



MARKET ACCESS FOR NON-AGRICULTURAL PRODUCTS

MINISTERIAL DECISION ON FACILITATING SME TRADE: TRANSPARENCY OF REGULATORY MEASURES FOR TRADE IN GOODS

*Communication from the European Union; Hong Kong, China; the Separate Customs Territory of
Taiwan, Penghu, Kinmen and Matsu ("Chinese Taipei") and Singapore*

Revision¹

The following communication, dated 13 July 2017 is being circulated at the request of the delegations of the European Union; Hong Kong, China; the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu ("Chinese Taipei") and Singapore.

Ministers,

Having regard to the negotiations launched under the Doha Ministerial Declaration of 20 November 2001;

Desiring to improve transparency under the WTO Agreements relevant for trade in goods, and to further enhance transparency of regulatory measures, including during their development;

Recognising the important contribution that transparency and enhancement of the global coherence of regulatory measures can bring to the improvement of efficiency, inclusiveness and development of international trade;

Recognising the particular needs of developing and especially least-developed country Members and the particular value that enhanced access to information on regulatory measures can bring to their better inclusion in the international trading system;

Recognising the potential of small and medium-sized enterprises for further integration of developing and especially least-developed country Members in global value chains;

Recognising that small and medium-sized enterprises carry out an indispensable role in the global economy both in terms of growth and employment, whilst facing considerable difficulties in accessing information when approaching new markets;

Recognizing the need to promote internationalization of small and medium-sized enterprises and assisting them through a business-friendly regulatory environment worldwide to access third markets;

Hereby *decide*:

¹ The only change introduced to this version of the document in comparison to the previous one is the inclusion of Singapore as a co-sponsor.

Article 1 Definition

For the purposes of this Decision, *regulatory measures* mean mandatory measures of general application in the field of trade in goods as defined in each of the WTO Agreements falling within the scope of this Decision, which are developed or applied by a Member.

Article 2 Scope

1. Without prejudice to paragraph 2, this Ministerial Decision applies to all regulatory measures falling within the scope of the Agreement on the Application of Sanitary and Phytosanitary Measures and the Agreement on Technical Barriers to Trade.

2. This Ministerial Decision applies to regulatory measures of central government bodies. Each Member shall take such reasonable measures as may be available to it to ensure observance of the provisions of the Decision by the local governments and authorities on the level directly below that of a central government within its territories.

Article 3 Publication and Information Available Through Internet

1. Each Member shall promptly publish its regulatory measures in an official journal electronically, or otherwise made publicly available on the Internet, in a manner that enables governments, manufacturers, traders and other interested persons to become acquainted with them.

2. When regulatory measures are published pursuant to paragraph 1, each Member shall:

- (a) provide access to the regulatory measure on an official website free of charge;
- (b) if appropriate, also publish an explanation of the purpose of and rationale for the regulatory measure.

3. Whenever practicable, a description of the regulatory measure referred to in paragraph 2 shall also be made available on the same official website in one of the official languages of the WTO.

4. Each Member is encouraged to make available on the Internet further information related to the development or implementation of the major regulatory measures, including on relevant trade-related aspects.

5. Each Member shall encourage the distribution of and information on such regulatory measures through additional channels of publication.

Article 4 Notification of Regulatory Measures

Recognizing the potential of the recent web services on notifications provided by the WTO for the general public, where a Member is obliged to notify a draft regulatory measure to the other Members of the WTO under an existing WTO Agreement falling within the scope of this Decision, the Member shall:

- (a) include a copy of the developed or proposed draft regulatory measure or indicate an Internet address at which such measure may be viewed;
- (b) provide a copy of the final text of the regulatory measure or an Internet address at which such measure may be viewed, at the time the text is adopted or published, as an addendum to the original notification.

Article 5
Public Internet Portal of Regulatory Measures

In order to facilitate trade, in particular for small and medium-sized enterprises, an electronic version of the regulatory measures applicable in Members shall be made available through a repository. Such a repository shall be publicly accessible and be easily searchable. To that effect, the WTO Secretariat shall coordinate with other international organisations that have built regulatory repositories.

Article 6
Public Consultation of Interested Persons

1. When preparing major regulatory measures, each Member shall, to the extent practicable and in accordance with its respective rules and procedures in view of outreaching to the widest possible public, including small and medium-sized enterprises:

- (a) publish in advance regulatory measures that it proposes to adopt, or publish in advance documents that provide sufficient details about a possible new regulatory measure to allow interested persons to assess whether and how their interests might be significantly affected;
- (b) provide a reasonable opportunity to interested persons to provide input on such developed or proposed regulatory measures or documents referred to in subparagraph (a), taking into account its priorities and resource constraints; and,
- (c) consider input received.

2. Members are encouraged to publish the input received, electronically, such as on a publicly accessible website.

Article 7
Regulatory Measures in Urgency Situations

Where urgent problems arise or threaten to arise for a Member and where there is an urgent need to adopt measures consistent with the relevant WTO Agreement, that Member may omit such steps enumerated in Article 6, as it finds necessary, provided that the Member takes the actions described in the relevant WTO Agreement and, after adoption of the regulatory measure, applies Article 4.

Article 8
Special and Differential Treatment and Technical Assistance

1. This Decision shall enter into force two years after the date of adoption of this Decision. Developing country Members shall apply these provisions at the latest five years after the date of adoption of this Decision. The dedicated WTO Internet portal referred to in Article 5 shall be established within two years from entry into force of this Decision.

2. Developing country Members can apply Articles 3 by providing the relevant information on regulatory measures to the WTO Secretariat which shall host it, on their behalf, and include it in the repositories referred to in Article 5.

Article 9
Relation to WTO Agreements

In the event of any inconsistency between this Decision and a WTO Agreement, the WTO Agreement shall prevail to the extent of the inconsistency. In particular, nothing in this Decision 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.

Article 10
Work Programme

Members agree to continue negotiations with a view to developing further provisions relating to transparency of regulatory measures falling within the scope of this Decision. Those provisions shall include the publication of regulatory agendas, early information on regulatory measures, the conduct of regulatory impact assessments when developing major regulatory measures and the evaluation and review of existing regulatory measures.
