

General Council Meeting (07-08 October 2021)

Statement by India – Delivered by Ambassador & PR to the WTO

Agenda Item 10: Proposed General Council decision on procedures to enhance transparency and improve compliance with notification requirements under WTO agreements – Argentina; Australia; Canada; Chile; Costa Rica; the European Union; Israel; Japan; New Zealand; Norway; Singapore; Switzerland; the separate customs territory of Taiwan, Penghu, Kinmen and Matsu; United Kingdom; and the United States (JOB/GC/204/REV.6 – JOB/CTG/14/REV.6)

Thank you chair. India and the co-sponsors of the present proposal on transparency feel after listening to the submissions, and deliberations today. Somehow we get this feeling that transparency is solely viewed as fulfilling notification obligations of developing countries, including LDCs. Whereas, transparency is infused across the functions of the WTO, from the conduct of its day to day functioning, and how these functions are communicated to the outside world. Now, we get a feeling that insufficient information is only the concern of developed members. Let me clarify here that insufficient information is not only the concern of developed members, developing countries also have concerns about some members, notifications, and let me point out for the benefit of membership here, that whatever these concerns, when we had presented this about two years back, it was not taken up too seriously. I'm quoting from JOB/GC/218, which was co-sponsored by Africa group, India and Cuba.

2. The first one is on improving agricultural notifications. The final bound AMS commitments, which were supposed to be provided within 120 days of the end of the year by some of the members have not been provided for more than two years.

3. The second one is regarding GATS article 3.3. Importance of services notifications is as good as importance of goods notifications. Here we see that some developed countries are low in their level of compliance with existing notification requirements, under GATS article 3.3. And we would request and encourage developed countries to comply with their notification obligations under GATS article 3.3.

4. The third one is on GATS mode 4 related issues which have undermined existing mode for market access commitments. Various proposals have been submitted by developing countries to enhance mode 4 GATS transparency to allow for effective realization of the market access, which has already been provided for. We therefore encourage developed members to regularly notify existing and new measures, which significantly affect their Mode 4

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commitments. This is all the more required, in view of the present measures undertaken by various countries during the pandemic.

5. The fourth one is on Article 66.2 of the TRIPS Agreement. Developed countries have a positive legal obligation to provide incentives to enterprises and institutions in their territories to promote an enhance technology transfer to least developed countries. TRIPS Council has put in place a monitoring mechanism. However, this mechanism does not evaluate whether developed countries are compliant with their notification obligation under Article 66.2. Therefore more transparency in this area would be supportive of least developed countries, efforts to build a viable technological base.

6. The fifth one is on disclosure of reason of genetic resources and associate that traditional knowledge in patent applications. Here my request is that it would be useful to require WTO members to make annual notifications on the number of patent applications based on traditional knowledge.

7. And last is transparency in tariffs. Most non ad valorem charges are being implemented by developed members at the WTO. Non ad valorem tariffs are non-transparent, create uncertainty and block market access. At the least, they are ad valorem equivalence should be notified every year, or for even more transparency, non-ad valorem tariffs should be converted to ad valorem duties.

8. Chair, in view of this, it is hard to agree to any proposal which is providing for administrative actions, and penalties, in case of delayed submissions of notifications and assumes willful default on part of members rather than taking cognizance of the capacity constraints and other legitimate difficulties faced by a large number of developing countries. We've denied that underlying principle. Therefore, another way of addressing this issue is to encourage members who update their notifications, despite constraints and to assist those who have not been able to do so, because of various reasons, including limited capacities, and certainly with this example we can understand that developed countries are not able to fulfil their thing, not because of existing capacities. So, Chair, we look forward for a comprehensive engagement on this issue.

Thank you Chair.
