



WORLD TRADE ORGANIZATION
ORGANISATION MONDIALE DU COMMERCE
ORGANIZACIÓN MUNDIAL DEL COMERCIO



Market Access

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ITTC, WTO

IDB Notifications

- Integrated Data Base : considered official source of import and tariff statistics
- Essential in ensuring transparency in the Trade Policy Regime of Members as well as the work of the WTO
- Decision WT/L/225 of the General Council (16 July 1997) requires Members to notify
- Basic document: G/MA/367 (6 June 2019) provides the modalities and operation of the IDB
- To this end Members are required to notify their Applied MFN import tariffs at the national customs tariff nomenclature (at the most detailed level, as normally applied by the Member's customs administration) by 30th March each year
- Members are also required to notify by 31st October of each year their Import statistics in the same national tariff nomenclature as the corresponding MFN applied tariffs for the same year (i.e. same HS version and with the same level of disaggregation), including value (in USD or national currency) and volume (quantity and unit), by country of origin and by tariff line;

IDB Notifications- How to notify

- IDB File Exchange Facility (<https://idbfileexchange.wto.org>), which is the preferred method in case of large files
- Email to the contact point in the Secretariat (idb@wto.org).
- To the extent it is technically viable, and with a view to automatically submitting the information, Members may voluntarily enter into an agreement with the Secretariat for the automatic electronic transmission of data at regular intervals or similar methods.

Quantitative restrictions

- Need to differentiate between **Prohibition** and **Restriction**
- Prohibition implies imports not allowed
- Restriction implies that it is difficult to import (imports only permissible under certain conditions)
- **Article XI of GATT 1994** calls for the general elimination of quantitative restrictions, it states “No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licences or other measures, shall be instituted or maintained by any contracting party (Member) on the importation of any product of the territory of any other contracting party (Member) or on the exportation or sale for export of any product destined for the territory of any other Contracting party (Member)”.
- However, there may be several good reasons why the importation or exportation of some products will be prohibited, restricted or controlled.

Exceptions: When are QRs allowed by the WTO?

- Article XI:2 of the GATT 1994: QRs are permitted under the following conditions:
- temporarily applied to prevent or relieve critical shortages of foodstuffs or other essential products;
- necessary to the application of standards or regulations for the classification, grading or marketing of commodities in international trade;
- import restrictions on any agricultural or fisheries product necessary to enforce certain types of government measures.
- Furthermore, If a Member applies a QR, then it needs administer it in a non-discriminatory manner: **Art. XIII of the GATT 1994**

Exceptions: When are QRs allowed by the WTO?

- Additionally: Other exceptions (indicative list)

Provision	Type
Article XII of the GATT plus UR Understanding	Balance of payments
Article XIX of the GATT plus UR Understanding	Emergency actions (safeguards)
Article XVIII of the GATT plus the Enabling Clause	Governmental assistance for economic development
Article XX of the GATT	General exceptions
Article XXI of the GATT	Security exceptions
Article IX:3 of the Marrakech Agreement	Waivers
TBT & SPS	

QR: Notification Requirements

- **Decision adopted June 2012 (G/L/59/Rev.1)**
 - Members shall make complete notifications of all quantitative restrictions in force **EXCEPT: *Automatic Import Licensing Procedures, TRQs, SPS and TBT measures.***
 - Possibility to make cross-reference to other notifications.
 - It is possible to notify QRs imposed by other Members (cross or reverse notification)
 - **Deadline**: 30 September 2012; 2 year interval thereafter.
 - **Changes**: as soon as possible, but not later than six months from their entry into force
 - **QR Database**: qr.wto.org

QR: Notification Requirements

- Annex 2 of the QR Decision provides an indicative list of ten measures that are covered by the notification requirements, including a list of symbols to be used in the notification.

Measure	Symbol	Suffix (as required)
• Prohibition	P	X: Export S: Seasonal
• Prohibition except under defined conditions	CP	
• Global quota	GQ	
• Global quota allocated by country	GQC	
• Bilateral quota (i.e. anything less than a global quota)	BQ	
• Non-automatic licensing	NAL	
• Quantitative restriction made effective through state-trading operations	STR	
• Mixing regulation	MXR	
• Minimum price, triggering a quantitative restriction	MPR	
• "Voluntary" export restraint	VER	

- Paragraph 2(ii) of the QR Decision indicates that, where a measure cannot be classified using one of the category symbols listed in Annex 2 the notifying Member shall instead provide a full description of the measure.

QR Notification example

QR No.	General description of the restriction	Type of restriction	Tariff line code (s) affected, based on HS (2022)	Detailed Product Description	WTO Justification and Ground for Restriction, e.g. Other International Commitments	National legal basis and entry into force	Administration, modification of previously notified measures, and other comments
15	Importation of Ozone Depleting Substances (ODS)	GQ P	Various, including 29.03ex 3813.00 38.27ex	Ozone Depleting Substances (ODS)	GATT XIII:2(a) - Wherever practicable, quotas representing the total amount of permitted imports (whether allocated among supplying countries or not) shall be fixed, and notice given of their amount in accordance with paragraph 3 (b) of this Article To phase out in compliance to Montreal Protocol on Substances that Deplete the Ozone Layer	DENR Administrative Order No. 2013-25 (Revised Regulations on Chemical Control Order for Ozone-Depleting Substances) (Date of effectivity: 15 January 2014) DENR Administrative Order No. 2021-31, entitled "Chemical Control Order for Hydrofluorocarbons (HFCs)" Date of effectivity: 28 October 2021	(Refer to PHL ILP N3 Notification G/LIC/N/3/PHL/13 dated 16 September 2020)

Import Licensing under the GATT

- Import licensing can be defined as administrative procedures requiring the submission of an application or other documentation (other than those required for customs purposes) to the relevant administrative body as a prior condition for importation of goods.
- Import Licenses are used to collect import statistics or market surveillance; administer quantitative restrictions or quotas; Administer trade measures in connection with *inter alia*: human health and life; plant and animal health; consumer protection; environment; national security; and Intellectual property; and pursue obligations under the UN Charter and other international treaties

Whether the procedure is called a “**license**” or not does not matter:

- Brunei Darussalam: **Application Permit(AP) System on alcohol and cigarettes**
- Dominican Republic: **Clearance Certificate on telecom equipment**
- Hong Kong, China: **Removal Permit/Import Authorization on Chemicals**
- Japan: **Import Trade Control Order on Animals**
- Mauritius: **Plant Import Permit (PIP) on Plants**

The use of import licensing is neither prohibited, nor encouraged.

WTO Agreement on Import Licensing

Objectives of the Agreement

- ◆ **Simplify import licensing procedures**
- ◆ **Ensure transparency**
- ◆ **Ensure simple, fair and equitable administration**
- ◆ **Minimize the adverse effects of such procedures on trade**
- ◆ **Consultative mechanism & solve disputes**

What does the Agreement Say

Article 1 – General Provisions

- Applications **shall not be refused** for:
 - Minor documentation errors
 - Minor variations in value, quantity or weight from the amount designated
- Applicants shall be allowed **a reasonable period for the submission of licence applications**
- Applicants shall have to approach **only one administrative body** in connection with an application **(no more than three)**
- Foreign exchange available to license holders on the same basis as to importers of goods not requiring import licenses
- The provisions of Article XXI of GATT/94 apply
- Members are not required to disclose confidential information

The Agreement deals with both **Automatic** and **Non-Automatic** Import Licensing

Automatic import licenses

Article 2

- Automatic import licensing is defined as import licensing where approval of the application is **granted in all cases**
- Typically used for the **collection of statistical information**
- To be administered in a way so to have **no trade restrictive effects**
- **Non-discriminatory eligibility** of all importers
- **Submissions** can be made **on any working day** prior to custom clearance
- To be **approved immediately on receipt**, if administratively feasible, or **within a maximum of 10 working days**

Non-automatic import licenses

Article 3

- Non-automatic import licensing procedures are defined as import licensing not falling within the definition contained in paragraph 1 of Article 2
- Normally used to **administer trade restrictions**: quotas, tariff rate quotas (TRQs), measures taken under WTO exceptions
- Non-automatic licensing shall **not have trade-restrictive or distortive effects on imports** additional to those caused by the imposition of the restriction
- **Same scope and duration as the measure** they are used to implement and no more burdensome than necessary to administer such measure
- If not used for QRs, then sufficient information to understand on what basis they are granted or allocated is to be published (Art. 3.3)

Non-automatic import licenses

Article 3.5

- **Non-discrimination among applicants** to be eligible to apply or be considered for a licence
- If application is **rejected**: Member to provide **reasons** upon request and right of **appeal or review**
- **Time-limits** for processing applications: **30 days** for “first come first served” or **60 days if all considered together**
- License **duration shall be reasonable** and allow for imports from distant sources
- Reasonable **distribution of licenses to “new importers”** (particularly from Developing countries) and special consideration should be given to importers importing goods from developing countries

Notification Requirements

- Under Article 1.4(a): Members are required to notify the Committee on Import Licensing the sources/publications in which the information concerning import licensing procedures are published, and to make copies of these publications available to the Secretariat. (**one-off**)
- Article 7.3 addresses the **annual** questionnaire on import licensing. Members are required to provide information relating to purposes and coverage of laws and regulations under which licensing is maintained, procedures for application and granting licenses, quota allocations, period for processing of applications, license validity, administrative bodies to be approached, documentation requirements for application, eligibility of importers to apply for license, conditions of licensing and foreign exchange formalities. (**30 September each year**).
- Article 8.2(b) requires Members to inform the Committee of **any changes** in their laws and regulations relevant to the Agreement and in the administration of such laws and regulations
- Additionally, Articles 5.1-5.4 require Members which have licensing procedures in place to notify the Committee within **60 days of any changes to these procedures**. Such notifications shall include information such as list of products; contact points; administrative bodies for submission of applications; date and name of publication where licensing procedures are published; and indication whether the procedure is automatic or non-automatic; in the case of automatic licensing, the administrative purpose; and in the case of non-automatic licensing, indication of the measure being implemented and expected duration
- Article 5.5 provides the possibility of a **counter notification**.

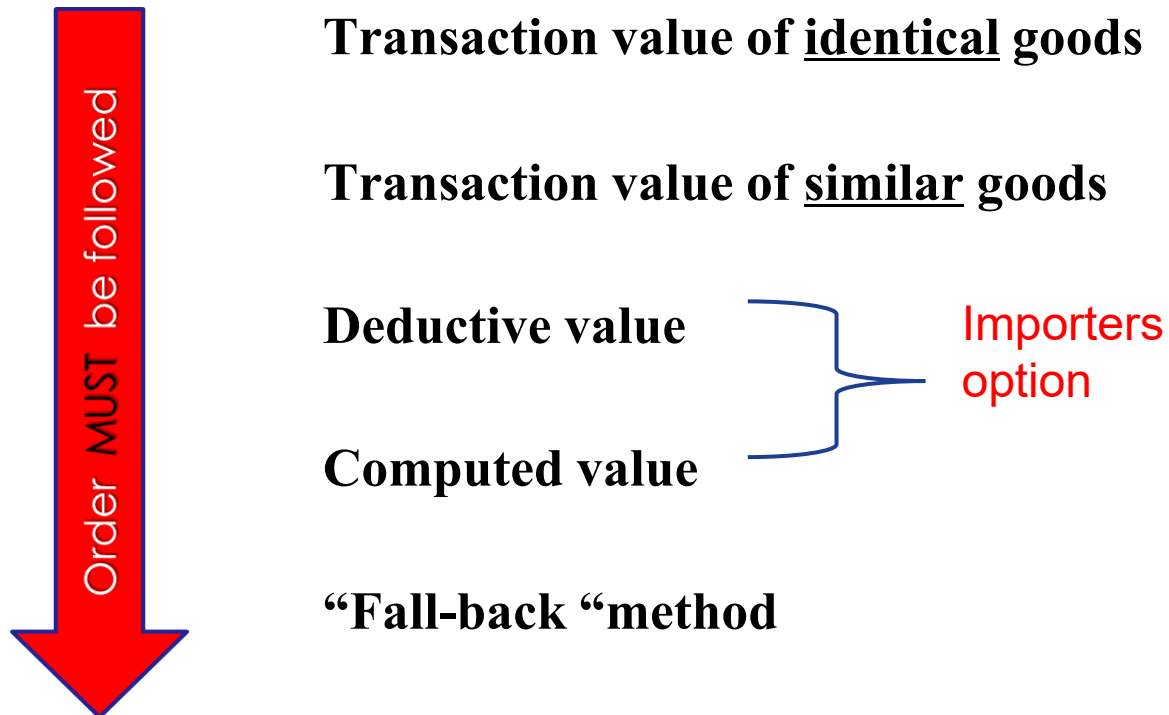
Customs Valuation

- **Historical Context**

- Starting in the 1950s, customs duties were assessed by many countries according to the **Brussels Definition of Value** (BVD). Under this method, a normal market price, defined as “**the price that a good would fetch in an open market between a buyer and seller independent of each other,**” was determined for each product, according to which the duty was assessed.
- The Tokyo Round Valuation Code, or the Agreement on Implementation of Article VII of the GATT, concluded in 1979, established a **positive system of Customs Valuation** based on the price actually paid or payable for the imported goods. Based on the “**transaction value**”, it was intended to provide a fair, uniform and neutral system for the valuation of goods for customs purposes, conforming to commercial realities. This differs from the “notional” value used in the Brussels Definition of Value (BVD).
- The Tokyo Round Code was replaced by the WTO Agreement on Implementation of Article VII of the GATT 1994 following conclusion of the Uruguay Round. This Agreement is essentially the same as the Tokyo Round Valuation Code and applies only to the valuation of imported goods for the purpose of levying ad valorem duties on such goods.

Customs Valuation

- Preamble of the Customs Valuation Agreement recognizes the need for a **Fair, Uniform and Neutral system** for the valuation of goods for customs purposes.
- The Agreement's Preamble further states that Members should recognize "that the basis for valuation of goods for customs purposes should, to the greatest extent possible, be the transaction value of the goods being valued."
- In addition to **transaction value**, the Agreement defines five alternative valuation methods:



Customs Valuations Notifications

WHAT NEEDS TO BE NOTIFIED

- **National legislation (Art. 22.1)**
- **Changes to legislation, regulations and their administration**
- **Checklist of issues (Annex to G/VAL/5)**
- **Implementation of the Decision on Interest Charges**

The WTO Decision 3.1 (1984, adopted 1995) dictates that interest charges under a financing arrangement for imported goods are excluded from the customs value, provided they are separated from the price paid, the arrangement is in writing, and interest rates reflect market levels.

- **Implementation of the Decision on the Valuation of Carrier Media Bearing Software**

The Decision 4.1 on the Valuation of Carrier Media Bearing Software (1984) allows customs authorities to value imported physical media (CDs, tapes) containing software based only on the cost of the carrier medium itself, excluding the value of the software/data, provided it is distinguished.

Basic document: G/VAL/5 “one-time” or “ad-hoc” in the case of changes to legislation

Rules of Origin

- Rules of origin are needed to attribute one country of origin to each product. They are the criteria used to define where a product was made and are important for **implementing other trade policy measures**, including **trade preferences** (preferential rules of origin), **quotas, anti-dumping measures and countervailing duties** (non-preferential rules of origin).
- **Why an Agreement ?**
 - Wide variety of rules including: non-preferential national rules; preferential national rules (e.g. to administer the GSP); regional rules (e.g. preferential rules linked to the administration of free-trade areas)
 - Lack of harmonization at the international level
 - to harmonize the rules
 - to introduce common basic disciplines

Rules of Origin

A distinction between **non-preferential** and **preferential** rules of origin.

- Non-preferential rules of origin
 - **Non-preferential** rules of origin are those which apply in the absence of any trade preference — that is, when trade is conducted on a most-favoured nation basis. Not all countries apply specific legislation related to non-preferential rules of origin. However, some trade policy measures such as quotas, anti-dumping or “made in” labels may require a determination of origin and, therefore, the application of non-preferential rules.
- Preferential rules of origin
 - **Preferential** rules of origin are those which apply in reciprocal trade preferences (i.e. regional trade agreements or customs unions) or in non-reciprocal trade preferences (i.e. preferences in favour of developing countries or least-developed countries).

WTO Agreement on Rules of Origin

- Ensure that ROO themselves **do not create unnecessary obstacles** to trade and that their application is impartial, uniform and reasonable
 - Ensure that ROO **do not impair Members' rights under** the GATT 1994 and that they are not use “to pursue trade objectives”
 - Ensure that ROO are **transparent**
- Agreement to **Harmonize Non-Preferential rules of origin**: all WTO Members would utilize the same origin criteria when applying NPRO
 - The **commitment to negotiate common rules only concerns NON Preferential Origin**
- The RO are not contained in the Agreement but rather to be negotiated: “Harmonization Work Programme”
- **Notifications:**
 - Members notify whether they use or not non-preferential origin requirements and, if they do, they must notify the actual rules (no standardized template).
 - For preferential rules of origin, Members either notify their RTAs to the CRTA or CTD or make a more detailed notification to the CRO. For preferential RO for LDCs, a template must be used in notifications to the CRO
- **Further information:** “Origin Facilitator”: <https://findrulesoforigin.org>

Trade Facilitation

- WTO members concluded negotiations at the [2013 Bali Ministerial Conference](#) on the Trade Facilitation Agreement (TFA), which entered into force on 22 February 2017 after ratification by two-thirds of the WTO membership.
- The TFA contains provisions for expediting the movement, release and clearance of goods, including goods in transit. It also sets out measures for effective cooperation between customs and other appropriate authorities on trade facilitation and customs compliance issues. It further contains provisions for technical assistance and capacity building in this area.
- **Structure of the TFA**
- **Section I**
 - The TFA contains 12 Articles with approximately 40 “technical measures”
- **Section II**
 - Special provisions for developing and LDCs (Articles 13 – 22)
- **Section III**
 - Final provisions and institutional arrangements (Articles 23 – 24).

Section I: 12 Articles

GATT	TF
Art. X Transparency	Art. 1 Publication and availability of information
	Art. 2 Opportunity to comment, information before entry into force and consultation
	Art. 3 Advance rulings
	Art. 4 Procedures for Appeal or Review
	Art. 5 Other measures to enhance impartiality, non discrimination and transparency
Art. VIII Fees and formalities	Art. 6 Disciplines on fees and charges imposed on or in connection with importation and exportation and penalties
	Art. 7 Release and clearance of goods
	Art. 8 Border agency cooperation
	Art. 9 Movement of goods intended for import under customs control
	Art. 10 Formalities connected with importation and exportation and transit
Art. V: Freedom of transit	Art. 11 Freedom of transit
	Art. 12 Customs cooperation

Nature and scope of obligations

Binding

Art. 1.1 (Publication): “Each Member **shall** promptly publish ...”

Best endeavour

Art. I.3 (Enquiry Points):
Members **are encouraged**
not to require...”

Combination

Art. 1.2 (Information through internet): “Each Member **shall** make available the following...”
“Members **are encouraged** to make available”

S&D treatment in the TFA

- **Section II** of the Agreement addresses **Special provisions for developing and LDC Members**
- The TFA acknowledges the importance of **assistance and support for capacity building** to implement the Agreement
- **Article 13:2**
 - ✓ **Assistance and support for capacity building** should be provided
 - ✓ The requirement to **implement the Agreement is directly linked to the capacity** of the country to do so

Paradigm Shift

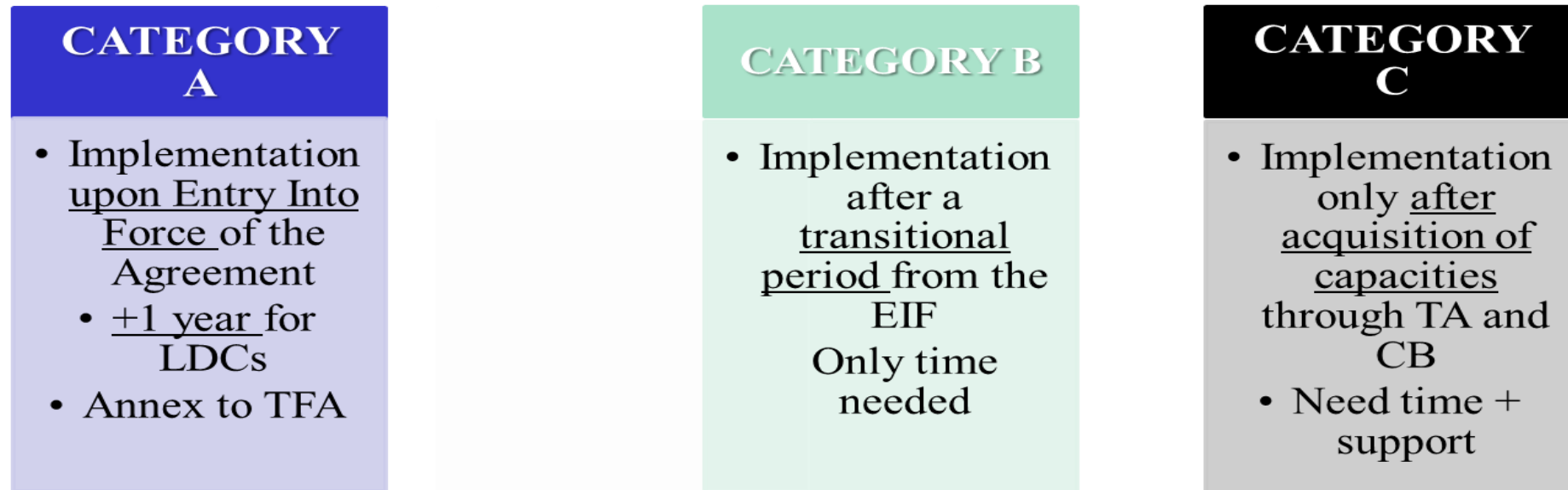
- **Article 14:1(c)** : Principle of self determination

Each developing and LDC Member can determine:

- ✓ **when** it will implement each measure
- ✓ **which measures** it can only implement after having received technical assistance and capacity building

Article 14: Categories of measures

- Each developing and LDC Member will classify each measure of Section I into one of **three categories**:



Based on country's own assessment

Notifications

- **Ratification**
- **Notification of Category A, B and C provisions**
- **Under Art. 1.4 Members are required to notify:**
 - (a) **the official place(s) where the items in subparagraphs 1.1(a) to (j) have been published;**
 - (b) **the Uniform Resource Locators (URL) of website(s) referred to in paragraph 2.1;**
 - (c) **the contact information of the enquiry points referred to in paragraph 3.1.**
- **Under Art. 10.6.2 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**
- **Art. 10.4.3 Members shall notify the Committee of the details of **operation of the single window****
- **Art. 12.2.2 Each Member shall notify the Committee of the details of its **contact point** for the exchange of information where there are doubts about the accuracy of the information provided in an import/export declaration**
- **<https://www.tfadatabase.org/notifications-matrix>**

Preshipment Inspection

- **Preshipment inspection** (PSI) is the practice of employing specialized private companies to check shipment details — essentially price, quantity, quality — of goods ordered overseas.
- The **objective** is to safeguard national financial interests (prevention of capital flight and commercial fraud as well as customs duty evasion, for instance) and to compensate for inadequacies in administrative infrastructures.
- GATT principles and obligations apply to the activities of preshipment inspection agencies mandated by governments. The obligations placed on governments which use preshipment inspections include **non-discrimination, transparency, protection of confidential business information, avoiding unreasonable delay, the use of specific guidelines for conducting price verification and avoiding conflicts of interest** by the inspection agencies.
- The obligations of exporting members towards countries using preshipment inspection include **non-discrimination in the application of domestic laws and regulations, prompt publication of those laws and regulations and the provision of technical assistance** where requested.
- Under Article 5 of the Agreement on Preshipment Inspection: Members need to notify Copies of laws and regulations by which the Agreement is put into force for the Member concerned, as well as copies of any other laws and regulations relating to preshipment inspection. They are also required to notify any **Changes** in laws/regulations pertaining to PSI

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