

CHAPTER 1 INFORMATION AVAILABILITY

Publication: Article 1.1

Transparency is one of the core pillars of the international trade system. Lack of transparency or restricted access to regulatory and procedural requirements usually leads to higher costs for business and governments to collect information and mitigate formalities, corrupt and discriminatory practices, and unpredictable rules.

Article 1.1 promotes equal and unfettered access to relevant information by requiring WTO Members to make available in published form a wide array of specific information on regulatory requirements related to the import, export or transit of goods.

Members shall promptly publish a set of trade-related information in a non-discriminatory and easily accessible manner.

The measure

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 government 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.

Understanding the measure

What is covered?

Scope and objective

Article 1.1 requires Members to publish specific data, such as applied rates of duties and taxes or fees and charges whether contained in rules and regulations, according to the legal system of each WTO Member. This provision concerns all competent agencies at the national and local level with functional authority over the listed items in Article 1.1.

Article X of the General Agreement on Tariffs and Trade (GATT) already requires WTO Members to publish trade-related laws and regulations but not information related to export and import procedures. The TFA adds a new obligation to publish all import and export procedures and requirements. It is worth noting that obligations arising from Article X of GATT 1994 are still valid and hold with equal and full force of law.

Core obligation

This measure sets a mandatory obligation for all WTO Members to ‘promptly’ publish trade-related information listed in Article 1.1 in a ‘non-discriminatory and easily accessible manner.’ The aim is to enable traders, governments and other stakeholders to know the rules and conditions applicable to the export, import or transit of goods. Publication means the act of making information or writing available, especially in a printed form, but can also include electronic publication.

Means of publication

Although the provision does not specify the means of publication, paragraph 2.3 of Article 1 encourages WTO Members to make available the relevant trade-related legislation and other items referred to in Article 1.1 through the internet.

Language of publication

WTO Members are not required to publish or provide the trade-related information in a language other than the language of the WTO Member.

What is not covered?

This measure is silent on the modalities and frequency of publication. Moreover, the measure does not specify whether the task to publish the information is entrusted to government agencies or whether it can be outsourced to private companies.

Benefits and opportunities for stakeholders

Quick and easy access to accurate and comprehensive export, import and transit procedures and requirements enables traders to improve planning for future trade activities and accurately estimate all import and export costs in advance, reducing overall delays and financial costs.

Transparency of information will also improve traders’ confidence and compliance with customs procedures and reduce government agencies’ time spent responding to individual inquiries from traders.

The measure will also foster a mindset change and a government organizational culture of openness, predictability and modernization, making the trade environment more appealing to foreign investments.

Implementation

Implementation checklist

The following checklist may be used to estimate the level of compliance with the measure:

- A national implementation framework is in place that mandates publication of trade information and appointment of a national coordinator.

- Publication is carried out in a timely manner, especially when amendments to new import, export and transit procedures or regulations are enacted.
- A monitoring and review mechanism is in place to ensure that information is easily accessible to all interested stakeholders. This may be hosted in a National Trade Facilitation Committee (NTFC).

Preparing a national implementation plan

The following template may be used as the basis for a national implementation plan:

Implementation sequence	Actions suggested
	Preparatory phase
	Carry out a legal gap analysis to assess which are the legal/administrative acts to introduce or formalize the obligation to publish trade-related information.
	If needed, designate a focal ministry/department responsible for coordinating publication of required information.
	Set-up phase
	Implement identified legal and/or administrative changes to allow prompt publication of trade-related information.
	Create a knowledge management mechanism for coordination of publication of information.
	Assign appropriate financial and human resources.
	Management and follow-up phase
Set up a national monitoring and review mechanism to ensure published information is up to date.	
Average time for implementation	Between two to three years.
Leading implementation agency	The ministry in charge of trade is most commonly chosen as the leading implementation agency.

Key challenges

‘Silos mentality’ and reticence to share information among public agencies may hamper the implementation of this measure. This may be addressed through a NTFC where all agencies are represented and agree on an implementation plan, including their own responsibilities and tasks. Lack of political will and buy-in from senior government may also slow the effort to gather all the required information.

Key factors for success

Harmonious coordination between relevant border agencies will significantly contribute to successful implementation of this measure. Strong political will and a service-oriented staff culture within border agencies will be necessary. A systematic regular review and update of the knowledge management mechanism is another fundamental factor for success.