



**ARTICLE 1: PUBLICATION AND AVAILABILITY OF INFORMATION**

COMMUNICATION FROM THE UNITED STATES

The following communication dated 25 February 2013 is being circulated at the request of the United States.

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**ARTICLE 1: PUBLICATION AND AVAILABILITY OF INFORMATION**

SUGGESTED REVISIONS 25 FEBRUARY 2013

Rev.14	Suggested Revisions	Comments
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) Importation, exportation and transit procedures (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 customs and other [border][governmental] agencies on or in connection with importation, exportation or transit;	(c) Fees and charges imposed by customs and other <del>border</del> [governmental] agencies on or in connection with importation, exportation or transit;	<p>The scope of the commitment remains those fees and charges applicable to "importation, exportation or transit", regardless of which Member agency is imposing.</p> <p>Proposing to delete [border] and unbracket the term 'governmental'. Some Members have expressed comfort with emphasizing that the agencies concerned are "governmental." "Border" is probably redundant, given scope of commitment to importation, exportation, and transit.</p> <p>As an alternative, we could also consider deleting reference to "customs", "border" and "governmental". The scope of the commitment remains those fees and charges applicable to "importation, exportation or transit", regardless of which Member agency is imposing. This formulation would read:</p>

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		(c) Fees and charges imposed <del>by customs and other [border][governmental] agencies</del> 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 against breaches of import, export or transit formalities;		
(h) Appeal procedures;		
(i) Agreements or parts thereof with any country or countries relating to importation, exportation or transit;		
(j) Administrative procedures relating to the imposition of tariff quotas [including quota size, in and out of quota rates, opening dates, allocation methods, licensing procedures and requirements, levels of utilization, and additional terms and conditions, including any requirements imposed by state-importing authorities or other government bodies].	(j) <del>Administrative p</del> Procedures relating to the <u>administration</u> <del>imposition</del> of tariff quotas <del>[including quota size, in and out of quota rates, opening dates, allocation methods, licensing procedures and requirements, levels of utilization, and additional terms and conditions, including any requirements imposed by state-importing authorities or other government bodies].</del>	<p>In the April 2012 open-ended consultations, we came very close to agreement on removing the bracketed text- and leaving the opening phrase. However, it was clear that the opening phrase in (j) did not capture well what Members are seeking to achieve in this paragraph. Here Members clarified their wish to set out the procedures related to <u>the administration</u> of tariff quotas- rather than related to <u>the imposition</u> of tariff quotas, the latter being well provided for in existing agreements.</p> <p>The alternative “Procedures relating to the imposition and administration of tariff quotas.” drew widespread support but a few Members believed that “imposition and” should be deleted.</p> <p>Now that Members have had additional time to consider, is deletion of “imposition” acceptable, whereby the text would read as proposed in column 2?</p>

Rev.14	Suggested Revisions	Comments
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.		
<b>2. Information Available Through Internet</b>		
2.1 Each Member shall [to the extent possible] make available and update as appropriate the following through the internet:	2.1 Each Member shall <del>[to the extent possible]</del> make available and update as appropriate the following through the internet:	<p>The deletion of "to the extent possible" is meant to be read in tandem with the new flexibility provided below in the form of:</p> <ul style="list-style-type: none"> <li>• Deleting "including appeal procedures" in 2.1(a); and</li> <li>• Moving 2.1(c) to 2.3, which is not a "shall" commitment.</li> </ul> <p>The revision is intended to make the provisions remaining under 2.1 more acceptable on a "shall" basis.</p>
(a) A description of its importation, exportation and transit procedures [, including appeal procedures][, that informs [governments and traders and other interested parties] of the practical steps needed to import and export, and for transit.]	(a) A description of its importation, exportation and transit procedures <del>[including appeal procedures]</del> , that informs <del>[governments and traders and other interested parties]</del> of the practical steps needed to import and export, and for transit.]	<p>Propose deleting the phrase "including appeal procedures". Key trade facilitative benefit is to provide the practical steps to traders, particularly SMEs, of how to trade with another country.</p> <p>Propose deleting the brackets around "that informs governments and traders and other interested parties of the practical steps needed to import and export, and for transit." In past discussions, there was wide support among Members for describing this requirement as the "practical steps" a trader needs to know to import and export. The idea is to convey that information that will allow a trader to engage in import and export. For this, the trader does not need to know the details of every law and regulation. The description may be general in nature, but should be practical and provide useful guidance on how customs procedures normally work.</p>

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(b) The forms and documents required for importation into, exportation from, or transit through the territory of that Member.		
[(c) [Relevant trade-related legislation]]	<del>[(c) [Relevant trade-related legislation]]</del>	Move to 2.3, but change "legislation" to "laws and regulations" consistent with 1.1 and language in Articles III and X of the GATT 1994 and Article III of the GATS.
(d) Contact information on enquiry points.	<del>(d)</del> (c) Contact information on enquiry points.	Rename "(d)" to "(c)".
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 items referred to in paragraph 1.1.	2.3. Members are encouraged to make available further trade-related information through the internet, including <u>trade-related laws and regulations and other</u> items referred to in paragraph 1.1.	While laws and regulations are already addressed through the reference to paragraph 1.1, given the interest on the part of some Members to maintaining a specific reference to trade-related laws and regulations under 2.1, recommend a compromise of mentioning the terms under 2.3, whereby Members are encouraged to provide such information.
<b>3. Enquiry Points</b>		
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 as well as to provide the required forms and documents referred to in subparagraph 1.1(a).		
[3.2 [Developing] countries which are Members of a customs union or involved in regional integration [Shall] [may instead] have the option of establishing and operation one or more enquiry points at the regional level <sup>1</sup> . The establishment and operation of a notified regional enquiry point would satisfy the requirements for the establishment and operation of a national enquiry point under paragraph 3.1.]	<del>[3.2 [Developing] countries which are Members of a customs union or involved in regional integration [Shall] [may instead] have the option of establishing and operation one or more enquiry points at the regional level<sup>1</sup>. The establishment and operation of a notified regional enquiry point would satisfy the requirements for the establishment and operation of a national enquiry point under paragraph 3.1.]</del>	Recommend using Alternative 2, as cleanest form of the text.  While there are remaining concerns with "involved in a regional integration", which can cover any RTA arrangement of countries, it is recognized that some countries continue to work towards the creation of a customs union, and in the interim, pooling resources to create a common enquiry point may be most cost effective. As long as the enquiry point can fulfill the requirements of 3.1, regional configurations, whether or not within a customs union, may be appropriate.

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<p>Alt2: [3.2. Members of a customs union or involved in a regional integration may establish enquiry points at the regional level to satisfy the requirement of 3.1.]</p>	<p><del>Alt2:</del> {3.2. Members of a customs union or involved in a regional integration may establish <u>or maintain common</u> enquiry points at the regional level to satisfy the requirement of 3.1 <u>for common procedures.</u>}</p>	<p>However, if there are concerns over RTAs among countries without common borders utilizing this provision, alternatives may be:</p> <ul style="list-style-type: none"> <li>• “or other regional arrangement”</li> <li>• or delete reference to customs union and to regional integration, stating: “Members in the same region may establish . . .”</li> </ul> <p>Add “for common procedures” at the end of paragraph 3.2. This would clarify that the enquiry points would be common for those common procedures. Members may also consider dropping “for common procedures” if there is consensus on more flexibility for common enquiry points to cover different customs practices across the participating Members.</p>
<p>3.3 Alt.1 [Members will not require the payment of a fee for answering enquiries.] [and/or providing forms and documents] Fees and charges, if any, for answering enquiries and providing required forms and documents, shall be limited in amount to the approximate cost of services rendered. Any such fees and charges shall be the same for nationals of the Member concerned and for any other Member, except for the cost of delivery.</p> <p>Alt.2 [Members will not require the payment of a fee for answering enquiries.] [and/or providing forms and documents] Fees and charges, if any, for answering enquiries and providing required forms and documents shall be limited in amount to the approximate cost of services rendered. Each Member shall ensure that where copies of forms and documents are requested by other Members or by traders and other interested parties in other Members, they are supplied at the same price, if any, which shall, apart from the</p>	<p><del>3.3 Alt.1 [Members will not require the payment of a fee for answering enquiries.] [and/or providing forms and documents] Fees and charges, if any, for answering enquiries and providing required forms and documents, shall be limited in amount to the approximate cost of services rendered. Any such fees and charges shall be the same for nationals of the Member concerned and for any other Member, except for the cost of delivery.</del></p> <p><del>Alt.2 [Members will not require the payment of a fee for answering enquiries.] [and/or providing forms and documents] Fees and charges, if any, for answering enquiries and providing required forms and documents shall be limited in amount to the approximate cost of services rendered. Each Member shall ensure that where copies of forms and documents are requested by other Members or by traders and other interested parties in other Members, they</del></p>	<p>Recommend using Alternative 3, as cleanest form of the text.</p> <p>Formulation reflects compromise between those who do not want any fees, and those who want to be able to charge fees on a wider range of transactions. The suggested revision places some limits, requiring that no fees shall be charged for basic, non-complicated enquiries and encouraging no fees for providing answers to all other enquiries and providing forms and documents. For any enquiry that is not a basic enquiry, and for providing forms and documents, the amount shall be limited to the approximate cost of services rendered.</p>

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<p>cost of delivery, be the same for the nationals of the Member concerned or of any other Member.</p> <p>Alt.33 [Members shall not require the payment of a fee for answering enquiries.] [and/or, to the extent possible, for providing forms and documents]. Fees and charges, if any, for answering enquiries and providing required forms and documents, shall be limited in amount to the approximate cost of services rendered.]</p>	<p><del>are supplied at the same price, if any, which shall, apart from the cost of delivery, be the same for the nationals of the Member concerned or of any other Member.</del></p> <p><del>Alt.33</del> [Members shall not require the payment of a fee for answering <u>basic</u> enquiries.] <del>[and/ or, to the extent possible, for Members are encouraged not to require the payment of a fee for all other enquiries, including providing forms and documents].</del> <u>Each Member shall limit the amount of its F</u> fees and charges, if any, for answering <u>all other</u> enquiries and providing required forms and documents, <del>shall be limited in amount to the approximate cost of services rendered.</del> †</p>	
<p>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.</p>		

Clean Text:

## **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) Importation, exportation and transit procedures (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 customs and other 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 against breaches of import, export or transit formalities;
- (h) Appeal procedures;
- (i) Agreements or parts thereof with any country or countries relating to importation, exportation or transit;
- (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 as appropriate the following through the internet:

- (a) A description of its importation, exportation and transit procedures, that informs governments and traders and other interested parties of the practical steps needed to import and export, and for transit.
- (b) The forms and documents required for importation into, exportation from, or transit through the territory of that Member.
- (c) Contact information on enquiry points.

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 trade-related laws and regulations 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 as well as to provide the required forms and documents referred to in subparagraph 1.1(a).

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

3.3. Members shall not require the payment of a fee for answering basic enquiries. Members are encouraged not to require the payment of a fee for all other enquiries, including providing forms and documents. Each Member shall limit the amount of its fees and charges, if any, for answering all other enquiries and providing required forms and documents, to the approximate cost of services rendered.

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