證此類手續和單證要求：

（a） 以貨物，特別是易腐貨物的快速放行和結關為目的而通過和/或適用；

（b） 以旨在減少貿易商和經營者的守法時間和成本的方式而通過和/或適用；

（c） 如存在兩種或兩種以上為實現政策目標或有關目標的可合理獲得的措施，則選擇對貿易限制最小的措施；且

（d） 如不再要求，則不再維持，包括不再維持其中部分要求。

1.2 委員會應酌情制定各成員分享相關信息和最佳實踐的程序。

2 副本的接受

2.1 每一成員應酌情努力接受進口、出口或過境手續所要求的證明單證的紙質或電子副本。

2.2 如一成員的政府機構已持有此單證的正本，則該成員的任何其他機構應接受來自持有單證正本部門的紙質或電子副本以替代正本。

2.3 一成員不得要求將提交出口成員海關的出口報關單正本或副本作為進口的一項要求。[11]

3 國際標準的使用

3.1 鼓勵各成員使用或部分使用相關國際標準作為其進口、出口或過境手續和程序的依據，除非本協定另有規定。

3.2 鼓勵各成員在其資源限度內，參加適當國際組織對相關國際標準的制定和定期審議。

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[11] 本款不妨礙一成員要求針對監管或管制貨物的進口提供證書、許可或執照等文件。

3.3 委員會應酌情制定供各成員分享實施國際標準的相關信息和最佳實踐的程序。

委員會還可邀請相關國際組織討論其關於國際標準的工作。委員會可酌情確定對成員具有特殊價值的特定標準。

4 單一窗口

4.1 各成員應努力建立或設立單一窗口，使貿易商能夠通過一單一接入點向參與的主管機關或機構提交貨物進口、出口或過境的單證和/或數據要求。待主管機關或機構審查單證和/或數據後，審查結果應通過該單一窗口及時通知申請人。

4.2 如單證和/或數據要求已通過單一窗口接收，參與的主管機關或機構不得提出提交相同單證和/或數據的要求，除非在緊急情況或其他已公開的有限例外情況下。

4.3 各成員應將單一窗口的運行細節通知委員會。

4.4 各成員應在可能和可行的限度內，使用信息技術支持單一窗口。

5 裝運前檢驗

5.1 成員不得要求使用與稅則歸類和海關估價有關的裝運前檢驗。

5.2 在不損害各成員使用第 5.1 款所涵蓋範圍外的其他形式的裝運前檢驗權利的前提下，鼓勵各成員對裝運前檢驗不再採用或適用新的要求。[12]

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[12] 本款指《裝運前檢驗協定》所涵蓋的裝運前檢驗，且不排除為衛生與植物衛生目的所進行的裝運前檢驗。

6 報關代理的使用

6.1 在不影響一些成員目前對報關代理維持特殊作用的重要政策關注的前提下，自本協定生效時起，各成員不得要求強制使用報關代理。

6.2 每一成員應將其關於使用報關代理的措施向委員會作出通知並予以公佈。任何後續修改均應迅速作出通知並予以公佈。

6.3 對於報關代理的許可程序，各成員應適用透明和客觀的規定。

7 共同邊境程序和統一單證要求

7.1 每一成員應，在符合第 7.2 款的前提下，在其全部領土內對貨物放行和結關適用共同海關程序和統一單證要求。

7.2 本條不得妨礙一成員：

（a）根據貨物的性質和類型或其運輸方式區分程序和單證要求；

（b） 根據風險管理區分貨物的程序和單證要求；

（c） 區分提供進口關稅和國內稅的全部或部分免除的程序和單證要求；

（d） 使用電子方式提交或辦理業務；或

（e） 以與《實施衛生與植物衛生措施協定》相一致的方式區分其程序和單證要求。

8 拒絕入境貨物

8.1 如擬進境貨物因未能滿足規定的衛生或植物衛生法規或技術法規而被一成員主管機關拒絕，則該成員應在遵守和符合其法律法規

的前提下，允許進口商將退運貨物重新託運或退運至出口商或出口商指定的另一人。

8.2 如根據第 8.1 款給出此種選擇權而進口商未能在合理時間內行使該權利，則主管機關可採取另一種方法處理此種違規貨物。

9 貨物暫准進口及進境和出境加工

9.1 貨物暫准進口

如貨物為特定目的運入關稅區，並計劃在特定期限內復出口，且除因該貨物的用途所造成的正常折舊和磨損外未發生任何變化，則每一成員應按其法律法規規定，允許該貨物運入其關稅區，並有條件全部或部分免於支付進口關稅和國內稅。

9.2 進境和出境加工

（a） 每一成員應，按其法律法規規定，允許貨物進境和出境加工。允許出境加工的貨物可依照該成員有效法律法規全部或部分免除進口關稅和國內稅後復進口。

（b） 就本條而言，“進境加工”一詞指用於製造、加工或修理並隨後出口的貨物據以有條件運入一關境並有條件全部或部分免於支付進口關稅和國內稅或有資格獲得退稅的海關程序。

（c） 就本條而言，“出境加工”一詞指在一關稅區內自由流通的貨物據以暫時出口至國外用於製造、加工或修理並隨後復進口的海關程序。

第 11 條：過境自由

1. 一成員實施的與過境運輸有關的任何法規或程序：

（a） 如導致其採用的情形或目標已不復存在或如情形或目標發生變化可使用貿易限制程度更低的其他可合理獲得的方式處理，則不得維持；

（b） 不得以對過境運輸構成變相限制的方式適用。

2. 過境運輸不得以收取對過境徵收的規費或費用為條件，但運輸費用或過境所產生的行政費用或與所提供服務的成本相當的費用除外。

3. 各成員不得尋求、採取或設立對過境運輸的任何自願限制或任何其他類似措施。此規定不妨礙與管理過境相關的且與 WTO 規則相一致的現行或未來國內法規、雙邊或多邊安排。

4. 每一成員應給予自任何其他成員領土過境的產品不低於給予此類產品在不經其他成員領土而自原產地運輸至目的地所應享受的待遇。

5. 鼓勵各成員在可行的情況下為過境運輸提供實際分開的基礎設施（如通道、泊位及類似設施）。

6. 為實現以下目的的與過境運輸相關的手續和單證要求及海關監管的複雜程度不得超過必要限度：

（a） 確定貨物；及

（b） 保證符合過境要求。

7. 一旦貨物進入過境程序並獲准自一成員領土內始發地啟運，即不必支付任何海關費用或受到不必要的延遲或限制，直至其在該成員領土內的目的地結束過境過程。

8. 各成員不得對過境貨物適用《技術性貿易壁壘協定》範圍內的技術法規和合格評定程序。

9. 各成員應允許並規定貨物抵達前提前提交和處理過境單證和數據。

10. 一旦過境運輸抵達該成員領土內出境地點海關，如符合過境要求，則該海關應立即結束過境操作。

11. 如一成員對過境運輸要求以保證金、押金或其他適當貨幣或非貨幣[13]手段提供擔保，則此種擔保應僅以保證過境運輸所產生的要求得以滿足為限。

12. 一旦該成員確定其過境要求已得到滿足，應立即解除擔保。

13. 每一成員應以符合其法律法規的形式允許為同一經營者的多筆交易提供總擔保或將擔保展期轉為對後續貨物的擔保而不予解除。

14. 每一成員應使公眾獲得其用以設定擔保的相關信息，包括單筆交易擔保，以及在可行的情況下，包括多筆交易擔保。

15. 在存在高風險的情況下或在使用擔保不能保證海關法律法規得以遵守的情況下，成員可要求對過境運輸使用海關押運或海關護送。適用於海關押運或海關護送的一般規定應依照第 1 條予以公佈。

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[13] 本規定不阻止一成員維持以運輸方式作為過境運輸擔保的現行程序。

16. 各成員應努力相互合作和協調以增強過境自由。此類合作和協調可包括但不僅限於關於下列內容的諒解：

（a） 費用；

（b） 手續和法律要求；及

（c） 過境體制的實際運行。

17. 每一成員應努力指定一國家級過境協調機構，其他成員提出的有關過境操作良好運行的所有諮詢和建議均可向該機構提出。

第 12 條：海關合作

1 促進守法和合作的措施

1.1 各成員同意保證下列事項具有重要意義，即貿易商知曉守法義務、鼓勵自願守法以允許進口商在適當情況下自我糾錯而免予處罰以及對違法貿易商適用守法措施以實施更為嚴厲的措施。[14]

1.2 鼓勵各成員通過委員會等方式分享保證海關規定得以遵守方面最佳做法的信息。鼓勵各成員在能力建設的技術指導或援助和支持方面開展合作，以管理守法措施並提高此類措施的有效性。

2 信息交換

2.1 應請求，並在符合本條規定的前提下，各成員應交換第 6.1（b）項和/或（c）項所列信息，以便在有合理理由懷疑一進口或出

[14] 此種行為的總體目的在於降低違法行為的頻率，從而減少為執法而交換信息的需要。

口申報的真實性或準確性時，對該項申報進行核實。

2.2 每一成員應將其用於信息交換的聯絡點的詳細信息通知委員會。

3 核實

一成員應僅在其已對一進口或出口申報採取適當核實程序後且已檢查可獲得的相關單證後，方可提出提供信息的請求。

4 請求

4.1 提出請求的成員應向被請求成員以紙質或電子形式以共同議定的 WTO 工作語文或其他語文提出書面請求，內容包括：

（a） 所涉事項，在適當和可獲得的情況下，包括與所涉進口申報相對應的出口申報的序列號；

（b） 提出請求成員尋求信息或單證的目的，並附與該請求相關人員的姓名和聯繫方式，如可知；

（c） 如被請求成員要求，在適當時，提供對核實的確認[15]；

（d） 請求提供的具體信息或單證；

（e） 提出請求機構的身份認證；

（f） 提出請求成員所援引的管轄保密信息和個人數據收集、保護、使用、披露、保留及處置的國內法律和法律制度相關條款。

[15] 可包括根據第 3 款進行核實的相關信息。此類信息應適用進行核實成員確定的保護和機密性水平。

4.2 如提出請求成員無法滿足第 4.1 款的任何規定，則其應在請求中說明。

5 保護和機密性

5.1 在符合第 5.2 款的前提下，提出請求成員應：

（a） 對被請求成員提供的所有信息或單證嚴格保密，並至少給予與被請求成員按第 6.1（b）和（c）項所描述的其國內法律和法律制度規定的同等水平的保護和機密性；

（b） 僅向處理所涉事項的海關提供信息或單證，並僅為請求中所列明的目的而使用該信息或單證，除非被請求成員書面同意用於其他目的；

（c） 未經被請求成員明確書面許可，不得披露信息或單證；

（d） 不得將未經被請求成員驗證的信息或單證用作在任何指定情況下減輕疑問的決定性因素；

（e） 尊重被請求成員就特定案件提出的關於保留和處置保密信息或單證及個人數據的任何條件；以及

（f） 應請求，將根據所提供的信息或單證就相關事項作出的任何決定或行動通知被請求成員。

5.2 如提出請求成員根據其國內法律和法律制度可能無法遵守第 5.1 款項下任何規定，則提出請求成員應在請求中對此予以說明。

5.3 被請求成員對於根據第 4 款收到的任何請求及核實信息，應給予至少與自身類似信息相同的保護和機密性等級。

6 信息的提供

6.1 在遵守本條的前提下，被請求成員應迅速：

（a） 通過紙質或電子形式予以書面答覆；

（b） 提供進口或出口申報中所列具體信息，或在可獲得的情況下提供申報本身，並附要求提出請求成員給予的保護和保密性等級的描述；

（c） 如提出請求，提供下列用於證明進口或出口申報的單證中所列具體信息，或在可獲得的情況下提供單證本身：商業發票、裝箱單、原產地證書以及提單，以單證提交的形式提供，無論紙質或電子形式，並附要求提出請求成員給予的保護和保密性等級的描述；

（d） 確認所提供單證為真實副本；

（e） 在可能的情況下，在提出請求之日起 90 天內提供信息或對請求作出答覆。

6.2 被請求成員可根據其國內法律和法律制度，在提供信息之前要求得到以下保證，即未經被請求成員明確書面許可，特定信息不被用作刑事調查或司法訴訟以及非海關訴訟的證據。如提出請求成員無法滿足這一要求，則應向被請求成員予以說明。

7 對請求的遲覆或拒絕

7.1 在下列情況下，被請求成員可對提供信息的請求予以遲覆或全部或部分拒絕，並應通知提出請求成員遲覆或拒絕的原因：

（a） 與被請求成員國內法律和法律制度所體現的公共利益相抵觸；

（b） 其國內法律和法律制度禁止發佈該信息。在此種情況下，應向提出請求成員提供相關具體引文的副本；

（c） 提供信息將妨礙執法或者干擾正在進行的行政或司法調查、起訴或訴訟；

（d） 管轄保密信息或個人數據的收集、保護、使用、披露、保留和處理的國內法律和法律制度要求必須獲得進口商或出口商同意，而未獲同意；

（e） 提供信息請求在被請求成員關於保留單證的法律規定失效後收到。

7.2 在第 4.2、5.2 或 6.2 款規定的情形下，是否執行此請求應由被請求成員自行決定。

8 對等

如提出請求成員認為，如被請求成員提出類似請求，其本身無法滿足，或其尚未實施本條，則應在請求中說明該事實。是否執行此請求應由被請求成員自行決定。

9 行政負擔

9.1 提出請求成員應考慮答覆信息請求對被請求成員資源和成本的影響。提出請求成員應考慮尋求請求獲得答覆的財政利益與被請求成員為提供信息所付出努力之間的均衡性。

9.2 如一被請求成員自一個或多個提出請求成員處收到數量龐大的提供信息請求，或信息請求範圍過大，無法在合理時間內滿足此類請求，則該成員可要求一個或多個提出請求成員列出優先順序，以期

在其資源限度內議定一可行的限額。如未能達成雙方同意的方式，則此類請求的執行應由被請求成員根據其自身優先排序結果自行決定。

10 限制

不得要求被請求成員：

（a） 修改其進口或出口申報的格式或程序；

（b） 要求提供第 6.1（c）項所列隨進口或出口申請提交單證以外的單證；

（c） 為獲得信息而發起諮詢；

（d） 修改保留此類信息的期限；

（e） 要求對已採用電子格式的單證提供紙質單證；

（f） 翻譯信息；

（g） 核實信息的準確性；

（h） 提供可能損害特定公私企業合法商業利益的信息。

11 未經授權的使用或披露

11.1 如發生任何違反本條項下關於交換信息的使用或披露條件的情形，則收到信息的提出請求成員應迅速將此類未經授權的使用或披露的詳細情況通知提供信息的被請求成員，同時：

（a） 採取必要措施彌補違反行為；

（b） 採取必要措施防止未來的任何違反行為；以及

（c） 將根據（a）和（b）項採取的措施通知被請求成員。

11.2 被請求成員可暫停履行本條項下對提出請求成員的義務，直至第 11.1 款中所列措施已採取。

12 **雙邊和區域協定**

12.1 本條任何規定不得阻止一成員達成或維持關於海關信息和數據共享或交換，包括自動或在貨物抵達前等以安全快速為基礎的共享或交換的雙邊、諸邊或區域協定。

12.2 本條任何規定不得解釋為改變或影響各成員在此類雙邊、諸邊或區域協定項下的權利或義務，也不管轄根據其他此類協定項下的海關信息和數據交換。

第二部分

給予發展中國家成員和最不發達國家成員的特殊和差別待遇條款

第 13 條：總則

1. 發展中和最不發達國家成員應依照本部分實施本協定第 1 至 12 條，本部分根據 2004 年 7 月框架協議（WT/L/579）附件 D 及《香港部長宣言》（WT/MIN（05）/DEC）第 33 段和附件 E 中議定的模式制定。

2. 應向發展中和最不發達國家成員提供能力建設援助和支持[16]以幫助其依照本協定條款的性質和範圍實施這些條款。實施本協定條款的程度和時限應與發展中和最不發達國家成員的實施能力相關聯。如一發展中或最不發達國家成員仍然缺乏必要能力，則在獲得實施能力前，不要求實施相關條款。

3. 僅要求最不發達國家成員作出與其各自發展、財政和貿易需求或其管理和機構能力相一致的承諾。

4. 這些原則應適用於第二部分所列全部條款。

第 14 條：條款類別

1. 條款共分 3 類：

（a） A 類包含一發展中或最不發達國家成員指定的自本協定生效時起立即實施的條款，或對於最不發達國家成員在生效後 1 年內實施的條款，如第 15 條所規定。

（b） B 類包含一發展中或最不發達國家成員指定的在本協定生效後的一過渡期結束後的日期起實施的條款，如第 16 條所規定。

（c） C 類包含一發展中或最不發達國家成員指定的在本協定生效後的一過渡期結束後的日期起實施的、同時要求通過提供能力建設援助和支持以獲得實施能力的條款，如第 16 條所規定。

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[16] 就本協定而言，“能力建設援助和支持”可採取技術、資金或其他雙方議定的任何其他援助形式。

2. 每一發展中國家和最不發達國家成員應各自自行指定 A、B、C 類分別包含的條款。

第 15 條：關於 A 類條款的通知和實施

1. 自本協定生效時起，每一發展中國家成員應實施其 A 類條款。A 類項下所指定的承諾將因此成為本協定組成部分。

2. 一最不發達國家成員可在本協定生效後 1 年內向委員會通知其所指定的 A 類條款。每一最不發達國家成員在 A 類項下所指定的承諾將成為本協定組成部分。

第 16 條：關於 B 類和 C 類條款最終實施日期的通知

1. 對於一發展中國家成員未指定為 A 類條款的條款，該成員可依照本條所列程序推遲實施。

發展中國家成員 B 類條款

（a） 自本協定生效時，每一發展中國家成員應將指定的 B 類條款及相應的指示性實施日期通知委員會。[17]

[17] 提交的通知還可包括作出通知成員認為適當的進一步信息。鼓勵各成員提供關於負責實施的國內機構/實體的信息。

（b） 不遲於本協定生效後 1 年，每一發展中國家成員應將其實施 B 類條款的最終日期通知委員會。如一發展中國家成員在截止日期前，認為需要額外時間通知其最終日期，則該成員可請求委員會將期限延長至足以作出通知的長度。

發展中國家成員 C 類條款

（c） 自本協定生效時起，每一發展中國家成員應將指定的 C 類條款及相應的指示性實施日期通知委員會。為透明度目的，提交的通知應包括該成員為實施目的而要求的能力建設援助和支持的信息。[18]

（d） 自本協定生效後 1 年內，發展中國家成員及相關捐助成員，應在考慮任何已達成的現行安排、根據第 22 條第 1 款作出的通知以及根據上述（c）項提供的信息的情況下，向委員會提供關於為使其能夠實施 C 類條款而提供能力建設援助和支持所必需的現行或已達成安排的信息[19]。參與的發展中國家成員應將此類安排迅速通知委員會。委員會還應邀請非成員捐助方提供關於現行或已完成安排的信息。

（e） 在（d）項規定的提交信息日期起 18 個月內，捐助成員和相應發展中國家成員應將提供能力建設援助和支持方面的進展通知委員會。每一發展中國家成員應同時通知其最終實施日期清單。

2. 對於最不發達國家成員未指定為 A 類條款的條款，最不發達國家成員可依照本條所列程序推遲實施。

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[18] 各成員還可包括關於國家貿易便利化實施計劃或方案的信息；負責實施的國內機構/實體；以及已與該成員達成提供援助安排的援助方。

[19] 此類安排將依據雙方議定的條件，通過雙邊或適當國際組織達成，並符合第 21 條第 3 款的規定。

最不發達國家成員 B 類條款

（a） 不遲於本協定生效後 1 年，一最不發達國家成員應將其 B 類條款通知委員會，還可通知這些條款相應的指示性實施日期，同時考慮給予最不發達國家成員的最大靈活性。

（b） 在不遲於（a）項規定的通知日期後 2 年，每一最不發達國家成員應向委員會作出通知，確認條款的指定情況，並通知其實施日期。如一最不發達國家成員在截止日期前，認為需要額外時間通知其最終日期，則該成員可請求委員會將期限延長至足以作出通知的長度。

最不發達國家成員 C 類條款

（c） 為透明度目的並為便利與援助方訂立安排，本協定生效 1 年後，每一最不發達國家成員應將其指定的 C 類條款通知委員會，同時考慮給予最不發達國家成員的最大靈活性。

（d） 在（c）項規定的日期後 1 年，最不發達國家成員應通知其為實施目的所要求的能力建設援助和支持的信息。[20]

（e） 在根據以上（d）項作出通知後 2 年內，最不發達國家成員及相關援助成員應在考慮根據上述（d）項提供的信息的情況下，向委員會提供關於使其能夠執行 C 類條款而提供能力建設援助和支持所必需的現行或已達成安排的信息[21]。參與的最不發達國家成員應將此類安排迅速通知委員會。委員會還應邀請非成員捐助方提供關於現行或已完成安排的信息。

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[20] 各成員還可包括關於國家貿易便利化實施計劃或方案的信息；負責實施的國內機構/實體；以及已與該成員達成提供援助安排的援助方。

[21] 此類安排將依據雙方議定的條件，通過雙邊或適當國際組織達成，並符合第 21 條第 3 款的規定。

（f） 在（e）項規定的提交信息日期起 18 個月內，相關捐助成員和相應發展中國家成員應將提供能力建設援助和支持方面的進展通知委員會。每一最不發達國家成員應同時將其最終實施日期清單通知委員會。

3. 發展中國家成員和最不發達國家成員如因缺乏捐助支持或在提供援助和支持方面缺乏進展，致使其在第 1 和 2 款規定的截止日期內提交最終實施日期方面遇到困難，則應在截止日期期滿前儘早通知委員會。各成員同意開展合作以在處理此類困難方面提供協助，同時考慮有關成員所面臨的具體情況和特殊問題。委員會應酌情採取行動處理此類困難，包括如必要，延長有關成員通知其最終實施日期的截止日期。

4. 在第 1（b）或（e）項或對於最不發達國家成員而言在第 2（b）或（f）項所規定的截止日期前 3 個月，秘書處應提醒尚未通知 B 類或 C 類條款最終實施日期的成員。如該成員未援引第 3 款或對於發展中國家而言第 1（b）項或對於最不發達成員而言第 2（b）項以延長其截止日期，且尚未通知最終實施日期，則該成員應在第 1（b）或（e）項或對於最不發達國家成員而言第 2（b）或（f）項所規定的截止日期後 1 年內實施該條款，或根據第 3 款予以延長。

5. 不遲於依照第 1、2 或 3 款作出關於履行 B 類和 C 類條款的最終實施日期通知後 60 天，委員會應注意到包含每一成員 B 類和 C 類條款最終實施日期的附件，包括根據第 4 款設定的任何日期，並因此使這些附件成為本協定組成部分。

第 17 條：預警機制：B 類和 C 類條款實施日期的延長

1.

（a）一發展中國家成員或最不發達國家成員認為根據第 16 條第 1（b）或（e）項或對於最不發達國家成員而言根據第 16 條 2（b）或（f）項確定的截止日期前，在實施其指定的 B 類和 C 類條款中一條款方面遇到困難，則應通知委員會。發展中國家成員應不遲於實施日期期滿前 120 天通知委員會。最不發達國家成員應不遲於 90 天通知委員會。

（b） 向委員會作出的通知應列明發展中國家成員或最不發達國家成員預計能夠實施有關規定的新日期。通知還應詳細說明推遲實施的原因。此類原因可包含有助於增加和支持能力建設的事先未預計到的或額外的援助和支持需求。

2. 如一發展中國家成員請求的額外實施時間不超過 18 個月或一最不發達國家成員請求的額外實施時間不超過 3 年，則提出請求成員有權獲得此額外時間而無需委員會採取任何進一步行動。

3. 如一發展中國家或最不發達國家成員認為其所需第 1 次延期長於第 2 款所規定期限或需要第 2 次或後續延期，則該成員應向委員會提交包含 1（b）項所述信息的延期請求，發展中國家成員應不遲於原定最終實施日期或後續延長日期期滿前 120 天提交，最不發達國家成員應不遲於 90 天提交。

4. 委員會應對延期請求給予同情考慮，同時考慮提交請求成員的具體情況。這些情況可包括獲得能力建設支持的援助和支持方面的困難和延遲。

第 18 條：B 類和 C 類條款的實施

1. 依照第 13 條第 2 款，如一發展中國家成員或最不發達國家成員，在履行第 16 條第 1 款或第 2 款和第 17 條所列程序後，且如延期請求未獲批准或如該發展中國家或最不發達國家成員遇到未預見的情況導致無法根據第 17 條獲得延期，且自我評估認為自身仍然缺乏實施一 C 類條款的能力，則該成員應向委員會通知其無能力執行相關條款的情況。

2. 委員會應立即設立一專家小組，無論如何不遲於委員會自相關發展中國家成員或最不發達國家成員處收到通知後 60 天。專家小組將在組成後 120 天內，審查該事項並向委員會提出建議。

3. 專家小組應由 5 位在貿易便利化及能力建設援助和支持領域的資深獨立人員組成。專家小組的組成應保證來自發展中和發達國家成員國民的平衡性。如涉及最不發達國家成員，則專家小組應至少包含一位來自最不發達國家成員的國民。如在專家小組設立後 20 天內無法就其組成達成一致，則總幹事在與委員會主席磋商後，應依照本款所列條款決定專家小組的組成。

4. 專家小組應考慮該成員關於缺乏能力的自我評估，並應向委員會提出建議。在審議專家小組有關一最不發達國家成員的建議時，委員會應酌情採取行動，以便利可持續的實施能力的獲得。

5. 自該發展中國家成員向委員會通知其無能力實施相關條款時起至委員會收到專家小組建議後的第一次會議時止，該成員在此事項上不受《爭端解決諒解》訴訟的管轄。在第一次會議上，委員會應審

議專家小組的建議。對於最不發達國家成員而言，自其向委員會通知其無能力實施相關條款時起至委員會就此事項作出決定或在委員會上述會議後 24 個月內，以較早者為準，《爭端解決諒解》訴訟不適用於相關條款。

6. 如一最不發達國家失去實施 C 類條款的能力，則應通知委員會，並遵循本條所列程序。

第 19 條：B 類和 C 類條款之間的轉換

1. 已對 B 類和 C 類條款作出通知的發展中國家成員和最不發達國家成員，可通過向委員會提交通知在兩類別之間對條款進行轉換。如一成員提出將一條款自 B 類轉換至 C 類，則該成員應提供關於能力建設所需的技術援助和支持的信息。

2. 如一條款自 B 類轉換至 C 類而需要額外時間實施，則該成員可：

（a） 使用第 17 條的規定，包括自動延期的機會；或

（b） 請求委員會審查該成員關於為實施該條款的額外時間請求，如必要，審查能力建設援助和支持請求，包括由第 18 條項下的專家小組進行審議並提出建議；或

（c） 對於最不發達國家成員而言，在 B 類條款項下作出通知的原定日期後超過 4 年的新實施日期應獲得委員會批准。此外，最不發達國家應可繼續引用第 17 條。各方理解對於作出此類轉換的最不發達國家成員需要能力建設援助和支持。

第 20 條：適用《關於爭端解決規則與程序的諒解》的寬限期

1. 本協定生效後 2 年內，經《關於爭端解決規則與程序的諒解》詳述和適用的 GATT 1994 第 22 條和第 23 條的規定不得適用於針對發展中國家成員的、涉及該成員指定列入 A 類條款的任何條款的爭端解決。

2. 本協定生效後 6 年內，經《關於爭端解決規則與程序的諒解》詳述和適用的 GATT 1994 第 22 條和第 23 條的規定不得適用於針對最不發達國家成員的、涉及該成員指定列入 A 類條款的任何條款的爭端解決。

3. 最不發達國家成員實施 B 類或 C 類條款後 8 年內，經《關於爭端解決規則與程序的諒解》詳述和適用的 GATT 1994 第 22 條和第 23 條的規定不得適用於針對最不發達國家成員的、涉及此類條款的爭端解決。

4. 儘管存在適用《關於爭端解決規則與程序的諒解》的寬限期，但是針對最不發達國家成員的一措施，在按照 GATT 1994 第 22 條或第 23 條提出磋商請求前及在爭端解決程序各階段，一成員應對最不發達國家成員的特殊情況給予特別考慮。在此方面，各成員應在《關於爭端解決的規則與程序的諒解》項下提出涉及最不發達國家成員的事項方面保持適當的克制。

5. 每一成員應請求，在本條允許的寬限期內，應向其他成員提供充分機會，以討論與實施本協定相關的任何問題。

第 21 條：能力建設援助的提供

1. 捐助成員同意依據共同議定的條款，通過雙邊或適當國際組織，便利向發展中國家和最不發達國家成員提供能力建設援助和支持。目標旨在援助發展中國家和最不發達國家成員實施本協定第一部分條款。

2. 考慮到最不發達國家成員的特殊需要，應向最不發達國家成員提供定向援助和支持，以幫助其增強實施承諾的可持續能力。通過相關發展合作機制，並在與第 3 款所指的能力建設的技術援助和支持原則相一致的前提下，發展夥伴應努力以不妥協現有發展優先事項的方式對此領域提供能力建設援助和支持。

3. 各成員應努力在提供實施本協定的能力建設援助和支持方面適用下列原則：

（a） 考慮接受國和地區的整體發展框架及在相關和適當時，考慮正在開展的改革和技術援助項目；

（b） 在相關和適當時，包括用以處理區域和次區域挑戰並促進區域和次區域一體化的活動；

（c） 保證將正在開展的私營部門貿易便利化改革活動納入援助活動；

（d） 促進各成員間及與包括區域經濟共同體在內的其他相關機構之間的合作，以保證自援助中獲得最大效益和結果。為此：

（i） 主要在提供援助的對象國家和地區中開展的、在合作夥伴成員和援助方之間及在雙邊和多邊援助方之間的協調，應旨在通過技術援助與能力建設干預的緊密協調，避免援助項目的重疊和重複及改革中的不一致性；

（ii） 對於最不發達國家成員，給予最不發達國家貿易相關援助的增強一體化框架應成為該協調過程的一部分；以及

（iii） 各成員在實施本協定和技術援助時，還應促進其在首都和日內瓦的貿易和發展官員之間的內部協調。

（e） 鼓勵使用現有的如圓桌會議和協商小組等國內和區域協調構架，以協調和監督實施活動；及

（f） 在可能的情況下，鼓勵發展中國家成員向其他發展中和最不發達國家成員提供能力建設，並考慮支持此類活動。

4. 委員會應至少每年舉行一次專門會議：

（a） 討論關於實施本協定條款或條款某部分的任何問題；

（b） 審議在為支持本協定實施所提供能力建設援助和支持方面的進展，包括任何未得到充足能力建設援助和支持的發展中或最不發達國家成員；

（c） 分享關於正在開展的能力建設援助和支持及實施項目的經驗和信息，包括挑戰和成就；

（d） 審議第 22 條所列捐助通知；以及

（e） 審議第 2 款的運用情況。

第 22 條：向委員會提交的援助信息

1. 為向發展中國家成員和最不發達國家成員提供關於實施第一部分的能力建設援助和支持的透明度，援助發展中國家成員和最不發達國家成員實施本協定的每一捐助成員應在本協定生效時及隨後每年，向委員會提交其此前 12 個月中支付的能力建設援助和支持的信息，及在可獲得的情況下，提交未來 12 個月中承諾提供的能力建設援助和支持的信息[22]：

（a） 能力建設援助和支持的描述；

（b） 承諾/支付狀態和金額；

（c） 援助和支持支付的程序；

（d） 受惠國，或在必要的情況下，受惠地區；及

（e） 提供援助和支持成員的實施機構。

信息應按附件 1 規定的格式提供。對於經濟合作與發展組織（本協定中稱 OECD）成員，提交的信息可根據《OECD 債權人報告系統》中的相關信息。鼓勵宣佈有能力提供能力建設援助和支持的發展中國家成員提供上述信息。

2. 援助發展中國家成員和最不發達國家成員的捐助成員應向委員會提交：

（a） 負責提供與實施本協定第一部分相關的能力建設援助和支持的機構的聯絡點，如可行，其國內或區域內提供此類援助和支持的

[22] 提供的信息將反映提供能力建設援助和支持方面的需求驅動性質。

聯絡點的信息；及

（b） 關於請求獲得能力建設援助和支持的程序和機制的信息。

鼓勵宣佈有能力提供援助和支持的發展中國家成員提供上述信息。

3. 旨在獲得與貿易便利化相關的援助和支持的發展中國家成員和最不發達國家成員，應向委員會提交關於負責協調和確定能力建設援助和支持優先次序機構的聯絡點信息。

4. 各成員可通過互聯網提交第 2 款和第 3 款中所指的信息，並應在必要時更新信息。秘書處應使所有此類信息可公開獲得。

5. 委員會應邀請相關國際和區域組織（如國際貨幣基金組織、OECD、聯合國貿易與發展會議、WCO、聯合國各區域委員會、世界銀行及其附屬機構以及各區域開發銀行）及其他合作機構提供第 1、2 和 4 款中提及的信息。

第三部分

機構安排和最終條款

第 23 條：機構安排

1 貿易便利化委員會

1.1 特此設立貿易便利化委員會。

1.2 委員會應向所有成員開放參加，並選舉自己的主席。委員會應根據本協定有關條款的需要或設想舉行會議，但每年不能少於一次，以給予成員機會就有關本協定的運用或促進其目標實現的任何事項進行磋商。委員會應承擔由本協定或成員賦予其的各項職責。委員會應制定自己的議事規則。

1.3 委員會可按要求設立附屬機構。所有此類機構應向委員會報告。

1.4 委員會應制定供成員酌情分享相關信息和最佳做法的程序。

1.5 委員會應與貿易便利化領域中的其他國際組織，如 WCO，保持密切聯繫，旨在獲得關於實施和管理本協定的最佳建議，並保證避免不必要的重複工作。為此，委員會可邀請此類組織或其附屬機構的代表：

（a） 出席委員會會議；並

（b） 討論與本協定實施相關的具體事項。

1.6 委員會應自本協定生效起 4 年內並在此後定期審議本協定的運用和實施情況。

1.7 鼓勵各成員向委員會提出與本協定實施和適用相關的問題。

1.8 委員會應鼓勵和協助成員之間就本協定項下的特定問題進行專門討論，以期儘快達成雙方滿意的解決方案。

2 國家貿易便利化委員會

每一成員應建立並/或設立一國家貿易便利化委員會或指定一現有機制以促進國內協調和本協定條款的實施。

第 24 條：最後條款

1. 就本協定而言，“成員”一詞應理解為包含該成員有關主管機關。

2. 本協定全部條款對所有成員具有約束力。

3. 各成員應自本協定生效之日起實施本協定。選擇使用第二部分規定的發展中國家成員和最不發達國家成員應依照第二部分實施本協定。

4. 在本協定生效後接受本協定的成員應在實施其 B 類和 C 類承諾時計入自本協定生效之日起的時間。

5. 關稅同盟或區域經濟安排的成員可採用區域方式支持其實施本協定項下義務，包括通過建立和使用區域機構。

6. 儘管有《馬拉喀什建立世界貿易組織協定》附件 1A 的總體解釋性說明，但是本協定任何條款不得解釋為減損各成員在 GATT 1994 項下的義務。此外，本協定任何條款不得解釋為減損各成員在《技術性貿易壁壘協定》和《實施衛生與植物衛生措施協定》項下的權利和義務。

7. GATT 1994 項下所有例外和免除[23]應適用於本協定。根據《馬拉喀什建立世界貿易組織協定》第 9.3 款和第 9.4 款及截止本協定生效之日的任何修正給予的、適用於 GATT 1994 或其一部分的豁免，

[23] 包括 GATT 1994 第 5 條第 7 款和第 10 條第 1 款及對 GATT 1994 第 8 條的補充註釋。

應適用於本協定的規定。

8. 經《關於爭端解決規則與程序的諒解》詳述和適用的 GATT 1994 第 22 條和第 23 條的規定應適用於本協定項下的磋商和爭端解決，除非本協定另有具體規定。

9. 未經其他成員同意不可對本協定的任何條款提出保留。

10. 依照第 15 條第 1 款和第 2 款附在本協定之後的發展中和最不發達國家成員的 A 類承諾應構成本協定組成部分。

11. 經委員會記錄在案的、依照第二部分第 16 條第 5 款附在本協定之後的發展中國家成員和最不發達國家成員的 B 類和 C 類承諾應構成本協定組成部分。

附件 1

第 22 條第 1 款項下的通知樣式

捐助成員：

通知涵蓋期限：

技術和財政援助及能力建設資源描述	承諾/支付狀態和金額	受惠國/地區（如必要）	提供援助成員的實施機構	援助支付程序